

CALIFORNIA COASTAL COMMISSION

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F5a

Filed: 6/10/10
49th Day: 7/29/10
180th Day: 12/7/10
Staff: MA-SD
Staff Report: 7/16/10
Hearing Date: 8/11-13/10

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-10-046

Applicant: Cabrillo Power I LLC

Description: Dredge up to 500,000 cubic yards of lagoon bottom (sand) within the existing approved dredge limits of the outer basin of Agua Hedionda Lagoon and deposit it on three Carlsbad beach locations (North, Middle, and South Beaches).

Site: Outer basin (east of Hwy.101 and west of railroad) of Agua Hedionda Lagoon, and Carlsbad State Beach, Carlsbad, San Diego County.

Substantive File Documents: Certified Agua Hedionda Lagoon Land Use Plan; "Study of Sediment Transportation Conditions in the Vicinity of the Agua Hedionda Lagoon" by Dr. Hani Elwany (Oct., 1999), CDP #'s F5536 (1977), 6-93-193-A, 6-93-193-A2, 6-97-46, 6-97-83, 6-00-111, 6-01-80, 6-04-54, 6-06-61, 6-08-047

I. STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

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

STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

PROJECT VICINITY MAP

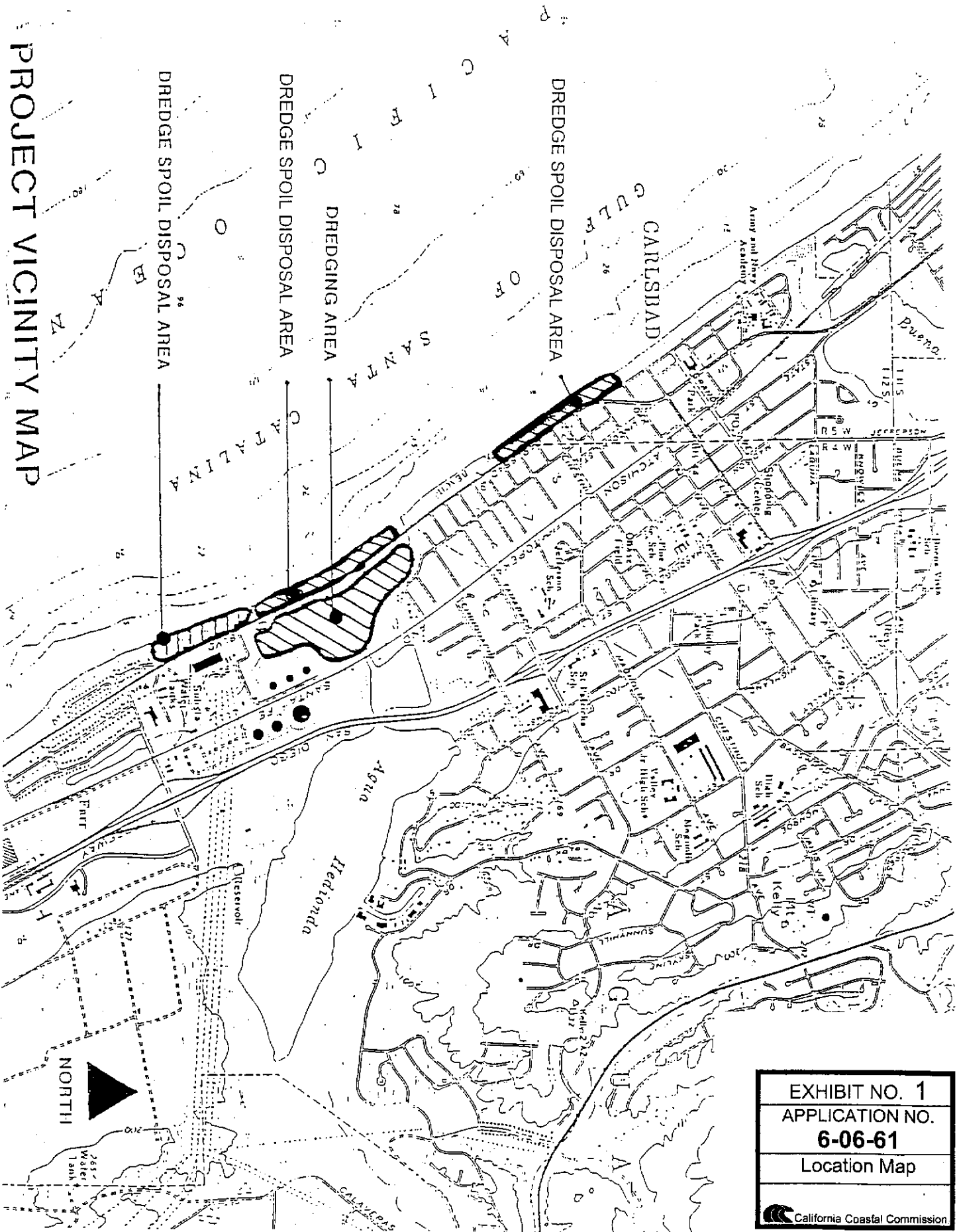


EXHIBIT NO. 1
APPLICATION NO.
6-06-61
Location Map

II. Standard Conditions.

See attached page.

III. Special Conditions.

1. Timing of Dredging and Beach Deposition. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final plans that include the following:

- a. Placement of sand on area beaches shall occur outside of the summer season (Memorial Day weekend through Labor Day of any year).
- b. To avoid potential impacts to the California least tern breeding period and the grunion spawning period, dredging can occur between September 15 and April 15 with the option of extending the dredge period to April 30 if approved in writing by the Executive Director in consultation with the Army Corps of Engineers (ACOE) and California Department of Fish and Game (DFG).

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

2. Pre-and-Post Dredge Requirements. At least two weeks prior to dredging and within 60 days of completion of the proposed dredge cycle, the applicant shall submit to the Executive Director for review and written approval the following:

- a. A map of pre-dredge conditions of the outer lagoon and pre- and post-deposition profiles at the approved beach deposition locations; proposed dredge quantities; deposition plan and methodology; and signage plan.
- b. Evidence the Corps of Engineers has approved the proposed dredge spoils as suitable for deposition at the approved beach locations, pursuant to ACOE Permit 200100328-SKB.

3. Eelgrass Mitigation and Monitoring. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and written approval of the Executive Director, an eelgrass mitigation and monitoring plan that includes at a minimum the following:

- a. Performance of a pre-construction eelgrass survey of the project area by qualified biologist immediately prior to the proposed maintenance dredging in order to establish the location of all eelgrass habitat.
- b. Marking the location of all eelgrass habitat found in the pre-construction survey in order that the contractor can avoid impacting these areas during the proposed maintenance dredging. No anchorage of dredging equipment is permitted outside the limits of the dredging operation.
- c. Performance of a post-construction eelgrass survey of the project area by qualified personnel no more than 30 days after the completion of the work to determine if any eelgrass habitat was impacted by dredging activities.
- d. Performance of mitigation if it is determined by the post-construction eelgrass survey that there has been a loss of eelgrass habitat. This mitigation must be performed in accordance with and subject to the requirements of the Southern California Eelgrass Mitigation Policy (1:1.2 ratio). The applicant shall consult with the Executive Director prior to construction to determine if an additional coastal development permit or amendment is required for any necessary mitigation.

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

4. Monitoring/Beach Profiles. Prior to the placement of any material at Middle Beach, South Beach or North Beach, the applicant shall prepare two profiles of the beach and off shore area (to closure or wading depth, consistent with the survey requirements of the ACOE permit) showing the pre-disposal conditions. Profiles shall be taken at the same locations after completion of the disposal, one month after disposal, and annually thereafter until the area either returns to its pre-disposal condition or is further modified by additional nourishment. Reports shall be provided to the Executive Director following the one-month after disposal profiles and after each annual survey, which provide information on site conditions and an analysis of the long-term changes in sediment supply between the jetties.

5. Grunion Protection Plan. During any beach deposition, the permittee shall comply with the provisions of the grunion protection plan as required by the most recent ACOE Permit.

6. Invasive Species. **PRIOR TO THE COMMENCEMENT OF DREGDING**, the applicant shall provide evidence that dredging of the outer lagoon can occur without the risk of spreading the invasive green alga *Caulerpa taxifolia* as follows:

- a. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit, the applicant shall undertake a survey of the project area (includes the dredging area, anchoring areas and any other areas where the bottom could be disturbed by project activities) and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
 - b. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
 - c. Within five (5) business days of completion of the survey, the applicant shall submit the survey:
 1. For the review and written approval of the Executive Director; and
 2. To the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (DFG) (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (NMFS) (562/980-4043).
 3. If *Caulerpa* is found, then the NMFS and DFG contacts shall be notified within 24 hours of the discovery.
 - d. If *Caulerpa* is found, the applicant shall, prior to the commencement of dredging, provide evidence to the Executive Director for review and written approval either that the *Caulerpa* discovered within the project and/or buffer area has been eradicated or that the dredging project has been revised to avoid any contact with *Caulerpa*. No changes to the dredging project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
7. Term of Permit. This coastal development permit authorizes one time only dredging of up to 500,000 cubic yards of sand from the outer lagoon and disposal to occur at the Middle, South and North Beaches within the approved disposal limits. No extension of the permit expiration date or additional dredge cycles beyond the 2010/2011 cycle is approved.

IV. Findings and Declarations.

The Commission finds and declares as follows:

A. Detailed Project Description/History. The applicant proposes to dredge up to 500,000 cubic yards of lagoon bottom (sand) within the existing approved dredge limits of the outer basin of Agua Hedionda Lagoon and deposit it on three Carlsbad beach locations (North, Middle and South Beaches). The last maintenance dredging of the outer lagoon was completed in 2009 and also permitted up to 500,000 cubic yards of sand to be dredged and placed on adjacent beaches (ref. CDP #6-08-047). The components and scope of this proposed dredging project are identical to previously approved maintenance dredging projects in the Agua Hedionda Lagoon.

The outer Agua Hedionda Lagoon (66 acres) was originally dredged in 1954 as part of the construction for the Encina Power Station and has been subject to routine maintenance dredging since that time. The Coastal Commission has approved dredging of Agua Hedionda Lagoon for many years in association with the needs of the existing power plant dredging program (ref. CDP Nos. F5536, 6-93-193, 6-93-193-A, 6-93-193-A2, 6-97-45, 6-97-46, 6-97-83, 6-00-111, 6-01-80, 6-04-54, 6-06-61 and 6-08-047). The findings from those previous permits are incorporated herein by reference. The dredging is performed to remove sediment transported into the lagoon by tidal action through the existing jetty structure. According to the applicant, the average historical sand influx is calculated at 400+ cubic yards per day, but can range up to 800+ cubic yards per day based on background conditions and storm and wave energy. The proposed dredging will allow for the maintenance of the tidal prism required to provide the Encina Power Station with an adequate volume of seawater for cooling purposes. The power plant is located on the south shore of the outer basin of Agua Hedionda Lagoon, within a hundred yards of the Pacific Ocean. Other existing uses within the outer lagoon include aquaculture farming and marine research (Hubbs Fish Hatchery).

The City of Carlsbad has a certified LCP; however, development will occur within a deferred certification area, the Agua Hedionda plan area, where the Commission retains permitting authority. Thus, the standard of review is the Chapter 3 policies of the Coastal Act with the certified Agua Hedionda Land Use Plan used as guidance.

B. Biological Resources. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff minimized. Section 30233 limits development in open coastal waters, wetlands, estuaries, and lakes to specific permitted uses where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.

The proposed dredging operation is necessary to maintain the tidal prism in the lagoon to assure effective operation of the power plant. Similar dredge operations have occurred over many years. The proposed dredging is a permitted use (minor incidental public service project) under Section 30233 of the Act. With the attached special conditions, impacts on sensitive species and water quality will be reduced to the maximum extent feasible or avoided, consistent with Sections 30230, 30231 and 30233 of the Coastal Act. Thus, as conditioned, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

C. **Public Access.** The proposed project is to dredge sand from the lagoon to maintain the tidal prism for adequate operation of the power plant and to place the dredged sand on the nearby beaches. Providing additional useable beach area is providing a lower cost visitor and public recreational facility. When it is feasible for dredge projects that involve excavation of large volumes of beach suitable material to deposit the dredged material on the region's beaches, such activity is consistent with Section 30213 of the Act. Creation of additional coastal areas, such as beaches, suited for water-oriented recreational activities, is also consistent with Section 30220.

As conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. As conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

D. **Local Coastal Planning.** The subject site is located in an area of deferred certification and Chapter 3 policies of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the City of Carlsbad to obtain a fully certified LCP for the Augua Hedionda Lagoon segment.

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

STANDARD CONDITIONS:

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

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

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