

CALIFORNIA COASTAL COMMISSION

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W16b

Filed: 8/29/11
 49th Day: 10/17/11
 180th Day: 2/25/12
 Staff: M.Ahrens-SD
 Staff Report: 11/17/11
 Hearing Date: 12/7-9/11

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-10-020-A1

Applicant: Department of Fish and Game

Agent: Keith Merkel

Original

Description: Maintenance dredging including removal of up to 165,000 cubic yards of beach sand from the central and western basins to be deposited on beach area south of the lagoon inlet, as well as replacement and extension of fencing around designated lagoon nesting areas E2, W1 and W2.

Proposed

Amendment: West basin lagoon maintenance activities to include the redistribution of 20,000 cubic yards of sand and 560 cubic yards of cobble deposits, implementation of soft shoreline repairs to stabilize and maintain existing nesting sites, repair and enhancement of an upland rock revetment around an existing storm drain outfall, installation of new vinyl coated chain link fencing and gate around a portion of an unfenced habitat area and grading of sand berm along Carlsbad Boulevard.

Site: Batiquitos Lagoon, Carlsbad, San Diego County

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project with conditions to allow redistribution of up to 20,000 cubic yards of sand and 560 cubic yards of cobble within the parameters of the Batiquitos Lagoon, as well as minor beach maintenance activities and installation of fencing, in order to improve the ecological viability of the lagoon system and to enhance the effectiveness of the lagoon maintenance dredging permitted under CDP 6-10-020. In order to maintain a permanently open lagoon mouth and healthy

lagoon ecosystem, periodic maintenance dredging of the lagoon bottom has occurred since the completion of the initial lagoon restoration plan approved in CDP 6-90-219. These maintenance dredging activities have been generally composed of a large amount of sand being dredged from the lagoon basins and redeposited outside of the lagoon on the nearby coastal beach areas. Through further analysis of the lagoon systems and sedimentation trends within the lagoon, it has become apparent that the existing contours and conditions of the inland lagoon basins, shoreline, and sand flats contribute to the increased sedimentation of the western basin and erosion of specific habitat areas.

This permit amendment proposal will modify and redistribute the sand deposits within the western lagoon basin to reduce the frequency of necessary maintenance dredging in the lagoon and to improve the ecological function of the lagoon system. This proposal will involve no export of dredged sand or cobble materials outside of the lagoon basins. Rather, this proposal seeks to authorize the redistribution of 20,000 cubic yards of sand as well as up to 560 cubic yards of cobble within the western lagoon basin. The proposed project is consistent with the Special Conditions of the original Batiquitos lagoon restoration project 6-90-219 and will not involve any grading or cut of the lagoon areas beyond depths previously excavated in the initial lagoon restoration project and recorded in the as-built plans of the lagoon in 1997. As such, the proposed project is considered to be a maintenance activity and will not constitute new dredging. All of the Special Conditions regarding public access, protection of sensitive species and habitat areas, storage and staging and invasive species that were attached to CDP 6-10-020 remain in effect for this proposed permit amendment. As conditioned and proposed, the project will result in no adverse impacts to coastal resources, will not impede public access or existing public views and will help advance and maintain the ecological function and viability of the Batiquitos Lagoon. Therefore the proposed permit amendment can be found consistent with all applicable Chapter 3 policies of the Coastal Act.

Standard of Review: Chapter 3 policies of the Coastal Act.

Substantive File Documents: City of Carlsbad Certified East Batiquitos Lagoon/Hunt Properties segment; Batiquitos Lagoon Enhancement Project Final EIR/EIS (City of Carlsbad and U.S. Army Corps of Engineers); Batiquitos Lagoon Enhancement Project Draft Preliminary Design Report (February, 1988); Coastal Development Permit 6-90-219 and amendments; *Caulerpa taxifolia* survey; Maintenance Grading and Repairs, Batiquitos Lagoon West Basin Terra Costa/ Merkel and Associates Report dated October 26, 2011, Batiquitos Lagoon long term Biological Monitoring Program Report 2009.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-10-020 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act. 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 development on the environment.

II. Special Conditions.

The permit is subject to the following conditions:

1. Prior Conditions of Approval. All terms and conditions of the original approval of Coastal Development Permit 6-10-20 shall remain in full force and effect, except those that are explicitly replaced or modified in this amendment.

2. The following shall be added as new Special Condition #8:

8. Revised Final Plans for Beach Maintenance. PRIOR TO ISSUANCE OF THE PERMIT AMENDMENT, the applicant shall submit to the Executive Director for review and written approval, final plans for the beach maintenance activities that are in substantial conformance with plans submitted with this application by Terra Costa dated 8/25/11, except that they shall be modified as follows:

a. The sand dune fencing on the beach shall be deleted.

The permittee shall undertake development in accordance with the approved final plans. 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 an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Amendment Description/Permit History.

This amendment proposal involves several maintenance activities aimed at improving the biological conditions of the Batiquitos Lagoon and associated upland habitat areas, as well as improving the condition of the existing lagoon so that it is more consistent with the original as-built conditions recorded after the initial lagoon restoration project was completed in 1996. Specifically, the amendment proposal includes redistribution of 20,000 cubic yards of sand and 560 cubic yards of cobble deposits within the western lagoon basin, implementation of soft shoreline repairs to stabilize and maintain existing nesting sites, repair and enhancement of an upland rock revetment around an existing storm drain outfall in the west basin, and installation of new vinyl coated chain link fencing and a gate around a portion of an unfenced habitat area in the western basin directly east of Carlsbad Boulevard. This proposal will involve no export of dredged sand materials outside of the lagoon basins and onto coastal beaches, but rather will focus on redistributing sand and a small amount of cobble deposits within the lagoon's western basin to combat existing, problematic, erosion and sedimentation processes. In addition, the project includes grading of the beach area next to Carlsbad Boulevard to push the sand seaward, away from the parking lot, road and bike lanes.

Project History

In the original permit for the Batiquitos Lagoon restoration (6-90-219), the Commission approved a permit for a restoration project primarily designed to restore a marine habitat regime in the lagoon. In order to create and maintain this marine habitat type, a permanently open lagoon was required. The creation of the open mouth restored continuous tidal action and the former marine ecosystem, without significant adverse impacts to established habitat values within the project limits. In addition, the permanently open lagoon mouth helps to control the sediment load remaining in the lagoon and aids in flood control. The original permit was approved by the Commission (ref. CDP 6-90-219) in March of 1991. It included special conditions addressing mitigation and monitoring, public access, timing of construction, revegetation plans, sediment control facilities, staging areas, protection of sensitive species, and disposal of dredged materials. The permit conditions were satisfied, the permit was issued and the project was subsequently constructed.

However, since the completion of the restoration project in 1996, several unanticipated trends have influenced the existing sedimentation and erosion processes within the lagoon's western and eastern basins resulting in increased erosion of upland lagoon areas and infill of intertidal and subtidal regions. The effects of these processes are exhibited in the steep slopes and cliffs formed along existing west basin nesting site W-2, which diminish the functionality of the site for use by nesting birds such as snowy plovers, the impediment to adequate tidal flushing resulting from increased infill of the western basin, and the increased erosion of specific upland areas in the western basin including the existing North Coast Transit District railroad and associated scarp. The proposed project seeks to remediate the ongoing scour of the lagoon edges in the western basin by redistributing sand deposits within higher elevations of the western basin in order to

create more gradual shoreline slopes around the existing nesting site and restore some of the habitat types that have been impacted by erosion and infill trends.

Sediments are transferred into the lagoon from both upstream development sites and through tidal action, and continually accumulate in the lagoon. As a result of the reduced tidal prism, lagoon resources become stressed, and maintenance dredging is required to assure the continued health of the lagoon. Since the original restoration project and opening of the lagoon to tidal influences maintenance dredging has occurred almost biannually. Such development has been permitted by CDPs 6-90-219-A1, 6-90-219-A3, 6-90-219-A4, 6-90-219-A5, 6-90-219-A6, 6-90-219-A-7, 6-90-219-A8, 6-90-219-A9, 6-90-219-A10, and 6-10-020. Maintenance dredging has been identified in the past as the only feasible option for maintaining an open lagoon mouth and acquiring adequate tidal influence in the lagoon's basins. However, after 15 years of comprehensive monitoring and observation of sediment and erosion trends within the lagoon system following the 1996 restoration project, the applicant has developed this proposal in order to augment the positive effects of the maintenance dredging and reduce the frequency of necessary future maintenance dredging. The most recent round of lagoon dredging activities were approved under CDP 6-10-020 and authorized up to 118,000 cubic yards of sand to be dredged from the lagoon and deposited on south Ponto beach. The lagoon dredging permitted under this permit was initiated on November 14, 2011 and is allowed to continue until March of 2012, when the avian breeding season begins. The applicant intends to conduct the proposed maintenance activities concurrently with the ongoing lagoon dredging in order to reduce impacts to public access and provide the greatest ecological benefit to the lagoon system. The proposed project activities will be subject to all of the Special Conditions of the previous CDP 6-10-020.

The proposed project will occur within Batiquitos Lagoon, where the Commission retains jurisdiction. As such, the standard of review is the Chapter 3 policies of the Coastal Act.

2. **Marine Resources**. Sections 30230, 30231, 30233, and 30235 of the Coastal Act apply to the proposal and state, in part:

Section 30230

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

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 30233

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(6) Restoration purposes.

(7) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

Sections 30230 and 30231 state, in part, that marine resources shall be maintained and restored where possible and shall promote the highest feasible level of biological productivity. The sand reconfiguration and other lagoon maintenance activities, as described by the applicant, will allow for the improved tidal flushing of the lagoon and alleviate ongoing erosion and sedimentation issues within the lagoon system which currently impede the overall ecological productivity of the lagoon.

It was anticipated in the original lagoon restoration approval that maintenance dredging and adaptive management strategies would be required to maintain lagoon health. In order to properly manage and maintain the health of the lagoon ecosystem following the 1996 restoration, CDP 6-90-219 required comprehensive monitoring reports of lagoon conditions, the last of which was submitted in 2009. The subject 2009 monitoring report provides a comprehensive retrospective on the restoration of Batiquitos Lagoon and examines post restoration physical and ecological evolution within the system. When the lagoon mouth was originally opened in 1996 and the lagoon basins were exposed to wind and wave action and the influence of oceanic swells, it initiated a process of sediment redistribution on the beach and within the lagoon. The lagoon's western and central basins were most directly influenced by coastal processes and as such experienced increased littoral sand accumulation in flood shoals, shoreline scour and erosion. The redistribution of sand and pulsing ocean swells began to erode and steepen the unconsolidated sand shoreline of the W-2 nesting site and also affect the stability of an abandoned railroad spur that remained in the western basin after the initial lagoon restoration. After noticing these damaging erosion and sedimentation trends that were initiated following the initial lagoon restoration, the applicant developed the following sand redistribution project in the western basin to flatten the shoreline slopes back to gentler 20:1 gradients from the existing 10:1 and 12:1 gradients in order to provide greater protection of tern nesting sites and shoreline areas and to reduce erosion along the railroad causeway by extending a sloping shore to an elevation above the wave impact zone.

Ultimately, these erosion and sedimentation trends also resulted in greater erosion of the banks of the western shores of the central basin as tidal flows formed deep narrow channels that migrated into marshlands and impacted some habitat areas. In addition to a deepening and narrowing of the main inflow and outflow channel, the currents in the lagoon also pushed more sand deposits towards the flood shoals in the western basin and resulted in a tidal muting of the lagoon and a reduction of the lagoon's tidal prism. The applicant's proposal to reallocate 20,000 cubic yards of existing sand deposits within the lagoon's western basin will help to stabilize the shoreline and nesting sites of the western lagoon basin and restore some ecological function to habitat types that have been subject to damaging erosion or sedimentation. By redistributing some of the sand deposits within the lagoon's western basin, subtidal areas of the lagoon will also regain some tidal circulation and will not further accumulate sand in the western basin's shoals or develop a deeper, higher velocity, lagoon inflow/ outflow channel. Commission Staff's ecologist Lesley Ewing has reviewed the proposed project and agrees that the project is a viable way to remediate some of the erosion and sedimentation issues within the lagoon.

The proposed permit amendment will be consistent with all of the special conditions attached to CDP 6-90-219 and associated amendments, as well as CDP 6-10-020, and will bring the lagoon's existing habitat zone ratios into increased compliance with those documented in the as-built plans of the lagoon from 1997. Specifically, the proposed maintenance activities would increase the subtidal area approximately 77% from current conditions and would achieve 55% of the original as-built condition. While the maintenance proposed does not result in a precise reinstatement of habitat zone types as those which were present during the 1997 as-built survey, the proposed activities will still

move the conditions of the west basin further towards the initial as-built condition. Additionally, no new excavation beyond the original dredge limits is proposed in the west basin; rather most of the proposed cut is shallower than the original as built conditions. The primary purpose of the proposed amendment is the reconfiguration of accreted sand to improve water quality and flushing, reduce erosion, and restore many of the initial habitat goals for the system, including nesting and foraging habitat connectivity. As such, the proposed project can be found consistent with the intent and conditions of the original lagoon restoration project (CDP 6-90-219), as well as with the most recent lagoon maintenance dredging project (CDP 6-10-020).

The proposed work would help to restore functionality in the lagoon's western basin and would improve physical and biological habitat conditions within the lagoon system. The proposed work would be undertaken by the California Department of Fish and Game, as the managers of the ecological reserve, with construction to be managed by the California State Lands Commission as owner of portions of the reserve land. Both of these agencies were signatory parties to the 1987 memorandum of agreement for the restoration of the lagoon as a mitigation site for the port of Los Angeles harbor fills. Following the initial lagoon restoration project the lagoon has been maintained by CDFG using a maintenance fund account provided by the port. The mitigation value of the initial lagoon restoration was provided to the port with different habitat type ratios identified for subtidal, intertidal, low marsh, high marsh, sandflats, and 'other areas'. Since the original restoration project there has been a decrease in the deeper subtidal environments due to increasing lagoon sedimentation and an increase in shallower intertidal habitat zones. The proposed project would increase the amount of subtidal acreage from 2.9 acres to 5.2 acres, bringing it closer to the 1997 as-built acreage of 9.4 acres. Additionally, the proposed project would reduce the amount of low marsh habitat area from 5.6 to 1.8 acres, also bringing that habitat zone closer to the 1997 as-built area of 2.3 acres. The other modifications to the habitat zone that will result from the proposed project are minor and will bring the overall habitat type acreages closer to the as-built lagoon conditions.

While the proposed project would involve some minor reduction of existing low marsh/upland habitat types to allow for an increase in others, the proposed project is intended to improve the ecological viability of the whole lagoon ecosystem and will not result in a loss of sensitive or wetland habitat areas or threaten any sensitive avian species. The proposed sand redistribution would involve some minor grading and dredging of the lagoon floor, but because all of the cuts proposed are to occur in areas that were previously excavated to greater depths during the initial 1996 restoration project, this proposed work is considered to be a maintenance activity rather than new dredging. Also, since the west basin currently provides seasonal nesting habitat for the California least tern and western snowy plover, two birds listed as endangered species, and since this area is mostly designated as critical habitat, the applicant has coordinated with the US Fish and Wildlife Service during the development of this proposed project in order to avoid adverse modification of the habitat during construction. To further ensure that no adverse impacts to sensitive bird species or habitat areas occur, all Special Conditions of CDP 6-10-020, which restrict staging areas and timing of construction, would be applicable to the proposed project. Furthermore, the Commission staff's

ecologist, John Dixon, has reviewed the proposed amendment proposal and has determined that the proposed project would be consistent with the intent and Special Conditions of the original Batiquitos Lagoon restoration work permitted in 6-90-219 and would result in an enhancement of the overall ecological health of the lagoon. The San Diego office of the Coastal Commission has also received letters from the National Marine Fisheries Service supporting the proposed project. Therefore, the proposed sand reconfiguration can be found consistent with the Marine Resource policies of the Coastal act.

Other than the proposed sand deposition/reconfiguration, the amendment application also includes a request for the redistribution of 560 cubic yards of cobble currently within the lagoon entrance channel below the Carlsbad Boulevard Bridge and extending westward. The purpose of this project component would be to move the 560 cubic yards of underwater cobble to the foot of an energy dissipation apron directly below a storm drain outfall in the southern area of the western lagoon basin north of the W1 tern site. At this location the cobble would serve as a secondary stabilization to the drain outfall that currently functions as a fast moving channel, funneling sand deposits directly towards the main lagoon waterway. To further stabilize this area the applicant is proposing to reconstruct the existing energy dissipater in conjunction with the cobble deposition and reduce the erosive potential of the outfall by lowering the elevation and gradient of the lagoon floor in front of the dissipater. As the existing storm drain apron has recently failed and the high velocity discharge is causing significant erosion to the western basin's lagoon banks, deposition of the 560 cubic yards of cobble in this location and reconfiguration of the lagoon floor gradient in this location would help to dissipate the energy of the storm outfall drainage and alleviate problematic erosion in the Western basin, allowing for the continued ecological function of the western basin's nesting sites and habitat areas.

The cobble component of the project will involve the removal of a minor amount of cobble from the bottom of the main lagoon inflow/outflow channel and subsequent cobble deposition in an upland area of the western basin. Currently, in the northern portion of the western basin, an existing storm drain outfall is contributing to shoreline erosion and damaging scour of the nesting site W-1. The placement of the cobble in the energy dissipation apron below the storm drain in conjunction with the remodeling of the lagoon floor's gradient directly below the storm outflow will help to reduce sand movement in this area and provide more stability to the channel bed and shoreline areas in this region of the lagoon. The existing 560 cubic yards of cobble within the lagoon proposed for reconfiguration is currently located at the bottom of the swiftly moving inflow/outflow channel and provides no habitat for sensitive marine species. As such, the removal of the cobble from its existing location would result in no adverse impacts to lagoon habitats, consistent with the Marine Resource policies of the Coastal Act. As the location proposed for cobble deposition exists as a failed storm water dissipater apron and does not support any environmentally sensitive habitat, the placement of the cobble in this location would not result in any adverse impacts to environmentally sensitive habitat areas or marine resources. Overall, the placement of the cobble deposits below the existing storm drain outfall would result in increased protection of the W-1 nesting

site and surrounding shoreline habitat from the erosive and damaging forces of the current storm drainage system.

As noted, a number of endangered bird species reside and overwinter in the lagoon. According to the applicant, the majority of species that use the staging areas and discharge sites have immediately adjacent sites that they use for loafing and feeding, and because of the timing of the project, no birds are expected to require the sites for nesting. Mammals are only found on site for foraging purposes and also have adjoining sites available for that purpose, so the proposed project is not expected to have an adverse impact on resident mammal species. The applicant proposes to complete the project outside the California least tern/Western snowy plover nesting season as the dredging sites are located in close proximity to nesting sites for endangered/threatened avian species. Moreover, the entire lagoon area is used for foraging by these and other sensitive species throughout the nesting season. All staging areas are proposed within the perimeters of the project itself and the dredge methodology and sand replenishment operations will comply with all applicable Chapter 3 Coastal Act policies.

Other sensitive lagoon habitats include eelgrass beds, which currently occupy a large part of the eastern basin and small sections of the western and central basin and provide habitat for many fish and invertebrates. However, existing eelgrass beds in the west basin lie outside of the proposed project parameters and no impacts to existing eelgrass habitats are expected as part of this proposed project. Furthermore, the eelgrass beds were an experimental addition to the lagoon and were not present prior to restoration. Eelgrass was planted with the understanding that the lagoon would require occasional dredging, and the specifications of the original permit regarding dredging authorized the occasional removal of eel grass beds. Additionally, when the lagoon is fully functional, the sheer velocity of the current deters the growth of eel grass in the proposed sand reconfiguration zone; thus, even if the project were designed to avoid the eel grass beds, once dredged, the conditions would not allow for the persistence of the eel grass population in that area of the lagoon.

Section 30233 requires that dredging of open coastal waters shall only be permitted when there is no feasible less environmentally-damaging alternative, where feasible mitigation measures have been provided to minimize adverse environmental effects, and where such dredging is one of the permitted uses cited. In the case of the subject proposal, the Commission has previously found that the Batiquitos Lagoon Enhancement Plan represented a restoration project for the lagoon and was consistent with Section 30233. Thus, the proposed project is a restoration project and is an allowed use under Section 30233. As conditioned, the project is not expected to have any significant adverse environmental impacts, so there is no feasible less environmentally-damaging alternative. In addition, because no adverse impacts are anticipated, no mitigation measures are necessary. The project is therefore consistent with the requirements of Section 30233.

Additionally, the proposed amendment includes the installation of 230 linear ft. of fencing along the south western border of the lagoon adjoining Carlsbad Boulevard. The applicant claims that without a fence in this location trespassers can easily gain access into lagoon areas that are intended to be off limits to the public and often utilize the

sensitive lagoon areas for illegal fishing activities. In order to remediate this chronic problem, the applicant has proposed to install fencing along a portion of the reserve boundary. The new galvanized chain link fencing would be approximately six feet high, but would not be situated or designed to function as a predator perch that would adversely impact sensitive nesting birds on nesting sites W-1 and W-2. The proposed vinyl coated beige/tan colored fencing has been designed to match the color of the surrounding sand on the nesting sites and is identical to other lagoon habitat area fencing approved in CDP 6-10-020. As the proposed fencing will be installed in an area of the lagoon where public access is currently prohibited and will not restrict or impede any existing public access or walking trail points and will also not be located along the edges of any least tern nesting sites or sensitive habitat areas, the fencing will have no adverse impacts to public access or lagoon habitats.

The applicant is also proposing some minor beach sand maintenance that involves the movement of a small portion of an accumulated sand berm westward and away from the adjacent Carlsbad Boulevard and associated bike lanes. The maintenance activities would redistribute 6,500 cubic yards of sand onto the westward side of the berm and out further westward onto the main beach sand area, but would not increase the elevation of the existing sand bar above what currently exists. The intent of this sand maintenance activity is to prevent sand from blowing over onto Carlsbad Boulevard and into adjoining beach parking areas, which has become a chronic problem in this location. This project component would not involve the movement or deposition of dredged sand spoils and would be limited to the reconfiguration of an existing unvegetated sand berm without an increase in the height of the berm and would not impact any habitat areas or marine resources in this region of the beach. Because the equipment will already be on the beach nearby to move the sand placed from the lagoon dredging, the costs will be reduced as well as impacts on the public. No impacts to vegetation or sensitive habitats will occur. As such, it can be considered a beach sand maintenance activity, consistent with the Marine Resource policies of the Coastal Act.

In summary, the proposed project is necessary to improve the ecological productivity of Batiquitos Lagoon to assure success of previously approved restoration efforts. The proposed project is a permitted use under Section 30233 of the Coastal Act and as conditioned, no adverse impacts to sensitive coastal resources are anticipated. In addition the Commission's staff ecologist as well as DFG and other resource agencies support the project. Therefore, the Commission finds the proposed work, as conditioned, is consistent with Section 30230, 30231 and 30233 of the Coastal Act.

3. Public Access. Sections 30604(c) and 30211, 30220, 30221, 30233(b) and 30235 apply to the proposal and state in part:

Section 30604(c)

Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter.

Section 30210

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

Section 30211

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

Section 30221

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 30233(b)

Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

Section 30235

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Section 30604(c) of the Coastal Act requires a public access finding to be made for projects located between the sea and the first coastal road; in this case, such a finding can be made for the proposed development, with the inclusion of Special Condition #1 in the original permit that also applies to this amendment. This condition requires that the entire proposed project be completed during the winter months, when the least number of visitors are present, to reduce the impact on public access, as regulated by Sections 30210, 30211, 30221, and 30233(b).

The subject proposal involves redistributing 20,000 cubic yards of sand within the lagoon boundaries, moving 560 cubic yards of cobble to a storm outfall dissipation apron, minor beach maintenance involving recontouring of an existing sand berm, as well as installation of fencing. The proposed sand movement within the lagoon will involve minor grading of the existing underwater contours, however, as all of the areas proposed to be cut were previously excavated to greater depths during the original restoration in 1996, the proposed work is considered to be a maintenance activity and will not constitute new dredging or involve any beach sand replenishment. The proposed fencing will be installed in an area of the lagoon where public access is currently prohibited and will not restrict or impede any existing public access or walking trail points. An extensive public walking trail is currently available along the northern boundary of the lagoon and will not be impacted as part of this proposed project.

The applicant had initially proposed to install 3ft. tall fencing along a portion of north Ponto beach bordering Carlsbad Boulevard as part of this amendment proposal to help forestall sand from migrating back onto the highway. However, as the applicant has not provided the Commission with adequate information to properly review the design and purpose of the fencing and its potential impacts on public access prior to this hearing, the applicant has indicated that it is willing to remove the beach berm fencing proposal as part of this project. In order to memorialize this, Staff is recommending Special Condition # 2, which will add Special Condition #8 to the existing Special Conditions of 6-10-020 and will require the applicant to submit a revised project plan that omits the dune fencing component of the project prior to permit issuance.

Section 30210 of the Coastal Act requires that access to the shoreline be provided consistent with public safety needs. The proposed work will occur during the same time frame as the lagoon dredging and beach replenishment project approved under CDP 6-10-020. As such, all of the same mechanisms ensuring the protection of public access as required in 6-10-020 will also be applied to the construction process associated with this proposed project. Specifically, the Department of Fish and Game shall implement a public safety and access program consisting of signs, flagging and sand bridges over discharge pipes in the project area to ensure that people walking, as well as beach maintenance and emergency vehicles, have safe access to and along the beach during construction activities and operations. As such, the proposed permit amendment can be found to be consistent with the public access and recreation policies of the Act.

4. **Visual Resources.** Section 30251 of the Coastal Act requires that:

Section 30251

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by

the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The Batiquitos Lagoon is a scenic coastal resource area with multiple public vantage points throughout the lagoon as well as a system of public walking trails. The lagoon area is also visible from I-5 and multiple adjacent public roadways. As such, the applicant has designed the project to minimize visual impacts, and proposed fencing and sand redistribution operations have been conditioned to further protect public coastal resources from visual impacts. The proposed beach sand maintenance operations to occur on the north Ponto Beach area have been conditioned to ensure that the movement of sand in this area will not increase the height of the existing berm beyond what currently exists. To ensure the visual compatibility of the proposed fencing to be installed on portions of the lagoon adjoining Carlsbad Boulevard with the surrounding area, the applicant has proposed to install chain link fencing with beige/tan colored vinyl coating. With a vinyl coating colored to replicate the palette of the sandy ground and nearby sand nesting site, the proposed fencing has been designed to preserve the visual quality of the Batiquitos Lagoon and adjacent public beach areas and is consistent with the visual protection policies of the Coastal Act. The applicant's initial proposal to include sand berm fencing as part of this project will not be included in or permitted through this permit amendment proposal.

5. Local Coastal Planning. Section 30604 (a) requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made for the proposed development, with the inclusion of the attached conditions.

The Commission approved CDP #6-90-219 for enhancement of Batiquitos Lagoon. A critical key to success of the approved enhancement plan is to maintain an open lagoon mouth and specified tidal prism. Beach sands and sediments have accumulated within intertidal areas of the west basin and exacerbate existing erosion and sedimentation trends within the lagoon system, threatening lagoon enhancement efforts due to habitat impacts and a reduction in the tidal prism. Approval of the proposed project to redistribute these sediments/sands and small amount of cobble is consistent with previous Commission action on the original project. Therefore, approval of the proposed permit amendment, as conditioned, is consistent with Chapter 3 policies of the Coastal Act.

The City of Carlsbad has a certified LCP and the project site is within the Carlsbad LUP segment of the LCP. However, the subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority and Chapter 3 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 continue to implement its certified LCP for the Batiquitos lagoon area.

6. Consistency with the California Environmental Quality Act (CEQA).

Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit to be supported by a finding showing the permit 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.

As conditioned, the proposed project is consistent with the resource protection policies of the Coastal Act. Mitigation measures, in the form of seasonal restrictions, will avoid all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.



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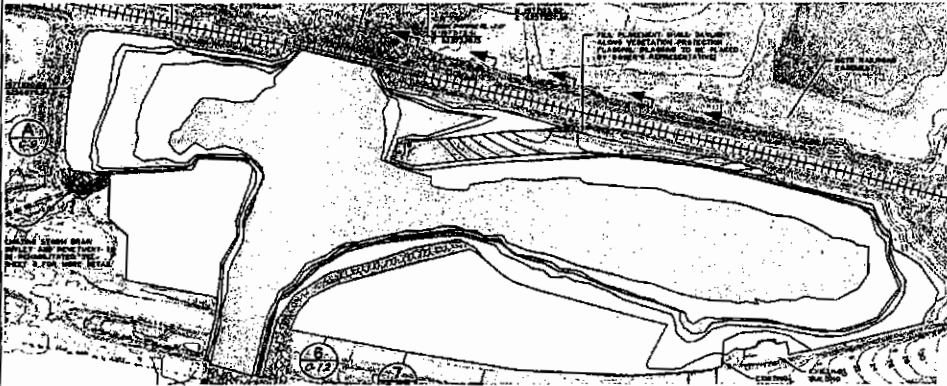


EXHIBIT NO. 1
 APPLICATION NO.
 6-10-020-A1
 Location Map

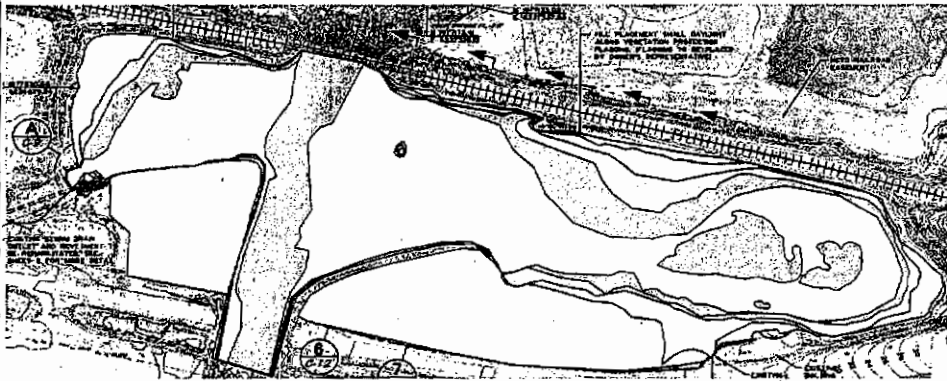
California Coastal Commission

**BATIQUITOS LAGOON MAINTENANCE 2011-2012
WEST BASIN HABITAT CHANGES EXPECTED**

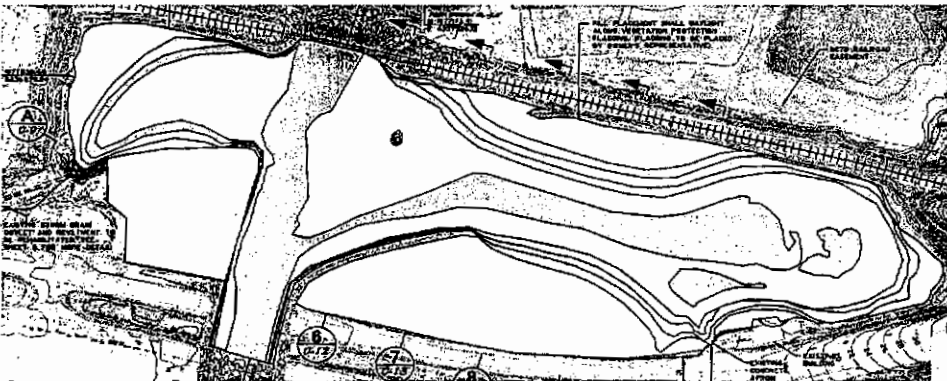
AS-BUILT CONDITIONS - 1997



CURRENT CONDITIONS - 2011




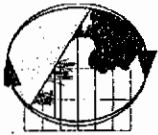
PROPOSED CONDITIONS - 2012



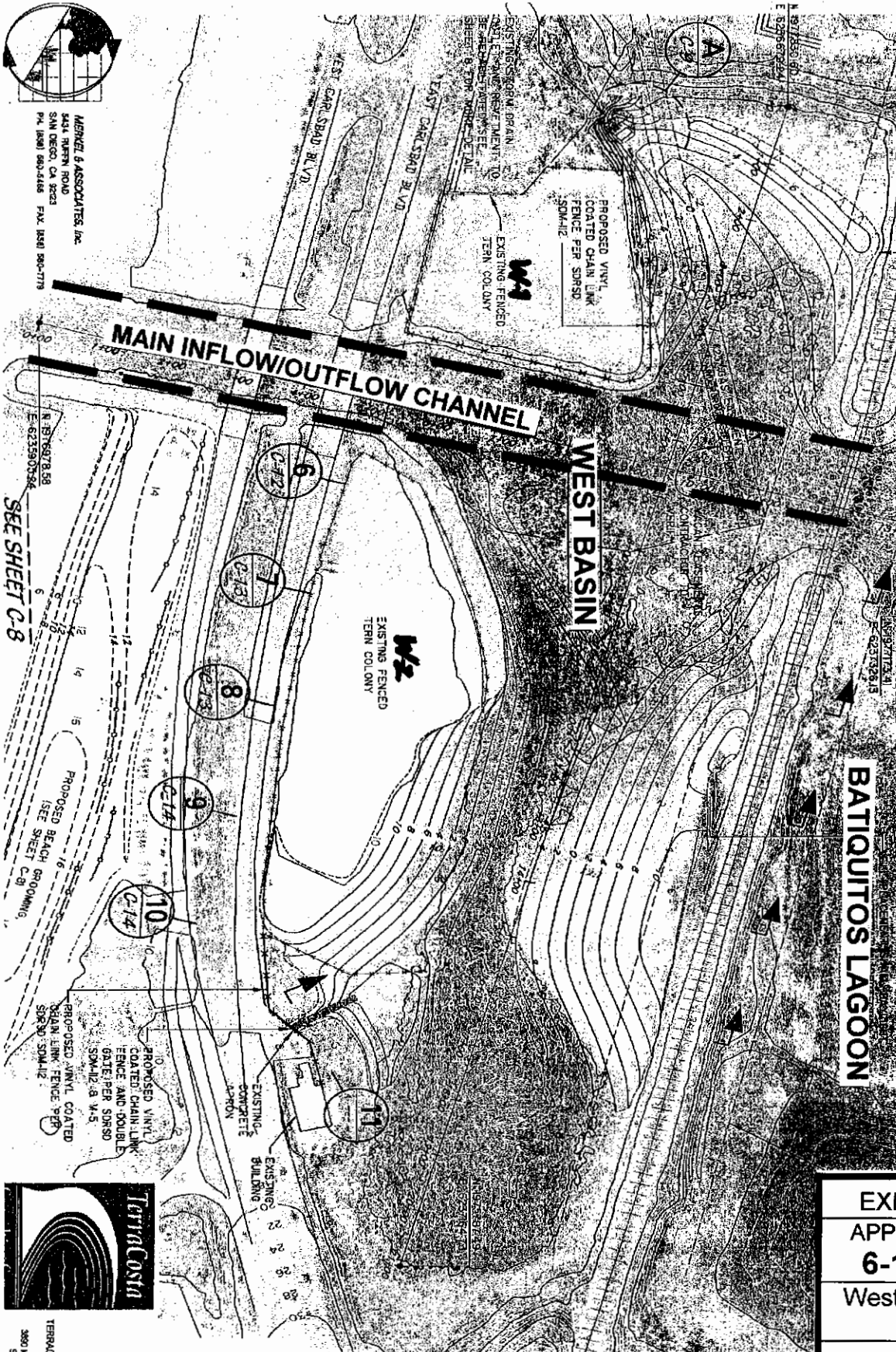
HABITAT ZONES	ELEVATION RANGE (ft NGVD29)	As-Built Acreage	Current Acreage	Proposed Acreage
SUBTIDAL	Below -4.16	9.4	2.9	5.2
INTERTIDAL	Between -4.16 and +1.34	6.9	10.1	10.3
LOW MARSH	Between +1.34 and +2.84	2.3	5.6	1.8
HIGH MARSH	Between +2.84 and +4.44	1.4	2.3	2.8
SAND FLATS	Above +4.44	6.8	4.2	3.9
SAND FLATS	Above +7.44	6.0	11.2	12.3
OTHER AREAS	Above +4.44	9.6	6.1	6.1
TOTAL ACRES:		42.4	42.4	42.4

EXHIBIT NO. 2
APPLICATION NO.
6-10-020-A1
West Basin Habitat

Changes
 California Coastal Commission



MENZEL & ASSOCIATES, Inc.
 4414 RIVER ROAD
 SAN DIEGO, CA 92121
 PH: (619) 580-5166 FAX: (619) 580-7779

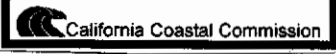


SEE SHEET C-8



TERRAC
 3801 S

EXHIBIT NO. 3
 APPLICATION NO.
6-10-020-A1
 West Basin
 Map



CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



CURTIS L. FOSSUM, Executive Officer
(916) 574-1800 FAX (916) 574-1810
California Relay Service from TDD Phone 1-800-735-2928
from Voice Phone 1-800-735-2922

Contact Phone: (916) 574-1870
Contact FAX: (916) 574-1875

File Ref: PRC 7242
W 20725.204

Melissa Ahrens
California Coastal Commission
7575 Metropolitan Way, Suite 103
San Diego, CA 92108

Dear Ms. Ahrens:


I have been asked to provide input from the State Lands Commission regarding the proposed work at Batiquitos Lagoon. We have previously provided you with a letter indicating our support of the current maintenance activities, inclusive of that work which you are presently processing a permit amendment. As you know, SLC is actively engaged in supporting the maintenance work as the State contract administration agency for both the design consultants and the construction contractor. As such, we are keenly aware of the details of the proposed project.

In light of the timelines to complete the project outside of critical breeding season periods we have let the contract for construction and anticipate dredging commencing within the next few weeks. The contractor is presently set for a December start for the west basin work in order to complete the project on time and vacate the tern colonies on which he must stage. We would urge your prompt attention to bringing the item before the Commission to assist us in meeting the work window needs to restore the lagoon inlet this year.

Signature on file

David W. Brown
Chief, Administration

cc: Sharilyn Sarb, Coastal Commission
Lee McEachern, Coastal Commission
John Dixon, Coastal Commission
David Zoutendyk, USFWS
Robert Hoffman NMFS
Warren Wong, CDFG
Robert Smith, USACOE
Therese O'Rourke, USACOE
Steve Jantz, City of Carlsbad

EXHIBIT NO. 4
APPLICATION NO.
6-10-020-A1
Letters of Support
Page 1 of 4
 California Coastal Commission

4/12



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

OCT 26 2011

RECEIVED
OCT 31 2011

Ms. Melissa Ahrens
California Coastal Commission
7575 Metropolitan Way, Suite 103
San Diego, California 92108

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Ms. Ahrens:

It is my understanding that you have requested information on the position of the National Marine Fisheries Service (NMFS) with regards to the upcoming 2011 Batiqitos Lagoon maintenance dredging including work in the west basin. In connection to this work, there is an amendment pending with the Commission to implement some balanced regrading of the basin and to complete some critical repairs to drainage conditions and fencing. NMFS is aware of and supportive of the proposed work.

The work proposed benefits from greater understanding of the lagoon mouth dynamics than was available at the time of the initial design and it is anticipated that the extent of maintenance that will be required in the west basin in the future will be significantly reduced with the work proposed. The project shallows the shoreline gradients to reduce erosion potential and this proposed work has avoided impacts to the limited marsh in this basin by focusing activities in areas of sand flats and bars that have substantially filled the subtidal portions of the west basin. While the removal of sediment from the west basin does not achieve the same depths as those dredged in the original enhancement project, there is a justification for not substantially altering the channel form along the main channel since the current channel is reasonably stable and serves to bypass most sand to the central basin where it can be more efficiently removed.

While there is an expectation that limited amount of cobble will be included in the littoral sediment deposits to be excavated, we understand that the cobble encountered will be used to expand the erosion protection below the existing failed riprap dissipater that is to be reconstructed in the west basin. We support this action since it is the same natural bed armoring that creates a matrix of sand and cobble that is seen around the mouths of many of the north county creeks, including at the mouth of Batiqitos Lagoon. While not as stable as angular rock armoring, and potentially requiring greater maintenance than riprap, it is an appropriate solution in the context of this enhancement project.

We understand that the resulting habitat mix from the work will not exactly match the initial acreage of habitats that were developed in the west basin at the time of the original project construction. The resource agencies briefly discussed habitat acreage differences at our last review meeting and believe that the best overall system function should be pursued as oppose to attempting to recreate the precise starting condition habitat mix for the restoration project.




This is in the context of prior resource agency restoration review meetings (2008-2009) when we discussed the fact that the inner lagoon was generating much more low marsh than initially anticipated and that this marsh supported expanding populations of light-footed clapper rails. While the extent of low marsh habitat was not planned and the acreage of marsh came at the expense of mudflat and high marsh, the variance in habitat acreage was not viewed as negative but rather it was determined that the overall functioning of the lagoon complex was the critical metric for the enhancement project. In the present case, a similar situation exists such that shoreline erosion has severed nest site connectivity to the water and filled in the subtidal areas. To restore functions, to nest sites, curb erosion, and restore lower elevation habitats, reconfiguration of the basin is in order.

NMFS strongly supports completion of the proposed work. We understand that the contractor has already been selected and is initiating the maintenance dredging work in the next few weeks and looks forward to completing the west basin work during the low daytime tides of December and January. For this reason, I would like to urge the Commission to take this amendment up as promptly as possible so that the work may be completed as early as possible.

If you have any questions, please feel free to contact me at 562-980-4043 or via email at: bob.hoffman@noaa.gov.

Signature on file


Robert S. Hoffman
Assistant Director,
for Habitat Conservation

cc: Sharilyn Sarb, Coastal Commission
Lee McEachern, Coastal Commission
John Dixon, Coastal Commission
David Zoutendyk, USFWS
Dave Brown, CSLC
Warren Wong, CDFG
Robert Smith, USACOE
Therese O'Rourke, USACOE
Steve Jantz, City of Carlsbad

Melissa Ahrens

From: David_Zoutendyk@fws.gov
Sent: Friday, October 28, 2011 7:02 AM
To: Melissa Ahrens
Cc: Dave Brown; John Dixon; Lee McEachern; Smith, Robert R SPL; 'Steven Jantz'; Sheryl
Sarab; Orourke, Therese SPL; 'Warren Wong'; Bob Hoffman; Sandy_Vissman@fws.gov
Subject: Batiquitos Lagoon Maintenance Dredging Project

Dear Ms. Ahrens,

The U.S. Fish and Wildlife supports the proposed Batiquitos Lagoon Maintenance Dredging Project and urges the California Coastal Commission to approve the project as soon as possible so it may be completed outside the bird breeding season.

David A. Zoutendyk
Division Chief
U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92011
(760) 431-9440 (P)
(760) 431-5902 (F)
David_Zoutendyk@fws.gov