

CALIFORNIA COASTAL COMMISSION

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-08-8

Applicant: City of Encinitas Agent: Kathy Weldon

Description: Deposition of approximately 37,000 cu. yds. of sand from inland source onto the public beach.

Site: Ponto State Beach at the north end the City of Encinitas, west of 2100 North Highway 101, Leucadia, Encinitas, San Diego County. APN

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed development, with special conditions. The project is somewhat unique in that the project is an "opportunistic" beach replenishment project as the approximately 37,000 cu. yds. of sand will be exported from an inland private development site. While the City of Encinitas is currently working on an opportunistic beach sand replenishment program, similar to those approved by the Commission for the Cities of Carlsbad and San Clemente, the proposed sand source is available now and cannot wait for the City's program to be finalized. In this case, the sand has already been approved as beach quality material by the Army Corps of Engineers. The project has been designed and conditioned to avoid impacts to sensitive habitat, public access and recreation, and no adverse impacts to coastal resources are anticipated.

The proposed work will occur on the beach within the Coastal Commission's area of original jurisdiction, thus, the standard of review is Chapter 3 policies of the Coastal Act.

Substantive File Documents: "SANDAG, The San Diego Regional Beach Sand Project Final EIR/EA, June 2000", KEA Environmental; "KSL Encinitas Resort MND SCH#2003111025" 12/16/03 and Addendum 2/10/04; City of Encinitas Case No. 05-237 TM/MUP/DR/CDP/EIA/Pacific Station; "Sampling and Analysis Results Final Report for Pacific Station Opportunistic Beach Replenishment Project" by Moffatt & Nichol dated December 2007; "Addendum to Final SAP Results Report for Pacific

Station” by Moffatt & Nichols dated January 15, 2008; Email approval of Final SAP Results Report for Pacific Station and Addendum by USACE/USEPA dated January 18, 2008; “Administrative Draft Mitigated Negative Declaration” by EDAW dated 2007 for “Implementation of an Opportunistic Beach Fill Program for Four Beaches”; Applicant’s “Monitoring Plan for Batiquitos Receiver Site Opportunistic Beach Replenishment Project” submitted on January 22, 2008.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-08-8 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Timing of Construction. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for

review and written approval, a construction schedule that conforms to the following restriction:

- a) No work shall occur on the beach on weekends or holidays.
- b) Work hours are limited to 4:00 a.m. to 3:00 p.m.
- c) No work shall occur after June 20, 2008.

The applicant shall undertake the development in accordance with the approved construction schedule. Any proposed changes to the approved schedule shall be reported to the Executive Director. No change to the schedule shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

2. Beach Sand Monitoring. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a detailed beach sand monitoring program for shore and nearshore monitoring at or near the receiver site. Monitoring at and adjacent to the receiver site shall address the following concerns:

- Whether the as-built project is at the location and of the size and extent proposed and approved by the Commission and if not, what are the changes;
- Seasonal and interannual changes to the receiver site, in width and length of dry beach, subaerial and nearshore slope, offshore extent of nourished toe, and overall volume of sand in the profile;
- Rate and extent of transport of material up- and down-coast from the receiver site;
- Time period over which the beach benefits related to the project can be identified as distinct from background conditions.

a. At a minimum this information shall be provided through field surveys of the receiver site and adjacent areas. Unless otherwise indicated, all profiles shall be from an upland fixed location or monument, across the beach, through the nearshore, to closure depth. Profiles shall be prepared immediately prior to the project, immediately upon completion of the project (this survey may be terminated offshore at the toe of the project rather than going to closure), 3 months after the project, 6 months after the project and every 6 months thereafter until two separate surveys show that the material from the project is undetectable or after 4 years whichever is shorter. Timing for the every-6-month survey efforts may be adjusted to coincide with the schedule that has been developed for the San Diego Regional Monitoring Program.

b. There shall be a minimum of one profile through the receiver site, and at least one profile up coast and one profile down coast of the receiver site. To the maximum extent practicable, these should occupy the profile locations currently being used in the San Diego Regional Monitoring Program.

- c. Monitoring information shall be analyzed regularly for any changes that have occurred at the receive site. To the extent practicable, these reports should incorporate information from the San Diego Regional Monitoring Program on both historic changes at the receiver site and on-going regional shoreline trends.

The applicant shall undertake the development in accordance with the approved monitoring program. Any proposed changes to the approved program shall be reported to the Executive Director. No change to the program shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

3. Final Staging Plans. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final staging plans that identify the following:

- a. During the construction stages of the project, the permittee shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to implement the project. Construction equipment or materials shall not be washed or stored overnight on the beach or in the beach parking lots.

The applicant shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No change to the program shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

4. Other Permits. **PRIOR TO THE COMMENCEMENT OF CONSTRUCTION**, the applicant shall provide to the Executive Director, for review and written approval, copies of all other required state or federal discretionary permits for the development herein approved. The applicant shall inform the Executive Director of any changes to the project required by such permits. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

5. Biological Resources Mitigation and Monitoring. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a final mitigation and monitoring program for biological resources including: Rocky Intertidal Habitat, Shallow Subtidal Habitat, Grunion, California Least Tern, and Western Snowy Plover. Said plan shall be approved by the U. S. Fish and Wildlife Service and/or California Dept. of Fish and Game, and shall be in general conformance with the procedures and reporting outlined in "Monitoring Plan for Batiquitos Receiver Site Opportunistic Beach Replenishment Project" submitted on January 22, 2008.

The California Coastal Commission shall be explicitly identified as one of the resource agencies that must be provided with all monitoring reports. The applicant shall undertake the development in accordance with the approved monitoring program. Any proposed changes to the approved program shall be reported to the Executive Director. No change to the program shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The applicant proposes to transport and deposit approximately 37,000 cu. yds. of sand into the surf zone along an approximately 750 ft.-long section of Ponto State Beach at the northern end of the City of Encinitas. The sand will be exported from an approved development site (“Pacific Station”) located approximately 2 ½ miles south of Ponto State Beach at E Street and North Coast Highway 101 in Encinitas. The project is proposed to take up to 6 weeks and is expected to be completed by no later than June 20, 2008. The applicant is only proposing work during the week and not on weekends or holidays.

The City recently approved a coastal development permit for “Pacific Station” a mixed-use development that includes a two-level underground garage (Ref. City of Encinitas Case No. 05-237 CDP). After approval of the coastal permit, the applicant determined that the grading associated with the underground garage would result in the removal of approximately 37,000 cu. yds. of beach quality sand. Rather than export the sand to a site outside of the coastal zone, the applicant has made the sand available to the City for beach replenishment. However, the City does not have a temporary storage site for the sand, so unless they can transport the sand to the beach during the grading period of the mixed-use development (May to June, 2008), the opportunity will be lost. Although the City along with other coastal cities within San Diego County is in the process of developing a region-wide Opportunistic Sand Program for Commission review, the program is still going through environmental review and has not been finalized or approved at the local levels.

The receiver site at Ponto State Beach is identified as being approximately 50 ft. in width and 750 ft. in length in the intertidal zone between +5 and -2 feet Mean Lower Low Water and approximately 1600 feet south of the Batiquitos Lagoon inlet. The receiver site is the same site used by the San Diego Association of Government’s (SANDAG) sand replenishment project of 2001 that placed approximately 2 million cu. yds. of sand on 12 local San Diego County beaches (Ref. 6-00-38/SANDAG). Approximately 118,000 cu. yds. of sand was placed on the subject receiver site in 2001 by the SANDAG project. In addition the receiver site is the same site approved for the deposition of approximately 50,000 cu. yds. of excavated sand from the development of the KSL Encinitas Resort Hotel project that is located on the blufftop immediately east of the subject site (Ref. 6-92-203-A4/KSL, Dev.). Although the Coastal Development Permit Amendment for the KSL Resort Hotel has been released, the applicant has not

commenced construction and, according to their construction schedule, any sand deposited to the receiver site will only occur between September 15th and February 15th of any year.

The receiver site is located along an approximately 750 ft. long section of Ponto State Beach at the north end the City of Encinitas, west of 2100 North Highway 101 in the Encinitas community of "Leucadia." Access to the site will occur off of Carlsbad Blvd. over cobble/sand berm within the City of Carlsbad and within South Carlsbad State Beach. Because the receiver site is proposed seaward of the MHTL, the project site lies within the Commission's area of original jurisdiction. Therefore, the standard of review is the Chapter 3 policies of the Coastal Act.

2. Public Access. The following Coastal Act policies are most applicable to the proposed development and state, in part:

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby...

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred....

Section 30214(a)

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

Section 30220

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

In addition, Section 30604(c) of the Coastal Act requires that a specific access finding be made in conjunction with any development located between the sea and the first public roadway, indicating that the development is in conformity with the public access and public recreation policies of Chapter 3. In this case, such a finding can be made.

The applicant proposes to place the sand on the beach between May 12, 2008 and June 20, 2008 to take advantage of an inland development project that will be excavating for a subterranean garage during that period. The Commission does not typically allow such work to occur on the beach during the summer season. However, in this case, unless the sand can be placed during this limited construction window, the contribution of the sand to the public beach will be lost. In addition, as explained below, mitigation measures will be implemented to assure public access impacts will be minimized.

The applicant estimates that the hauling process and sand placement may take up to 6 weeks to complete. The removal of the approximately 37,000 cu. yds. of sand will necessitate the transport of the sand in dump trucks that can carry an average of 10 cu. yds. It is estimated that approximately 3,700 trips will be required to transport the sand from the upland development site to the beach receiver site. Once deposited, paddlewheel scrapers and bulldozers will be used to distribute the sand throughout the surf zone.

The shoreline and beaches are valuable assets to the environment and economy of the Southern California region and the State, worthy of protection and enhancement. The shoreline is also considered a resource of national significance. Beach erosion has been an increasing problem in the Southern California region, and in many past projects the

Commission has identified beach replenishment as a means to preserve and enhance the environmental quality, recreational capacity, and property protection for the region's shoreline. Additional sand on beaches increases the amount of recreational area available for public uses, decreases the rate of beach erosion, and provides a buffer (a wider beach) between waves and adjacent public and private development, thereby reducing pressure to construct shoreline protective devices which can adversely affect both the visual quality of scenic coastal areas and shoreline sand supply.

The sand placement has been proposed to allow for and to expedite beach replenishment in the City of Encinitas. The project will provide an addition to the sediment supply to the local beaches within the Oceanside Littoral Cell, in which Encinitas is a part. The applicant has identified that:

This cell which is bound from the north at Dana Point and La Jolla to the south, has an average net sediment transport rate of 275,000 cubic yards per year to the south (Moffat & Nichol 2000) and a net loss of sediment supply of 55,000 cy/yr (Patsch and Griggs 2006)

The proposed addition of 37,000 cu. yds. sand (along with the 50,000 cu. yds. that will be added in the future as a result of the KSL Encinitas Resort Hotel development) will provide a much needed supplement to the Oceanside Littoral Cell which sustains a net loss of sand of approximately 55,000 cu. yds. per year. Nevertheless, the project is expected to have some temporary adverse impacts on public access and recreation. The deposition site is currently used for various recreational activities including swimming, surfing and sunbathing. During construction, the beach fill site would have to be closed, creating a temporary adverse impact on recreation. The impact may be particularly significant during higher tides where the entire beach area would be closed to the water line, and people may not get past the work area to the rest of the beach except by traveling inland around the construction area. However, except when the water line is too high, access along the beach is proposed to remain open. The applicant is proposing to provide public access past the work area with use of flagmen. The only area not accessible during the work will be the approximately 50 ft. wide and 750 ft. long section where the sand will be deposited and spread. However, public access will only be temporarily affected and, as proposed, will not be impacted at all on weekends or on Memorial Day when most use of the beach occurs.

The haul route is identified as being from the southeast corner of South Coast Highway 101 and E Street in Encinitas (at the Pacific Station development site) north along Coast Highway 101 and Carlsbad Blvd (north of Batiquitos Lagoon) to Avenida Encinas in Carlsbad. At Avenida Encinas the trucks will make a U-turn and travel south along Carlsbad Blvd to a point just before the South Carlsbad State Beach parking lot at Ponto Beach. Trucks will then cross over a cobble/sand berm on the west side of Carlsbad Blvd. to the beach and travel south along the beach to the receiver site. The South Carlsbad State Beach parking lot will remain open during construction activities and no impacts to the parking lot are proposed. The return trip will follow Carlsbad Blvd. south to La Costa Avenue and then east along La Costa Avenue to Interstate 5 south. The

trucks will exit Interstate 5 at Encinitas Blvd. and head west to South Coast Highway 101 and then south to the Pacific Station development site. The applicant is proposing a work schedule of 4:00 a.m. to approximately 3:00 p.m., Monday through Friday until June 20, 2008. However, while the receiver site lies within the Commission's permit jurisdiction area, the haul route does not. The haul route lies within the permit jurisdictions of the Cities of Encinitas and Carlsbad. Any necessary local approvals will need to be approved prior to commencement of construction pursuant to attached Special Condition #4.

The proposed project will provide benefits to the public in the form of additional sand that can be used for public access and recreation. Additional sand may also provide some additional protection to upland development from the effects of marine erosion. Although the applicant is proposing to provide access to and along the beach during construction, some temporary impacts to public access as the sand is trucked and deposited on the beach may occur. Therefore, the Commission must weigh these temporary impacts against the benefits provided by the sand. To assure that whatever limited, temporary impacts to public access are effectively reduced, Special Condition #1 has been attached which limits the project construction period to assure no work will occur on weekends or on holidays or after 3:00 p.m. daily. In addition, per the applicant's request, Special Condition #1 requires that the project end by no later than June 20, 2008. The applicant has identified that working beyond June 20, 2008 will impact the commencement of the City's Junior Lifeguard Program.

Although the Department of Parks and Recreation supports the project, Special Condition #4 has also been attached to require submission of any other state or local permits that might be required to assure that any conditions imposed by those permits do not conflict with the subject amendment. With these conditions, any temporary impacts to public access and recreation will be mitigated to maximum extent possible.

In summary, the proposed project will have short-term impacts on public access and recreation, which have been minimized by conditions requiring that construction be scheduled during weekdays, not on weekends or holidays and that no work occur after June 20, 2008. The project overall will have a positive impact on public access and recreation. Therefore, as conditioned, the proposed project can be found consistent with the public access and recreation policies of the Coastal Act.

2. Biological Resources/Water Quality. Section 30230 of the Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Act states in part:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff...

Section 30240 of the Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

These Coastal Act policies require the Commission to address the impacts on marine resources by considering the timing of the deposition of the material on the beach, the location of the receiver beach and the presence of environmentally sensitive resources. Deposition of material onto the beach can affect marine life through the burial of organisms on the beach and in the nearshore environment, and by increasing turbidity in adjacent waters. Turbidity can indirectly impact plankton, fish, marine mammals, birds, vegetated reefs, and benthic invertebrates. Turbidity results from suspended particles in the water column that can reduce ambient light levels, which can impact primary production of plankton and inhibit kelp and algae growth.

The proposed receiver site is part of the same Ponto Beach receiver site that was used as one of the SANDAG Regional Beach Sand Project (RBSP) sites (CDP #6-00-38) and is identical to the receiver site approved for the KSL Resort Hotel opportunistic sand project (Ref. 6-92-203-A4/KSL Encinitas Resort). The applicant is, therefore, relying on the EIR's that were prepared for the SANDAG project involving the deposition of 118,000 cu. yds. of sand. In addition, the applicant is relying on the monitoring research performed before and after the SANDAG project and comments from the Department of Fish and Game (DFG), U.S. Fish and Wildlife Service (USFWS) and Army Corps of Engineers (ACOE) to assure any adverse impacts to environmentally sensitive resource are eliminated or adequately mitigated. Monitoring after the 2001 RBSP indicated no significant impacts have occurred. In addition, subsequent monitoring by the City of Encinitas at the subject receiver site has found an improvement in biological resource uses of the beach habitat. Based on the SANDAG monitoring studies and input from the Resource agencies, the applicant has proposed a specific monitoring plan for the subject development to address biological monitoring of grunion, nearshore reefs, turbidity, and beach profiling ("Monitoring Plan for Batiquitos Receiver Site Opportunistic Beach Replenishment Project" submitted on January 22, 2008.) In addition, the proposed monitoring plan is very similar to the monitoring plan approved by the Commission for the 50,000 cu. yds. of sand resulting from the KSL Encinitas Resort project.

Nearshore Reefs.

Relying on the monitoring results from the 2001 SANDAG Regional Beach Sand Project that placed 118,000 cu. yds. of sand at the subject site, no significant impacts are likely to occur to the offshore reefs. As a result, monitoring is only proposed for shallow nearshore reefs which will be surveyed before construction and within 90 days after construction with emphasis on measuring the inshore boundary of surfgrass.

Turbidity.

In the case of the proposed development, the amount of turbidity is expected to be minimal and will not exceed the turbidity levels of the previously approved SANDAG replenishment project which occurred on the proposed receiver site in 2001 or the expected turbidity levels of the previously approved, but not yet implemented, 50,000 cu. yds. of sand placement resulting from the development of the KSL Encinitas Resort. In the case of the KSL Encinitas Resort sand project, the California Regional Water Quality Control Board (CRWQCB) required daily monitoring of the turbidity plumes and weekly submission of the monitoring to assure the turbidity did not exceed the limits set on the previous SANDAG project. It is anticipated that the CRWQCB will have similar requirements for the proposed sand replenishment project. The applicant is proposing daily monitoring from a high vantage point and construction will be halted if a turbidity plume occurs for more than 5 days.

Special Condition #4 has been attached which requires that the applicant submit copies of all other state or federal actions related to the proposed development such as CRWQCB concurrence. Therefore, following final review by the CRWQCB, the project herein approved will be monitored by the applicant consistent with the requirements of the CRWQCB which will minimize or eliminate all adverse water quality impacts consistent with Section 30231 of the Coastal Act.

In addition, the Army Corps of Engineers (ACOE) has reviewed the grain size sampling data and color characteristics of the sand that is proposed for disposition and has generally concluded that the size and color is consistent with the requirements of the ACOE. Although preliminary approval has been given, Special Condition #4 requires that the final approval or determination by ACOE of the grain size and color be submitted for Executive Director review prior to commencement of construction.

Based on the SANDAG monitoring of the sand placement at the subject receiver site in 2001, another potential adverse affect resulting from the placement of sand at this location involves the amount of the sand that ultimately becomes deposited by the ocean onto the flood shoal of Batiquitos Lagoon. In other words, the sand deposited on the subject site has the potential of being transported north and drawn into Batiquitos Lagoon adding to sediment and the need to dredge the lagoon. In the case of the KSL Encinitas Resort sand project, the Department of Fish and Game (DFG) estimated that approximately 8.8% of the proposed 50,000 cu. yds. of sand exported to the beach from

that development would ultimately be deposited by the ocean into the flood shoal of Batiquitos Lagoon since that is the percentage that was estimated to have resulted from the SANDAG project. The DFG has routinely performed dredging operations of the lagoon as part of a Batiquitos Lagoon enhancement project. In the case of the KSL Encinitas Resort project, the City agreed as part of its approval of the Mitigated Negative Declaration (Ref. MND, 12/16/05 and as amended 2/10/04) to pay for the cost of dredging the approximately 4,400 cu. yds. (8.8%) from the lagoon. Because of these previously identified impacts of sand replenishment at Ponto State Beach, the applicant examined whether the proposed 37,000 cu. yds. of sand would have similar impacts to the flood shoal. After discussion with City staff, the DFG, and the Commission's coastal engineer, it has been determined that the placement of the proposed 37,000 cu. yds. of sand is unlikely to have adverse impacts to the flood shoal of Batiquitos Lagoon because the proposed project will occur at a different time of the year (from mid-May up to June 20, 2008). According to the Commission's coastal engineer, in the late winter/early spring, the dominant direction of sediment transport at the proposed receiver site is to the south, away from Batiquitos Lagoon. In late fall and winter, when there are storms from the south, southwest, the dominant transport direction can shift to be from south to north. However, if the sediment is placed soon, the wave climate will move the sediment to the south and by the time there is another period of northerly transport, the sediment will be so dispersed that it will not be possible to distinguish its impacts on Batiquitos Lagoon from the background impacts from overall littoral sediment. Therefore, as the applicant has proposed to place the sand in May and June, no impacts on the shoal are expected and as such, no mitigation is necessary.

Beach Profiling.

In order to provide information on project benefits and efficacy of design, the applicant is proposing to monitor the beach profile prior to construction, immediately following construction and each spring and fall for one year following the beach fill. The applicant proposes to use the same three transect locations as were used in the beach profile monitoring of the SANDAG sand replenishment project of 2001 and that will be used for the KSL Resort sand project. To assure that the beach profiling information is consistent with and comparable to the beach profile monitoring required for the KSL Resort sand project, Special Condition #2 has been attached. Special Condition #2 is the identical beach profile monitoring requirement the Commission imposed for the KSL Resort sand project. The monitoring for each project can be coordinated to avoid redundant monitoring of the same beach site. The combined information obtained from these two projects will assist the Commission in evaluating future sand replenishments at this location.

Grunion.

California grunion spawn on sandy beaches in the San Diego region between March and August and have the potential to be affected by beach fill projects. Grunion could be impacted by beach fill activities if the eggs were buried by beach fill material, thus preventing the eggs from hatching. Grunion spawn during middle-of-the-night spring

high tides, and their eggs incubate in the sand and hatch in approximately 2 weeks when the next spring high tide occurs. While grunion are not listed as threatened or endangered, efforts should be made to minimize impacts to this managed fish species.

Because the Ponto State Beach receiver site is mostly a mix of cobble and sand, it may not provide suitable grunion spawning habitat. However, the mitigated negative declaration for the previously approved KSL Encinitas Resort project indicates that adding sand to the beach at this location is expected to improve grunion spawning opportunities. As a precaution, the applicant is proposing that grunion activity will be monitored prior to construction as well as during construction. If grunion are found to be present, the applicant proposes to halt construction for two weeks until the grunion eggs hatch. If grunion are present during predicted runs, beach nourishment will be halted until after the next high tide, i.e., after the eggs hatch.

Western Snowy Plover/California Least Tern.

Although specific environmental review was not required by the City for the proposed sand project, the applicant has submitted an Administrative Draft Mitigated Negative Declaration for a proposed Opportunistic Beach Fill Program for the Cities of Encinitas, Solana Beach, Coronado and Imperial Beach. The “Administrative Draft” relies on the monitoring results from the SANDAG Regional Beach Sand Project of 2001 to determine the potential adverse environmental impacts of future sand replenishment within these Cities. According to the “Administrative Draft” document, no impacts to Snowy Plover or the California least tern are anticipated at the proposed Ponto State Beach site. The document identifies that:

The Western snowy plover (*Charadrius alexandrinus nivosus*) is a threatened species that is resident to Southern California. The plover nests typically in flat open, areas with sandy or saline substrates, and forages invertebrates in the intertidal and/or in association with kelp wrack. Snowy plovers typically forage or nest in area where human activity is low or absent. Their breeding and nesting season extends from March 1 to September 15.

In addition:

The California least tern (*Sterna antillarum browni*) and the California brown pelican (*Pelecanus occidentalis californianus*) may forage on fish outside the surf zone in the vicinity of the proposed projects. The California least tern is a seasonal migrant that breeds and nests in San Diego County between April and the end of August.

The document identifies that receiver sites in Solana Beach, Coronado and Imperial Beach are located near known nesting sites for both the Western snowy plover and California least tern and outlines a series of mitigation measures that must occur if work occurs during the breeding and nesting season. However, the City has subsequently identified that Western snowy plover and California least tern nesting sites are also

located within Batiquitos Lagoon near the proposed receiver site and will revise the Draft Administrative MND accordingly. The MND for the KSL Encinitas Resort sand project specifically identified that the California least tern and Western snowy plover inhabit the nearby Batiquitos Lagoon. Since the breeding and nesting season for these endangered species extends from March 1 to September 15 which overlaps the proposed work period, the applicant will need to monitor the proposed development to assure no impacts to these endangered or threaten species occur. Special Condition #6 has been attached which requires a final Biological Resources Mitigation and Monitoring Plan be approved by both the USFWS and DFG and the Executive Director prior to issuance of the Coastal Development Permit. The final Biological Plan will include details on monitoring, which in the case of the SANDAG Regional Beach Sand Project included observation of nesting activity and turbidity plumes if the project is located near California least tern or Western snowy plover breeding and nesting sites.

Construction staging and storage of equipment can have adverse water quality impacts unless safeguard measures are included. To assure no adverse impacts with the staging or storage of vehicles or materials, Special Condition #3 requires the submission of a Staging and Storing Plan that prohibits the applicant from storing vehicles or materials on the beach overnight and prohibits washing or cleaning construction equipment on the beach.

The proposed project has been designed and conditioned to avoid significant adverse impacts on biological resources. As conditioned, the Commission finds that the proposed project will ensure that all environmental impacts are minimized and adequately mitigated. Therefore, the proposed project can be found consistent with resource protection policies of the Coastal Act.

4. Hazards

Section 30253 of the Coastal Act states, in part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The proposed development is located in an area subject to tidal action. The tidal environment is dynamic and there are risks associated with development in such areas. For instance, erosion has occurred at the subject beaches where beach nourishment is proposed, and erosion is one form of potential geologic hazard. The fact that the applicant is proposing beach nourishment to restore the pre-existing beach area indicates that erosion does occur. However, adding sand to the beach and increasing the size of beach beyond pre-existing conditions will not increase the existing erosion hazard. Quite the opposite, increasing the beach size may decrease risks to property. As described above, the proposed monitoring of the replenishment material will ensure risks to life and

health are minimized. Therefore, the proposed project minimizes this hazard consistent with Section 30253.

5. Local Coastal Planning. The proposed project lies within the Commission's area of original jurisdiction that is not governed by the City of Encinitas' Certified Local Coastal Program. As conditioned, the proposed development is consistent with the public access, recreation, and environmental protection policies in Chapter 3 of the Coastal Act. Therefore, approval of the proposed development will not prejudice the ability of the City of Encinitas to continue to implement its certified Local Coastal Program.

6. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing monitoring of biological, physical, and recreational impacts, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

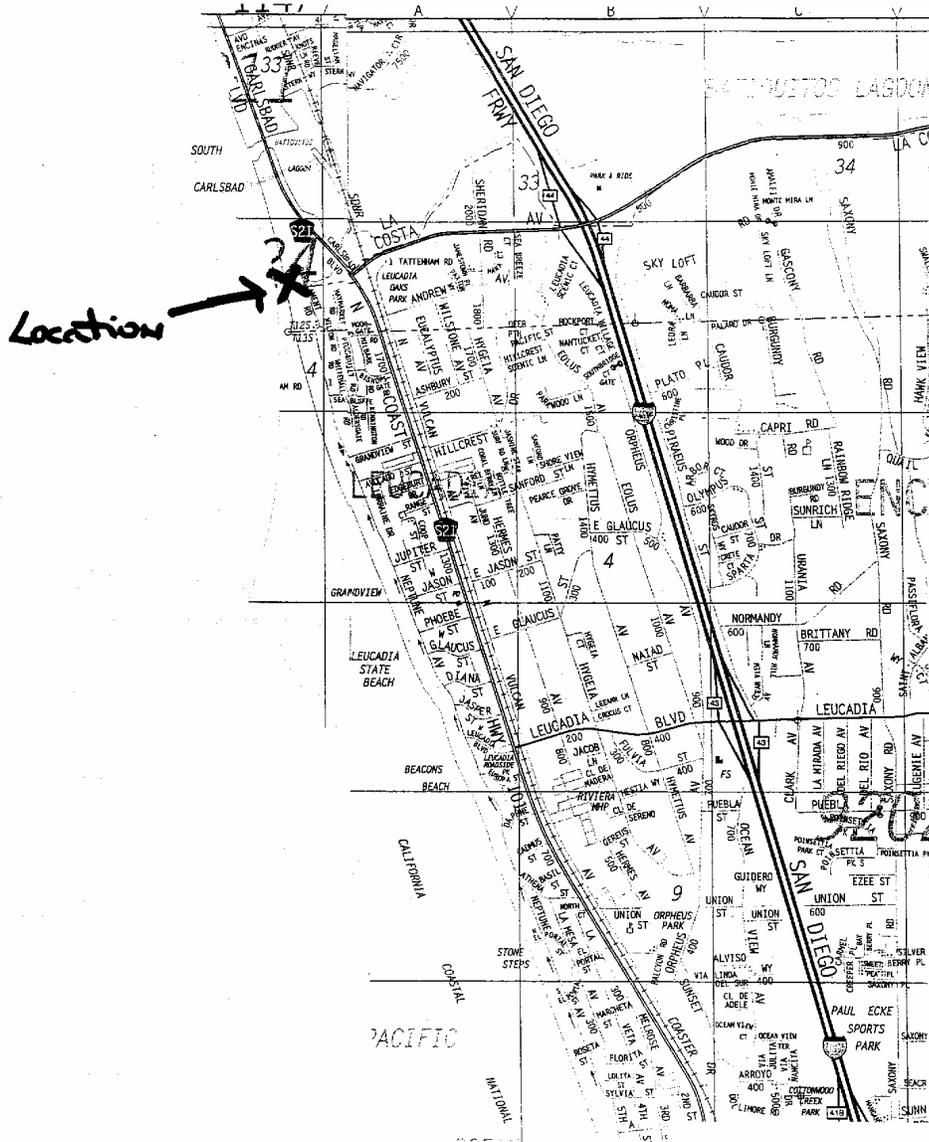
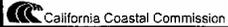
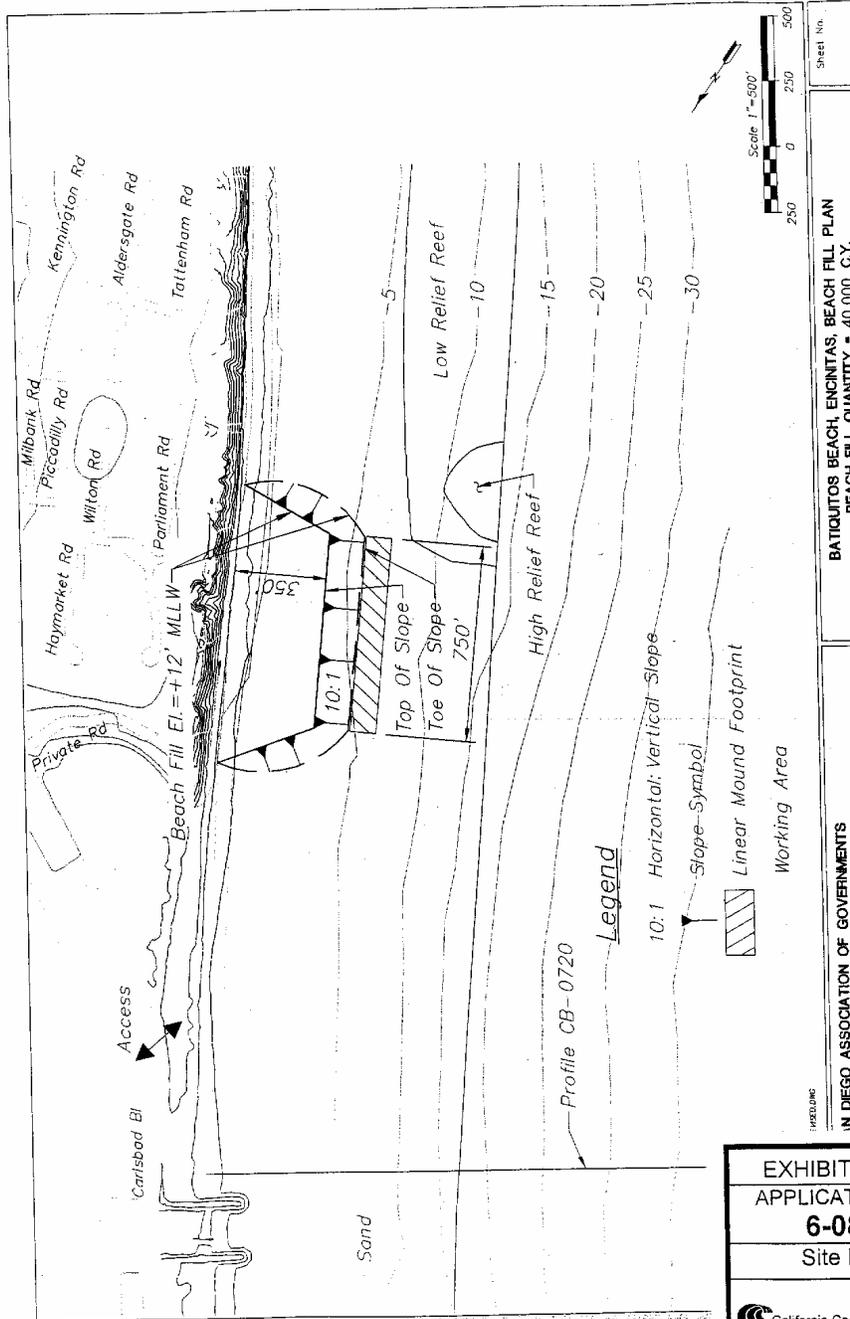
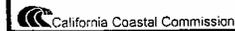


EXHIBIT NO. 1
APPLICATION NO.
6-08-8
Location Map

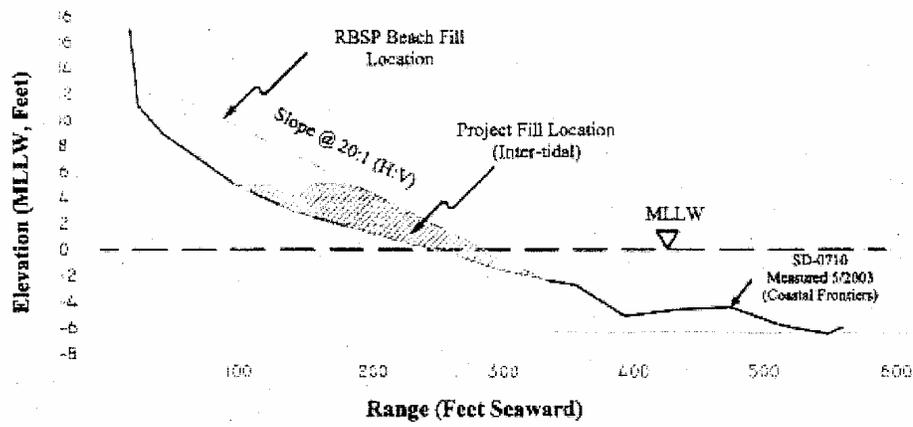




<p>EXHIBIT NO. 2 APPLICATION NO. 6-08-8 Site Plan</p>
<p>IN DIEGO ASSOCIATION OF GOVERNMENTS IES OPPORTUNISTIC BEACH FILL PROGRAM MND</p>
<p>BATIQUITOS BEACH, ENCINITAS, BEACH FILL PLAN BEACH FILL QUANTITY = 40,000 C.Y.</p>



Batiquitos Receiver Site Fill Placement: Cross Sectional View Figure 2



Vertical Scale: 1" = 10'
Horizontal Scale: 1"=100'

EXHIBIT NO. 3
APPLICATION NO.
6-08-8
Cross-Sections
 California Coastal Commission