

**CALIFORNIA COASTAL COMMISSION**

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 49th Day: April 8, 2008  
 180th Day: August 17, 2008  
 Staff: Ellen Lirley-SD  
 Staff Report: March 25, 2008  
 Hearing Date: April 9-11, 2008

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-08-025

Applicant: California Department of Transportation      Agent: Bruce April

Description: Installation of two Vehicle Detection System (VDS) units along Interstate 5, consisting of a forty-foot-tall, tapering pole, camera, and solar energy panels, used to detect traffic flow, accidents and obstructions on the road.

Site: Along the northbound and southbound Interstate 5, just south of San Dieguito and Batiquitos lagoons, San Diego and Carlsbad (San Diego County).

Substantive File Documents: Certified City of Carlsbad and City of San Diego LCPs

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval with conditions of the proposed highway monitoring project. The issues raised are potential impacts to coastal sage scrub vegetation and visual resources, as these devices will both be adjacent to lagoons. The special conditions require all possible reduction of said impacts by appropriate siting that still achieves the public safety purpose of the project, which requires placement of these devices at roughly half-mile intervals.

Standard of Review: Chapter 3 policies of the Coastal Act

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

**MOTION:**      *I move that the Commission approve Coastal Development Permit No. 6-08-025 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 and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. 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. Breeding Season Restrictions. No work may occur in either location during the breeding season of the coastal California gnatcatcher, which extends from February 15 to August 31, of each year, unless approved in writing by the California Department of Fish and Game (DFG) and/or the U.S. Fish and Wildlife Service (FWS).

2. Revised Final Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final plans for the proposed development that are more specific as to location than the submitted maps and photos that shall be revised/refined as follows:

1. The location of the VDS units shall be revised such that the units are located as far north or south of the lagoon crossings as will assure their function, while minimizing public view impacts.

The permittee shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Future Redesign. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall agree in writing that, if in the future the VDS units are no longer needed, the applicant agrees to be responsible for their removal. Before performing any work in response to the requirements of this condition, the applicant shall contact the Executive Director of the California Coastal Commission to determine if an amendment to this coastal development permit is necessary.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The California Department of Transportation (CalTrans) is proposing installation of two vehicle detection system (VDS) units along Interstate-5 (I-5), one within the City of San Diego and the other within the City of Carlsbad. These are traffic safety devices that monitor the flow of traffic and also detect accidents or other potential obstructions on the highway. The units consist of cameras and solar panels (one with two 6 sq.ft. panels and one with one 11 sq.ft. panel) attached to forty-foot-high poles, which taper from a 10-inch diameter at ground level to a 4-inch diameter at the top. The use of solar energy eliminates the need for electrical trenching, but the poles are supported on 3-foot by 3-foot concrete pads. One will be located just east of the northbound paved highway shoulder, south of Batiquitos Lagoon, and the other will be located just west of the southbound paved highway shoulder, south of San Dieguito Lagoon.

CalTrans is installing many of these devices along I-5, to establish this detection system or to fill in gaps in coverage where it is already installed. Nearly all of these are exempt from requiring coastal development permits pursuant to the Interpretive Guideline on Exclusions from Permit Requirements, adopted by the Coastal Commission on September 5, 1978. The guideline was developed to exempt ongoing repair and maintenance activities, including public safety features) for roads, utilities, and other public services conducted by a range of public and private agencies. However, the guideline does not apply if there is a risk of environmental impact from the proposed activities. The two VDS units that are the subject of this application include both permanent and temporary impacts to coastal sage scrub (CSS).

One of these units will be within the City of Carlsbad and one within the City of San Diego, both of which have certified LCPs. However, the work will occur entirely within Caltrans' right-of-way, which is excluded from San Diego's LCP. For the Carlsbad unit, the LCP does not appear to exclude the I-5 corridor; however, this particular site is adjacent to Batiquitos Lagoon, and thus within the Commission's original jurisdiction. As such, all the proposed work is contained within the Coastal Commission's jurisdiction and the Chapter 3 policies of the Coastal Act are the legal standard for review, with the certified LCPs used as guidance.

2. Biological Resources. The following Coastal Act policy addresses the coastal sage scrub vegetation found on both of the subject sites and potentially subject to impact by the proposed development, and states:

**Section 30240**

(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.

The two proposed sites are located just south of Batiquitos and San Dieguito Lagoons, in uplands that are part of the lagoon complexes. Installation of the new VDS units will result in both temporary and permanent impacts to CSS habitat adjacent to the freeway. The subject sites are both located within the I-5 right of way, and the VDS units will be sited only five or six feet from the existing freeway pavement in specific locations where the CSS is less dense and more disturbed. However, some CSS vegetation comes right up to the guard rail along much of the freeway, including where these devices must be placed to provide maximum public safety benefits. The poles require a concrete footing approximately 3' by 3', and a construction access area of approximately 5' by 5'. Thus the maximum amount of permanent impact to CSS would be 18 sq.ft., counting both locations, and the maximum temporary impact to CSS would be 50 sq.ft., counting both locations. The sites can be reached from the shoulder of the road, and no trenching for utilities is necessary as the units are equipped with solar panels, which is why such a small amount of temporary impact for worker access will occur. Each installation is estimated to take one day to complete, and the applicant proposes to revegetate the area of temporary impact with CSS.

Nesting pairs of California gnatcatchers occupy the general area of both sites, and Special Condition #1 prohibits any work during the gnatcatcher breeding season unless approved in writing by DFG or FWS. The Commission has typically found that CSS that supports nesting gnatcatchers is ESHA, because the habitat is especially valuable due to its role in the ecosystem. However, in the present instance, the Commission finds that the habitat located in the area of impact cannot reasonably be considered part of the ecosystem because it is located within the highway right of way, right up against the guard rail and only a few feet from the paved freeway itself. The Commission's staff ecologist has reviewed the proposed development and has determined that the manufactured slopes that support the roadbed for Highway 5 where the proposed development is to occur do not meet the definition of Environmentally Sensitive Habitat Area under the Coastal Act due to their disturbed nature and because they are not truly part of the ecosystem.

In summary, the Commission finds that the proposed construction activities are consistent with Section 30240 of the Coastal Act. The staff ecologist has determined that the CSS that will be impacted at these sites is not ESHA, because the sites are in the least vegetated specific locations immediately adjacent to the road in an area that, due to its disturbance and location adjacent to the highway, is not considered part of the surrounding ecosystem. In addition, the applicant proposes to revegetate the areas of temporary impact. The proposed development

would not have significant adverse impacts on the quality and quantity of delineated ESHA in the San Dieguito River Valley or Baticuitos Lagoon complex. Therefore, as conditioned, the Commission finds the proposal consistent with the biological resource policies of the Coastal Act.

3. Visual Resources. Section 30251 of the Coastal Act addresses visual resources, and states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas....

Both lagoons have significant visual resources, as they are comprised of open water, marshes, areas of salt pan, and upland hillsides, and include area on both sides of I-5. Both represent major open space systems in their respective communities, such that protection of visual resources is of utmost concern in these locations. In addition, ocean views are available to the west from I-5 as you cross both lagoons

The project consists of the installation of two forty-foot poles with solar panels and cameras attached near the top. The poles are slim, tapering from a 10-inch diameter at the bottom to a 4-inch diameter at the top, but cumulatively add to roadside “clutter” that already includes light standards, message boards, highway signs, etc. Since most of these VDS units do not require a Coastal development permit, many of them already exist along I-5, as well as along other freeways throughout California. Like most of the other existing “clutter,” the VDS units are a public safety feature necessary to keep the highways running smoothly. In addition to monitoring the general speed of traffic, they also detect interruptions in the traffic flow due to accidents or other obstructions in the road, enabling quicker dispatch of first responders.

All these safety features add to the proliferation of objects along the roadside. They are generally overlooked by drivers, except in sensitive areas where they may block or degrade public views or recreational activities. When the project was first proposed, both units were to be located on the west side of I-5, potentially affecting ocean views. The applicant has determined it can relocate the unit near Baticuitos Lagoon to the inland side of I-5, thus reducing its overall visual impact. It could, however, still be an adverse impact to people looking eastward, which is common in these areas since the lagoons extend to both sides of the freeway. Due to operational issues, the unit proposed at the San Dieguito Lagoon cannot be relocated to the east side of the highway. However, the applicant proposes to move it approximately 200 yards further south, nearer to a large tree that will lessen the pole’s impact. CalTrans investigated the possibility of attaching the VDS units to existing signs or bridges, but cannot because the sign foundations were not designed to support the added weight and the bridges would interfere with the operation of the units.

Because of the requirement to place the VDS units roughly half a mile apart, the applicant has indicated that the locations cannot be significantly adjusted. The original sites were chosen as

having the least dense CSS, but view issues were not considered in this decision. Since the CSS extends for the most part all the way along the highway in the general area of these sites, impacts to non-ESHA CSS will not change significantly regardless of the exact placement. However, even minor adjustments may make a significant difference in view impacts. Thus, Special Condition #2 requires submittal of revised final plans, which require the VDS sites to be placed as far north or south of the lagoon crossings as possible. In this way, the poles will not project as significantly into the lagoon viewsheds. All existing “clutter” features that might be used to lessen the impact of the poles (such as moving one site nearer to a large tree), or screen them entirely must be identified.

In summary, the applicant has said that some flexibility is possible in the exact placement of these facilities, and has proposed some modifications already, as addressed above. However, if the units are to provide the services desired, they must be generally located at consistent distances. The Commission finds that, as conditioned, adverse impacts will be minimized to the extent possible, particularly including Special Condition #3 which requires the applicant to submit a written statement agreeing to remove the structures and restore the sites in the future should technological advances make this facility obsolete. In this way, it can be assured that the area will not be littered with outdated and obsolete facilities in the future.

4. Local Coastal Planning. This project occurs in two different cities – Carlsbad and San Diego. The Carlsbad location is within the overall Batiquitos Lagoon complex, and is thus in an area of original jurisdiction. The San Dieguito River Valley location in San Diego may also be in an area of deferred certification. Regardless, the I-5 corridor in the City of San Diego runs between the various Land Use Plan segments of the City’s LCP. It is defined as the border of several communities, but is not included in any community for means of LUP policies. For this reason as well, the I-5 corridor is not part of the certified LCP, and remains within Coastal Commission jurisdiction. Thus, both project components are subject to the Chapter 3 policies of the Coastal Act as the legal standard of review. As conditioned, the Commission finds the project consistent with Chapter 3, and further finds that approval of this proposal, with the attached conditions, will not prejudice the ability of either jurisdiction to continue implementation of their respective LCPs.

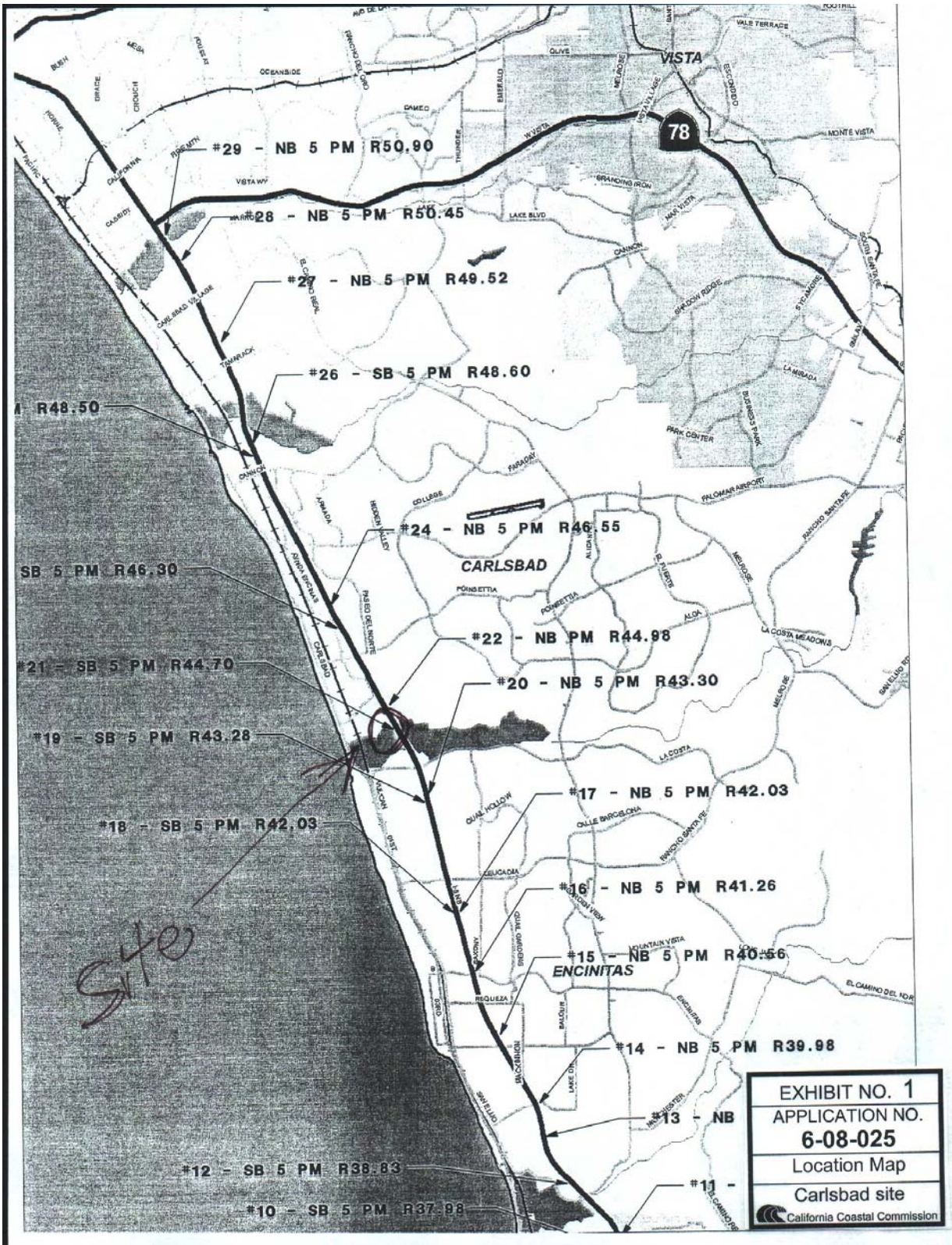
5. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of 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 protection of biological and visual resources, 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

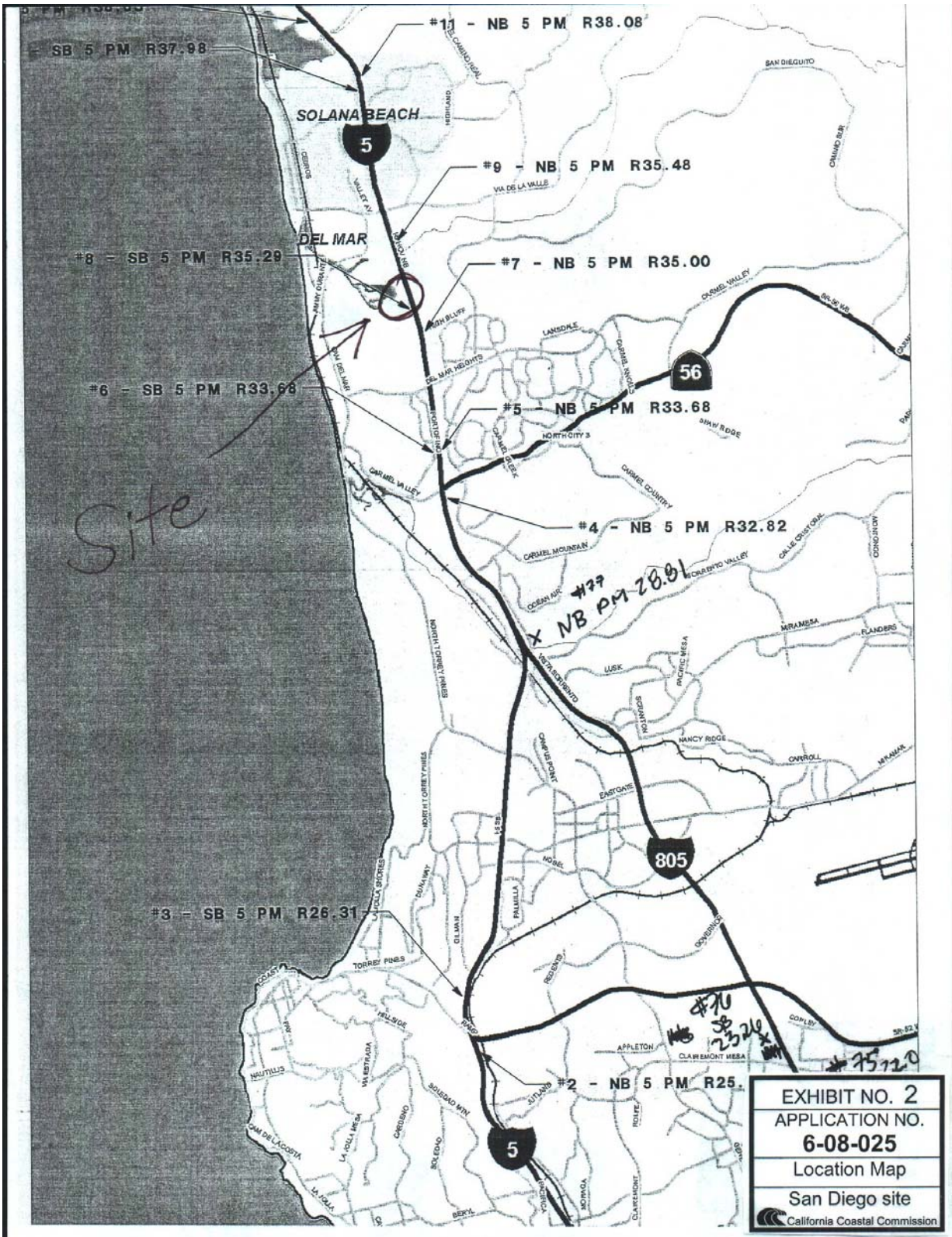
environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

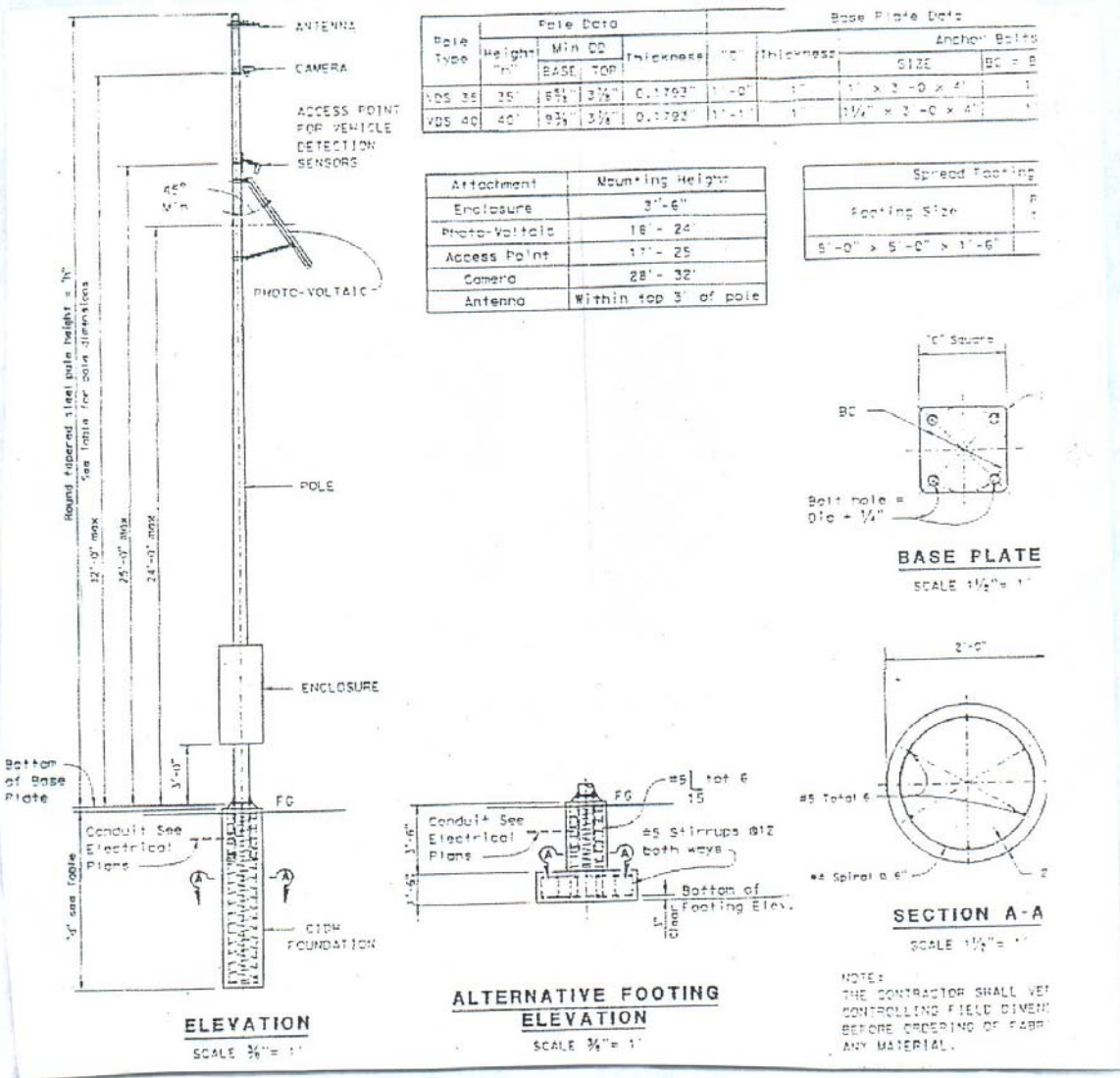
STANDARD CONDITIONS:

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.





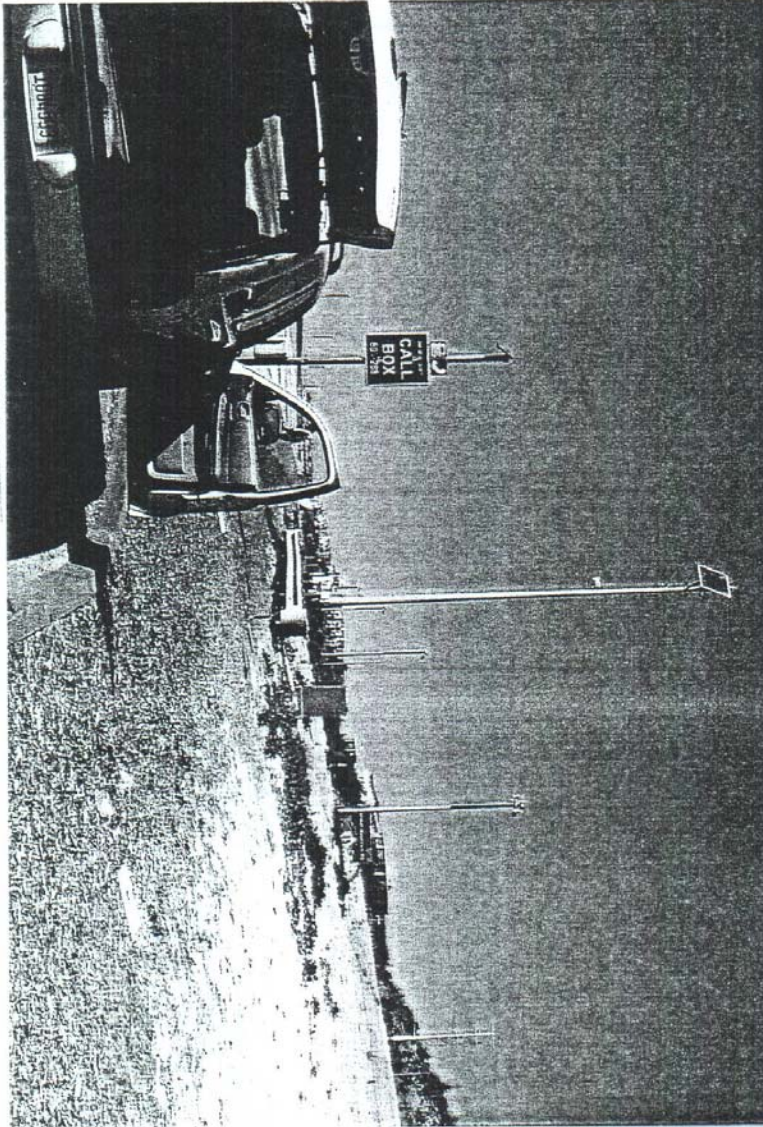




**EXHIBIT NO. 3**  
**APPLICATION NO.**  
**6-08-025**  
**Elevation of VDS unit**

California Coastal Commission

Location #77, I-805 NB, PM 28.810



← example of what I'd like

EXHIBIT NO. 4
APPLICATION NO. <b>6-08-025</b>
Photo of Existing VDS unit
 California Coastal Commission

