

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
 200 Oceangate, Suite 1000
 Long Beach, CA 90802-4302
 (562) 590-5071

**Th3e**

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 Staff: Karl Schwing-LB
 Staff Report: March 20, 2008
 Hearing Date: April 9-11, 2008
 Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-07-205

APPLICANT: California Department of Transportation (CalTrans)
 Attn: Chris Flynn

PROJECT LOCATION: Crystal Cove State Park, 8471 Pacific Coast Highway,
 Laguna Beach, Orange County

PROJECT DESCRIPTION: At three locations within natural drainages, abandon and cap reinforced concrete pipes, remove rock slope protection, restore original grade, and revegetate with native plants; remove existing concrete box drainage outlet on beach; install corrugated steel pipe to reinforce existing underground drainage pipe and install new drainage outlet with manhole at beach outlet; cut off reinforced concrete pipe extending into Los Trancos Creek, plug and abandon outlet into creek; repair bike path at 4 locations along Pacific Coast Highway; repair pavement in southbound lanes of Pacific Coast Highway.

SUMMARY OF STAFF RECOMMENDATION:

Equipment access to the drainages will result in temporary impacts to some existing coastal sage scrub habitat that is occupied by California gnatcatcher. Once work is completed, the areas impacted by equipment access will be restored, and the areas where the drainage outlets and rock slope protection are removed will be restored with native plants appropriate to the habitat type. Thus, there will be a net increase in coastal sage scrub habitat upon completion of the project.

Staff recommends the Commission **APPROVE** the proposed development with special conditions requiring 1) an agreement that future development be reviewed by the Commission; 2) use of water quality best management practices (BMPs) and measures to avoid, minimize and mitigate adverse impacts to sensitive habitat; and 3) preparation and implementation of a final revised coastal sage scrub restoration and monitoring program.

SUBSTANTIVE FILE DOCUMENTS: Crystal Cove Public Works Plan (1982); Coastal Development Permit Application 5-01-269 (Crystal Cove Historic District Interim Plan); 5-04-060 (California Department of Parks and Recreation); PWP 4-82-14 Crystal Cove Public Works Specific Project; Coastal Development Permit Application No. A-5-NPC-03-141; *Crystal Cove Restoration and Abandonment of Drainage Facilities Natural Environmental Study* dated January 2007; *Crystal Cove Restoration and Abandonment of Drainage Facilities Restoration Plan* dated December 2007; *Crystal Cove Restoration and Abandonment of Drainage Facilities Biological Assessment* dated January 2007; *Project Report* dated 3/29/07; *SR-1 Crystal Cove State Park Drainage Restoration Project Water Resources and Water Quality Technical Study* dated March 2007; Crystal Cove Drainage Abandonment Project Historic Property Survey Report dated August 2005 including Archeological Survey Report dated August 2005.

STAFF RECOMMENDATION:

Staff recommends that the Commission APPROVE the permit application with special conditions.

MOTION: *I move that the Commission approve coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a YES vote. Passage of this motion will result in approval of all permits included on the consent calendar. An affirmative vote of a majority of the Commissioners present is needed to pass the motion.

RESOLUTION:

I. APPROVAL WITH CONDITIONS

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 feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. 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 this permit is reported to the Commission. 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.

III. **SPECIAL CONDITIONS**

1. **Future Improvements**

This coastal development permit (5-07-205) is only for the proposed development, as expressly described and conditioned herein. Any non-exempt future improvements or development shall be submitted for Commission review or review by the appropriate delegated local authority and shall not commence unless Commission approval or the approval of the appropriate delegated local authority is granted. New development, unless exempt, shall require an amendment to this permit, a new coastal development permit from the Coastal Commission or its successor agency, or may be processed as a Public Works Plan Specific Project pursuant to Section 30606 of the Coastal Act.

2. **Water Quality Best Management Practices (BMPs) and Measures to Avoid, Minimize and Mitigate Impacts on Sensitive Habitat**

The permittee shall comply with the impact avoidance, minimization and mitigation identified in the *Crystal Cove Restoration and Abandonment of Drainage Facilities Natural Environmental Study* dated January 2007 and the *SR-1 Crystal Cove State Park Drainage Restoration Project Water Resources and Water Quality Technical Study* dated March 2007 submitted by the applicant and the following additional project-related requirements:

- (a) No construction/demolition materials, debris, or waste shall be placed or stored where it may enter sensitive upland habitat or streams/wetlands, storm drain, receiving waters, or be subject to wind erosion and dispersion;
- (b) Any and all debris resulting from construction/demolition activities shall be removed from the project site within 24 hours of completion of the project;
- (c) Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction/demolition related materials, sediment or contaminants associated with construction/demolition activity, shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project.
- (d) Construction/demolition debris and sediment shall be removed from project areas each day that development occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed at a debris disposal site outside the coastal zone.
- (e) All sensitive habitat areas shall be identified with temporary fencing by a qualified biologist prior to the commencement of development activities.
- (f) An appropriately trained biologist shall monitor development activity for disturbance to sensitive species or habitat area. At minimum, monitoring shall occur once a

week during any week in which development occurs. Daily monitoring shall occur during development activities which could significantly impact biological resources such as construction/demolition within 50 feet of coastal sage scrub that could result in disturbances to California gnatcatcher (*Polioptila californica*). Based on field observations, the biologist shall advise the applicant regarding methods to minimize or avoid significant impacts, which could occur upon sensitive species or habitat areas. The applicant shall not undertake any activity, which would disturb sensitive species or habitat area unless specifically authorized and mitigated under this coastal development permit or unless an amendment to this coastal development permit for such disturbance has been obtained from the Coastal Commission.

- (g) Except for habitat restoration pursuant to the Final Revised Coastal Sage Scrub Restoration and Monitoring Program approved by the Executive Director pursuant to Special Condition No. 3, no development may occur during the gnatcatcher breeding season (considered to be from February 15 through August 31).
- (h) During the non-breeding season (September 1 through February 14), ESHA defined by historical gnatcatcher use shall be shielded from the sight and sound of construction/demolition activities taking place within 50 feet of the ESHA.
- (i) Staging/stockpile areas shall be confined to designated fenced areas located outside of designated ESHA and buffers to prevent damage to ESHA.

3. Final Revised Coastal Sage Scrub Restoration and Monitoring Program

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, a final revised detailed habitat restoration and monitoring program, prepared in consultation with the California Department of Fish and Game, to offset proposed coastal sage scrub impacts. The revised final plan shall be in substantial conformance with the *Crystal Cove Restoration and Abandonment of Drainage Facilities Restoration Plan* dated December 2007 prepared by CalTrans, except that it shall be revised as required in this condition. A qualified biologist for restoration and monitoring of the coastal sage scrub restoration site shall design the revised final restoration and monitoring program. The revised final restoration and monitoring program shall at a minimum include the following:
 - 1. Provisions to quantify and document through photographs and mapping the actual vegetation impacts caused by the proposed project;
 - 2. Identification and description of the relatively undisturbed reference site(s) that will be used to judge the success of the restored site(s);
 - 3. A detailed sampling design with a graphic that depicts the sampling plan layout; a detailed description of the photo point and visual estimate methodologies that will be employed;
 - 4. Application of the sampling design identified in number 3 above must be used to assess the initial biological and ecological status of the "as built" restoration site within 30 days of establishment of the restoration site in accordance with the approved restoration program. The assessment shall include an analysis of the success criteria (e.g. percent cover, # of species) that will be monitored pursuant to the program. The assessment shall also report the results of the quantification

and documentation of the actual vegetation impacts caused by the project (as required in provision #1 above) and the actual quantity of restored habitat area.

5. Provisions for monitoring and remediation of the restoration site in accordance with the approved final restoration program for a period of five years or until it has been determined that success criteria have been met or have failed to be met, whichever comes first.
 6. Provisions for submission of the "as-built" assessment for the review and approval of the Executive Director of the Commission within 90 days of completion of the initial habitat restoration;
 7. Provisions for submission of annual reports of monitoring results to the Executive Director for the duration of the required monitoring period, beginning the first year after submission of the "as-built" assessment. Each report shall include copies of all previous reports as appendices. Each report shall be a cumulative report that summarizes all previous reports. Each report shall document the condition of the restoration with photographs taken from the same fixed points in the same directions. Each report shall also include a "Performance Evaluation" section where information and results from the monitoring program are used to evaluate the status of the restoration project in relation to the performance standards.
 8. Provisions for submission of a final monitoring report to the Executive Director at the end of the reporting period. Final performance monitoring shall take place after at least three years without remediation or maintenance other than weeding. The performance monitoring period shall either be five years or three years without maintenance or remediation, whichever is longer. The final report must be prepared in conjunction with a qualified biologist. The report must evaluate whether the restoration site conforms to the goals, objectives, and performance standards set forth in the approved final restoration program. The report must address all of the monitoring data collected during the period until the final success criteria are met or over the five-year period, whichever comes first.
- B. If the final report indicates that the restoration project has been unsuccessful, in part, or in whole, based on the approved performance standards, the applicant shall submit within 90 days a revised or supplemental restoration program to compensate for those portions of the original program that were necessary to offset project impacts which did not meet the approved performance standards. The revised restoration program, if necessary, shall be processed as an amendment to this coastal development permit.
- C. The permittee shall monitor and remediate the Coastal Sage Scrub restoration site in accordance with the restoration and monitoring program, including any revised restoration and monitoring program approved by the Commission or its staff. Any proposed changes to the approved restoration and monitoring program shall be reported to the Executive Director. No changes to the approved restoration and monitoring program shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. PROJECT LOCATION, BACKGROUND AND DESCRIPTION

1. Project Location

Crystal Cove State Park is located in Orange County between the communities of Corona del Mar in Newport Beach to the north and Laguna Beach to the south (Exhibit 1). The 2,791-acre State Park includes a 3.25-mile long coastal section west of Pacific Coast Highway (PCH) and several inland areas. The proposed project site is primarily located between Los Trancos Creek and Muddy Creek, seaward of Pacific Coast Highway, including some work within the Crystal Cove Historic District. Vertical public access to the beach is available using the trail network seaward of PCH. Lateral public access is available along the public beach that is part of the State Park.

2. Project Description

In August 2003, the Commission approved Coastal Development Permit No. A-5-NPC-03-141, which authorized CalTrans to construct stormwater drainage improvements along Pacific Coast Highway, including new pipes, inlets and creation of biofiltration swales adjacent to Pacific Coast Highway. Upon installation of that development, certain existing storm drain pipes and outlets within Crystal Cove State Park became obsolete. A special condition of Coastal Development Permit No. A-5-NPC-03-141 required CalTrans to obtain a permit from the Commission to remove or properly abandon the obsolete facilities and to restore habitat in the areas where the drainage facilities were removed. The present application is CalTrans follow-up to the requirement imposed under Coastal Development Permit No. A-5-NPC-03-141.

The proposed project would involve the following work at 5 drainage locations (identified as Location No.'s 1-4 and 6)(Exhibit 2):

1. Abandon and cap reinforced concrete pipes at drainage locations 1, 2 and 3;
2. Complete removal of rock slope protection, using a crane, at drainage locations 1, 2 and 3;
3. Back fill, re-compact, grade and restore drainage areas at locations 1, 2 and 3, to original grade at those locations;
4. Revegetate drainage areas at locations 1, 2 and 3 with native plants obtained from locally grown stock;
5. Install 600mm corrugated steel pipe inside existing concrete box at location 4, and fill void areas around pipe with slurry fill;
6. Remove existing outlet headwall for location 4 and construct new drainage outlet flared end section at the beach;
7. Install new manhole cover at existing access opening to box culvert at location 4 for maintenance purposes;
8. Cut reinforced concrete pipe at location 6 so as to make it flush with the wall of the creek channel;
9. Install concrete plug in existing reinforced concrete pipe at location 6

In addition, the applicant is proposing to repair a bike path that parallels PCH at 4 locations and repair a small section of southbound PCH pavement where the abandoned drainage facilities caused damage to those facilities. The applicant is proposing appropriate detours during this work.

Location No.s 1, 2, and 3 are within natural drainages located seaward of Pacific Coast Highway that are incised into the coastal bluff top area. These drainages are heavily vegetated with native plant species, primarily associated with coastal sage scrub habitat. These areas are occupied by California gnatcatcher and do qualify as Environmentally Sensitive Habitat Area under the Coastal Act. Some native vegetation will be temporarily impacted in order to gain access to the drainages to remove the rock slope protection at the existing drainage outlets and to re-grade the areas to pre-existing conditions. Approximately 7,900 square feet of area will be temporarily disturbed. Upon completion of the project, approximately 13,000 square feet of area (including the 7,900 square feet of temporary disturbance) will be restored to native habitat area. The applicant is proposing measures to minimize and avoid impacts to water quality and sensitive plant and animal species. The applicant considered several alternatives including the no-project alternative, an alternative which involved complete excavation and removal of the drainage pipes, and the proposed alternative which removes exposed structures (such as the drainage outlet headwalls and rock slope protection) but which slurry fills and leaves underground pipes in place. The no-project alternative would result in no habitat restoration. The alternative involving complete removal of all drainage pipes would have caused significant additional impacts on sensitive habitat. The proposed alternative was found to have the least impacts on sensitive habitat while also achieving habitat restoration. The proposed project is a bona fide habitat restoration project, thus, it is consistent with Section 30240 of the Coastal Act as the proposed restoration is a use dependent upon the resources. Special Condition 2 requires the applicant to comply with avoidance, minimization and mitigation measures during the project that will address habitat and water quality issues.

The applicant has submitted a restoration plan for the restoration of the habitat areas that will be temporarily disturbed as well as restoration of those areas where rock slope protection and drainage outlets will be removed. The Commission's ecologist has reviewed the proposed restoration plan and has found it to be acceptable, except for the absence of certain provisions that are required in an appropriate restoration plan. Therefore, the Commission imposes Special Condition 3 which requires the applicant to submit a revised final restoration and monitoring plan that incorporates the changes specified in the special condition.

Location No.s 4 and 6 are located within the Crystal Cove Historic District. Location No. 4 is an existing box culvert that empties onto the sandy beach seaward of Historic Cottage No.s 14 and 21. The existing box culvert is large and in a state of disrepair, including chipped concrete and exposed, rusting steel rebar. The proposed project would reduce the size of the box culvert, removing the dilapidated portions of the box culvert, pulling it further landward, off the beach. This drainage outlet is still operational and will remain operational upon completion of the project.

Location No. 6 is located within the portion of Los Trancos Creek that passes through the historic district. The outlet is located where an existing bridge crosses over the creek and where the sides of the creek are concrete lined. The work in this area would remove a pipe outlet that once discharged to the creek and is now obsolete.

No impacts to archeological or historical resources are anticipated according to the applicant's studies.

The applicant has worked with the California Department of Parks and Recreation on the project whom has reviewed and endorses the project. CDPR will grant permission to CalTrans for access to the park to carry out the project.

B. STANDARD OF REVIEW AND CONSISTENCY WITH THE CRYSTAL COVE PUBLIC WORKS PLAN

Section 30605 of the Coastal Act provides, in pertinent part, that:

Where a plan for a public works or state university or college or private university development project has been certified by the commission, any subsequent review by the commission of a specific project contained in the certified plan shall be limited to imposing conditions consistent with Sections 30607 and 30607.1.

Section 30606 of the Coastal Act states:

Prior to the commencement of any development pursuant to Section 30605, the public agency proposing the public works project, or state university or college or private university shall notify the Commission and other interested persons, organizations, and governmental agencies of the impending development and provide data to show that it is consistent with the certified Public Works Plan or Long Range Development Plan. No development shall take place within 60 working days after the notice.

Section 13359 of the Commission's Administrative Regulations states:

(b) The Commission shall...determine whether the proposed development is consistent with the certified public works plan...

The Crystal Cove Public Works Plan (PWP) was approved by the Commission with conditions on May 20, 1982. Conditions were met on August 26, 1982. A few amendments to the PWP have occurred since its initial approval. The most recent PWP amendment was authorized in June 2003 (PWP-4-82-A2) and involved an update that replaced the Crystal Cove Historic District Development and Public Use Plan and On-Site Maintenance Program with the Crystal Cove Historic District Preservation and Public Use Plan. The PWP includes the Crystal Cove State Park General Plan, the On-Site Maintenance Plan and the Crystal Cove State Park Historic District Development and Public Use Plan. Section 30605 of the Coastal Act, cited above, establishes the standard of review. The first threshold question is whether the specific project is contained in the PWP. If it is, then the Commission's review is limited to the imposition of conditions. The Commission cannot deny a project that it previously certified as part of the PWP; however, the Commission can regulate the manner in which the project is carried out to bring it into conformance with the PWP. Once it is determined that a project is contained in the PWP, the second question is whether or not the project is consistent with the PWP.

The applicant determined that the proposed project is not contained in the PWP. The applicant chose to submit the project for a coastal development permit. The Commission finds that the proposed project was not previously contemplated and is therefore not contained in the PWP. The Coastal Act will serve as the standard of review for the proposed project, with the Crystal Cove Certified PWP serving as guidance.

C. ACCESS

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

D. RECREATION

The proposed development, as submitted, does not interfere with public recreational use of coastal resources and conforms with Sections 30210 through 30214 and Sections 30220 through 30223 of the Coastal Act regarding the promotion of public recreational opportunities.

E. WATER QUALITY

The proposed work will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and post construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

F. HABITAT

As conditioned, the environmentally sensitive habitat areas are protected against any significant disruption of habitat values, and only uses dependent on those resources are allowed within those areas and the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240 of the Coastal Act.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.



- Location 1
- Location 2
- Location 3
- Location 4
- Location 6

Crystal Cove Restoration and Drainage Project
 Area of Impact
 EA 0G5300
 12-ORA-1
 PM 12.3/13.4 (KP 19.8/21.6)
 November 2006

Map of Project Site

EXHIBIT# 2
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 Application Number:
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 California Coastal
 Commission



Location 1. Drainage outlet systems at station 21+60 and 21+90

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Location 2: Drainage outlet system at station 23+80

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Exhibit No. 3
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Location 3: Drainage outlet system at station 24+90



Location 4: 1500mmx1200mm Concrete Arch box outlet at station

12-ORA-1
Muddy Creek and Los Trancos Creek
12840 - 0G530K-20.10.201.335



Location 6: 750 mm RCP outlet at station

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