

CALIFORNIA COASTAL COMMISSION

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



July 1, 2010

F10a**ADDENDUM**

To: Commissioners and Interested Parties

From: John Ainsworth, Deputy Director
Gary Timm, Coastal Program Manager
Charles Posner, Staff Analyst

Re: Coastal Development Permit Amendment Request 5-08-294-A1 (Ballona Lagoon West Bank Enhancement Plan - -Phase III), City of Los Angeles.

I. Supplemental Findings - CEQA

The following findings replace the CEQA findings in Section E of the staff report:

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, 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.

In this case, the City of Los Angeles is the lead agency and the Commission is the responsible agency for the purposes of CEQA. The City of Los Angeles has determined the project to be categorically exempt from CEQA pursuant to Classes 4(d), 4(f), and 33 of the City CEQA Guidelines (Article III, Section 1) and the State CEQA Guidelines (Section 15300 et seq.). Further, the proposed project, as conditioned, has been found consistent with the Chapter 3 policies of the Coastal Act. All adverse impacts have been minimized by the recommended conditions of approval and there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

II. Correspondence

The attached correspondence is added to the staff report as an exhibit.

COUNTY CLERK'S USE

**CITY OF LOS ANGELES
OFFICE OF THE CITY CLERK
ROOM 395, CITY HALL
LOS ANGELES, CALIFORNIA 90012
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

CITY CLERK'S USE

NOTICE OF EXEMPTION

(Articles II and III - City CEQA Guidelines)

Submission of this form is optional. The form shall be filed with the County Clerk, 12400 E. Imperial Highway, Norwalk, California, 90650, pursuant to Public Resources Code Section 21152(b). Pursuant to Public Resources Code Section 21167(d), the filing of this notice starts a 35-day statute of limitations on court challenges to the approval of the project.

LEAD CITY AGENCY AND ADDRESS: Bureau of Engineering
1149 South Broadway, Suite 600, Los Angeles, CA 90015.

COUNCIL DISTRICT
11

PROJECT TITLE:
BALLONA LAGOON PHASE III ENHANCEMENT PROJECT

LOG REFERENCE
T.G. p.701, J2 to J2.

PROJECT LOCATION:

West Bank of Ballona Lagoon, from Jib Street to 30 feet South of Topsail Street, Community of Venice, City of Los Angeles, California 90039.

DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT: The proposed project is a modification of Ballona Lagoon Enhancement Plan Phase III, to implement a conservation plan for the Orcutt's pincushion including: protection of the existing, native pincushion habitat and associated native vegetation and expansion of potential habitat to additional favorable sites on the west bank of Ballona Lagoon. In addition, the plan's implementation would compensate for the loss of existing pincushion habitat along a narrow strip, adjacent to Pacific Avenue. The plan will involve seed collection, as well as modifications to the plans and specifications, as previously approved. Plans will be modified to eliminate irrigation and 1-gallon shrub plantings in the pincushion-inhabited areas, as well as in those areas designated for pincushion-introduction. Application of hydro seed and mulch will also be eliminated in these areas; pincushion seed will be sown by hand, and will include seed of other native annual associates, such as sand verbena, beach evening primrose, and dune lupine. Within the new path alignment, existing shrubs will be transplanted if possible to other parts of the restoration area. Irrigation lines will bypass the protected and potential introduction areas, and be placed beneath the path alignment as necessary. Temporary irrigation will be limited to maintaining transplanted material from the existing path alignment, or container material planted outside of the existing or potential pincushion areas- only as permitted. The path should be narrowed to a four-foot width, except for limited turn-around areas for wheelchairs, along Pacific Avenue. Existing unimproved trails will be restored, and the proposed fence will delineate and protect the restored areas from intrusion. Also included are drainage improvements to control erosion at the Outrigger Street.

CONTACT PERSON
William Jones

TELEPHONE NUMBER
(213) 485-5760

EXEMPT STATUS: (Check One)

- ☐ MINISTERIAL
☐ EMERGENCY PROJECT
☐ GENERAL EXEMPTION
☐ CATEGORICAL EXEMPTION
 Class 4(d), 4(f), and 33
☐ OTHER (See Public Resources Code Sec. 21080(b) and set forth state and city guidelines provision)

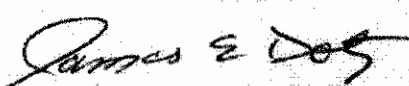
**CITY CEQA
GUIDELINES**
 Art. II, Sec. 2b
 Art. II, Sec. 2a
 Art. II, Sec. 1
 Art. III, Sec. 1
 (City CEQA Guidelines)

**STATE CEQA
GUIDELINES**
 Sec. 15268
 Sec. 15269
 Sec. 15061(b)(3)
 Sec. 15300 *et seq.*

JUSTIFICATION FOR PROJECT EXEMPTION: The project involves minor alterations to the land, water and/or vegetation that do not involve removal of scenic, mature trees, and lies within an existing officially designated wildlife management areas that will result in improvement of wildlife habitat, or wildlife resources. In addition, this project represents a small habitat restoration projects, less than 5-acres in size, to assure maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife provided that there would be no significant adverse impact on endangered, rare, or threatened species or their habitat, pursuant to Section 15065. No exceptions to this categorical exemption were found; see attached narrative.

IF FILED BY APPLICANT, ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING

SIGNATURE:
James E. Doty



TITLE:
Acting Manager, Environmental Group

DATE:
6-30-10

FEE:
\$75.00

RECEIPT NO.

REC'D BY

DATE

CATEGORICAL EXEMPTION NARRATIVE

I. PROJECT DESCRIPTION

The proposed project is modification of Ballona Lagoon Enhancement Plan Phase III, currently in construction, to implement a conservation plan for the Orcutt's pincushion including: protection of the existing, native pincushion habitat and associated native vegetation and expansion of potential habitat to additional favorable sites on the west bank of Ballona Lagoon. In addition, the plan's implementation would compensate for the loss of existing pincushion habitat along a narrow area adjacent to Pacific Avenue. Comprising essential elements to the successful restoration of habitat, the plan will involve collection of seed, as well as modifications to the plans and specifications. Previously approved plans required modification. Under consultation with the Coastal Commission Staff, application was made for a permit amendment (5-08-294-A1). The amendment also included consideration of drainage improvements to control erosion at the Outrigger Street.

The Ballona Lagoon Enhancement Phase III project is to restore of the west bank of the Ballona Lagoon, an estuary in the community of Venice. The currently permitted work includes (1) removal of non-native vegetation and encroachments; (2) re-vegetation with native dune plants; (3) realigning and improving the west bank public access trail (5 feet wide DG pathway) between Topsail Street and Canal Court; (4) construction of 3 feet high fence along the public access trail; and construction of a public education/information area with benches near Jib Street at the northern end of the lagoon.

II. PROJECT HISTORY

Previous CEQA and Coastal Act Findings:

The Ballona Lagoon Phase III Enhancement Project is part of a multiphase project, intended to improve public facilities and to restore native habitat along the banks of Ballona Lagoon, in the Community of Venice, City of Los Angeles. The project has been implemented in phases, with the initial phase involving dredging of the deepwater pool, public access improvements, re-vegetation of the [eastern] lagoon bank and monitoring. The second phase involved street and sidewalk improvements at Via Dolce and Via Marina, as well as removal of remnants of an existing oil well platform from Ballona Lagoon.

The original Ballona Lagoon Enhancement Plan and alternatives were considered in a Negative Declaration, certified by the California Coastal Conservancy on October 20, 1993. The Negative Declaration stated that the Plan did not have a significant effect on the environment.

The 1993 Negative Declaration (ND) was based upon an Initial Study that stated, with respect to plant life, that the project would result in introduction of new species into the project area, and result in a change in species diversity. Since implementation of the

Enhancement Plan would result in an increase in species diversity, no mitigation was required. As for introduction of new species, the ND stated that the new species were native dune, coastal strand or salt marsh species, previously known to exist at the Lagoon. The native plant species were designed to replace non-native, weedy vegetation that has dominated the lagoon banks. No mitigation was required.

The Coastal Commission issued Coastal Development Permit (CDP 5-95-152) with Conditions of Approval that adequately addressed and mitigated any potential adverse impacts caused by the project. The Coastal Commission found this plan as conditioned to be consistent with the Coastal Act and CEQA.

The second phase was found to be Categorically Exempt (10/09/1996) as minor alterations in the land, water and vegetation to improve habitat in an existing, designated ecological area. The Coastal Conservancy subsequently certified a second Negative Declaration on March 29, 1996, stating that the second project phase would not have a significant effect on the environment. The Coastal Commission approved Permit Amendment CDP 5-95-152-A, with conditions, on August 16, 1996.

The third phase, to replace unimproved trails with a constructed granite pathway, and to improve habitat through removal of exotic plant species and planting of native vegetation on the west bank, was determined to be Categorically Exempt (5/25/2000). The City's determination was based on the fact that Phase III was consistent with the Ballona Lagoon Enhancement Plan. Furthermore, Phase III was less intrusive than Phases I and II, which were determined to have no risk of significant impact. Inasmuch as Phase III incorporated the protective measures applied to the previous phases (such as use of native material and timing to avoid impact on the California Least Tern), the City determined that additional environmental documentation was not necessary. With conditions, the Coastal Commission approved CDP 05-08-294 on April 8, 2009, and found that the application, as conditioned to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA).

During construction, the City's biological monitor identified the presence of the Orcutt's yellow pincushion (scientific name *Chaetanactis glabriuscula* var. *orcuttiana* (E. Greene) H. Hall). The City immediately took action to protect the plants, stopping work in the area of the pincushion plants and cordoning off the area (first with caution tape and then later with temporary construction fencing). Some work continued in areas away from the pincushion plants.

The California Native Plant Society has ranked the Orcutt's yellow pincushion as "very threatened." It has been reported from at least 15 sites including all four southern California counties (Ventura, Los Angeles, Orange, and San Diego) and in Baja California. However, it is not State or Federally listed as an Endangered, Threatened, or Rare Plant.

About 6 percent of the pincushion plants are in the area proposed for the footpath; 94 percent of the pincushion plants on site will not be impacted by construction.

The alignment of the footpath and barrier railing were specifically set to maximize the amount of protected habitat. Choosing a new alignment for the footpath could reduce the number of plants affected this year, but not avoid them entirely. However, any alignment other than the one proposed would permanently reduce the amount of protected habitat.

The City now proposes to voluntarily alter the project to accommodate conservation of the Orcutt's pincushion. A conservation plan has been prepared to characterize the existing pincushion distribution and status, and then to recommend actions that would preserve the existing, native pincushion habitat and associated native vegetation, and to expand potential habitat to additional favorable sites on the west bank of Ballona Lagoon. In addition, the plan's implementation would compensate for the loss of existing pincushion habitat along a narrow area adjacent to Pacific Avenue. Comprising essential elements to the successful restoration of habitat, the plan will involve collection of seed, as well as modifications to the plans and specifications. Previously approved plans required modification. Under consultation with the Coastal Commission Staff, application was made for a permit amendment (5-08-294-A1). The amendment also included consideration of drainage improvements to control erosion at the Outrigger Street drain. The plan modifications were evaluated for compliance with the Environmental Quality Act.

The conservation plan has been prepared in consultation with the California Department of Fish and Game, California Coastal Commission, and with native plant experts.

III. ENVIRONMENTAL REVIEW

Under Article 19 of CEQA guidelines, three exemptions may apply: Class 4 (d), Class 4 (f), or Class 33.

A. Class 4 Categorical Exemption

Section 15304, Class 4, includes minor alteration to the land, water and/or vegetation that do not involve removal of scenic, mature trees. The Class includes (d) minor alterations on existing officially designated wildlife management areas that will result in improvement of wildlife habitat, or wildlife resources. The Ballona Lagoon Phase III Enhancement Project is on the Ballona Lagoon Significant Ecological Area, which is officially designated by the City and County of Los Angeles, and the project will restore native habitat. Class 4 also includes (f) minor trenching and backfilling where the surface is restored. The proposed project includes minor trenching, backfilling and restoration of the surface.

There are exceptions to the use of Categorical Exemptions under Class 4, with respect to location, cumulative impacts, significant effect due to unusual circumstances, or involves scenic highways, a hazardous waste site, or historical resource. No other projects of the same type are planned for this location; consideration of cumulative impacts would be moot. Pacific Avenue is not a scenic highway; the project site does not contain a

designated hazardous waste site. Furthermore, the Venice Canals, an historic monument, are not part of this project. For a discussion of "significant effect," see below.

B. Class 33 Categorical Exemption

Section 15333, Class 33, is for small habitat restoration projects, not to exceed 5-acres in size, to assure maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife provided that there would be no significant adverse impact on endangered, rare, or threatened species or their habitat, pursuant to Section 15065. Such projects include re-vegetation of disturbed areas with native plant species, projects that restore habitat that are carried out principally by hand labor, not mechanized equipment. The exemption is valid in that total project area is less than 5-acres in size; the total project area is about 4-acres, while the plan modification area is less, about 1.75 acres in size. As for the presence of a rare species in this case, for CEQA purposes, impact to a CNPS- listed rare species must be taken into consideration.

The question is does the project modification constitute a significant effect? The trail alignment will impact area, inhabited by Orcutt's Pincushion from just south of Outrigger Street to south of Privateer Street. With the path, narrowed to a minimum of four-feet, the potential area of impact would be approximately 0.037 acres (148 square meters), or 9.8% of the total area. The narrower path would affect an area, presently inhabited by about 1,200 pincushion plants (or 4.5 percent) out the total Ballona Lagoon area population. About 95 percent of the pincushion population will not be impacted by construction of the new path.

Orcutt's pincushion is an herbaceous annual plant with a short lifespan (late winter to early spring), where the normal flowering period extends from April to July. Unlike trees, shrubs, or perennials, annual plants pursue a survival strategy where the life cycle is completed within a year. When environmental conditions are favorable, seeds germinate; plants grow and mature, bloom, produce seed (achenes), and then die prior to the onset of the summer dry season. Seeds maintain the population until the next year, when conditions are again favorable. Therefore, the plant can be "moved" in effect by collecting mature seeds and planting them elsewhere in other favorable sites.

The previously approved restoration plan (planting and irrigation) will be revised to accommodate the pincushion. Plans will be modified to eliminate irrigation and 1-gallon shrub plantings in the pincushion-inhabited areas, as well as those areas designated for introduction of the pincushion. Application of hydro seed and mulch will also be eliminated in these areas. In the designated pincushion- introduction areas, seed will be sown by hand, and will include seed of the pincushion; along with other native annual associates, such as sand verbena, beach evening primrose, and dune lupine. Within the new path alignment, existing shrubs will be transplanted if possible to other parts of the restoration area. Irrigation lines will bypass the protected and potential introduction areas, and be placed beneath the path alignment as necessary. Temporary irrigation will be limited to maintaining transplanted material from the existing path alignment, or container material planted outside of the existing or potential pincushion areas- only as

permitted. The path should be narrowed to four-foot width, except for limited turn-around areas for wheelchairs, along Pacific Avenue. Existing unimproved trails will be restored, and the proposed fence will delineate and protect the restored area.

We conclude that the proposed modification of the Ballona Lagoon Enhancement Plan Phase III project does not have the potential to: substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; or substantially reduce the number or restrict the range of an endangered, rare or threatened species.

Exceptions to the Use of Categorical Exemptions

1. Cumulative Impact: This exception applies when, although a particular project may not have a significant impact, the cumulative impact of successive projects of the same type in the same place, over time is significant.

No other projects of the same type are planned for this location. Thus, this exception has no application here.

2. Significant Effect: This exception applies when, although the project may otherwise be exempt, there is a reasonable possibility that the project will have a significant effect due to unusual circumstances. Examples include projects that may affect scenic or historical resources.

The City CEQA Thresholds Guide provides that project would normally have a significant impact on biological resources if it could result in (among other things) the loss of individuals, or the reduction of existing habitat, of a state or federal listed endangered, threatened, rare, protected, or candidate species, or a Species of Special Concern or federally listed critical habitat. The Orcutt's pincushion is not is not a state or federal listed endangered, threatened, rare, protected, or candidate species, or a Species of Special Concern or federally listed critical habitat. There will be negligible to no loss of individual plants, because construction in the pincushion area will be delayed until after the plants have gone to seed and seeds will be collected and redistributed. The project will result in a net gain in habitat. Therefore, this exception has no application here.

3. Scenic Highway: This exception applies when a project may result in damage to scenic resources within a duly designated state scenic highway.

The proposed project does not contain any State designated scenic highway. Thus, this exception has no application here.

4. Hazardous Waste Site: This exception applies when a project is located on a site listed as a hazardous waste site under Government Code Section 65962.5.

As of June 1, 2010, the State Department of Toxic Substances Control has not listed any site within the project area. So this exception has no application here. (Ref. Envirostor at www.envirostor.dtsc.ca.gov)

5. Historical Resources: This exception applies when a project may cause a substantial adverse change in the significance of a historical resource.

No historical resource is involved in the proposed project so this exception has no application here.

Allen B. Sackler

5302 Pacific Avenue, Marina Del Rey, CA 90292
(310) 453-0911

July 1, 2010

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South Coast Region

JUL 6 2010

California Coastal Commission
South Coast District
P.O. Box 1450
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

CALIFORNIA
COASTAL COMMISSION

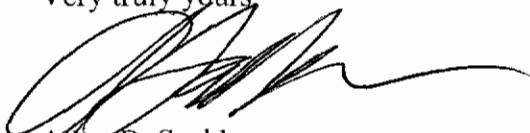
RE: (A) Permit Number 5-08-294-A1
Phase III Ballona Lagoon Enhancement Plan
West Bank of Ballona Lagoon between Via
Marina and Grand Canal, Venice

(B) Item no. F10a

Dear Sir or Madam:

I have no objection to the reduction in width of the public path from 5 to 4 feet; but, the project enhancement is to terminate at Topsail Street on the south, not Via Marina.

Very truly yours,



Allen B. Sackler

F10a

5-08-294-A1

To: the California Coastal Commission

Re: Permit # 5-08-294-A1

Hearing Date - Friday June 9, 2010

To the Commissioners

I believe in the preservation of the
Orcutt Pin cushion plants, please continue
your efforts to preserve it.

The path would be too restrictive
at 4 feet wide.

Please keep it at 5 feet wide
as planned.

Sincerely

Noté Nahmas

5011 Roma Court

MDR

310 901-5500

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

F10a

Filed: 4/28/2010
49th Day: 6/16/2010
180th Day: 10/25/2010
Staff: Charles Posner - LB
Staff Report: 6/24/2010
Hearing Date: July 9, 2010
Commission Action:

**STAFF REPORT: MATERIAL AMENDMENT**

AMENDMENT NUMBER: 5-08-294-A1

APPLICANT: City of Los Angeles Department of Public Works

AGENTS: Ding Lee, Project Manager & William Jones, Environ. Specialist

PROJECT LOCATION: West bank of Ballona Lagoon between Via Marina and Grand Canal, (on publicly-owned property and easements), Venice, City of Los Angeles.

ORIGINAL PROJECT DESCRIPTION - APPROVED APRIL 8, 2009:

Implementation of Phases IIIA and IIIB of the Ballona Lagoon Enhancement Plan: 1) removal of non-native vegetation and encroachments; 2) re-vegetation with native dune plants, 3) realigning and improving the west bank public access trail between Topsail Street and Canal Court, 4) construction of a split rail fence along the public access trail and inland edge of easements, and 5) construction of a public education/information area with benches near Jib Street at Pacific Avenue.

DESCRIPTION OF PERMIT AMENDMENT REQUEST:

Revise the habitat restoration and monitoring plan and reduce the width of a segment of the public access path (from 5 feet to four feet wide) in order to accommodate an Orcutt's Yellow Pincushion (and other rare plants) preserve on the west bank of Ballona Lagoon as part of the implementation of Phase III of the Ballona Lagoon Enhancement Plan.

SUMMARY OF STAFF RECOMMENDATION

On April 8, 2009, the Commission approved Coastal Development Permit 5-08-294 for Implementation of Phases IIIA and IIIB of the Ballona Lagoon Enhancement Plan. While the City was in the process of removing non-native plants from the project area in February 2010, a rare native dune flower (Orcutt's Yellow Pincushion) was discovered growing in substantial numbers on the sandy west bank of the lagoon. The City stopped work, erected fencing to protect the rare plants, and has proposed to revise the previously approved restoration plan in order to preserve and expand the yellow pincushion (and other rare plant) habitat. The proposed changes include prioritizing the planting of yellow pincushion seeds in the planting plan, revising irrigation plans, and reducing to four feet the width of the re-located public access trail. Staff is recommending that the Commission **APPROVE** the amendment with a special condition that requires the City to revise the restoration plan under the direction of a qualified restoration ecologist approved by the Executive Director in order to minimize adverse impacts to sensitive habitat areas while maintaining the public access and recreational opportunities that are already authorized and required by the underlying coastal development permit. **See Page Two for the motion to carry out the staff recommendation.**

PROCEDURAL NOTE:

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

In this case, the Executive Director has determined that the proposed amendment is a material change. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. [Title 14 California Code of Regulations 13166].

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the permit amendment request with special conditions:

MOTION: *"I move that the Commission approve the proposed amendment to Coastal Development Permit 5-08-294 pursuant to the staff recommendation."*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment and adoption of the following resolution and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

I. Resolution for Approval of the Permit Amendment

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Condition of Permit Amendment 5-08-294-A1

[Staff Note: The Special Conditions of Coastal Development Permit 5-08-294 remain in effect, except in the case where the prior conditions may conflict with the condition of this permit amendment (e.g., this permit amendment reduces the width of the public access path between Jib Street and the southern end of the path from five feet to four feet and requires the submittal of a revised restoration plan). In the event of any conflict between the conditions of the underlying permit and the permit amendment, the conditions of this permit amendment shall supersede the conditions of the underlying permit. See Appendix A for the Special Conditions of Coastal Development Permit 5-08-294.]

11. Plan for the Establishment and Maintenance of the Ballona Lagoon Rare Plant Preserve

PRIOR TO ISSUANCE OF THE PERMIT AMENDMENT, the permittee shall submit, for review and written approval of the Executive Director, a revised restoration and monitoring plan for the portion of the project site (west bank of Ballona Lagoon) between the public education/information area at Jib Street and 5102 Pacific Avenue (thirty feet south of Topsail Street). The restoration and monitoring plan shall be revised under the direction of a qualified restoration ecologist (approved by the CCC Executive Director) who has experience in dune scrub and dune habitat restoration.

The restoration and monitoring plan shall be revised in consultation with the California Department of Fish and Game (CDFG), and shall incorporate the City of Los Angeles Department of Public Work's Draft Action Plan for the Conservation of the Orcutt's Pincushion (dated April 22, 2010).

The revised restoration and monitoring plan shall also include the following:

- A. Creation of a Rare Plant Preserve on the west bank of Ballona Lagoon, between the public education/information area at Jib Street and 5102 Pacific Avenue (thirty feet south of Topsail Street) that recognizes and protects the ESHA between the protective fencing and the lagoon waters; i.e. dune scrub, dune, and wetland habitats and the rare plants these habitats support including Orcutt's yellow pincushion, *Chaetanactis glabriuscula* var. *orcuttiana*, South Coast saltscale, *Atriplex pacifica*, red sand verbena, *Abronia maritima*, and wooly seablite, *Sueda taxifolia*.
- B. A map with the location of the 2010 pincushion population as well as the other rare plants identified in the area including South Coast saltscale, *Atriplex pacifica*, red sand verbena, *Abronia maritima*, and wooly seablite, *Sueda taxifolia*.
- C. Dune scrub and dune habitat plant palette and planting plan that provides detailed instructions for the appropriate mixture of seeds, cuttings, and container plants as well as the appropriate plant densities for the respective habitats. All plants shall be Southern California native plants appropriate to the natural habitat type (dune scrub - salt marsh to uplands). All seeds and cuttings employed shall be from local sources in the Los Angeles coastal area.

Prior to the first planting cycle, the permittee shall provide the Executive Director with the quantities and sources of all plants used in the project.

- D. The schedule for the implementation of the revised restoration and monitoring plan.
- E. Methodology for the collection of rare plant seeds and cuttings performed by an authorized agency that maintains a seed collection and that holds a seed collection permit from CDFG.
- F. Temporary irrigation, but only if considered necessary by the approved restoration ecologist to keep the native plants healthy. Permanent irrigation devices are not permitted.
- G. Removal of Non-native Plants. Ongoing removal of non-native plants from the project area shall be done under the supervision of the approved restoration ecologist using only hand-held tools while taking care to avoid disturbance of native plants. The permittee shall ensure that the native vegetation is protected from disturbance during the implementation of the approved revised restoration and monitoring plan. No herbicides may be employed. No dead non-native plants shall be left on site and no persistent chemicals shall be employed.
- H. Provisions for following the status of all rare plants as part of the five-year monitoring plan. For at least five years following the initial planting, the permittee shall actively monitor the site, remove non-native plants and replant native vegetation that has failed. Commencing upon completion of the initial restoration planting, the permittee shall monitor and inspect the site no less than once each thirty days during the first year after this initial planting. Thereafter, the permittee shall monitor the site at least once every ninety days. Each year, for a minimum of five years from the date of permit issuance, the permittee shall submit for the review and approval of the Executive Director, an annual monitoring report, prepared by the approved restoration ecologist that certifies the Rare Plant Preserve is in conformance with the revised restoration and monitoring plan approved by the Executive Director. The annual monitoring report shall include photographic documentation of plant species and plant coverage. If the annual monitoring report indicates the Rare Plant Preserve is not in conformance with or has failed to meet the performance standards specified in the revised restoration and monitoring plan approved pursuant to this permit amendment, the permittee shall submit a revised or supplemental restoration plan for the review and approval of the Executive Director. The revised restoration plan must be prepared by the approved restoration ecologist and shall specify measures to remediate those portions of the restoration plan that have failed or are not in conformance with the approved plan. The permittee shall implement the supplemental restoration plan approved by the Executive Director and/or seek another permit amendment if required by the Executive Director.

- I. Invasive Plants. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property.
- J. Plans that show that the public access path is a maximum of four feet in width and located immediately adjacent to Pacific Avenue (as close as legally allowed) for its entire length where the path abuts the Rare Plant Preserve.
- K. Protective fencing, least three feet in height, shall be installed immediately adjacent to the lagoon side of the path.
- L. Signage. “Please Stay on Path” signs shall be posted along the public access path at ninety-foot intervals. Interpretive signs that explain the purpose and benefits of the Rare Plant Preserve shall also be posted at 200-foot (minimum) intervals.

The permittee shall implement the revised restoration and monitoring plan in accordance with the final plan approved by the Executive Director pursuant to this permit amendment. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required pursuant to the requirements of the Coastal Act and the California Code of Regulations.

III. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

In April 2009, after many years of planning, public hearings, and litigation, the City of Los Angeles Department of Public Works obtained from the Commission approval of Coastal Development Permit 5-08-294 to enhance public recreational opportunities and to restore natural habitat areas along the west bank of Ballona Lagoon in Venice. The City vested the permit in early 2010 when it commenced development (removal of non-native vegetation, mostly iceplant) on the project site. Ballona Lagoon is located in the Silver Strand/Marina Peninsula area of Venice in the City of Los Angeles, adjacent to the Marina del Rey entrance channel (Exhibit #1). The certified Venice Land Use Plan (LUP) designates Ballona Lagoon and its lower banks as an Environmentally Sensitive Habitat Area (Exhibit #2: ESHA).

The project approved by Coastal Development Permit 5-08-294, Phases IIIA and IIIB of the Ballona Lagoon Enhancement Plan, includes only the west bank of Ballona Lagoon, from Grand Canal to Via Marina, with no work permitted below the high water line: elevation +2.7 mean sea level (MSL). The previously approved development includes: 1) removal of non-native vegetation (primarily comprised of large beds of iceplant) and unpermitted post-1972 encroachments from the protective lagoon buffer strip (including, but not limited to, unpermitted fences, walls, lighting, irrigation improvements, decks/patios, and residential landscaping); 2) re-vegetation with native dune plants, 3) realigning and improving the west bank public access trail between Canal Court (Grand Canal) and 5102 Pacific Avenue (thirty feet south of Topsail Street), 4) construction of a split rail fence along the public access trail and inland edge of the easements, and 5) construction of a public education/information area with benches near Jib Street at Pacific Avenue at the northern end of the lagoon. Phases I and II of the Ballona Lagoon Enhancement Plan restored and improved the east bank and subtidal portions of Ballona Lagoon, respectively, under separate coastal development permits.

While the City was in the process of removing the non-native plants from the west bank in February 2010, a rare native dune flower (Orcutt's Yellow Pincushion) was discovered growing in substantial numbers on the sandy west bank of the lagoon. The City stopped work and erected fencing to protect the rare plants, and has proposed to revise the previously approved restoration plan in order to preserve and expand the yellow pincushion (and other rare plant) habitat. The City's proposed revisions to the restoration plan include prioritizing the planting of yellow pincushion seeds in the planting plan, revising irrigation plans, and reducing to four feet the width of the previously approved public access trail that runs along the curb of Pacific Avenue (the existing trail runs closer to the water). Orcutt's yellow pincushion is an annual plant with a 1B.2 listing by the California Native Plant Society. 1B means the species is rare, threatened, or endangered in California or elsewhere and .2 indicates the species is fairly endangered in California.

The City's proposal to protect the rare plants on the west bank is contained in the document entitled: Draft Action Plan for the Conservation of the Orcutt's Pincushion (*Chaetanactis glabriuscula* var. *orcuttiana* (E. Greene) H. Hall) at Ballona Lagoon, Venice, California.

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Prepared by William Jones, City of Los Angeles Department of Public Works, Environmental Specialist II, Environmental Management Group), April 22, 2010. (See Exhibit #5).

Permit Amendment Request 5-08-294-A1 includes the following changes: 1) the planting plan will be modified to accommodate a Yellow Pincushion (and other native dune plants) preserve that includes the areas where the pincushion now exists as well as additional areas where it will be introduced, as shown on Page 14 of the Draft Action Plan; 2) the irrigation plan will be revised to eliminate irrigation from the Yellow Pincushion preserve areas; 3) the width of the public access path will be reduced from five feet to four-feet between Jib Street and the path's southern end thirty feet south of Topsail Street); 4) "Please Stay on Path" signs and interpretive signage will be installed to identify and explain the purposed of the Rare Plant Preserve to the public; and 5) a new vertical 4-inch drain connection will be installed under the path at Outrigger Street (in order to avoid impacting the lagoon bank). The permit amendment will also approve the methods for collecting pincushion seeds and replanting.



Ballona Lagoon, Venice. The existing west bank trail can be seen bisecting the project site, which is the area between the high water line and Pacific Avenue. The public access path approved by Permit 5-08-294 moves the trail all the way up to the curb of Pacific Avenue. The permit amendment reduces the width of the new trail (public access path).

The purpose of this permit amendment is to replace the former Commission-approved restoration plan with a revised restoration plan that will preserve and expand the native pincushion (and other rare plant) habitat, while further reducing adverse impacts to the ESHA and maintaining the improved public access trail and recreational opportunities that are already authorized and required by the underlying coastal development permit. Expansion of the pincushion habitat and the creation of the Ballona Lagoon Rare Plant Preserve are proposed in order to compensate for the loss of rare native plants that will occur when the public access path is re-located from the water's edge up to the road's edge (Pacific Avenue). It must be noted that the rejection of the permit amendment will not affect the status of the underlying coastal development permit. That is, the City will still hold the previously approved coastal development permit for Phase III of the Ballona Lagoon West Bank Enhancement Plan, even if the currently proposed revisions to the plan are not approved.

The Commission has certified a Land Use Plan (LUP) for the Venice area but has not certified the full LCP. The Coastal Commission has jurisdiction over this coastal development permit amendment application. Chapter 3 of the Coastal Act is the legal standard of review for this amendment application, with the certified Venice LUP used for guidance.

B. Marine Resources and Environmentally Sensitive Habitat Areas (ESHA)

The Coastal Act contains several policies that protect marine resources and sensitive habitat areas from the adverse impacts of development. The following Coastal Act policies apply to the restoration project that is proposed to be carried out in an area previously found to be an ESHA within the protective lagoon buffer strip that provides protection for the wetland and marine environments that exist in Ballona Lagoon. No fill or work is proposed below the high water line (+2.65 MHTL). The permit amendment for the revised west bank enhancement project is being conditioned to conform to the following Coastal Act policies.

Section 30230 of the Coastal 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 Coastal Act states:

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, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such 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 such areas, and shall be compatible with the continuance of such habitat areas.

Ballona Lagoon is an integral part of the larger Venice Canals/Ballona Lagoon wetlands system. Seawater enters the wetlands system through tidal gates that control the flow from the Marina del Rey entrance channel into Ballona Lagoon. The Venice LUP designates Ballona Lagoon as an Environmentally Sensitive Habitat Area (ESHA). The Commission also identified the lagoon and areas of its banks as ESHA in its review of the original permit application for this project. Sections 30230, 30231 and 30240 of the Coastal Act require that the natural resources of Ballona Lagoon and the ESHA on the banks be protected, restored and enhanced. In order to protect this ESHA, the Commission, through prior coastal development permit actions, has identified and required the provision of a protective lagoon buffer strip between the waters of the lagoon and the permitted development adjacent to the lagoon. The protective lagoon buffer strip includes the environmentally sensitive habitat areas (ESHA) that exist near the waters of the lagoon as well as the non-ESHA areas on the upper banks situated closer to the private residential development and Pacific Avenue.

Unfortunately, the wetland and upland habitats in and adjacent to Ballona Lagoon (i.e., salt marsh, sidebanks, mudflats, and marine habitat) are negatively affected by the lagoon's proximity to human activity, urban runoff, and the abundance of invasive non-native vegetation. Despite this, Ballona Lagoon provides habitat for a variety of benthic invertebrates, fish and shorebirds. [Biota of the Ballona Region, Los Angeles County Natural History Museum Foundation, Edited by Ralph W. Schreiber, 1981]. Polychaetes, molluscs and other invertebrates live in the mud bottom of the lagoon. Several species of fish have been documented and are known to inhabit the lagoon and canals, including: Topsmelt, California killifish, bay pipefish, longjaw mudsuckers, halibut, arrow goby, and diamond turbot. Fish-eating birds such as egrets and green herons are often seen foraging at the water's edge. Willets, dowitchers and dabbling ducks also forage on the mud banks, while domesticated ducks are attracted by food and water left by nearby human residents. Ballona Lagoon is a critical habitat area for the California least tern, *Sterna antillarum browni*. Both the least terns and Brown pelicans can be seen foraging in the lagoon.

Rare Plant Preserve

Recently, the City has identified several rare plants on the west bank, including: Orcutt's yellow pincushion, *Chaeanactis glabriuscula* var. *orcuttiana*, South Coast saltscale, *Atriplex pacifica*, red sand verbena, *Abronia maritima*, and wooly seablite, *Sueda taxifolia*. In response to the discovery of the rare plants, the City has proposed to revise the previously approved restoration plan in order to create a Rare Plant Preserve that will preserve and expand the native pincushion (and other rare plant) habitat. The City's proposed revisions to the restoration plan include prioritizing the planting of yellow pincushion seeds in the planting plan,

revising the irrigation plan, and reducing to four feet the width of the previously approved public access trail that runs along the curb of Pacific Avenue (the existing trail runs closer to the water). The City's proposal to protect the rare plants on the west bank is contained in the document entitled: Draft Action Plan for the Conservation of the Orcutt's Pincushion (*Chaeanactis glabriuscula* var. *orcuttiana* (E. Greene) H. Hall) at Ballona Lagoon, Venice, California. Prepared by William Jones, City of Los Angeles Department of Public Works, Environmental Specialist II, Environmental Management Group), April 22, 2010. (Exhibit #5).

The Commission's staff ecologist has reviewed the City's proposal and determined that, while it is more protective of the rare plants and ESHA than the previously approved plan, it needs to be modified in order to incorporate additional mitigation measures that would protect and improve the habitat on the west bank and in the proposed Rare Plant Preserve (Exhibit #4).

The Commission's staff ecologist recommends that the following provisions be incorporated into the permit through this permit amendment:

1. Creation of a preserve from Jib Street to Topsail Street that recognizes and protects the ESHA between the protective fencing and the lagoon waters; i.e. dune scrub, dune, and wetland habitats and the rare plants these habitats support including Orcutt's yellow pincushion, *Chaeanactis glabriuscula* var. *orcuttiana*, South Coast saltscale, *Atriplex pacifica*, red sand verbena, *Abronia maritima*, and wooly seablite, *Sueda taxifolia*.
2. A map with the location of the 2010 pincushion population as well as the other rare plants identified in the area including South Coast saltscale, *Atriplex pacifica*, red sand verbena, *Abronia maritima*, and wooly seablite, *Sueda taxifolia*.
3. Dune scrub and dune habitat plant palette and planting plan that provides detailed instructions for the appropriate mixture of seeds, cuttings, and container plants as well as the appropriate plant densities for the respective habitats.
4. Methodology for the collection of rare plant seeds and cuttings performed by an authorized agency that maintains a seed collection and that holds a seed collection permit from the California Department of Fish and Game.
5. Temporary irrigation only if considered necessary by the approved restoration ecologist.
6. Provision for following the status of all rare plants in the monitoring plan.
7. Insurance that the trail is a maximum of 4 feet in width and located immediately adjacent to Pacific Avenue (as close as legally allowed) for its entire length and that project fencing is installed immediately adjacent to the lagoon side of the trail.
8. The revised enhancement project action plan must be reviewed and approved by the CCC Executive Director prior to implementation.

The above-stated recommendations would expand the Rare Plant Preserve over the entire Phase IIIA area south of the Jib Street overlook and require a detailed planting plan that prioritizes the native rare plants that have been recently discovered at the site. To create the proposed Rare Plant preserve, the permittee is required by Special Condition Eleven of this permit amendment to develop a revised restoration and monitoring plan under the direction of a qualified restoration ecologist (approved by the CCC Executive Director) who has experience in dune scrub and dune habitat restoration. All of the staff ecologist's recommendations are incorporated into Special Condition Eleven of the permit amendment. As conditioned, the Commission finds that the revised restoration plan and the permit amendment comply with the requirements of Sections 30230, 30231 and 30240 of the Coastal Act.

Alignment of the Public Access Trail

The previously approved project includes improvements to the public access opportunities that exist along the west bank of Ballona Lagoon. A public trail loop that passes along both the east and west banks of Ballona Lagoon has been in existence for many years. The Ballona Lagoon Enhancement Plan (BLEP), developed in 1992 by the Ballona Lagoon Marine Preserve (BLMP) and the California State Coastal Conservancy, called for the improvement of the existing informal trail system as part of the overall restoration effort. Prior phases of the Ballona Lagoon Enhancement Plan, including the improved public trail system, have been implemented on the east bank, south end, and in the submerged areas of Ballona Lagoon pursuant to the Commission's approval of Coastal Development Permit 5-95-152 and subsequent permit amendments (City of LA/BLMP/Coastal Conservancy).

On the west bank of the lagoon, an unimproved trail exists between Canal Court on the northern end of the lagoon (near Grand Canal) and Topsail Street near the southern end of the lagoon (Exhibit #2). This public open space area is heavily used by the public and is a very popular dog walking area, as was evidenced by the prodigious amounts of canine feces. As part of Phase IIIA of the Ballona Lagoon Enhancement Plan approved by Coastal Development Permit 5-08-294, the existing west bank trail is being abandoned and a new trail is being built further away from the water's edge next to Pacific Avenue (Exhibit #3). The new trail is a decomposed granite public access path with protective fencing to keep domestic animals out of the restored area. The new trail, entirely on City land, connects the existing improved Grand Canal public accessway to the Pacific Avenue public sidewalk at Topsail Street. The old trail alignment, which currently bisects the area that will be the Rare Plant Preserve, will be restored with native dune plants.

In order to enlarge the area for native plants and reduce the impact of the new trail, the City proposes to reduce the width of the trail south of Jib Street from five feet to four feet (Exhibit #3). The trail itself is a necessary component of the restoration project and has been designed to be compatible with the ESHA (e.g., minimized width, permeable surface, and sited as far from the water and as close to the road as possible). As proposed, the trail will not significantly degrade the ESHA. A four-foot wide trail next to Pacific Avenue will displace approximately 1,200 pincushion plants (4.5%) out of an estimated 27,500 total plants. Without this amendment, the previously approved five-foot wide trail would displace approximately 1,700 pincushion plants (7%) out of an estimated 27,500 total plants (Exhibit #5, p.13). Therefore, the narrower trail is the better alternative for minimizing impacts to the yellow pincushions, and the placement of the trail next to Pacific Avenue is preferable to the alignment of the existing informal trails.

While eliminating the previously approved public access trail between Jib Street and Topsail Street to create even more area for native plants may be possible, this approach is not feasible or desirable under existing circumstances for a number of reasons, as follows:

1. The Phase IIIA Ballona Lagoon Enhancement Project has already been permitted with a formal public trail to replace the existing unfenced trails that are closer to the water's edge. Therefore, the City will still hold the previously approved coastal development permit for Phase IIIA of the Ballona Lagoon West Bank Enhancement Plan, even if the currently proposed revisions to the restoration plan are not approved.
2. The 1992 Ballona Lagoon Enhancement Plan, prepared by the Coastal Conservancy, and the Ballona Lagoon Marine Preserve, calls for a formal public access trail (with fencing) along both banks of Ballona Lagoon, in conjunction with restoration of the natural habitat and educational panels.
3. The west bank of Ballona Lagoon, between Jib Street and Topsail Street, is a popular walking area and an important link in the existing public trail system. A number of meandering paths presently exist in the area which have been and will continue to be used by the public absent an improved trail with signage. Efforts to exclude the public entirely from this area would be difficult and unlikely to succeed given existing patterns of use, the density of nearby development, and the popularity of the area as a visitor destination.
4. The Commission has previously determined that the alignment of the public trail along the inland part of the protective lagoon buffer is consistent with Section 30240(b) and the marine resource policies of the Coastal Act, the public access and recreation policies of the Coastal Act, and the certified Venice Land Use Plan.
5. A small area between the street and any lagoon fencing is necessary to have space for vehicle doors to open so people can get out of vehicles and for a safe space for people and animals to be off the street. Therefore, even if no new trail were constructed, any protective fencing erected along Pacific Avenue to protect native plants would have to be placed at least 24 inches away from the curb for safety reasons.

Environmentally sensitive habitat (ESHA) policies recognize that certain types of development are dependent upon sensitive resources. While the types of development that fall within this category are very limited, they do include trails, fencing, and educational panels. Ballona Lagoon and its banks are designated in the certified Venice LUP as ESHA (Los Angeles City Department of Planning, 2001) and are protected as such. The Commission has previously found that the three phases of the Ballona Lagoon Enhancement Project, including trails, fencing, and educational panels, are resource dependent uses allowed under the Coastal Act and the City of Los Angeles' Land Use Plan.

The Commission's prior approval included a 36-inch high split rail fence (with green vinyl-coated chain-link fence) along the east (lagoon) side of the trail. In order to protect the

proposed Rare Plant Preserve from trampling by people and domestic animals, the permit amendment is conditioned to require the erection of a protective fence, at least three feet high, on the lagoon side of the trail. In addition, Special Condition Eleven requires that “Please Stay on Path” signs shall be posted along the public access path at ninety-foot intervals, and interpretive signs that explain the purpose and benefits of the Rare Plant Preserve shall be posted at 200-foot (minimum) intervals.

Therefore, as conditioned, the Commission finds that the public trail with the reduced width and addition of appropriate signage situated on the inland side of the lagoon buffer will not significantly degrade the ESHA and is consistent with the requirements of Sections 30230, 30231 and 30240 of the Coastal Act.

Minimizing Adverse Impacts to Marine Resources

The special conditions of the underlying permit (Coastal Development Permit 5-08-294) provide protection for the ESHA and marine resources of Ballona Lagoon (See Appendix A). The special conditions of Coastal Development Permit 5-08-294 remain in effect, except in the case where the prior conditions may conflict with the condition of this permit amendment (e.g., this permit amendment reduces the width of the public access path from five feet to four feet and requires the submittal of a revised restoration plan).

Special Condition Four of the underlying permit requires the permittee to implement the construction staging plan in order to prevent the unpermitted deposition, spill or discharge of any liquid or solid into coastal waters (which include Ballona Lagoon and the Venice Canals). The location of the construction staging and equipment and materials storage area is on City property at 3813-3819 Esplanade, near the intersection of Canal Court and Hurricane Street. No staging or storage is permitted on any beach, wetland or environmentally sensitive habitat area. As conditioned, the proposed project is consistent with Sections 30230 and 30231 of the Coastal Act.

In order to minimize adverse impacts on least tern foraging areas during the least tern nesting season, Special Condition Seven of the underlying permit prohibits the use of mechanized equipment or other types of loud and disturbing equipment within fifty feet of the water during the period commencing March 15 and ending September 1. The limit on mechanized equipment will reduce the noise that disturbs the wildlife. Re-vegetation of the lagoon bank by hand may occur during the least tern nesting season.

Special Condition Eleven of the permit amendment requires a revised restoration and monitoring plan that establishes a Rare Plant Preserve, prioritizes the planting of yellow pincushion seeds in the planting plan, revises the irrigation plans, and reduced the width of the re-located public access trail.

As conditioned by the underlying permit approval and Special Condition Eleven of this amendment, the permit protects the least tern foraging area, existing wetland vegetation, and the biota in the channel. The non-native plants will be removed, and native vegetation will be preserved along the entire west bank lagoon buffer between the high water line and the public trail, thus improving and enlarging the upland habitat area. The restoration will be monitored for five years to ensure its success. All adverse environmental effects of the proposed project have been minimized by the special conditions of approval. The proposed project, as

conditioned, is designed to prevent significant impacts to the ESHA and is compatible with the habitat. Therefore, the Commission finds that the originally proposed project with the proposed amendment, as conditioned, is consistent with the ESHA and marine resource policies of the Coastal Act.

C. Public Access and Recreation

One of the basic goals stated in the Coastal Act and the certified Venice Land Use Plan (LUP) is to maximize public access to and along the coast. The improvement of the existing Ballona Lagoon public trail system is one of the goals of the proposed project. The Coastal Act has several policies that protect public access along the shoreline and public recreational opportunities.

Section 30210 of the Coastal Act states:

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 of the Coastal Act states:

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 30213 of the Coastal Act states:

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

Section 30214 of the Coastal Act states:

(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.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Section 30220 of the Coastal Act states:

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

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30253 of the Coastal Act states, in part:

New development shall: (5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

The certified Venice LUP sets forth the following policy addressing public access around Ballona Lagoon:

LUP Policy II. C. 3. Ballona Lagoon Enhancement Plan (Pedestrian Access).
Pedestrian access and interpretative overlooks to the Ballona Lagoon shall be enhanced without invading the privacy of adjoining residents. The existing public walkway on the east bank of Ballona Lagoon, and the overlook on the southern end of the lagoon near Via Marina, shall be maintained and protected for public access. (Refer also to Policy IV.B.1).

LUP Policy IV. B. 1. Ballona Lagoon.

a. Ballona Lagoon Enhancement Plan. *The Ballona Lagoon shall be restored, protected and maintained for shallow tidal and intertidal marine habitat, fisheries and public access as provided in the Ballona Lagoon Enhancement Plan (See Coastal Commission Coastal Development Permit 5-95-152 and amendments). The plan is intended to improve water quality and tidal flushing; reduce the amount of garbage, sediment and other pollutants in the lagoon; maintain and expand habitat values for*

the endangered least tern, shorebirds and fisheries; restore native vegetation; protect banks from erosion; maintain and if possible increase the existing 50-year flood protection; and enhance public trails and interpretative overlooks without invading the privacy of adjoining residents. The goals and policies of the Enhancement Plan shall be carried out in a manner consistent with the policies of this LUP. The Ballona Lagoon tidal gates located beneath Via Marina shall be operated in a manner that sustains and enhances biological productivity in the lagoon by ensuring maximum water circulation.

b. Permitted Uses. *Only uses compatible with preservation of this habitat shall be permitted in and adjacent to the lagoon. Uses permitted in or adjacent to the lagoon shall be carried out in a manner to protect the biological productivity of marine resources and maintain healthy populations of marine organisms. Such uses as open space, habitat management, controlled nature study and interpretation, and passive public recreation such as birdwatching, photography, and strolling shall be encouraged and promoted. No fill shall occur in Ballona Lagoon unless it is consistent with Coastal Act Section 30233 and is the least environmentally damaging alternative. No untreated runoff shall be directed into the lagoon.*

An unimproved trail already exists along the west bank of Ballona Lagoon, running between Canal Court and Topsail Street. The project, as revised, will realign the existing trail and improve it south of Jib Street as a four-foot wide decomposed granite public access path on the higher elevations of the west bank next to the eastern curblin of Pacific Avenue (Exhibit #3). A three-foot high split rail fence (with green vinyl-coated chain-link fence) will be erected along the entire east side of the trail to protect the lagoon habitat area from intrusion by people and domestic animals. The proposed new trail and fence would be located entirely on City land, connecting the existing improved Grand Canal public accessway to the Pacific Avenue public sidewalk at Topsail Street. No fill will be placed below the high water line in order to create the proposed trail. The existing Lighthouse Street pedestrian bridge, the only bridge over the lagoon and an important coastal access route, will not be affected by the proposed project.

At Jib Street near the northern end of the lagoon, the City is permitted to construct a public education/information wildlife observation area on an existing filled area on the west bank of the lagoon, with pedestrian access provided by the proposed new west bank public access trail. The public education/information wildlife observation area, which would have public benches and small information kiosks, provides one area along the west bank where people would be encouraged to get close to the water to observe the wildlife of Ballona Lagoon.

The underlying permit is conditioned to require that the City maintain the Ballona Lagoon public trail system, keep the accessways open to the public, and to remove any future encroachments after completion of the restoration project. In order to protect the sensitive habitat area of the west bank of Ballona Lagoon from intrusion by people and domestic animals, a protective fence (with wire fabric) at least three feet high, must be erected along the waterside of the entire public trail system. The protective fence will protect the habitat on the bank of the lagoon while still allowing the public to access the area to observe the habitat area without trampling it.

The proposed revised project includes the improvements necessary to complete the entire pedestrian access system around Ballona Lagoon, significantly enhancing the existing public trail system and improving public recreation opportunities. After completion of the project, the public will have gained improved access along the west bank of Ballona Lagoon. The proposed public access improvements will encourage public access that is consistent with the historical character and use of the area, as well as the goals of the Coastal Act and certified Venice LUP. Walking, jogging, bird watching, photography, and other popular forms of recreation will be improved by the proposed project. The certified Venice LUP requires that strolling, bird watching, photography shall be encouraged at Ballona Lagoon. Therefore, the Commission finds that the proposed amendment, as conditioned, is consistent with the public access and recreation policies contained in Chapter 3 of the Coastal Act.

D. Local Coastal Program

Coastal Act section 30604(a) states that, prior to certification of a local coastal program (“LCP”), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3.

- (a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

In addition to the certified LUP policies listed in the prior sections of this staff report, the certified Venice LUP contains the following relevant policies:

LUP Policy II. C. 3. Ballona Lagoon Enhancement Plan (Pedestrian Access). *Pedestrian access and interpretative overlooks to the Ballona Lagoon shall be enhanced without invading the privacy of adjoining residents. The existing public walkway on the east bank of Ballona Lagoon, and the overlook on the southern end of the lagoon near Via Marina, shall be maintained and protected for public access. (Refer also to Policy IV.B.1).*

Policy IV. B. 6. Domestic Animals. *A program should be developed to protect the wetland area of Ballona Lagoon and the Grand Canal south of Washington Boulevard from intrusion by domestic animals and pets, particularly cats and dogs.*

Policy IV. E. 1. *The banks, waterways and public walkways of the Venice Canals, Ballona Lagoon and Grand Canal south of Washington Boulevard shall be periodically maintained by the City or other appropriate entity, to keep these areas free of*

accumulated trash and wastes, thereby maintaining the biological, water quality, recreational and aesthetic resources of these areas.

Policy V. A. 3. Infrastructure. *New sewer, storm drain, and water lines shall be installed using the least environmentally disturbing method feasible. The City of Los Angeles Department of Public Works shall develop a comprehensive citywide Storm Water Management Program, as discussed further in Implementation Strategy of Policy IV.C.1 of this LUP, to control stormwater run-off from new public and private developments and, where feasible, to remove pollutants from that run-off. Development of infrastructure shall precede or be constructed concurrently with the construction of developments or in lieu-fee should be paid.*

Policy IV. C. 2. Water Quality. *The methods to improve water quality, recommended in California's Plan for the Control of Non-Point Source Pollution (January 2000), such as watershed planning and management programs, and habitat restoration projects, shall be considered and implemented by the City of Los Angeles where feasible opportunities exist. Selected Best Management Practices (BMPs) or suites of BMPs shall be designed to treat, infiltrate or filter the stormwater runoff from each runoff event up to and including the 85th percentile, 24-hour runoff event for volume based BMPs and/or the 85th percentile, 1 hour event, with an appropriate safety factor, for flow-based BMPs.*

The City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The City of Los Angeles Land Use Plan (LUP) for Venice was effectively certified on June 14, 2001. As discussed above, as conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the permit amendment, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

E. California Environmental Quality Act (CEQA)

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, 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, as conditioned, has been found consistent with the Chapter 3 policies of the Coastal Act. All adverse impacts have been minimized by the recommended conditions of approval and there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. The currently proposed project, as conditioned, is the least environmentally damaging alternative. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SPECIAL CONDITIONS OF PERMIT 5-08-294

1. Project Area - Lagoon Buffer Strip

Coastal Development Permit 5-08-294 approves the implementation of Phases IIIA and IIIB of the Ballona Lagoon Enhancement Plan (as described and conditioned in the **Staff Report dated March 19, 2009**) on the “protective lagoon buffer strip” along the west bank of Ballona Lagoon. The “protective lagoon buffer strip” includes: the City’s Esplanade West right-of-way (except for areas covered by pre-coastal development), Lots G through P, the unsubmerged portions of Lot C and Lot R, and the protected habitat areas and easements on private property that have been dedicated for habitat restoration and public access purposes as part of the west bank lagoon buffer strip on Blocks 1 through 5 of the Del Rey Beach Tract. On any privately owned lot adjacent to the southern portion of the Esplanade West, this coastal development permit also authorizes the City, subject to the permission of the property owner, to remove non-native plants and unpermitted development (including, but not limited to, fences, walls, lighting, irrigation improvements, decks/patios, and play sets) situated within any area designated (pursuant to an approved coastal development permit) as a “habitat buffer” or “lagoon buffer,” but over which the City holds no property interest.

2. Components of the Approved Plan

The permittee shall undertake all development in compliance with the terms of this condition in order to ensure the protection of marine resources, wildlife habitat, native vegetation, and the long-term protection of breeding, roosting, and nesting habitat of species that play an especially valuable role in the ecosystem.

- A. Re-vegetation Plan. All plant materials for the entire development shall be of southern California native plants appropriate to the natural habitat type (dune). All plant removal, planting and monitoring shall comply with the standards set forth in Special Condition Three.
- B. Existing non-native trees shall be removed from the project area, except for individual trees that have been determined by the biologists to not have any adverse effect on the adjacent habitat area and surrounding environment. No bird nests shall be disturbed at any time.
- C. Removal of Encroachments. Except for development that has been properly permitted by the Commission or has been in place continuously since February 1, 1973 or earlier, all development (including, but not limited to, fences, walls, lighting, irrigation improvements, decks/patios, and play sets) and non-native landscaping situated within the protective lagoon buffer strip shall be removed by the permittee concurrently with the restoration project in order to enhance habitat area and public access opportunities. The protective lagoon buffer strip includes the City’s Esplanade West right-of-way, Lots G through P, the unsubmerged portions of Lot C and Lot R, and the protected habitat areas and easements on private property that have been required and/or identified by previously approved coastal development permits. Removal of the encroachments shall be completed within 180 days of the commencement of Phase IIIB.

- D. Trail Alignment. The proposed five-foot wide west bank public access trail shall extend southerly from the existing Grand Canal public accessway system on the northern end of Ballona Lagoon (at Canal Court) to Topsail Street, near the southern end of the lagoon. In order to maximize the width of the protected lagoon bank area, the trail shall be aligned along the inland portion of the project site (i.e. farthest from the waters of the lagoon), except at the northern end of Ballona Lagoon, where the public trail must pass between the waters of the lagoon and existing private residences, the trail shall be designed as proposed, as shown on Exhibit #4, Page 2 of the staff report dated March 19, 2009. A five-foot landscaped buffer shall be provided between the trail and the pre-coastal decks.
- E. Fencing. A contiguous fence or similar barrier, not exceeding four feet in height (above natural grade), shall be installed along the most inland extent of the west bank protective lagoon buffer strip (including all habitat easements), except where the public access is permitted. Where the public access is permitted (the public trail, overlooks and public education/information area) the fence shall be placed along the side of the trail/public area nearest the lagoon. The fence shall be constructed of materials that are spaced in a manner that renders the fence impassable by common domesticated animals (e.g. dogs and cats). The fencing shall be installed concurrently with the restoration project. On the northern end of the project area, where the public trail passes between the west bank protective lagoon buffer strip and the private residential development, a privacy fence or wall greater than four feet *may* be constructed along the inland side of the trail.
- F. Pacific Avenue Crossing. In order to allow safe crossing of Pacific Avenue, a pedestrian crossing shall be installed and maintained at the intersection of Pacific Avenue and Topsail Street. Traffic at this crossing shall be controlled at this intersection by installing either a stop sign or traffic signal. The pedestrian crossing shall be installed concurrently with the restoration project.
- G. Pacific Avenue Street Drainage. Curbs shall be installed along the east side of Pacific Avenue (e.g., at Jib Street) to prevent uncontrolled sheet flow from leaving the street. Appropriate drainage connections shall be installed to control runoff from Pacific Avenue using the existing drains approved by Coastal Development Permit 5-00-161. Street drain filters shall be installed in all drains that discharge directly into Ballona Lagoon. Each street drain filter shall be designed and maintained to filter the stormwater runoff from each runoff event up to and including the 85th percentile, 24-hour runoff event for volume based BMPs and/or the 85th percentile, one-hour event, with an appropriate safety factor, for flow-based BMPs. The filters shall be maintained and replaced as necessary to prevent the drains from clogging and flooding the street.
- H. Gully Repairs. Clean fill shall be used to repair the gullies on the lagoon bank that have eroded east of Pacific Avenue at Jib Street and Topsail Street. In order to ensure that all existing wetland vegetation is protected from filling activities, no fill shall be placed below the five-foot contour line.

The permittee shall undertake development in accordance with the final plans approved by the Executive Director. To ensure compliance, the City shall include the requirements

of this condition on all plans and contracts issued for the project. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required pursuant to the requirements of the Coastal Act and the California Code of Regulations.

3. Re-vegetation and Erosion Control

Prior to the removal of non-native vegetation, a qualified biologist shall survey the project site and identify with flags all areas of existing native vegetation. The permittee shall ensure that the areas of existing native vegetation, except for those areas where public access improvements are permitted, are protected from disturbance during the implementation of the approved project, and that adequate water is provided to keep the plants healthy. Native vegetation that is removed from the areas where public access improvements are permitted shall be transplanted elsewhere within the project area.

Under the supervision of a qualified biologist, the permittee shall remove all non-native plants from the canal banks using only hand-held tools while taking care to avoid disturbance of native plants. No herbicides may be employed. No grading is permitted. No heavy machinery may be used, except on existing paved roads. Smaller mechanized vehicles with rubber tires (e.g. Bobcats) may be used to transport heavy loads between paved roads and work areas. No dead plants shall be left on site (unless deemed necessary by a biologist to prevent erosion of the banks) and no persistent chemicals shall be employed. The permittee shall landscape the west bank of Ballona Lagoon in conformance with the following requirements:

- A. Prior to weed abatement and removal of any plant material, a qualified biologist or ornithologist shall survey the project site to detect bird nests and submit a survey report to the permittee and the Executive Director of the Coastal Commission. The survey report shall include identification of all known nests. The permittee shall maintain a database of survey reports that includes a record of nests that is available as public information and to be used for future vegetation removal decisions. No bird nests shall be disturbed. Weed abatement and removal of any plant material may not proceed within 300 feet (500 feet for raptors) of a nest where evidence of courtship or nesting behavior is observed. In the event that any birds continue to occupy nests during the non-nesting season, work shall not take place until a qualified biologist or ornithologist has assessed the site, determined that courtship behavior has ceased, and given approval to proceed within 300 feet (500 feet for raptors) of any nest.
- B. All re-vegetation and development shall conform to the project plans approved by the Executive Director. All vegetation planted on the site will consist of native plants typically found in the dunes adjacent to the Ballona wetlands (including transitional marsh plantings where appropriate). The seeds and cuttings employed shall be from local sources adjacent to Ballona Lagoon, the Venice Canals, and the Ballona wetlands. Prior to the first planting cycle, the permittee shall provide the Executive Director with the quantities and sources of all plants used in the project.

- C. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
- D. Erosion Control. Prior to removing the non-native plants and preparation of the soil, the permittee shall install silt curtains along the entire length of the water's edge to prevent siltation of the lagoon. Jute matting (with no plastic netting) shall be placed on all slopes immediately following the removal of the existing plant cover. In addition, the permittee shall implement the following temporary erosion control measures during the restoration project: temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, and additional silt fencing as needed.
- E. Re-vegetation shall commence as soon as possible following removal of non-native plants and preparation of the soil. The existing native vegetation and all required plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan. Re-vegetation activities may continue during the least tern nesting season
- F. Disposal of plant matter. All cut plant material shall be disposed of at an appropriate off-site location within ten days of cutting. A separate coastal development permit will be required prior to the placement of any cut plant material in the coastal zone unless the Executive Director determines that no permit is required pursuant to the requirements of the Coastal Act and the California Code of Regulations.
- G. Planting shall maintain views of the water from the public areas.
- H. Monitoring. The permittee shall actively monitor the site, remove non-natives and reinstall plants that have failed for at least five years following the initial planting. The permittee will monitor and inspect the site no less than once each thirty days during the first year that follows the initial planting. Thereafter, the permittee will monitor the site at least once every ninety days or on the City's regular landscape maintenance schedule, whichever is more frequent. Each year, for a minimum of five years from the date of permit issuance, the permittee shall submit for the review and approval of the Executive Director, an annual re-vegetation monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist that certifies the re-vegetation is in conformance with the approved re-vegetation plan. The annual monitoring report shall include photographic documentation of plant species and plant coverage. If the annual re-vegetation monitoring report indicates the re-vegetation is not in conformance with or has failed to meet the performance standards specified in the re-vegetation plan approved pursuant to this permit, the permittee shall submit a revised or supplemental re-vegetation plan for the review and approval of the Executive Director. The revised re-vegetation plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. The permittee shall implement the supplemental re-

vegetation plan approved by the Executive Director and/or seek an amendment to this permit if required by the Executive Director.

The permittee shall undertake development in accordance with the final plans approved by the Executive Director. To ensure compliance, the City shall include the requirements of this condition on all plans and contracts issued for the project. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required pursuant to the requirements of the Coastal Act and the California Code of Regulations.

4. Construction Staging - Protection of Marine Resources

The permittee shall undertake all development in compliance with the project staging and construction plan approved by the Executive Director, including the specific staging and construction measures to prevent the unpermitted deposition, spill or discharge of any liquid or solid into coastal waters (which include Ballona Lagoon and the Venice Canals). The plan includes the following provisions:

- A. The location of the construction staging and equipment and materials storage area on City property at 3813-3819 Esplanade, near the intersection of Canal Court and Hurricane Street. Measures to control runoff from the staging area shall be implemented at the commencement of the project. Construction staging activities and equipment and materials storage are prohibited on any beach, wetland or environmentally sensitive habitat area.
- B. The storage or stockpiling of soil, silt, other organic or earthen materials, or any materials and chemicals related to the construction, shall not occur where such materials/chemicals could pass into coastal waters. Any spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible.
- C. Construction equipment and vehicles shall be inspected daily to ensure there are no leaking fluids. If there are leaking fluids, the construction equipment shall be serviced immediately. Equipment and machinery shall be serviced, fueled, maintained and washed only in confined areas specifically designed to control runoff and prevent discharges into coastal waters. Thinners, oils or solvents shall not be discharged onto the ground or into sanitary or storm sewer systems.
- D. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than fifty feet away from all stormdrains, open ditches and surface waters.
- E. All floatable debris and trash generated by construction activities within the project area shall be disposed of at the end of each day, or as soon as possible.
- F. Measures to control erosion shall be implemented at the end of each day's work.

The City (permittee) shall include the requirements of this condition on all plans and contracts issued for the project. The permittee shall implement and carry out the project

staging and construction plan during all construction, staging and cleaning activities consistent with the plan approved by the Executive Director.

5. Public Access

- A. The permittee shall complete all of the approved public access improvements (i.e., five-foot wide trail from Grand Canal to Topsail Street, connections to existing sidewalks, street end improvements) along the west bank of Ballona Lagoon consistent with the final approved plans and the special conditions of this permit. Any encroachments into the Ballona Lagoon public trail system shall be removed as part of the project.
- B. The permittee shall post and maintain signs that identify the approved west bank trail/walkway as a public accessway.
- C. By acceptance of this permit, the permittee agrees that the approved trail/walkway along the entire west bank of Ballona Lagoon from Grand Canal to Topsail Street is a public accessway, and that this accessway shall be maintained for general public use 24 hours a day and shall not be closed. The permittee shall periodically inspect the walkway, maintain the walkway and the fencing in good condition, and remove any impediments (i.e., encroachments) to public access.
- D. The permittee shall ensure that trash receptacles and free provisions (e.g. refuse bags) for the proper disposal of pet feces are provided along the public accessway, at a minimum of one location for each 300-foot section of the accessway. The permittee shall be responsible for ensuring that the trash receptacles are maintained and routinely emptied in order to prevent spillage of refuse.

6. Resource Agencies

The permittee shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

7. California Least Tern

In order to minimize adverse impacts on least tern foraging in Ballona Lagoon during the least tern nesting season, no mechanized or other types of noise-emitting equipment shall be used within fifty feet of the water during the period commencing March 15 and ending September 1.

8. No Fill in Wetlands

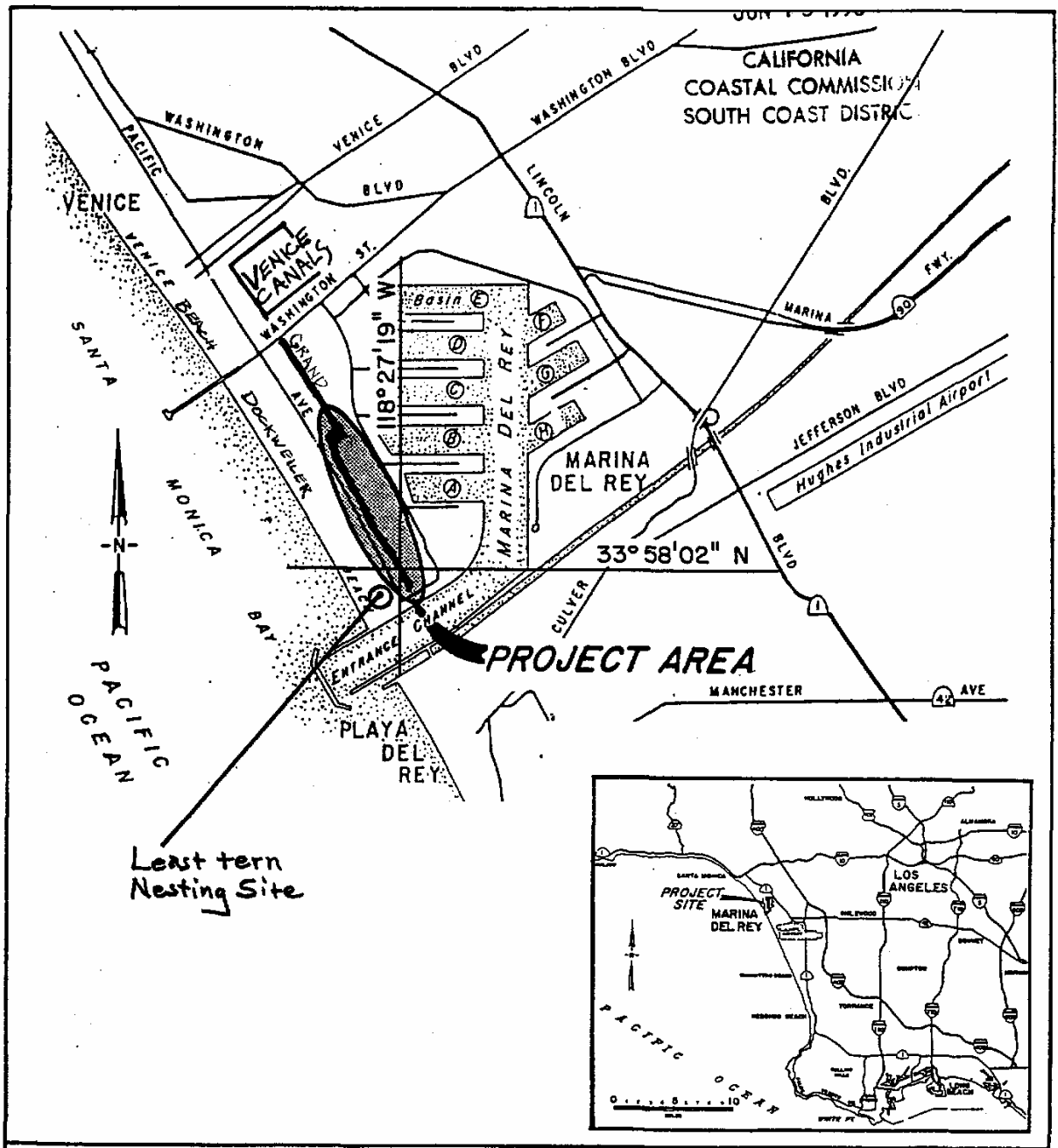
No fill shall be placed in any wetland or below the five-foot contour line (+5.0' MHTL).

9. Assumption of Risk

By acceptance of this coastal development permit, the applicant acknowledges and agrees: (i) that the site may be subject to hazards from seismic events, liquefaction, storms, floods and erosion; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

10. Operation of Tidal Gates

In order to enhance tidal exchanges and improve water quality in the lagoon, the permittee shall coordinate with the County of Los Angeles Department of Public Works to improve the operation of the Ballona Lagoon tidal gates located at the southern end of the lagoon beneath Via Marina. **PRIOR TO COMMENCEMENT OF THE APPROVED DEVELOPMENT**, the permittee shall provide the Executive Director with the tidal gate schedule of operation and the status/schedule for improvement and/or replacement of the tidal gate approved pursuant to Coastal Development Permit 5-07-210 (County of Los Angeles). Consistent with the need to limit the potential for flooding, the tidal gates shall be operated in a manner that maximizes water circulation and sustains and enhances biological productivity by allowing the incoming and outgoing tides to rise and fall naturally in Ballona Lagoon.



PURPOSE: WETLAND RECLAMATION

DATUM:

ADJACENT PROPERTY OWNERS:
SEE ATTACHED LIST

VICINITY MAP



BALLONA LAGOON MARINE PRESERVE
P.O. BOX 9244
MARINA DEL REY, CA. 90295

Ballona Lagoon

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EXHIBIT # 1
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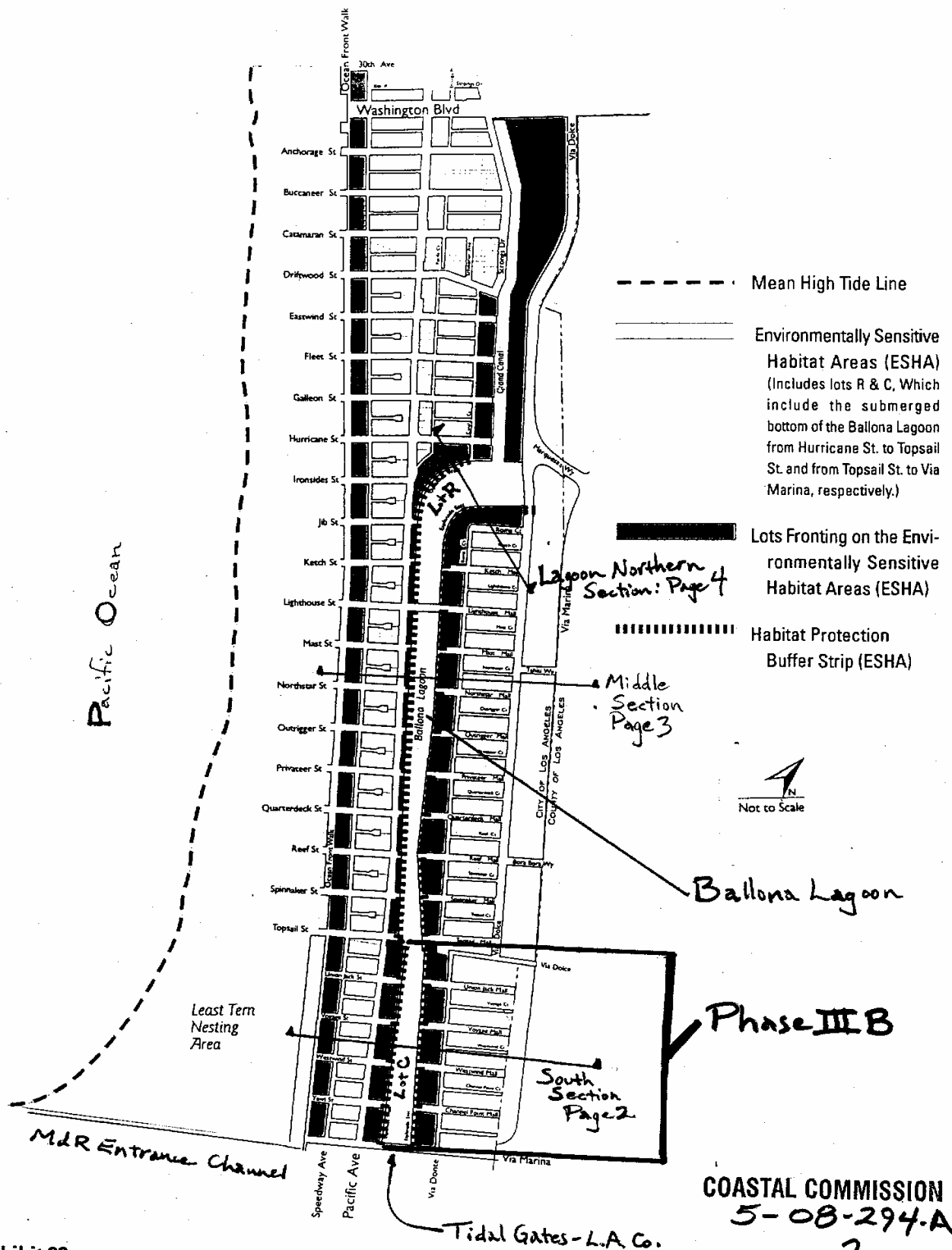


Exhibit 22c

Environmentally Sensitive Habitat Areas

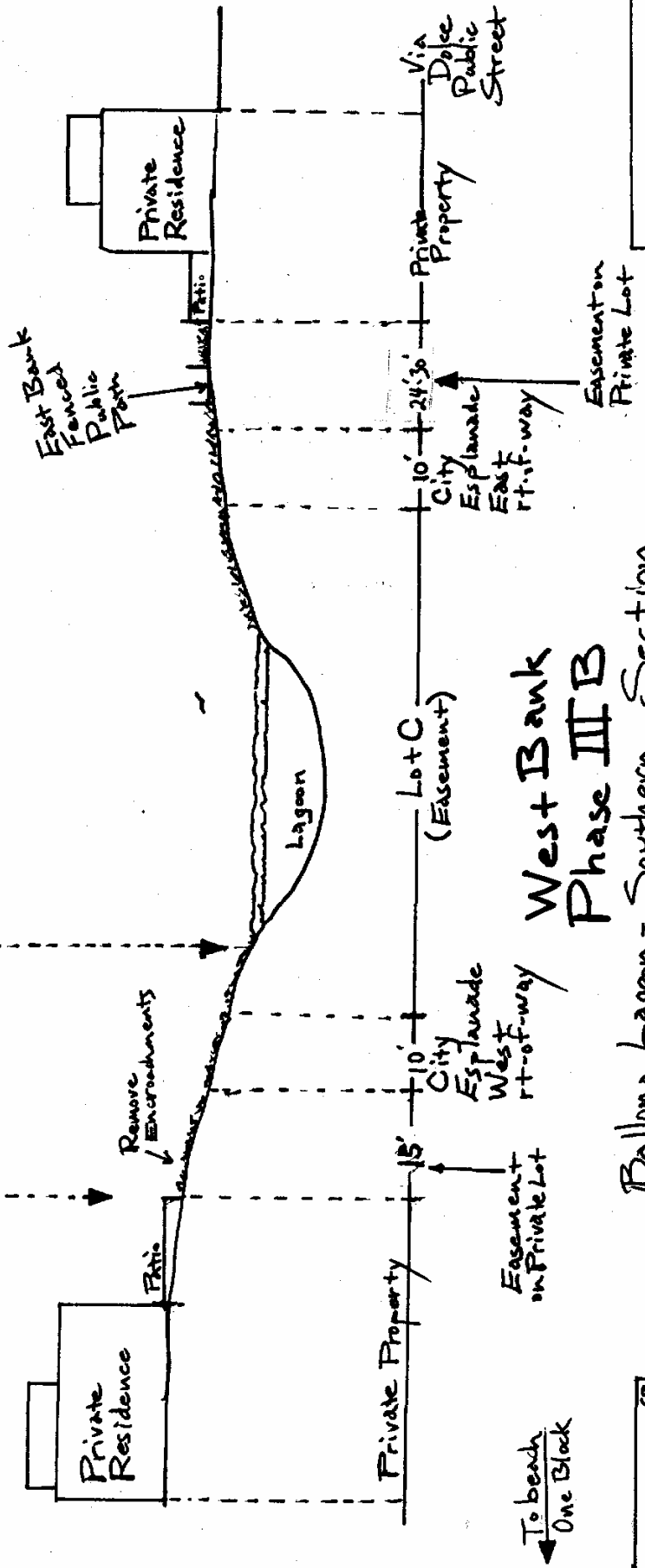
COASTAL COMMISSION
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EXHIBIT # 2
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West Bank
(project site)

East Bank
(Not a part)

Protective Lagoon Buffer Strip
Ballona Lagoon



To beach
One Block

West Bank
Phase III B

Ballona Lagoon - Southern Section

(Not to Scale)

Exhibit #2 p.2

West Bank

East Bank
(Not a part)

Project Site

Protective
Lagoon
Buffer
Strip

Existing
Informal
Trail

One block
to beach

Ballona
Lagoon

Pacific
Avenue
Public
Street

Private
Residence

East Bank
Fenced Public
Path

Roma
Court
Public
Street

Lot C
(Easement)

City-owned
Alphabet Lots
(Lots G-P)

City
Esplanade
East
Rt-of-way

Private
Property

Easement on
Private Lot

West Bank
Phase IIIA

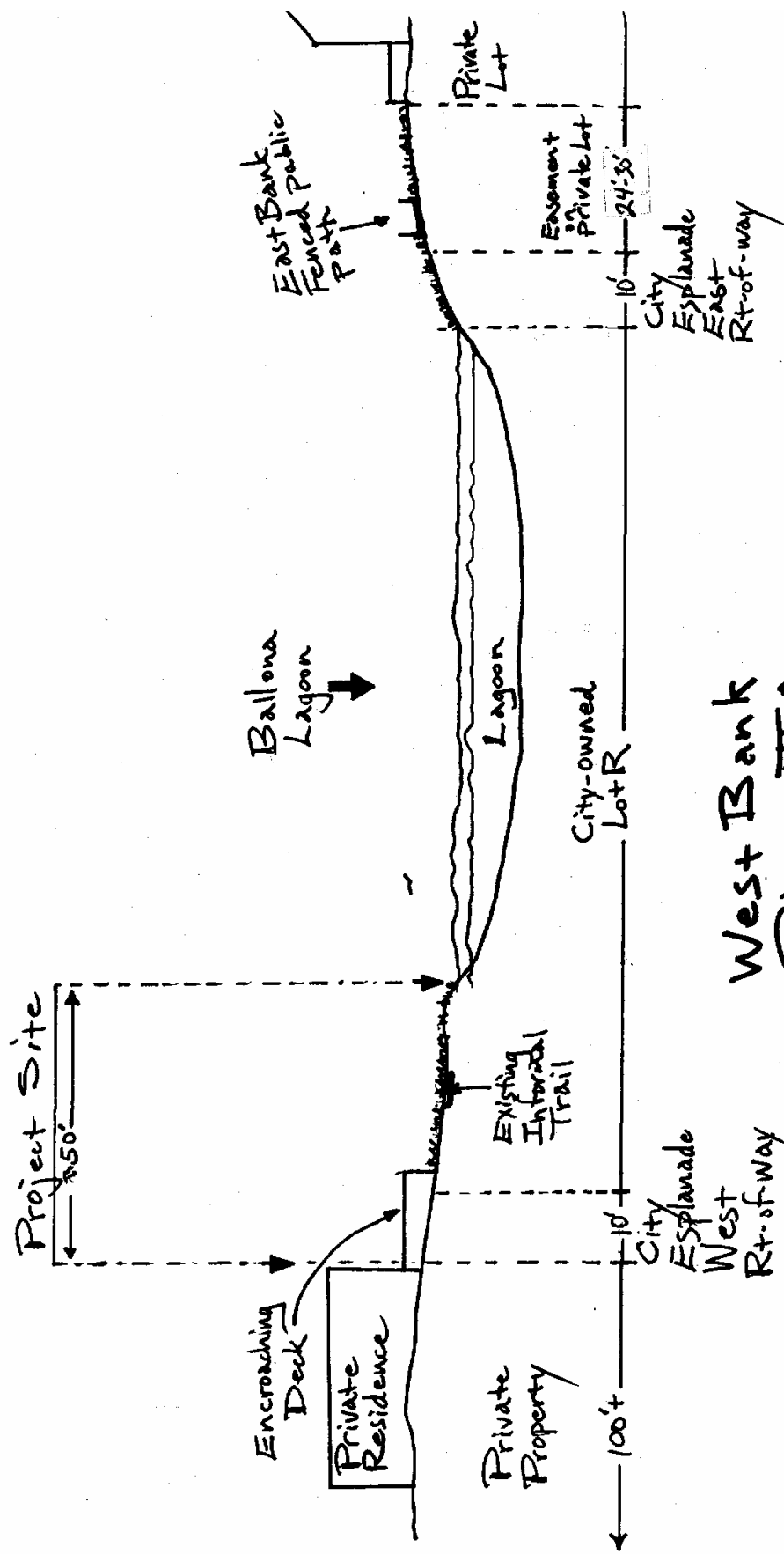
Ballona Lagoon - Middle Section

(Not to Scale)

Exhibit #2 p.3

West Bank

East Bank
(Not a part)



West Bank
Phase IIIA

Ballona Lagoon - Northern Section

(Not to Scale)

Exhibit #2 p.4

PROPOSED DECOMPOSED GRANITE
PATH W/ SPLIT RAIL FENCE

PROPOSED REVEGETATION
AREA

HIGH WATER
LINE

PICKLEWEED

EXST. PICKLEWEED

Pacific Avenue

4'

West Bank TYPICAL SECTION

Not to Scale

Proposed Plan

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

**MEMORANDUM**

FROM: Jonna D. Engel, Ph.D.
Ecologist

TO: Chuck Posner
Coastal Analyst

SUBJECT: Ballona Lagoon Phase IIIa Enhancement Project

DATE: June 22, 2010

Documents Reviewed:

Jones, William (City of Los Angeles Department of Public Works, Environmental Specialist II, Environmental Management Group). April 22, 2010. Draft Action Plan for the Conservation of the Orcutt's Pincushion (*Chaetanactis glabriuscula* var. *orcuttiana* (E. Greene) H. Hall) at Ballona Lagoon, Venice, California. Ballona Lagoon Phase III Enhancement Project (E6000776)

Phase IIIa of the Ballona Lagoon Enhancement Project was approved April 8, 2009 (CDP#5-08-294). The project is located on the West bank of Ballona Lagoon between Via Marina and Grand Canal, (on City-owned property, public rights-of-way and publicly-owned easements), Venice, City of Los Angeles, Los Angeles County. Phase III of the enhancement plan includes: 1) removal of non-native vegetation and encroachments (including, but not limited to, fences, walls, lighting, irrigation improvements, decks/patios, and residential landscaping); 2) revegetation with native dune plants, 3) realigning and improving the west bank public access trail between Topsail Street and Canal Court, 4) construction of a split rail fence along the public access trail and inland edge of easements, and 5) construction of a public education/information area with benches near Jib Street at Pacific Avenue.

On Wednesday, April 28, 2010 I met Gary Timm, CCC South Coast Manager; Chuck Posner, CCC Coastal Analyst, William Jones, City of Los Angeles Environmental Specialist, and City representatives Ding Lee and Richard Liu, at the Ballona Lagoon Phase IIIa enhancement project site. The main reason for the site visit was to see the footprint of the recently discovered population of Orcutt's yellow pincushion, *Chaetanactis glabriuscula* var. *orcuttiana*, in relation to the enhancement project and to discuss project modifications that would insure the least possible adverse impacts to the pincushion population while still providing the improved public access trail and recreational opportunities approved by the permit (CDP# 5-08-294). Orcutt's yellow

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pincushion is an annual plant with a 1B.2 listing by the California Native Plant Society. 1B means the species is rare, threatened, or endangered in California or elsewhere and .2 indicates the species is fairly endangered in California.

While eliminating the previously approved public access and recreational improvements between Jib and Topsail Streets to create a pincushion preserve may be possible, this approach is not feasible or desirable under the circumstances before us for a number of reasons:

1. The Phase IIIa Ballona Lagoon Enhancement Project has already been permitted with a formal public trail to replace the existing unfenced trails that are closer to the water's edge,
2. The 1992 Ballona Lagoon Enhancement Plan, prepared by the Coastal Conservancy, and the Ballona Lagoon Marine Preserve, calls for a formal public access trail (with fencing) along both banks of Ballona Lagoon, in conjunction with restoration of the natural habitat and educational panels,
3. A number of meandering paths presently exist in the area which have been and will continue to be used by the public absent the approved trail,
4. The project has been found consistent with the public access and recreation policies of the Venice Land Use Plan and Coastal Act by the Coastal Commission, and,
5. Even if no new trail were constructed, any protective fencing erected along Pacific Avenue to protect native plants would have to be placed at least 24 inches away from the curb.

Furthermore, environmentally sensitive habitat (ESHA) policies recognize that certain types of development are dependent upon sensitive resources. While the types of development that fall within this category are very limited, they do include trails, fencing, and educational panels. Ballona Lagoon and its banks are designated in the certified Venice LUP as ESHA (Los Angeles City Department of Planning, 2001) and are protected as such. The Commission has previously found that the three phases of the Ballona Lagoon Enhancement Project, including trails, fencing, and educational panels, are resource dependent uses allowed under the Coastal Act and the City of Los Angeles' Land Use Plan.

Following discovery of the Orcutt's yellow pincushion population the City of Los Angeles proposed the following modifications to their project to minimize impacts on this rare species. The City's modifications include:

1. Creation of a pincushion preserve that encompasses the footprint of this year's population as well as potential areas of introduction.

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2. Elimination of irrigation within the pincushion preserve; irrigation lines will be laid directly beneath the path and as close to the curb as possible to bypass the pincushion preserve.
3. Elimination of hydroseeding with mulch and 1-gallon plants that require irrigation in the pincushion preserve; seed of the pincushion and associated native plants will be included in the seed mix to be broadcast and raked under by hand.
4. Narrowing the trail along Pacific Avenue from five feet to four feet from Jib to Topsail Streets.
5. Interpretive signs on Orcutt's yellow pincushion and directional, "Please Stay on Path", signage.

In addition to adhering to special conditions 2, 3, and 4 in their permit (CDP# 5-08-294) and the modifications listed above, I recommend that the City of Los Angeles revise their enhancement project action plan, under the direction of a qualified restoration ecologist who has experience in dune scrub and dune habitat restoration (approved by the CCC Executive Director), in consultation with the California Department of Fish and Game, to include the following:

1. Creation of a preserve from Jib to Topsail Streets that recognizes and protects the ESHA between the protective fencing and the lagoon waters; i.e. dune scrub, dune, and wetland habitats and the rare plants these habitats support including Orcutt's yellow pincushion, *Chaetanactis glabriuscula* var. *orcuttiana*, South Coast saltscall, *Atriplex pacifica*, red sand verbena, *Abronia maritima*, and wooly seablite, *Sueda taxifolia*,
2. A map with the location of the 2010 pincushion population as well as the other rare plants identified in the area including South Coast saltscall, *Atriplex pacifica*, red sand verbena, *Abronia maritima*, and wooly seablite, *Sueda taxifolia*,
3. Dune scrub and dune habitat plant palette and planting plan that provides detailed instructions for the appropriate mixture of seeds, cuttings, and container plants as well as the appropriate plant densities for the respective habitats,
4. Methodology for the collection of rare plant seeds and cuttings performed by an authorized agency that maintains a seed collection and that holds a seed collection permit from the California Department of Fish and Game.
5. Temporary irrigation only if considered necessary by the approved restoration ecologist,

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6. Provision for following the status of all rare plants in the monitoring plan,
7. Insurance that the trail is a maximum of 4 feet in width and located immediately adjacent to Pacific Avenue (as close as legally allowed) for its entire length and that project fencing is installed immediately adjacent to the lagoon side of the trail, and
8. The revised enhancement project action plan must be reviewed and approved by the CCC Executive Director prior to implementation.

I believe that these modifications, along with those already proposed by the City of Los Angeles, and special conditions 2, 3, and 4 in their permit (CDP# 5-08-294), will insure the least possible adverse impacts to the Ballona Lagoon ESHA, including the Orcutt's yellow pincushion population, while still providing the improved public access trail and recreational opportunities approved by the permit (CDP# 5-08-294).

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Draft Action Plan for the conservation of
Orcutt's Pincushion
(*Chaetanactis glabriuscula* var. *orcuttiana* (E. Greene) H. Hall)
at Ballona Lagoon, Venice, California

Ballona Lagoon Phase III Enhancement Project
(E6000776)

April 22, 2010



Photo 1



Photo 2



Photo 3



Photo 4



Prepared by: William Jones,
Environmental Specialist II
Environmental Management

COASTAL COMMISSION
5-08-294-A1

EXHIBIT # 5
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Introduction

The Ballona Lagoon Phase IIIa Enhancement Project is a four-acre site located on the West bank of Ballona Lagoon, in the Community of Venice, City of Los Angeles (Figure 1). Ballona Lagoon and adjacent City lands are generally located southwest of Marina Del Rey and northwest of Ballona Creek. Pacific Avenue forms part of the southwestern boundary from approximately Hurricane to Topsail Streets, while Esplanade East and Via Dolce form part of the northeastern boundary. Via Marina forms the southeastern boundary. The lagoon covers about 6.5 hectares (16 acres) in area, of which 0.6 hectares (1.5 acres) are occupied by vegetated, intertidal, coastal strand or coastal dune habitats. The elevation ranges from zero to about 2 meters (6 feet) above mean sea level.

Ballona lagoon and its banks are surrounded by both single-family and multiple-family residential land uses. Vacant city lots, adjacent to Pacific Avenue, approximately from Jib to Topsail Streets have been purchased by the City and designated as open space (Los Angeles Department of Building and Safety, 2002). The entire Lagoon has been designated as an Environmentally Sensitive Habitat Area (Los Angeles City Department of Planning, 2001).

The Ballona Lagoon Enhancement Phase III project is to restore of the west bank of the Ballona Lagoon, an estuary in the community of Venice. The work includes (1) removing non-native vegetation and encroachments; (2) re-vegetating with native dune plants; (3) realigning and improving the west bank public access trail (5 feet wide DG pathway) between Topsail Street and Canal Court; (4) constructing a 3-foot high fence along the public access trail; and constructing a public education/information area with benches near Jib Street at the northern end of the lagoon.

Habitat restoration is one of the primary goals of the Ballona Lagoon Enhancement Project, including preservation of sensitive, native species. The recent discovery of the pincushion requires modification of the project plans to ensure *taxa's* survival for future generations.

As part of the project scope, the Project Biologist (William Jones) flagged all native vegetation to be avoided prior to removal of non-native vegetation from the restoration area. During this period, the Project Biologist discovered the population of Orcutt's pincushion, (*Chaetanactis glabriuscula* DC var. *orcuttiana* (E. Greene) H. Hall), and immediately took action to protect the plants (Photos 1-4). Dr. C. Mark Porter of Rancho Santa Ana Botanic Garden and Dr. James Henrickson, Professor Emeritus, formerly of Cal State Los Angeles, verified identification. Voucher specimens were collected under USF&W collection permit TE-00918-3.1 (5/20/2011), and will be deposited at the Rancho Santa Ana Botanic Garden Herbarium (RSA-POM) in Claremont, California.

Work was stopped in all three identified areas that harbor pincushion plants. These areas were cordoned off (first with caution tape and then later with temporary construction fencing) (Photo 5). Work continued in areas away from the pincushion plants.

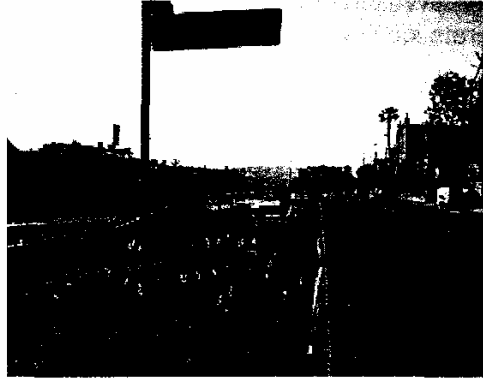


Photo 5

Action Plan Goals

The goal of this action plan is to preserve the existing, native pincushion habitat, as well as associated native vegetation, and to expand potential habitat to additional favorable sites on the west bank of Ballona Lagoon. In addition, the plan's implementation will compensate for the loss of existing pincushion habitat. Comprising essential elements to the successful restoration of habitat, the plan will involve collection of seed, as well as modifications to the plans and specifications. The nearest (Manhattan Beach) population was surveyed to serve as a reference for the action plan.

Background

Orcutt's Pincushion (*Chaetanactis glabriuscula* DC var. *orcuttiana* (E. Greene) H. Hall) is one of five recognized varieties of the species, *Chaetanactis glabriuscula* DC. The variety is characterized by its succulent leaves, arachnose (cob-webby) vestiture, and its twice-pinnate leaf pattern. There are 18 recognized species in the genus (*Chaetanactis*) in western North America, where *C. glabriuscula* DC is the only species with yellow flowers. The species is a member of the sunflower family (ASTERACEAE). Seeds are dry fruits, termed, "achenes."

The California Native Plant Society has ranked the Orcutt's yellow pincushion as "very threatened." The taxon is ranked as 1B.1- rare and is seriously threatened in California. It has been reported from at least 15 sites including all four southern California counties (Ventura, Los Angeles, Orange, and San Diego) and in Baja California. However, it is not state or federally listed as an Endangered, Threatened, or Rare Plant.

Based upon a review of herbarium records, listed by the Consortium of California Herbaria, the variety ranges from San Diego to Ventura Counties. Of the 57 specimens on file at the 17 member institutions, six specimens were collected in Los Angeles County. Areas included Playa Del Rey, Manhattan Beach, as well as Ballona Wetlands. Being the most recent database entry, Cooper collected a specimen (UCR209147) in Manhattan Beach in 2009. Earlier, Gustafson collected a specimen

(POM351747) from Ballona Wetlands in 1980. No specimens were on file for Ballona Lagoon, which is a separate locality from Ballona Wetlands, about 1 km to the south.

The next nearest population known to us of the Orcutt's pincushion lies approximately 9 km to the south of Ballona Lagoon at Manhattan Beach. The Manhattan Beach population is located at Sand Dune Park, which is operated by the City of Manhattan Beach. The site is currently closed to the public for maintenance purposes. The population was accessed and surveyed by permission on March 30, 2010. Orcutt's pincushion occupies approximately 241 square meters (0.059 acres) at the lower end of a narrow, vegetated draw, parallel to, and North of the sand dune. The substrate is pure sand, and faces east. Common native associates include sand verbena (*Abronia umbellata*), beach evening primrose (*Camissonia cheiranthifolia*), and dune bush lupine (*Lupinus chamissonis*). Based upon quadrat data, the population was estimated to be about 1,350 (± 425) individuals.

Orcutt's pincushion is an herbaceous annual plant with a short lifespan (late winter to early spring), where the normal flowering period extends from April to July. However, at Ballona Lagoon, flowering began about two months early, in mid February, and should be completed by May or June. Unlike trees, shrubs, or perennials, annual plants pursue a survival strategy where the life cycle is completed within a year. When environmental conditions are favorable, seeds germinate, plants grow and mature, bloom, produce seed, and then die prior to the onset of the summer dry season. Therefore, the plant can be "moved" in effect by collecting mature seeds and planting them elsewhere in other favorable sites.

The pincushion occurs within three discrete areas (1, 2, and 3) on the west bank of Ballona Lagoon, ranging from just North of Outrigger to just Northeast of Topsail Streets. Area (1) is just north of Outrigger Street, while Area (2) extends from just South of Outrigger Street to just South of Privateer Street. Area (3) lies to the northeast of Topsail Street. The pincushion inhabits a total of about 0.37 acres (1,509 square meters). The middle area (2) is the largest area, covering 0.29 acres (1,171 square meters), and contains the main population. Area (1) covers 0.02 acres (78 square meters), while Area (3) covers 0.06 Acres (229 square meters).

Pincushion habitat is characterized by open upland areas with mostly sandy soils, away from the upper high tide line. From a previous survey of Ballona Lagoon, a total of 86 plant species were recorded, about half were native California plant species (Jones, 2003). Within the pincushion-inhabited areas, a total of 33 plant species have been noted; twelve were native California species (Table 2). Only nine of the twelve native plant species are directly associated with the pincushion.

Many of the recorded California native plant species are found in one to several coastal vegetation community types, such as coastal strand, coastal salt marsh, or coastal sage scrub. Seven of the species can be normally found on open or disturbed sites within many vegetation community types. Coastal strand vegetation covers upland, beach, and dune habitats, while coastal salt marsh vegetation occupies lower intertidal

areas, subject to tidal inundation. Coastal sage scrub vegetation occupies higher and drier upper slopes that lie above the coastal strand community (Raven, et al, 1986). Alternatively, vegetation can be classified by dominant species in series, rather than by communities. Based upon local dominance, vegetation of Ballona Lagoon could be classified as part of an ice plant, pickleweed, or sand verberna-beach bur series (Sawyer and Keeler-Wolf, 1995). The pincushion occurs within the latter series.

The east bank of Ballona Lagoon, west of Esplanade East, has been restored and re-vegetated with native California plant species. The east bank vegetation is not a wild population; the plants have been established with the assistance of both regular irrigation and periodic maintenance. By contrast, the west bank is dominated by mostly ruderal species, adapted to frequent ground disturbance.

The west bank has been regularly disturbed by human activities. Prior to the project, the land was vacant, comprised of a string of vacant lots, purchased by the City of Los Angeles for habitat protection purposes, and designated as open space. Site vegetation included a mixture of predominantly exotic vascular plant species, including a number of invasive weedy species, and a smaller proportion of California native plant species than the east bank. Native plant species were recorded but were sparsely distributed throughout the west bank, where native vegetation competes with mostly non-native, low-lying shrubs herbs and grasses. With exotic plant species being locally dominant in this open community, the habitat was fairly well degraded (Jones 2003).

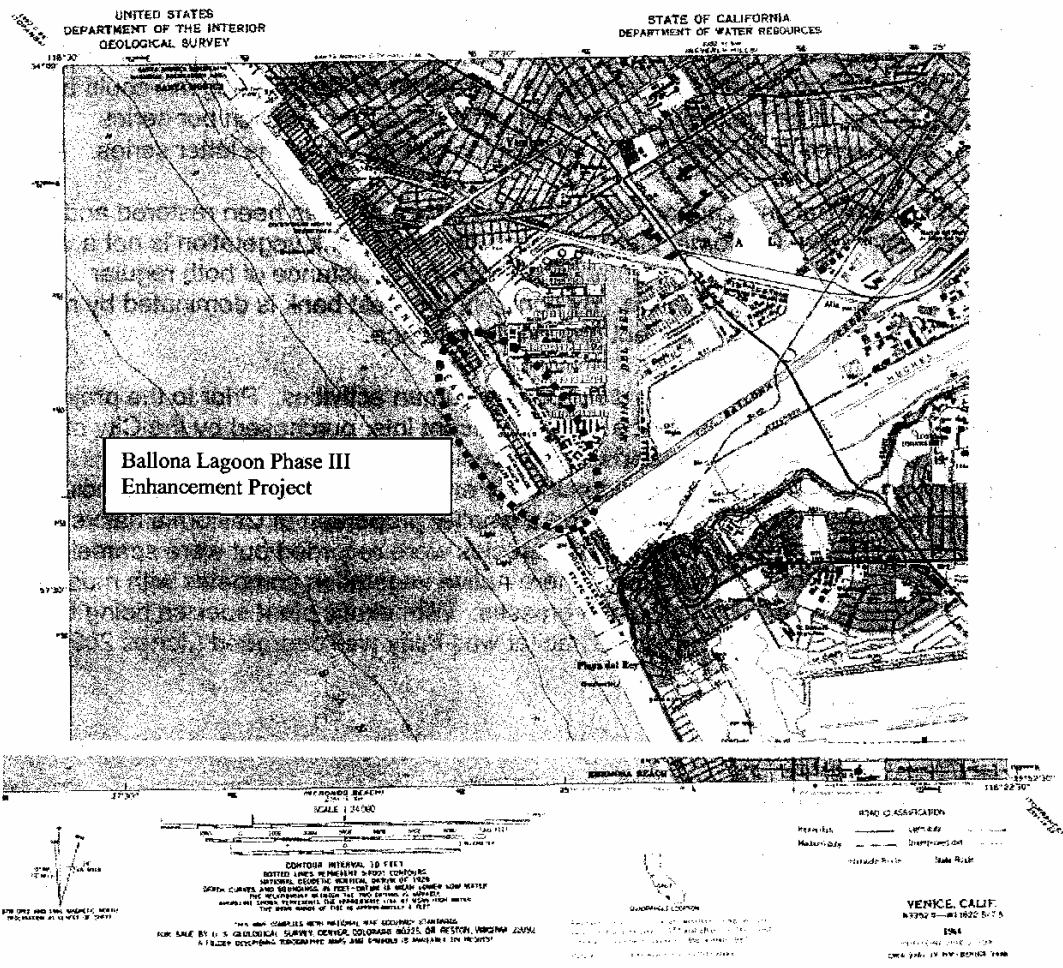


Figure 1: Portion of Venice, California, USGS Topographic Map showing Project Location

Survey Methodology

The population was initially mapped (Figure 2) and a floristic survey was performed. Once boundaries were delineated, the population was sampled using quadrats. A total of 70 (0.49 meters square) quadrats were taken at random along parallel transects in all three areas (Table 1). The middle area (2) was split into two sections- potentially impacted zone (Area 2b) and outside the potentially impacted zone (Area 2a). A total of 34.3 square meters was sampled. Plant densities (plants per square meter) were calculated, and then estimated for each area by proportion. A small (29.5 square meter patch with 10 individuals) was not sampled (Area 2c). The patch was about 7 meters to the south of Area (2), and is included in the total area of potential impact.

Table 1: Sampling Area Data (* indicates potential impact areas).

Area	Location	Total Area (sqm)	Area %	# Quadrats	Sample Area (sqm)
1	North of Outrigger	77.6	0.019	8	3.9
2a	South of Outrigger to South of Privateer (outside potential impact area)	988.8	0.244	30	14.7
2b*	South of Outrigger to South of Privateer (within potential impact area)	182.2	0.045	14	6.9
2c*	South of Privateer (within potential impact area)	29.5	0.007	Not incl.	Not incl.
3	Northeast of Topsail	228.5	0.056	18	8.8
	Total	1492.6	0.372	70	34.3

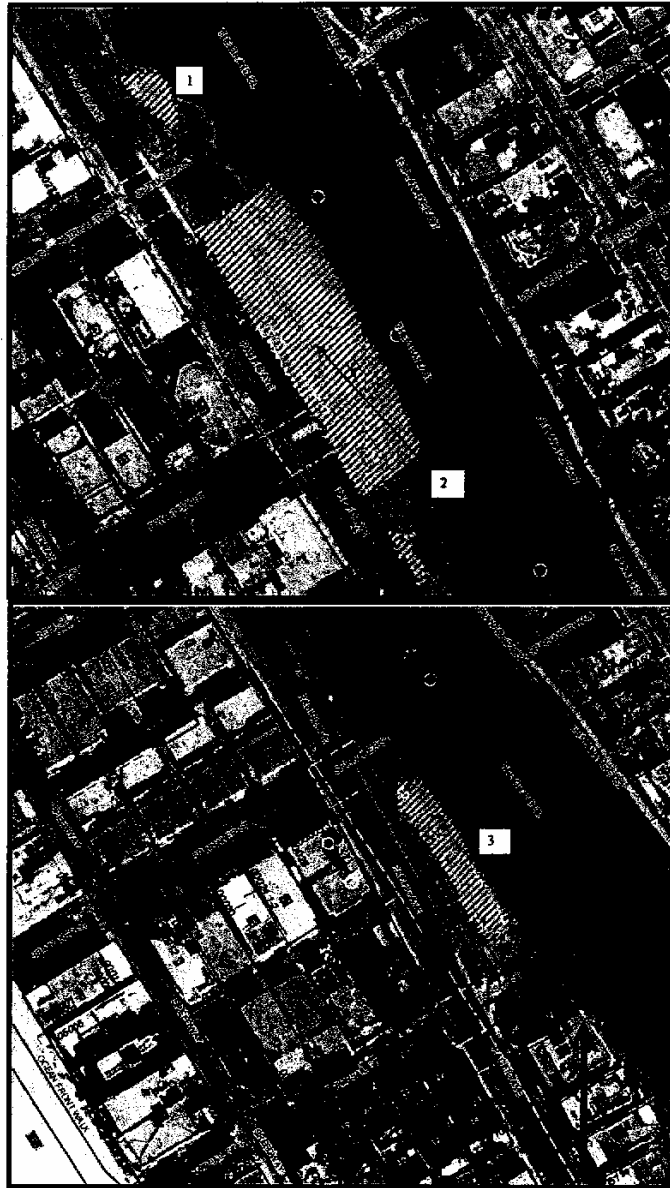


Figure 2: *Chaenactis glabriuscula* var. *orcuttiana* areas:
 Upper (Areas, 1-2abc, Outrigger to Privateer); Lower (Area 3, in the vicinity of
 Topsail). (3/23/10). (Light blue dashed lines circumscribe boundaries of the
 respective pincushion-protected areas (crosshatch), while yellow-dashed lines
 circumscribe mapped pincushion distributions).

Results

The floristic and vegetation survey for the pincushion was performed on March 17, 2010. Repeat visits were made on April 2 and April 12 of 2010.

Floristic Survey

As provided in Table 2, within the protected areas inhabited by the pincushion, associated species include native annuals such as sand verbena (*Abronia umbellata* Lam., beach evening primrose (*Camissonia cheiranthifolia* var. *cheiranthifolia* (Sprengel.) Raimann), and telegraph weed (*Heterotheca grandiflora* Nutt.), and one native shrub, beach burr (*Ambrosia chamissonis* (Les.) E. Greene). Salt grass is also common (*Distichlis spicata* (L.) E. Greene). Two other native annuals, Chinese caps (*Euphorbia crenulata* Engelm.) and slender phlox (*Phlox gracilis* E. Greene), were also locally abundant in area (2).

Other sensitive species are found within the four-acre project area. These include wooley sea-blight (*Suaeda taxifolia* (Standley) Standley), red sand verbena (*Abronia maritima* S. Watson), and south coast saltbush (*Atriplex pacifica* Nelson); however, none are associated with the pincushion.

Non-native species are abundant, species include ripgut and red brome (*Bromus diandrus* Roth and *B. madritensis* L. var. *rubens* (L.) Husnot.), mustard (*Brassica* sp), Cretan weed (*Hedypnois cretica* (L.) Dum.-Cours.), wild radish (*Raphanus sativus* L.), Russian thistle (*Salsola tragus* L.), crown daisy (*Chrysanthemum coronarium* L.), and storksbill (*Erodium cicutarium* L. (L'Her)). Prior to the project, highway ice plant (*Carpobrotus edulis* (L.) N.E. Br.) dominated vast areas of Ballona Lagoon's west bank.

Ballona Lagoon Phase III
***Chaeonactis* Associated Plant Species- West Bank of Ballona Lagoon**
Survey Dates (3/17/2010, 4/2/2010 and 4/12/2010)

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574	575	576	577	578	579	580	581	582	583	584	585	586	587	588	589	590	591	592	593	594	595	596	597	598	599	600	601	602	603	604	605	606	607	608	609	610	611	612	613	614	615	616	617	618	619	620	621	622	623	624	625	626	627	628	629	630	631	632	633	634	635	636	637	638	639	640	641	642	643	644	645	646	647	648	649	650	651	652	653	654	655	656	657	658	659	660	661	662	663	664	665	666	667	668	669	670	671	672	673	674	675	676	677	678	679	680	681	682	683	684	685	686	687	688	689	690	691	692	693	694	695	696	697	698	699	700	701	702	703	704	705	706	707	708	709	710	711	712	713	714	715	716	717	718	719	720	721	722	723	724	725	726	727	728	729	730	731	732	733	734	735	736	737	738	739	740	741	742	743	744	745	746	747	748	749	750	751	752	753	754	755	756	757	758	759	760	761	762	763	764	765	766	767	768	769	770	771	772	773	774	775	776	777	778	779	780	781	782	783	784	785	786	787	788	789	790	791	792	793	794	795	796	797	798	799	800	801	802	803	804	805	806	807	808	809	810	811	812	813	814	815	816	817	818	819	820	821	822	823	824	825	826	827	828	829	830	831	832	833	834	835	836	837	838	839	840	841	842	843	844	845	846	847	848	849	850	851	852	853	854	855	856	857	858	859	860	861	862	863	864	865	866	867	868	869	870	871	872	873	874	875	876	877	878	879	880	881	882	883	884	885	886	887	888	889	890	891	892	893	894	895	896	897	898	899	900	901	902	903	904	905	906	907	908	909	910	911	912	913	914	915	916	917	918	919	920	921	922	923	924	925	926	927	928	929	930	931	932	933	934	935	936	937	938	939	940	941	942	943	944	945	946	947	948	949	950	951	952	953	954	955	956	957	958	959	960	961	962	963	964	965	966	967	968	969	970	971	972	973	974	975	976	977	978	979	980	981	982	983	984	985	986	987	988	989	990	991	992	993	994	995	996	997	998	999	1000
x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x																																																																																																																																																																																																																																																																																																																																																																																																																																																																			

COASTAL COMMISSION

Vegetation Survey

A total of 627 individual pincushion plants were counted in the 70 quadrats for an average of 18.3 plants per quadrat (Table 3). The range was 0 to 103 individuals per quadrat. The mean overall pincushion density was 8.686 ± 16.282 (SEM = 1.946) and ranged from 9.2 to 26.3 plants per square meter. Based upon the t-test, the result was significant ($p < 0.001$). In Area (2), the mean density was lowest (9.2 plants per square meter) in the area of potential impact along Pacific Avenue, than elsewhere in this area (19.0 plants per square meter). As given in Table 3, the frequency of quadrats where *Chaenactis* was present was 64.3 percent for all quadrats, and ranged from 55.6 to 87.5 percent of quadrats, as calculated for each area. *Chaenactis* was present in 71.3 percent of quadrats in the potentially impacted area.

Based upon this survey, the total Ballona Lagoon pincushion population was estimated to be about 27,500 ($\pm 7,800$) individuals. Based upon the variance to mean ratio, the distribution is in groups or clumps.

Table3: Quadrat Data, Density, and Population Estimates.

(Area) Density	Count	# Quad	Total Sample Area (sqm)	Density (#/sqm)	Estimated Area (sqm)	Mean Est. Population
(1) North of Outrigger	103	8	3.92	26.3	77.6	2039
(2a) South of Outrigger to South of Privateer (outside potential impact area)*	280	30	14.70	19.0	988.8	18834
(2b) South of Outrigger to South of Privateer (within potential impact area)*	63	14	6.86	9.2	182.2	1673
(2c) South of Privateer	10	n/a	29.5	0.3	30.0	10
(3) Northeast of Topsail	181	18	8.82	20.5	244.0	5007
Overall	627	70	34.30	18.3	1492.6	27564

* indicates potential impact areas (5-ft wide path, 2-ft wide zone for fence and trench).

Table 3: Quadrat Data, Frequency.

Location (Area)	Quadrats with <i>Chaenactis</i>	Frequency
(1)	7	87.5%
(2a)	18	60.0%
(2b)	10	71.4%
(2c)	na	na
(3)	10	55.6%
Overall	45	64.3%

Assessment of Potential Impacts

The proposed path alignment would affect only a narrow portion of area (2), a seven-foot wide strip, immediately adjacent to Pacific Avenue. The potential area of impact is approximately 0.052 acres (212 square meters), or 14% of the total pincushion area. Plant density is lower along this strip. Consequently, the proposed path would affect an area inhabited by about 1,700 pincushion plants (or 7 percent) out the total Ballona Lagoon area population. About 93 percent of the pincushion population will not be impacted by construction. These proportions may vary slightly as new plants germinate. Narrowing the path to the minimum-recommendable width of four-feet is an option. The potential area of impact would be reduced to approximately 0.037 acres (148 square meters), or 9.8% of the total area. The narrower path would affect an area, presently inhabited by about 1,200 pincushion plants (or 4.5 percent) out the total Ballona Lagoon area population.

Action Plan

Once the identification of Orcutt's pincushion was verified, the project biologist instructed the project team to stop work within areas inhabited by these plants and to erect temporary barriers with stakes and flagging. The temporary barriers were later replaced by more resilient, construction fencing. The pincushion was added to the list of native plants, previously provided to the Contractor's crew. Crewmembers were also provided individual instruction on how to identify and avoid these plants. The California Department of Fish and Game as well as the California Coastal Commission were notified.

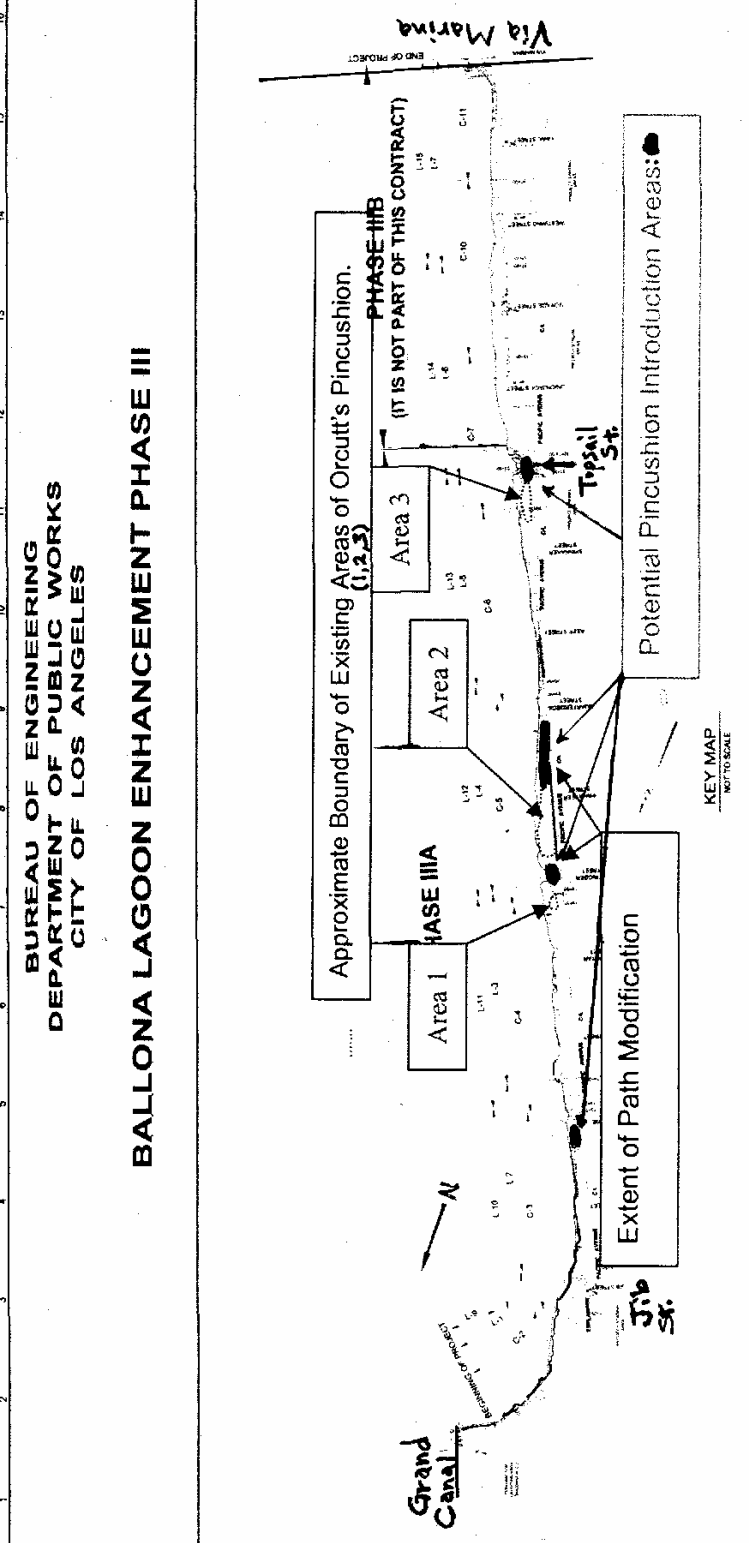
Weeding is essential. Based upon DFG guidance and performed under the supervision of the Project Biologist, hand weeding continued in the pincushion areas. Weeding was completed on April 14, 2010. Unless controlled, non-native weeds would out-compete, overwhelm, and prevent the successful return of the pincushion in future years. Other than hand weeding, no construction will occur in the protected areas during the pincushion's life cycle. This plan will follow appropriate agency procedures and guidelines for the conservation of rare plants.

For the pincushion, the best action would be to collect, store and reintroduce the seed back into the restored areas. Essentially, the intent is to collect mature seed during the flowering period. The Project Biologist will coordinate with the Payne Foundation to collect seed, and then temporarily store it at the Rancho Santa Ana Botanic Garden's seed bank facility. Some of the seed would be retained by both organizations for conservation purposes. For Rancho Santa Ana Botanic Garden, there is a \$2500 fee to establish a permanent conservation seed collection, along with a \$200 charge for cleaning and processing. A short-term, research, and recovery collection option is also available (Wall, 2010).

The Payne Foundation will also collect seed from other native plant species, including associated species, for use in the re-vegetation effort. Exotic weed (ice plant, brome, mustard, etc.) removal has opened up large areas of potential upland, sandy habitat for the Orcutt's pincushion. When the project site is ready for re-vegetation, the seed will be introduced into designated areas of similar habitat within the restoration area.

**BUREAU OF ENGINEERING
DEPARTMENT OF PUBLIC WORKS
CITY OF LOS ANGELES**

BALLONA LAGOON ENHANCEMENT PHASE III



KEY MAP
NOT TO SCALE

<p>PROJECT TEAM</p> <p>PROJECT MANAGEMENT: STREET IMPROVEMENT AND STORMWATER DIVISION MICHAEL BROWN, P.E., O.E. PROGRAM MANAGER SUSAN SHU GROUP MANAGER DINO LEE PROJECT MANAGER YVES BERNIER PROJECT ENGINEER</p> <p>CONSTRUCTION MANAGEMENT: STREET IMPROVEMENT AND STORMWATER DIVISION MICHAEL BROWN, P.E., O.E. PROGRAM MANAGER SUSAN SHU GROUP MANAGER HANS CHANG CONSTRUCTION MANAGER</p>	<p>ARCHITECTURAL DIVISION: HAROLD KARIMZADEH, A.I.A. PRINCIPAL ARCHITECT RENEE ELLIS LANDSCAPE ARCHITECT GUILLERMO MARGARIN LANDSCAPE ARCHITECT ASSOCIATE</p> <p>ENVIRONMENTAL MANAGEMENT GROUP: DR. ADRIAN J. KASPARIAN GROUP MANAGER JIM DOTY ENVIRONMENTAL SUPERVISOR WILLIAM JONES ENVIRONMENTAL SPEC II</p>
<p>PROJECT LOCATION NOT TO SCALE</p>	<p>VICINITY MAP NOT TO SCALE (THOMAS GUIDE PAGE 707, DRWG. 112)</p>

<p>DATE: 11/1/00 DRAWN BY: [Signature] CHECKED BY: [Signature] APPROVED BY: [Signature] CITY ENGINEER: GARY LEE MOORE, P.E.</p>	<p>INDEX NO. DRAWING NO. SHEET NO.</p>	<p>PROJECT: BALLONA LAGOON ENHANCEMENT PHASE III SHEET: COVER SHEET CITY OF LOS ANGELES, CA</p>	<p>PROJECT NO.: E500078 SHEET NO.: R-1 SCALE: 1" = 20'</p>
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The previously approved restoration plan (planting and irrigation) will be revised to accommodate the pincushion. Plans will be modified to eliminate 1-gallon shrub plantings in the pincushion-inhabited areas (0.372 acres), as well as those areas designated for introduction of the pincushion (0.495 acres). Application of hydro seed and mulch will also be eliminated in these areas. In the designated pincushion-introduction areas, seed will be sown by hand, and will include seed of the pincushion, along with other native annual associates, such as sand verbena, beach evening primrose, and dune lupine (Figure 3). Irrigation lines will bypass the protected and potential introduction areas, and be placed beneath the path alignment along area (2). In Area 2, the path should be narrowed to four-foot width.

Alternative Actions

Avoidance has been considered, but not recommended. Inside the protected area, weeding had been limited to removal of ice plant. Meanwhile, other exotics (rip-gut brome, mustard, stork's bill, and Cretan weed) were rapidly moving toward seed set and would out-compete the pincushion, if no action was taken. Outside of the protected areas, exotics (ice plant, brome, mustard, etc.) removal has opened up large sandy areas of potential habitat for Orcutt's pincushion. It was deemed important to continue weeding in the protected areas. Moreover, there is currently no sidewalk along the eastern side of Pacific Avenue. Being adjacent to the street, the 50-foot wide strip along Pacific is subject to disturbance by pedestrians and domestic animals, walking on unimproved trails, littering and clandestine dumping activities.

To protect the plants, a meandered path was considered for the middle area. The currently proposed alignment, immediately adjacent to Pacific Avenue, was specifically set to maximize the amount of contiguous, protected habitat area. The footpath and barrier railing will protect habitat. Choosing a new alignment for the footpath could reduce the number of plants affected this year, but not avoid them entirely. Revising the path to meander through the protected area would severely fragment this habitat, and thus leave areas vulnerable to trampling, especially areas between the meandered path and the street. Even if fenced off, much of the future pincushion seeds will likely end up on the adjacent path or street, or mixed in with seeds of unwelcome, non-native weeds. Again, any alignment other than the one proposed would permanently reduce the amount of protected habitat. The City prefers to maintain the path alignment as provided in the Coastal Development Permit. Habitat area would be maximized and weed removal would meet restoration goals.

Maintenance and Monitoring

The monitoring period will follow conditions of Coastal Development Permit (CDP 5-08-294) (California Coastal Commission 2009). The Environmental Management Group will monitor the restoration site during a five-year period consisting of monthly visits during the first year, then quarterly visits during the second through fifth years. Monitoring will include systematic record keeping of the site restoration. The pincushion is to be included in the monitoring regimen. The Environmental Management Group will regularly supervise the restoration effort to ensure attainment

of permit conditions. Maintenance will be performed initially by the restoration Contractor (Nature's Image), then by the maintenance contractor (currently Mariposa).

Per the CDP conditions, annual written reports will be submitted to the California Coastal Commission and California Department of Fish and Game by January 1 following each year of monitoring. Annual reports will be prepared gauging plant survival, estimating (%) plant cover, and listing plant species present. The report will include the assessment methodology. Photos from designated photo stations will also be included. Permanently marked vantage reference points will be established for the photographic documentation. Annual photographs, from the same vantage points, will be taken to document the restoration project's progress.

Success Criteria

Because of the ephemeral and unpredictable nature of the *Chaenactis* taxa, success cannot be specifically gauged by their annual return. As long as the site is regularly monitored, and non-native plant species are removed, conditions will enable the pincushion and other native vegetation to regenerate naturally with minimal competition.

Qualifications

See attached resume, and partial list of biological/vegetation resource assessment studies.

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