

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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SAN DIEGO, CA 92108-4421
(619) 767-2370



W16.3a

Filed: June 23, 2011
49th Day: October 11, 2011
180th Day: December 20, 2011
Staff: Gabriel Buhr - SD
Staff Report: August 24, 2011
Hearing Date: September 7 – 9, 2011

MATERIAL AMENDMENT
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-04-088-A10

Applicants: Southern California Edison (SCE)
San Dieguito River Park Joint Powers Authority (JPA)

Original Description: Implementation of the San Dieguito Wetland Restoration Plan, including creation and/or restoration of approximately 165 acres of wetland habitat, dredging of the lagoon mouth to maintain an open inlet, construction of least tern nesting sites, and construction of public access trails and treatment ponds.

Proposed Amendment: The amendment proposes to modify the location of wetland mitigation required in Special Condition #8 as mitigation for impacts associated with the Coast to Crest Trail and Freshwater Treatment Ponds. The amendment also proposes the addition of the Mesa Loop Trail to the Coastal Development Permit and Final Restoration Plan (FRP).

Site: Western end of San Dieguito River Valley from El Camino Real to Pacific Ocean, with portion of trail from east of San Andres Drive to Jimmy Durante Boulevard, Del Mar and San Diego (San Diego County)

Substantive File Documents: Cities of Del Mar and San Diego certified LCPs; *San Dieguito Wetlands Restoration Project Final Restoration Plan*, dated November 2005, received December 12, 2005, and revised pages iii, 2.16, 2.75, 2.93 (Figure 2.26), 4.1, 4.6 (Table 4.1), 4.8, 4.31, 4.50, 4.53, 4.71, 4.96, 5.2, 5.10, Appendix B cover sheet, and Appendix B Wetlands Impact Map dated 1/30/06, received 2/2006, and revised page 4.7 received 2/6/06; *Mitigation Plan for Impacts Associated with the Del Mar Segment of the Coast to Crest Trail*, dated April 13, 2007 (Revised-April 2011); SANDAG letter RE: *JPA Mitigation in San Dieguito River Valley*, dated August 17, 2011.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends approval of the proposed amendment with special conditions addressing changes to the restoration modules needed to satisfy mitigation requirements associated with the original project, and the addition of the Mesa Loop Trail to the Final Restoration Plan. The wetland restoration project is a requirement of Southern California Edison's CDP #6-81-330 to mitigate the adverse impacts of the operation of the San Onofre Nuclear Generating Station Units 2 and 3 on the marine environment. A change in the previously described site conditions have warranted an alternative area be utilized as a portion of the mitigation required for the project. The ability to provide improved public access, and to satisfy the originally imposed mitigation wetland creation requirements are the primary issues raised by this proposal; these are resolved through the recommended modification to the pertinent special conditions. The site is an area of filled tidelands, and Chapter 3 of the Coastal Act is the legal standard of review.

Exhibits:

1. Regional Location Map
 2. San Dieguito Lagoon Map
 3. Restoration Site Plan
 4. Mesa Loop Trail Map and Grading Plan
 5. Mitigation Overview Map
 6. SANDAG agreement with JPA
 7. Special Conditions of the original permit (6-04-088) as amended
-

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. 6-04-088 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 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 CONDITIONS

The permit is subject to the following conditions:

1. Modify Special Condition 6 (Final Coast to Crest Trail Plans) by adding new Special Condition #6, subsection m, as shown in bold and underline below:

6. Final Coast to Crest Trail Plans. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION OF THE TRAILS AND WITHIN 18 MONTHS OF COMMISSION ACTION ON THE PERMIT, the applicants shall submit final plans for construction of the coastal segment of the Coast to Crest Trail commencing at Jimmy Durante Blvd. and ending at the proposed weir or inland extent of the restoration work. Said plans shall be in substantial conformance with the trail alignment shown in the *Wetland Delineation for the Proposed San Dieguito River Park Coast to Crest Trail San Diego, California* prepared by Tierra Environmental Services, Inc. and revised July 14, 2005, and City of Del Mar Sheets 36–46 dated 6/17/05 and City of San Diego Sheets 73–89 dated 5/26/05, and shall include the following revisions. Upon written approval by the Executive Director of trail plans for segments 1 through 8, the JPA may

commence construction of segments 1 through 3 in accordance with the approved plans and written authorization by the Executive Director.

...

- m. The Mesa Loop Trail as originally described in the Final EIR/EIS for the San Dieguito Lagoon Restoration Project shall be included in the trail plans for the restoration project. The Mesa Loop Trail shall be pedestrian only, and located on top of the mesas formed by disposal sites DS33, DS34 and DS35, and shall be constructed and maintained consistent with the above requirements of this special condition (6).**

The applicants shall undertake development in accordance with the approved final trail plans. Any proposed changes to the approved final trail plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission-approved amendment to this coastal development permit pursuant to the Commission's regulations unless the Executive Director determines that the changes are minor and within the scope of the Commission's permit approval and no amendment is required.

2. Modify Special Condition 8 (Trail/Treatment Pond Wetland Mitigation Program) by adding the language shown in bold and underline below:

8. Trail/Treatment Pond Wetland Mitigation Program. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION OF SEGMENTS 4 THROUGH 8 OF THE TRAIL AND THE TREATMENT PONDS AND WITHIN 18 MONTHS OF COMMISSION ACTION ON THE PERMIT, the applicants shall submit for review and written approval of the Executive Director, a final wetland mitigation program for all wetland impacts associated with construction of the coastal segment of the Coast to Crest Trail and the freshwater runoff treatment ponds (TP41). The program shall be developed in consultation with the California Department of Fish & Game and U.S. Fish & Wildlife Service and at a minimum shall include:

...

- h. Implementation of the approved mitigation program and recordation of the deed restrictions shall occur prior to or concurrent with construction of segments #4 through 8 of the trail, **except for 2.736 acres of required salt marsh mitigation that shall be created as a part of a larger planned restoration project for the former Boudreau property under development by SANDAG. If the off-site SANDAG restoration project is not installed and undergoing monitoring as required within this special condition by December 31, 2016, then the applicant shall be responsible for implementing the back-up mitigation plans included within the *Mitigation Plan for Impacts Associated with the Del Mar Segment of the Coast to Crest Trail* by December 31, 2017.**

The applicants shall undertake the required mitigation in accordance with the approved mitigation program. Any proposed changes to the approved mitigation program shall be reported to the Executive Director. No changes to the approved mitigation program shall occur without a Coastal Commission-approved amendment to this coastal development permit pursuant to the Commission's regulations unless the Executive Director determines that the changes are minor and within the scope of the Commission's permit approval and no amendment is required.

3. Prior Conditions of Approval

All terms and conditions of the original approval of Coastal Development Permit #6-04-88 as amended (Exhibit , not specifically modified herein, shall remain in full force and effect and apply to the subject amendment.

III. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

1. Amendment Project Description

The proposed amendment includes two unrelated modifications to the special conditions placed on the original permit (CDP #6-04-88).

The first proposed change is a request for the addition of the Mesa Loop Trail to the original permit and Final Restoration Plan. The proposed trail would consist of a 1.7 mile long, 6 foot wide pedestrian-only trail, consisting of a series of three connected loops to be located on the top of the mesas formed by three sediment disposal sites associated with the ongoing lagoon restoration (Exhibit 4). The proposed trail would also include a decomposed granite surfaced parking lot/staging area, with space for approximately 25 cars located at the trailhead and accessed by a new signal light and crosswalk to be installed by the City of San Diego at the intersection of El Camino Real and Sea County Lane. The trail would be posted with signage describing trail hours and identifying adjacent areas of sensitive habitat. Some strategically placed areas of lodgepole fencing would be installed to prevent access to the surrounding wetland and upland restoration areas.

The second component of this amendment relates to the location of the future creation of 2.736 acres of tidal or seasonal salt marsh as required by **Special Condition #8** of the original permit for mitigation from impacts associated with the construction of the Del Mar Segment of the Coast to Crest Trail and Freshwater Treatment Ponds. The JPA has submitted a Final Mitigation Plan for these impacts as required under **Special Condition #8**, however within the mitigation plan they have modified the location and timing for the required wetland mitigation. The proposed changes request that the 2.736 acres be integrated into a larger wetland creation plan currently under development by the San Diego Association of Governments (SANDAG), with agreement from the applicants, on a large

parcel (formerly referred to as the Boudreau property) located directly adjacent to the San Dieguito Lagoon Restoration site (Exhibit 5). The SANDAG plan could result in the creation of over 50 acres of tidally influenced salt marsh habitat that would be connected to the larger San Dieguito Lagoon system. In the event that the SANDAG project does not proceed, or is unable to achieve described performance criteria, the applicant has submitted a contingency plan identifying an alternative location where the required wetland mitigation could be created (Exhibit 5). If the Commission approves this amendment, it would constitute approval both of the preferred alternative of locating the 2.736 acres of restoration on the Boudreau property and approval of the back up location if the SANDAG restoration project is not installed and undergoing monitoring by December 31, 2006.

The lagoon and surrounding areas subject to this review are in an area of filled tidelands where the Coastal Commission retains coastal development permit authority permanently. Chapter 3 of the Coastal Act is the legal standard of review, but the LCPs for the Cities of Del Mar and San Diego are used as guidance, as the beach and lagoon adjoins both jurisdictions.

2. Description of Project Originally Approved and Subsequent Amendments

ORIGINAL PROJECT DESCRIPTION: The San Dieguito Wetland Restoration Plan was proposed primarily to meet the requirements of Coastal Development Permit #6-81-330 to mitigate adverse impacts to the marine environment occurring through operation of the San Onofre Nuclear Generating Station (SONGS) Units 2 and 3. Southern California Edison (SCE), the principal owner of SONGS, was required to provide approximately 150 acres of new, or significantly restored, wetland habitat. Maintenance of the lagoon tidal inlet was considered a key component of the restoration plan and SCE was therefore granted 35 acres of wetland mitigation credit for agreeing to maintain the inlet in an open condition in perpetuity. Coastal Development Permit #6-04-88 for the construction of the wetland restoration project included these requirements. Additional components of the restoration project included the construction of three berms adjacent to the San Dieguito River to confine existing flows and maintain sediment transport to the ocean, bank protection for portions of the berms, culverts in the berms to help balance water levels and a weir to eliminate any backwater effect on the upstream river channel, the creation of four new nesting sites and rehabilitation of an existing site for the California Least Tern and Western Snowy Plover, the creation of treatment ponds to filter freshwater runoff and reduce freshwater flows into the restored tidal wetlands, the construction of a public access trail, including interpretive signage, and improvements to beach access, the upland and beach disposal of excavated material, and maintenance and monitoring programs. The San Dieguito Wetland Restoration Plan encompasses almost the entire San Dieguito River Valley west of El Camino Real, although SCE is only responsible for restoring a portion of that area. Other portions of the restoration plan will be implemented by the San Dieguito River Park Joint Powers Authority (JPA). It was originally approved by the Commission on October 12, 2005. Since that time, there have been several amendments as follows:

- 6-04-088-A1: Immaterial amendment to modify the language of Special Condition #4 related to the timing of berm construction. Approved August 10, 2006.
- 6-04-088-A2: Material amendment to remove approximately 4,000-5,000 cubic yards of material along an 800' long, 60' wide road and berm. Approved July 7, 2007.
- 6-04-088-A3: Withdrawn August 7, 2007.
- 6-04-088-A4: Material amendment for the replacement of restoration module W45 with restoration module W16, modification of the timing for the construction of public beach accessways, and modifications to the special condition regarding a riverbank revetment. Approved June 9, 2010.
- 6-04-088-A5: Immaterial amendment to modify the language of Special Condition #8 regarding coastal sage scrub mitigation for the trail and treatment ponds. Approved October 11, 2007.
- 6-04-088-A6: Immaterial amendment to allow the use of 40-foot long, 20-foot wide bridges to cross the drainage channels on both sides of I-5 for the continuation of the Coast-to-Crest Trail instead of the use of open bottom concrete culverts, resulting in a reduction of permanent wetland and upland impacts. Approved February 5, 2008.
- 6-04-088-A7: Immaterial amendment to establish a pedestrian-only trail along an existing slope stability bench on the engineered slope of Disposal Site 32 (DS32) located directly south of Via De La Valle. Approved October 9, 2009.
- 6-04-088-A8: Immaterial amendment to modify the location of coastal sage scrub mitigation sites required in Special Condition #8 as mitigation for impacts associated with the Coast to Crest Trail and Freshwater Treatment Ponds. Approved November 17, 2010.
- 6-04-088-A9: Immaterial amendment to modify the timing restriction placed upon the staging or storage of construction equipment on North Beach in association with dredging activities associated with the San Dieguito Wetland Restoration Project. Approved July 14, 2010.
- 6-04-088-A10: Material amendment submitted June 23, 2011, subject amendment request of this staff report.

3. Biological Resources/Water Quality.

The following Coastal Act policies related to biological resources and water quality are most applicable to the proposed development, 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:

... (6) Restoration purposes. ...

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division. ...

Section 30240

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Habitat

The original permit for the San Dieguito wetland restoration project (CDP #6-04-88) included special conditions that related to the location, construction and maintenance of the Del Mar Segment of the Coast to Crest Trail (**Special Condition #6**), freshwater runoff treatment ponds (**Special Condition #7**) and a mitigation program for impacts associated with the proposed trails and treatment ponds (**Special Condition #8**). The JPA has assumed responsibility for the requirements related to these developments within the larger restoration project. After several iterations, Coastal Commission staff ecologists and the JPA have worked cooperatively to produce a final mitigation plan that was recently submitted to the Commission attached to the subject permit amendment request.

The submitted mitigation plan requests that the outstanding creation of 2.736 wetland acres required to mitigate for the impacts from the construction of the trail and treatment ponds be included as a part of a larger restoration plan currently under development by SANDAG that would be located on the former Boudreau property. This property currently consists of former tidelands filled for agricultural uses and is vegetated with large amounts of non-native upland plant species. This off-site location is directly adjacent to the San Dieguito Wetlands restoration project that is the subject of the original permit (6-04-088), and could potentially result in the creation of over 50 acres of tidally influenced wetland habitat that would be connected to the rest of the San Dieguito Lagoon system (this proposed project would require its own separate coastal development review in the future). **Special Condition #8** identifies the former Boudreau property as a potential location for the required mitigation; however it also includes a timing condition that requires implementation of the approved mitigation plan prior to or concurrent with construction of the trail segments. The final trail segments have now been completed, and therefore, if the 2.736 acres are to be incorporated within the SANDAG plan currently under development, this would cause for construction of the required wetland creation to be delayed and would present a conflict with the special conditions of the permit as originally approved.

SANDAG has reached agreement with the JPA to incorporate the 2.736 acres into their restoration project plans (Exhibit 6), which would provide for a more comprehensively designed restoration project of the former Boudreau property that would likely result in increased benefits to the lagoon system and the restoration projects located within. The

potential benefits that would be provided to the lagoon system via the development of this more overarching and cooperatively planned restoration site would outweigh the need for immediate installation of the required JPA mitigation. In the case that the SANDAG restoration plan does not proceed as intended, the JPA has included a back-up location for the required 2.736 acres of wetland creation within the Mitigation Plan. This site would be located directly northwest of El Camino Real, where an existing box culvert drains Gonzalez Canyon into the San Dieguito Lagoon system, and would be restored as high/seasonal salt marsh. Commission staff ecologists have reviewed and agreed to the JPA Mitigation Plan and proposed back up location. **Special Condition #8** has been modified to identify this change of circumstances for the 2.736 acres and its incorporation into the SANDAG restoration project. Additionally **Special Condition #8** has been modified to include deadlines for when the applicant must initiate installation the back up restoration site if the proposed SANDAG project is either unsuccessful or abandoned. Such back up plan is included as part of this proposed amendment, so in the case that the proposed SANDAG project falls through, the contingency plan for the JPA's mitigation requirements is already in place and it need not seek another CDP amendment to implement it.

This amendment also proposes to include a new trail system within the uplands surrounding the lagoon. The Mesa Loop Trail would be located on the mesas created by three disposal sites (DS33, DS34, and DS35) created as a part of the larger restoration project. Currently the mesa tops are primarily barren and devoid of vegetation and therefore no impacts to sensitive native species or habitats are anticipated during construction; however, future restoration associated with the restoration project will result in vegetation with native plant species on the disposal sites. The trail and associated parking/staging area would be pervious and constructed of decomposed granite and aggregate. The trail would include some lodgepole fencing and signage strategically placed to keep trail users out of sensitive habitat restoration areas. **Special Condition #6** has been modified to identify the Mesa Loop Trail and to require that it conform with the original permit conditions ensuring that impacts to surrounding biological and hydrological resources would be avoided during trail construction and maintenance.

The Commission finds that only as conditioned as described above, can the proposed development be found consistent with Sections 30230, 30231, 30232, 30233 and 30240 of the Coastal Act which require biological resources and water quality be protected, and where possible, enhanced.

4. Public Access.

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3. The following Coastal Act policies addressing public access are most applicable to the proposed development, and state, in part:

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 30213

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

The original permit (CDP #6-04-088) for the San Dieguito Lagoon restoration project included the installation of the Del Mar segment of the Coast to Crest Trail, located along the northern perimeter of the lagoon and river channel. **Special Condition #6** of the permit detailed the location of the trail and contained specific direction regarding trail construction and maintenance.

As a part of the subject amendment application, the JPA proposes to construct the Mesa Loop Trail as a new addition to the trail systems located with San Dieguito lagoon and its surrounding uplands. The trail would consist of a series of three interconnected loops located atop sediment disposal sites (DS33, DS34, and DS35) created with dredge spoils from the excavation of the lagoon restoration project. The trail would provide pedestrian only access to the mesas created at these disposal sites and offer enhanced views of the significant coastal views of eastern lagoon basins and river channel, and would in general create new public access opportunities to the upland perimeter of the lagoon system. A 25 space parking lot/staging area would also be constructed to provide access to the trail system from El Camino Real.

The Mesa Loop Trail is a component of the FEIR/EIS for the San Dieguito Wetland Restoration Project (SCH #98061010, dated September 2000); however, due to a lack of funding at the time, it was not included in the coastal development permit application when submitted to the Commission. **Special Condition #6** of the permit has been modified to identify the Mesa Loop Trail as an element of the original coastal development permit and requires that the trail be subject to all of the requirements placed on trail construction and maintenance incorporated in the original permit approval.

The addition of the Mesa Loop Trail, as conditioned, enhances public access, and the change in the location of 2.736 acres of wetland mitigation has no adverse impact on public access. Thus, as described above, can the proposed development be found consistent with Sections 30210, 30211 and 30213 of the Coastal Act which require public access and recreation opportunities be protected.

5. Visual Resources

Section 30251 of the Coastal Act addresses the preservation and enhancement of visual resources, and states, in part:

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 the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. ...

The San Dieguito River Valley provides visual relief from the surrounding commercial and residential areas. Public views to, and throughout, the valley are significant resources requiring protection under the Coastal Act. The proposed Mesa Loop Trail would enhance visual access to the lagoon system and would not alter or disrupt the existing visual coastal resources afforded to the public at this location. . The proposed new location for 2.736 acres of wetland restoration will also enhance visual coastal resources in this area. Therefore, the Commission finds that the proposed amendment, as conditioned, is consistent with Section 30251 of the Coastal Act.

6. Local Coastal Program

The Cities of Del Mar and San Diego have fully certified Local Coastal Programs (LCPs) and issue their own coastal development permits (CDPs) throughout most of their coastal zone areas. However, the subject site is an area of filled tidelands within wetlands; this area remains under the Coastal Commission's jurisdiction, and Chapter 3 of the Coastal Act is the legal standard of review. Parts of the restoration project are located within the North City Land Use Plan Segment in the San Diego LCP within an area of deferred certification, with the rest located in the City of Del Mar's LCP jurisdiction. Both LCPs call for protection and enhancement of natural resource areas, and the overall restoration plan was found consistent with both LCPs. The proposed project serves to protect the resource value of the area, and is thus consistent with both LCPs. Therefore, the Commission finds that the proposal, as conditioned, will not prejudice either City's ability to continue implementation of its certified LCP.

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

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits, or permit amendments, to be supported by a finding showing the permit or amendment, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

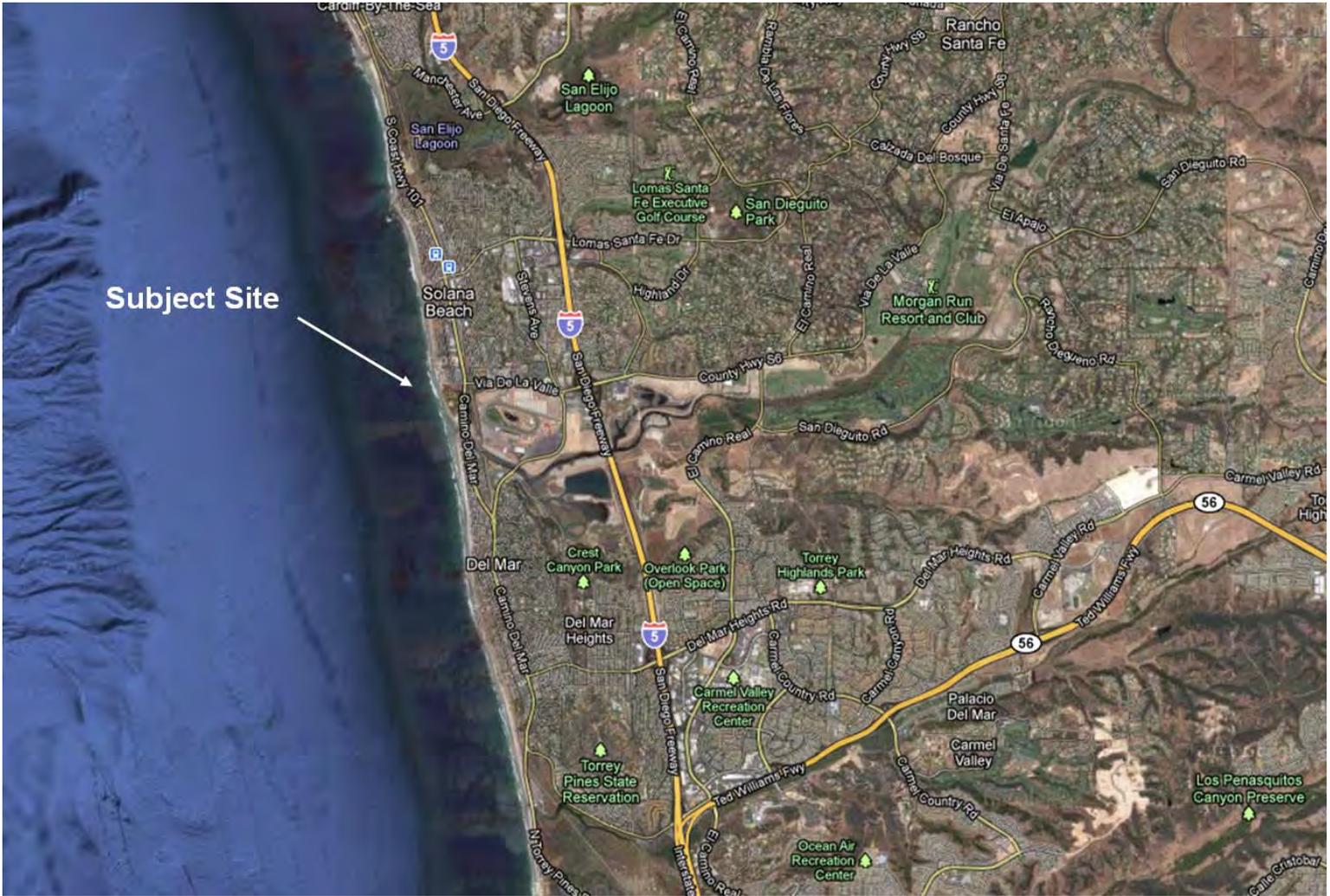


EXHIBIT NO. 1
APPLICATION NO. 6-04-088-A10
Regional Map
 California Coastal Commission

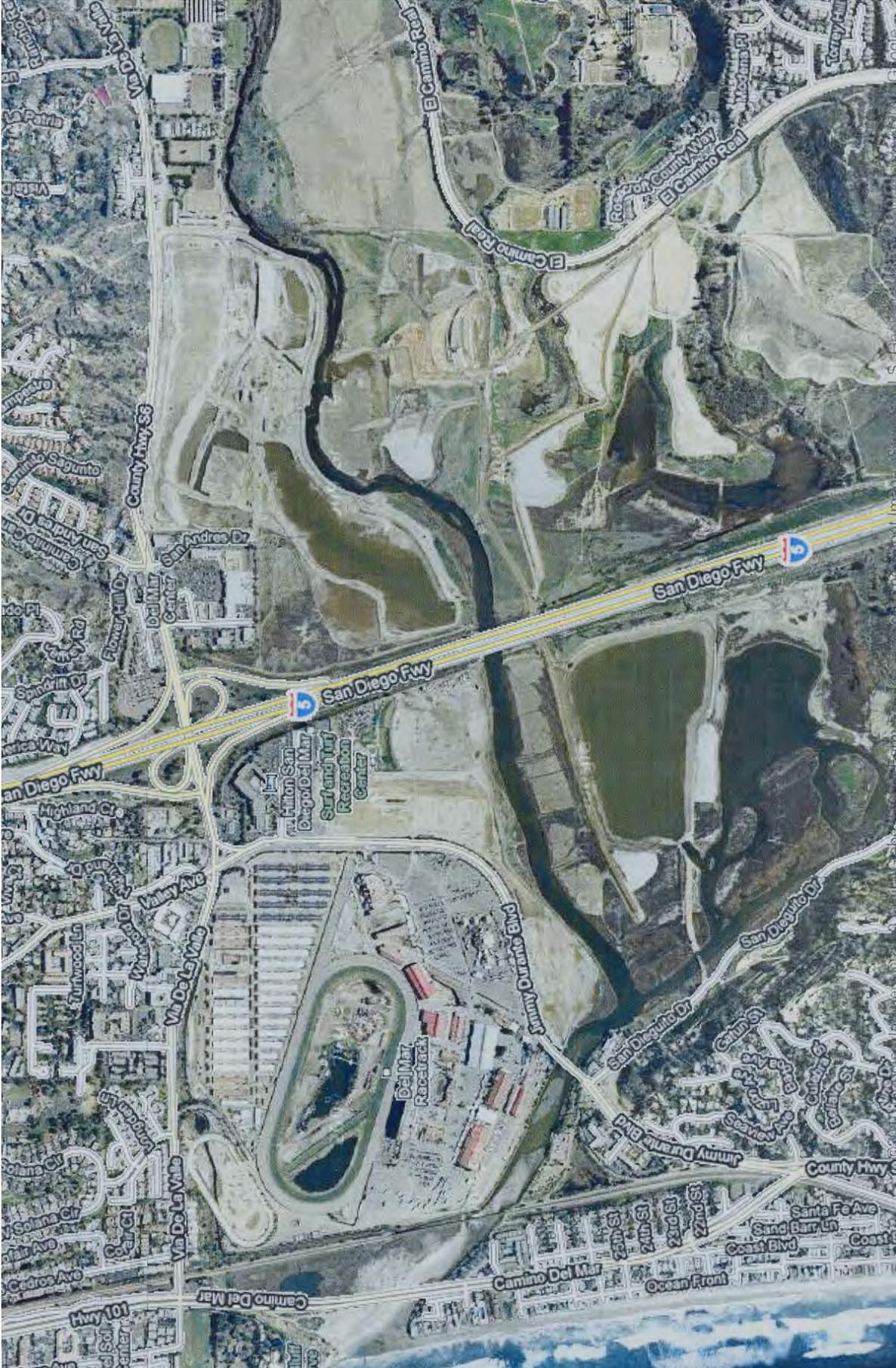


EXHIBIT NO. 2
APPLICATION NO.
6-04-088-A10
San Dieguito Lagoon Map

**SCE Components
JPA Components**

Legend

- Subtidal
- Frequently Flooded Wet Flats
- Frequently Exposed Wet Flats
- Low Marsh
- Mid Marsh
- High Marsh
- Seasonal Salt Marsh
- Transitional Wetlands
- Bays
- Nesting Sites
- Deposition Sites
- Excavation Outside Wetlands
- JPA Trail Alignment

Note: Scaled graphics precludes illustration of narrow portions of transitional wetlands. Details shown on final grading plans.



PROJECT DESIGN CONSULTANTS

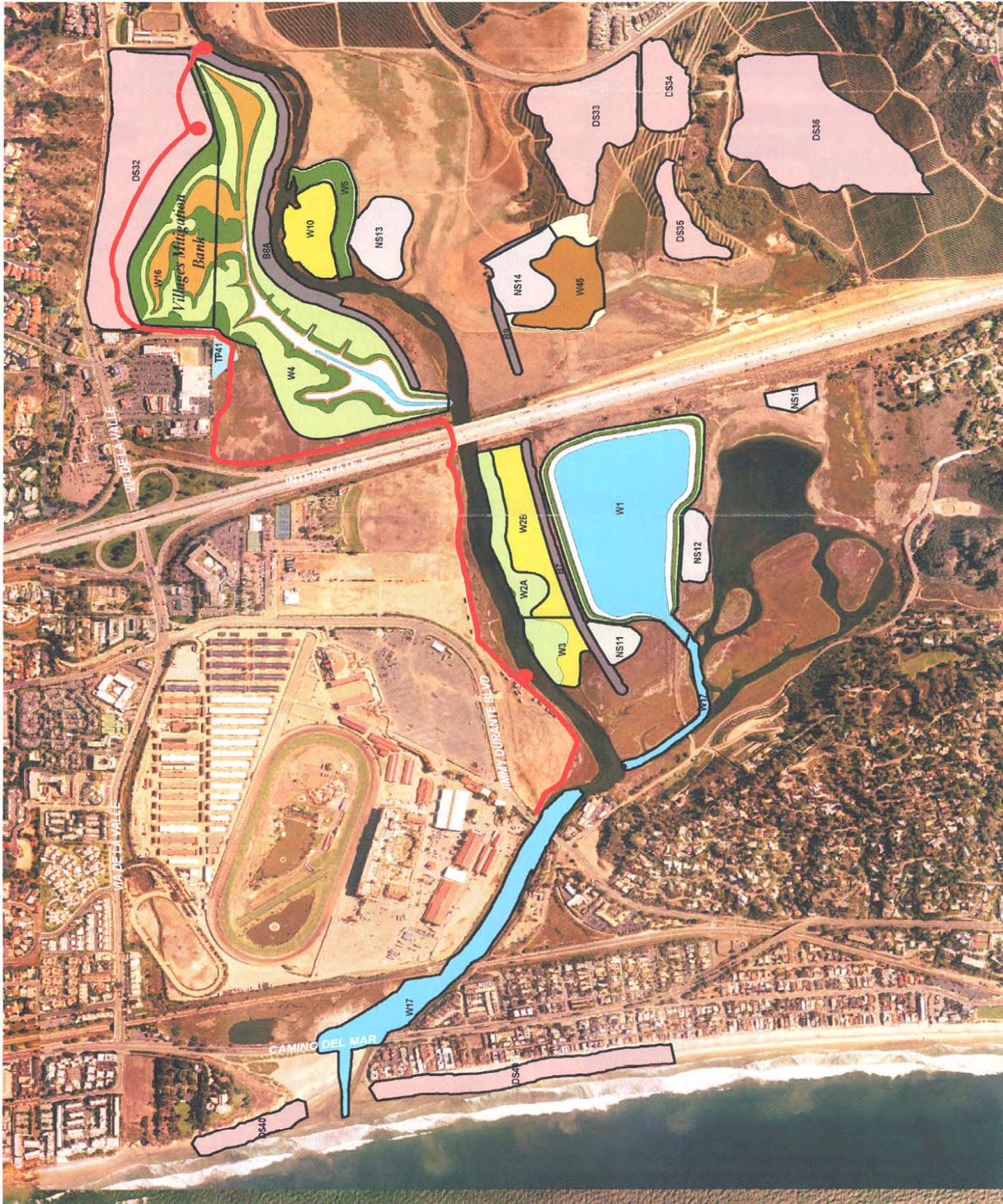


EXHIBIT NO. 3
APPLICATION NO.
6-04-088-A10
Restoration Site Plan



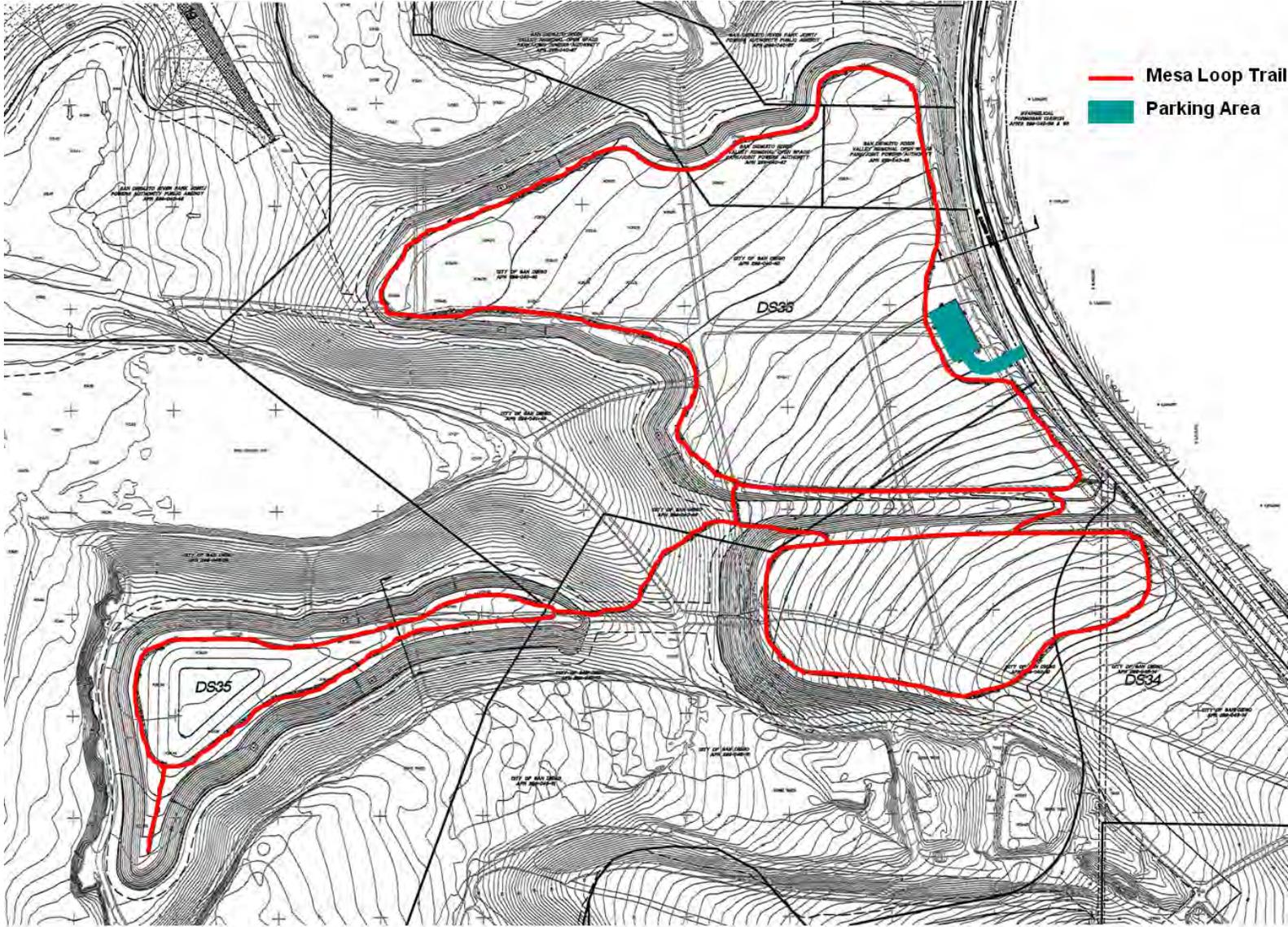
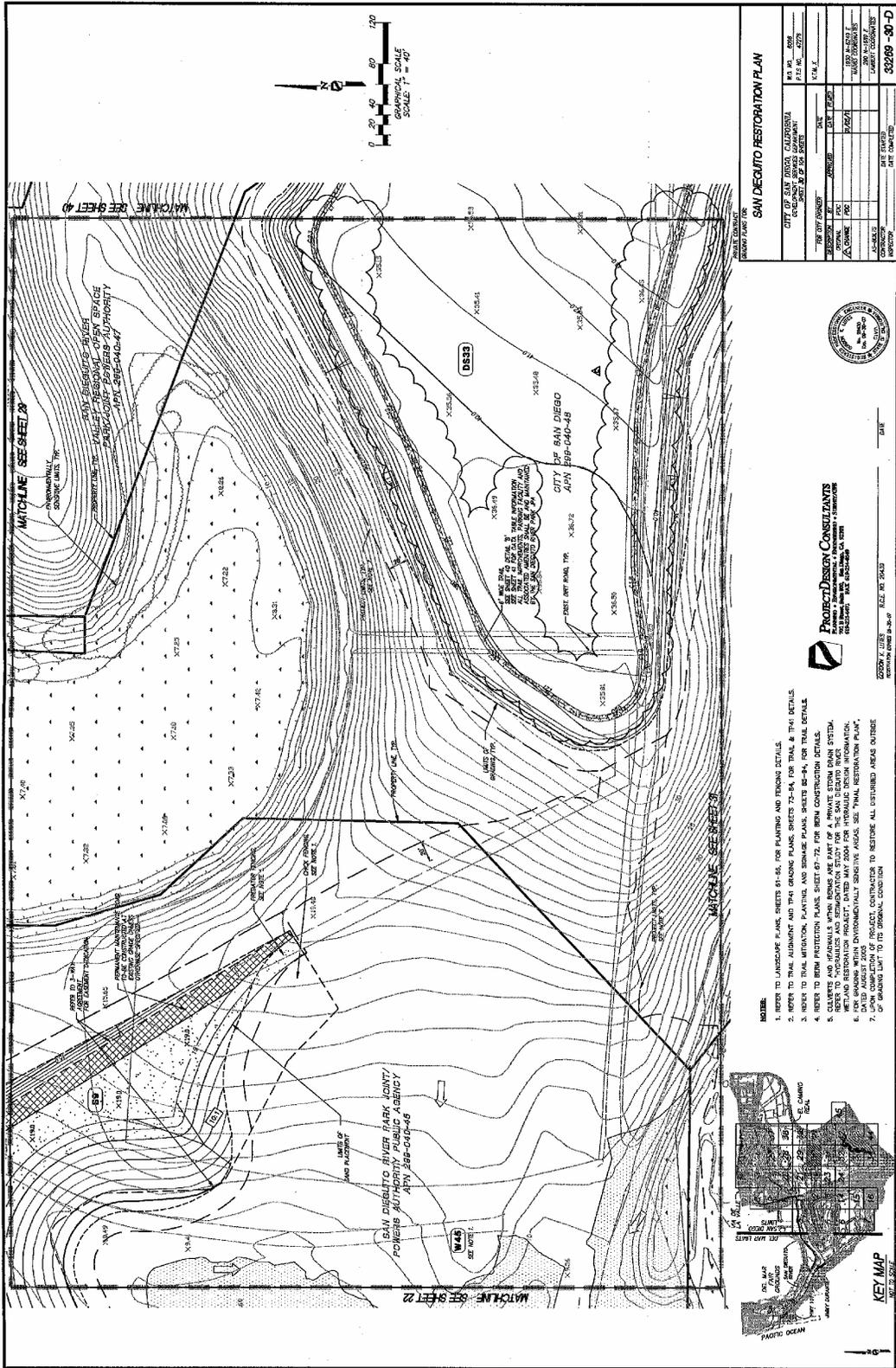


EXHIBIT NO. 4
APPLICATION NO. 6-04-088-A10
Mesa Loop Trail
 California Coastal Commission



PROJECT DESIGN CONSULTANTS
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 WWW.PDCCONSULTANTS.COM

PROJECT INFORMATION

PROJECT NO.	33289-30-D
DATE ISSUED	08/11/2009
DATE REVISION	
CONTRACT NO.	
CONTRACTOR	
PROJECT NAME	SAN DIEGUITO RESTORATION PLAN
CITY OF SAN DIEGO, CALIFORNIA	
PROJECT NO. OF SHEETS	1 OF 1
DATE	08/11/2009
SCALE	AS SHOWN
PROJECT NO.	33289-30-D
DATE ISSUED	08/11/2009
DATE REVISION	
CONTRACT NO.	
CONTRACTOR	

NOTE:

1. REFER TO LANDSCAPE PLANS, SHEETS 61-66, FOR PLANTING AND FENCING DETAILS.
2. REFER TO TRAIL ALIGNMENT AND TRAIL GRADING PLANS, SHEETS 72-84, FOR TRAIL & TRAIL DETAILS.
3. REFER TO TRAIL MITIGATION, PLANTING, AND SIGNAGE PLANS, SHEETS 85-94, FOR TRAIL DETAILS.
4. REFER TO BERM PROTECTION PLANS, SHEET 67-72, FOR BERM CONSTRUCTION DETAILS.
5. CURBS AND HEADWALLS WITH BERMS ARE PART OF A PRIVATE STORM DRAIN SYSTEM.
6. METAL RESTORATION PROJECT DATED MAY 2004 FOR HYDRAULIC DESIGN INFORMATION.
7. UPON COMPLETION OF PROJECT, CONTRACTOR TO RESTORE ALL DISTURBED AREAS OUTSIDE OF GRADING LIMIT TO ITS ORIGINAL CONDITION.

KEY MAP

PROJECT DESIGN CONSULTANTS

PROJECT INFORMATION

PROJECT NO.	33289-30-D
DATE ISSUED	08/11/2009
DATE REVISION	
CONTRACT NO.	
CONTRACTOR	
PROJECT NAME	SAN DIEGUITO RESTORATION PLAN
CITY OF SAN DIEGO, CALIFORNIA	
PROJECT NO. OF SHEETS	1 OF 1
DATE	08/11/2009
SCALE	AS SHOWN
PROJECT NO.	33289-30-D
DATE ISSUED	08/11/2009
DATE REVISION	
CONTRACT NO.	
CONTRACTOR	

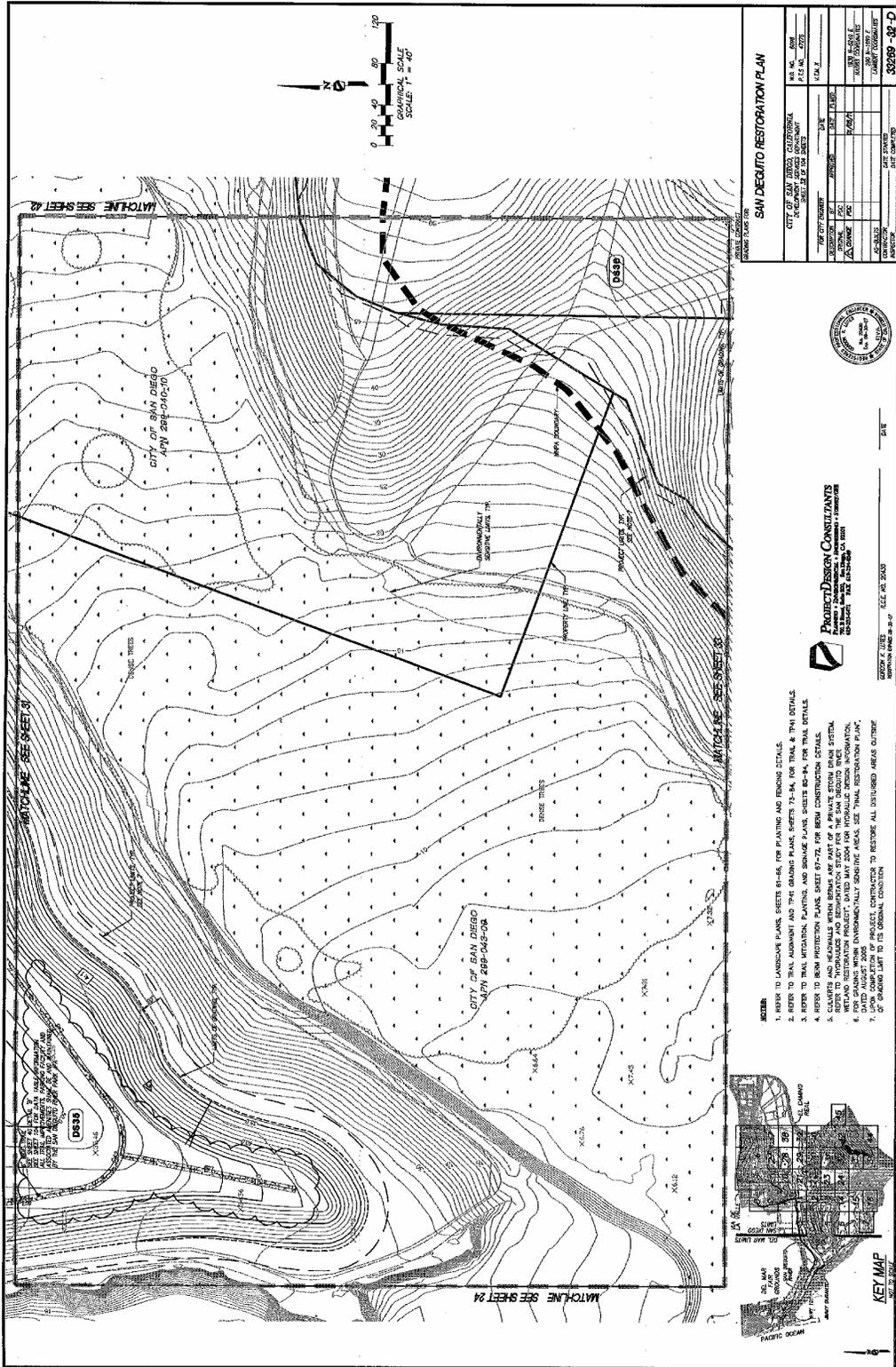


EXHIBIT NO. 4
 APPLICATION NO.
6-04-088-A10
 Mesa Loop Trail

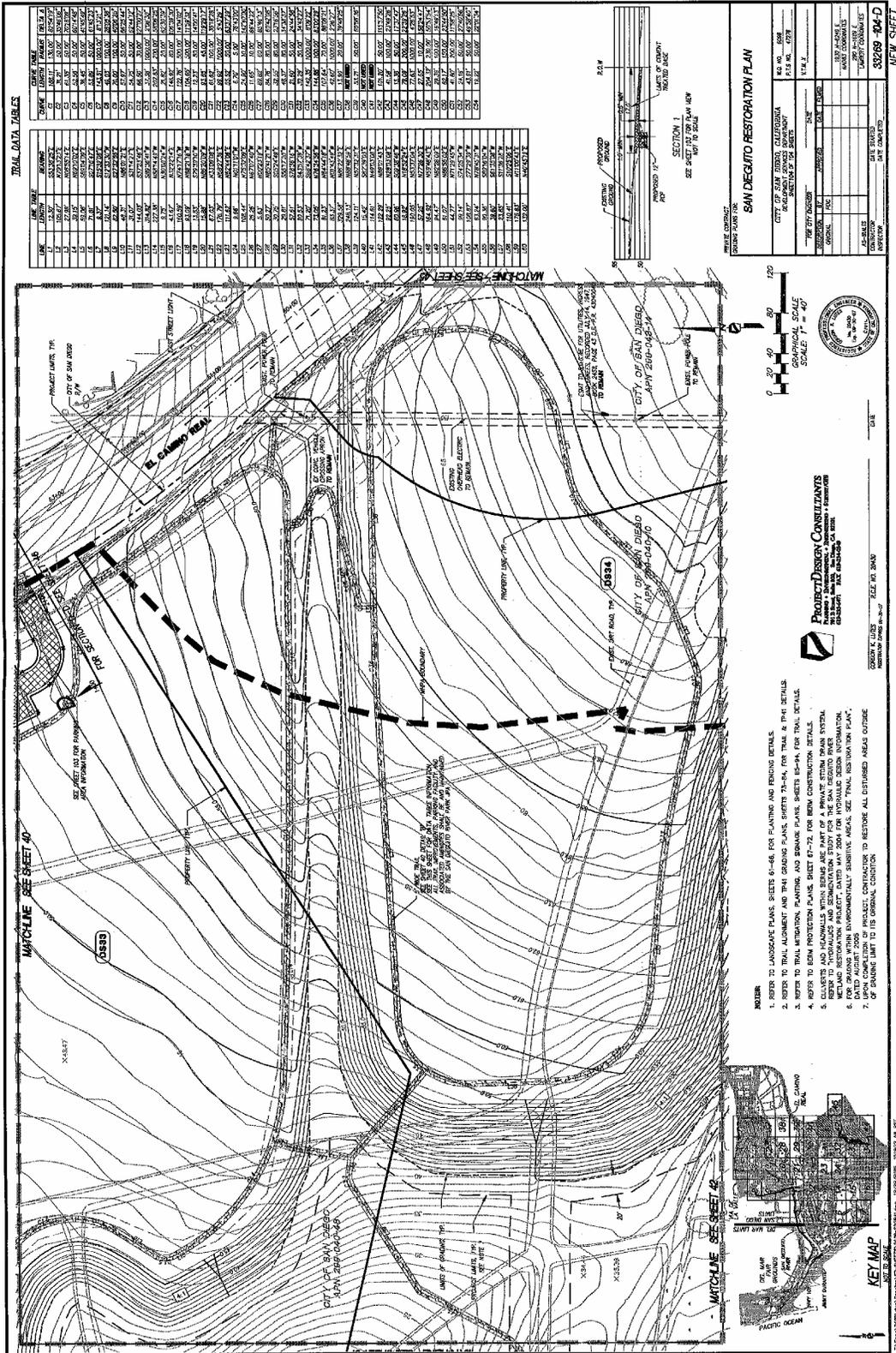


EXHIBIT NO. 4
 APPLICATION NO.
 6-04-088-A10
 Mesa Loop Trail
 California Coastal Commission

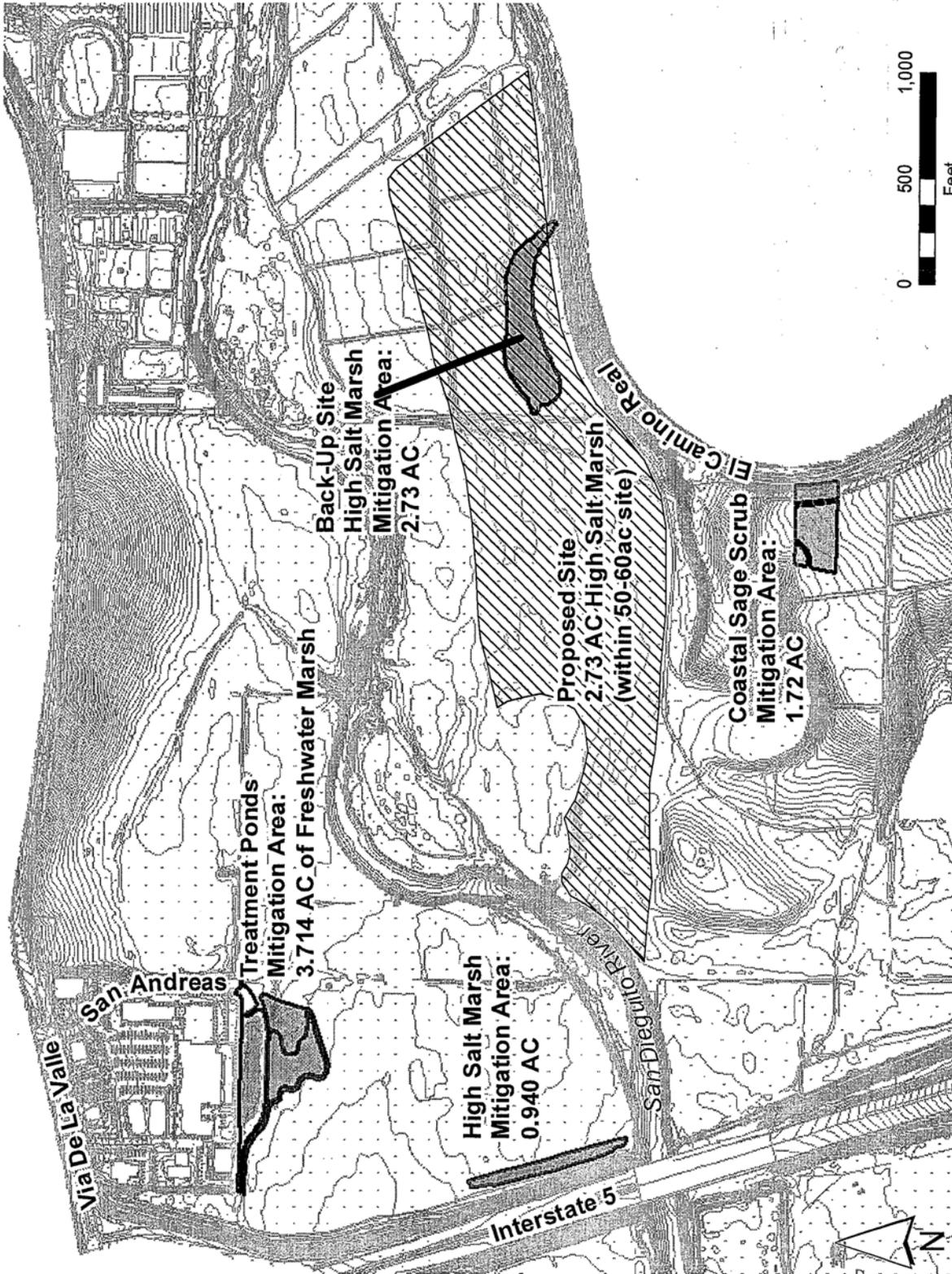


EXHIBIT NO. 5
APPLICATION NO. 6-04-088-A10
Mitigation Overview Map
California Coastal Commission



401 B Street, Suite 800
San Diego, CA 92101-4231
(619) 699-1900
Fax (619) 699-1905
www.sandag.org

August 17, 2011

12002001

Gabriel Buhr
California Coastal Commission
7575 Metropolitan St.
Suite 103
San Diego, CA 92108-4402

Dear Gabe:

SUBJECT: JPA Mitigation in San Dieguito River Valley

I understand that the San Dieguito River Park Joint Powers Authority (JPA) is seeking the Commission's approval to amend Special Condition #8 of their CDP #6-04-88. The purpose of this letter is to confirm the JPA's explanation and to request approval of their request.

The amendment to the Special Conditions of approval would enable the JPA to integrate their remaining 2.736 acre mitigation requirement into a larger 50-acre tidal and seasonal salt marsh project that is being planned at the San Dieguito Lagoon by the San Diego Association of Governments (SANDAG) and Caltrans, under the terms of an MOA between SANDAG and the JPA.

The SANDAG project is currently in the feasibility analysis phase. We are preparing hydraulic models of the river and tidal analyses to ascertain the optimal size and configuration of new tidal wetlands that could be created on JPA property south of the river and east of the SCE project, that would not negatively impact the SCE project or exacerbate downstream impacts.

At a stakeholder meeting in March of this year, a number of the permitting agencies requested that the JPA's proposed 2.736 acre mitigation project (a condition of their CDP permit) should not be implemented as a stand-alone project, but instead should be incorporated into the larger SANDAG project. At the request of the permitting agencies, SANDAG has agreed to incorporate the JPA's project into the design. This will mean that if and when the project is implemented, the acreage necessary for the JPA to satisfy their 2.736 mitigation requirement per the Special Condition of CDP #6-04-88 will be included in the larger acreage that is restored.

If the SANDAG project is deemed feasible and it moves forward to implementation, then SANDAG and the JPA will amend their existing MOA to address any necessary compensation costs associated with the construction. If, on the other hand, the SANDAG project is deemed infeasible, then the JPA will

MEMBER AGENCIES

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Carlsbad
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Mexico

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SANDAG – JPA agreement

implement their 2.736 acre mitigation as a stand-alone project as described in their Wetland Mitigation Plan.

SANDAG has valued the cooperative efforts of the JPA in the larger lagoon restoration effort and believes the Commission staff also supports this larger comprehensive approach towards wetland creation.

By signing this letter, the authorized representatives of both SANDAG and the JPA acknowledge and agree that this letter accurately describes the agreement reached by their respective organizations to include JPA's 2.736 acre mitigation requirement into the SANDAG project if that project is deemed feasible.

Sincerely,



Keith Greer
SANDAG, Senior Regional Planner
Environmental Mitigation Program Manager



Susan Carter
JPA, Deputy Director

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SANDAG – JPA agreement

 California Coastal Commission

SPECIAL CONDITIONS OF ORIGINAL PERMIT 6-04-088 (AS AMENDED)

The permit is subject to the following conditions:

1. Final Wetland Restoration Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for review and written approval of the Executive Director a revised *San Dieguito Wetlands Restoration Project Final Restoration Plan* (FRP). The changes included in revised strike-out/underline version of the FRP (Appendix B), dated July 2005 and received September 6, 2005 (including text and exhibit changes), and the changes and additions shown in Appendix C, “San Dieguito Wetlands Restoration Project Final Restoration Plan Changes and Additions,” shall be fully incorporated into the revised FRP.

The revised FRP shall clearly identify the size and location of all areas of impact to existing wetland and coastal sage scrub habitat and the size and location of all proposed mitigation areas. In computing the mitigation required for project impacts, the following ratios shall apply to both the FRP and the “as built” restoration project:

- a. Temporary impacts on modules W1, W2a, W2b, W3, W4, W5, W16, W17, W45, and Trail shall be mitigated at a ratio of 1 to 1.
- b. Temporary impacts from construction of Ponds 1 and 2 on module TP41 shall be mitigated at a ratio of 1.5 to 1 and temporary impacts from construction of Ponds 3 and 4 on module TP41 shall be mitigated at a ratio of 1 to 1.
- c. Permanent impacts on modules B7, B8, DS32, and Road shall be mitigated at a ratio of 4 to 1.
- d. Permanent impacts on module TP41 for the construction of treatment pond berms shall be mitigated at a ratio of 1 to 1.
- e. Permanent impacts on the Trail module that are not in the existing roadbed shall be mitigated at a ratio of 4 to 1, and permanent impacts that are in the existing roadbed shall be mitigated at a ratio of 1 to 1.

Revisions to the creation and impact acreages shown in the FRP shall be based on the *Wetland Delineation for the Proposed San Dieguito River Park Coast to Crest Trail, San Diego, California* prepared by Tierra Environmental Services, Inc. and revised July 14, 2005, the *CCC Wetland Study in the Villages Mitigation Bank* prepared by WRA Environmental Consultants dated August 30, 2005, the letter dated September 6, 2005 from Project Design Consultants, and the mitigation ratios specified above. Any revisions or updates to these documents that the applicants may provide shall include the basis for such changes, and shall be submitted to the Executive Director for review and approval. If the revised FRP identifies greater impacts than are identified in the July 2005 FRP (received September 6, 2005), then the applicants shall increase the mitigation area in accordance with the above ratios.

Prior to the commencement of construction and again at the completion of construction, applicants shall submit to the Executive Director finalized plans and digital files for

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ArcView, ArcMap and Autocad) of project components (i.e., aerial maps, topographical maps, restoration modules, existing wetland areas, river berms, nesting sites, disposal sites, staging areas, access and haul roads, trails and associated components, and treatment ponds) that will allow for independent assessment of the accuracy of the “as built” plans to determine compliance with the requirements of CDP #6-81-330-A. The applicants shall document the physical and biological “as built” condition, including measurements of actual impacts to wetland habitat, within 30 days of completion of each construction area.

The applicants shall take maximum care to ensure that the project is built as described in the revised and approved FRP. However, if the “as built” plan for any construction area shows any greater impacts than are identified in the revised approved FRP, then within 90 days the applicants shall submit a plan for supplemental mitigation to the Executive Director for review and written approval. If the “as built” plans demonstrate that there are less actual impacts, then the applicants may request a permit amendment to reduce the mitigation acreage requirements.

The applicants shall undertake development in accordance with the approved Final Restoration Plan. Any proposed changes to the approved Plan shall be reported to the Executive Director. No changes to the approved Plan shall occur without a Coastal Commission-approved amendment to this coastal development permit pursuant to the Commission’s regulations unless the Executive Director determines that the changes are minor and within the scope of the Commission’s permit approval and no amendment is required. The applicants shall be required to provide additional appropriate mitigation, as determined by the Commission, if actual impacts to wetland habitat exceed those identified in the approved Plan.

2. Amendment to the SONGS Permit (CDP #6-81-330-A4). PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall obtain a Coastal Commission-approved amendment to Standard 1.3h of Condition A of the SONGS permit to allow minimal loss of existing wetlands authorized in this Permit.

3. Final Grading, Drainage and Erosion and Sediment Control Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, final grading, drainage, erosion and sediment control plans for the San Dieguito Wetlands Restoration Project that have been approved by the City of Del Mar and the City of San Diego. Said plans shall be in substantial conformance with the two sets of plans submitted June 20, 2005, (City of Del Mar Sheets 1–25, dated 6/17/05, and City of San Diego Sheets 1–60, dated 5/26/05) and shall include the following:

- a. Final grading plan for Disposal Site DS32, public access trail, storm drain improvements and utility maintenance road, shown on City of San Diego Sheet 33269-17-D, approved by the City of San Diego Engineering Department. The revised final grading plan shall avoid, to the extent possible, impacts from placement of dredge spoils on DS32 to the existing wetlands delineated in the *CCC Wetland Study in the Villages Mitigation Bank by WRA Envir*

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Consultants dated 8/30/05. In the event restoration of the entire W16 to tidal marsh is not part of the final grading plans or is determined not to be implemented by SCE as part of the overall restoration project, a permit amendment is required to revise DS32 to avoid or reduce disposal of dredge spoils on the wetlands identified above and include appropriate mitigation.

- b. The revised final grading plan shall include structural BMPs on the two storm drain outlets to be constructed to move stormwater past the DS32 site, using Continuous Deflector Separation and sized to adequately capture pollutants conveyed from Via de la Valle prior to discharging into the proposed wetlands. Storm drain improvements adjacent to Via de la Valle and on DS32 shall be designed to provide a water source to the lower elevations of the fill slope, if possible. Riprap at the proposed discharge points shall be minimized and specifically described on the final grading plans.
- c. Sand excavated from restoration module W1 shall be placed on tern nesting sites NS11, NS12, NS13, NS14 and NS15 first. Channel sand may be used to construct the nesting sites only in the event sand from W1 is not sufficient in quantity or not suitable as determined by the project engineer in consultation with the USFWS. The applicant shall notify the Executive Director of this determination in writing prior to such use.
- d. Trail alignment and treatment ponds (TP41) shall be graded in accordance with the public access trail and treatment pond plans approved pursuant to Special Conditions #6 and #7.
- e. Reference to maintenance roads on City of San Diego Sheets 12-16, and 28-30, 39 as private shall be deleted.

The applicants 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 a Coastal Commission-approved amendment to this coastal development permit pursuant to the Commission's regulations unless the Executive Director determines that the changes are minor and within the scope of the Commission's permit approval and no amendment is required.

4. Berm and Slope Protection. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, final plans for berm and slope protection for the San Dieguito Wetlands Restoration Project that have been approved by the City of Del Mar and the City of San Diego. Said plans shall be in substantial conformance with the two sets of plans submitted June 20, 2005, (City of Del Mar Sheets 33–35, dated 6/17/05, and City of San Diego Sheets 67–72, dated 5/26/05), and as further detailed in the submitted site plan received May 10, 2010 attached as Exhibit 8 to this staff report (6-04-088-A4) and shall include the following:

- a. Detailed plans shall address the transitional area between the adjacent s... proposed berm protection and the revetment on the south side of the riv...

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Jimmy Durante Boulevard. The rock shall be placed to minimize erosion and disruption of the adjacent slopes.

The applicants 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 a Coastal Commission-approved amendment to this coastal development permit pursuant to the Commission's regulations unless the Executive Director determines that the changes are minor and within the scope of the Commission's permit approval and no amendment is required.

5. Landscape Plans/Planting Program. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, final planting plans for the San Dieguito Wetlands Restoration Project that have been approved by the City of Del Mar and City of San Diego. Said plans shall be in substantial conformance with the planting program identified in Section 4.3 of the FRP, the submittal *San Dieguito Lagoon Wetland Restoration Project Specifications for Wetland Mitigation and Restoration* prepared by Wetland Research Associates, Inc. and dated October 15, 2003 and Addendums (Memoranda) to this submittal dated October 15, 2004, and the two sets of plans submitted June 20, 2005, (City of Del Mar Sheets 27-30; and 40, dated 6/17/05, and City of San Diego Sheets 62-65, and 82-89 dated 5/26/05) and shall incorporate the following:

- a. The propagules (seeds or rhizomes or cuttings) for the containers and seed mixes shall be collected from coastal populations between the Palos Verde peninsula and the Mexican border. Seed mixes shall be certified as being "weed free" to insure the plants are appropriate and there are no unintended genetic consequences.
- b. The plant palette on the final plans shall include only native species. Native plants shall be established as soon as possible in order to reduce colonization by invasive species.
- c. Plant materials that may be impacted by the restoration and construction activities shall be salvaged and used in the restoration to the extent practicable.
- d. Revegetation of the freshwater treatment ponds shall occur within 90 days of completion of grading and infrastructure improvements. Planting shall be done in accordance with the mitigation program approved pursuant to Special Condition #8.
- e. Weed and invasive control in TP41 shall be implemented in accordance with the document titled *M41 Parcel – Treatment Marsh Descriptions* submitted 2/11/04; however, the final plans shall indicate invasive plant materials from the treatment ponds shall be removed annually.
- f. The slope (approximately 5.16 acres) of the W45 module, to be constructed, shall provide non-tidal wetlands to offset temporary and permanent impacts as



with restoration activities, shall be covered with wetland topsoil and planted with pickleweed (*Salicornia virginica*). The remaining area of W45 (approximately 3.49 acres) shall be graded to elevations between 5 to 6 ft., NGVD, covered with wetland topsoil and planted with pickleweed or other appropriate seasonal saltmarsh species.

- g. Provisions for planting characteristic middle and upper salt marsh species other than *Salicornia virginica*, such as *Jaumea carnosa*, *Batis maritima*, *Distichlis spicata*, *Frankenia salina*, *Monanthochloa littoralis*, and *Salicornia subterminalis*.

The applicants 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 a Coastal Commission-approved amendment to this coastal development permit pursuant to the Commission's regulations unless the Executive Director determines that the changes are minor and within the scope of the Commission's permit approval and no amendment is required.

6. Final Coast to Crest Trail Plans. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION OF THE TRAILS AND WITHIN 18 MONTHS OF COMMISSION ACTION ON THE PERMIT, the applicants shall submit final plans for construction of the coastal segment of the Coast to Crest Trail commencing at Jimmy Durante Blvd. and ending at the proposed weir or inland extent of the restoration work. Said plans shall be in substantial conformance with the trail alignment shown in the *Wetland Delineation for the Proposed San Dieguito River Park Coast to Crest Trail San Diego, California* prepared by Tierra Environmental Services, Inc. and revised July 14, 2005, and City of Del Mar Sheets 36–46 dated 6/17/05 and City of San Diego Sheets 73–89 dated 5/26/05, and shall include the following revisions. Upon written approval by the Executive Director of trail plans for segments 1 through 8, the JPA may commence construction of segments 1 through 3 in accordance with the approved plans and written authorization by the Executive Director.

- a. The trail segment including the boardwalk (Segment 1a-1b) shall be designated pedestrian only.
- b. The trail segment extending from the boardwalk to the east side of I-5 under the underpass (Segments 2, 3, 4a-4c) shall be designated for pedestrian and bicycle use only.
- c. In Segment 5, a turn-around for equestrian users shall be located at the western terminus of the east-west portion of the trail and shall be designed to avoid impacts to wetland habitat from such equestrian use. Signs prohibiting equestrian users from proceeding south of the turnaround shall be placed at the turnaround. At such time as a feasible trail connection to the beach is identified, the applicants may request an amendment to this coastal development permit to review the potential for equestrian use on any trail segment west of the turnaround in Segment 5, excluding the boardwalk.

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- d. A note indicating the following: The boardwalk (Segment 1b) is an interim use in the approved alignment within non-vegetated wetlands in the South Overflow Lot until such time as the South Overflow Lot is restored to functional wetland habitat. The location of the boardwalk shall be addressed in the coastal development permit for the wetland restoration of the South Overflow Lot and the boardwalk may be relocated at that time.
- e. Construction of the trail improvements and signage installation shall avoid or minimize impacts to existing salt marsh, freshwater and brackish marsh and coastal sage scrub to the maximum extent possible.
- f. The plans shall indicate disturbance to all existing wetlands for construction of the approved trail as delineated in the *Wetland Delineation for the Proposed San Dieguito River Park Coast to Crest Trail, San Diego, California*, revised July 14, 2005 and the *CCC Wetland Study in the Villages Mitigation Bank* prepared by WRA Environmental Consultants dated August 30, 2005. Disturbance to no more than approximately 0.748 acres of existing delineated wetlands shall be permitted for construction of the trail as shown on Exhibit 13 (Tierra matrix).
- g. The plans shall indicate disturbance to all existing coastal sage scrub for construction of the approved trail as delineated in *Wetland Delineation for the Proposed San Dieguito River Park Coast-to-Crest Trail, San Diego, California*, revised July 14, 2005, as referenced and discussed in a letter report dated September 26, 2005 from Mr. Nordby to Ms. J. Loeffler.
- h. Mitigation for trail construction impacts to seasonal salt marsh, freshwater and brackish marsh and coastal sage scrub shall be provided in accordance with Special Condition #8.
- i. Trail surfacing plans shall include use of pervious surfacing materials as described in Section 4.6 of the approved Final Restoration Plan. Trail surfacing shall use only compacted decomposed granite or alternative pervious materials (see below), except for the open bottom concrete culverts for Sections 4a and 4c, the concrete in Section 1a and in Section 4b under I-5, and the concrete portion of trail adjacent to Treatment Pond 1 in Trail Section 6. Pervious material alternatives to decomposed granite that provide equivalent water quality protection are encouraged, subject to approval of the Executive Director. The trails shall include covered trash containers to minimize the impacts of littering.
- j. Maintenance and operation of the trails shall be the responsibility of the JPA in accordance with the Park Facility Management Plan described in Section 4.6.2.4 of the approved Final Restoration Plan. SCE shall be responsible for funding trail maintenance and operation tasks. The trail maintenance plan shall include the requirement to perform regular trail maintenance, including manure and trash removal from and around the trail. The maintenance program shall include a monitoring component that will determine when and how often trail maintenance should occur to ensure that the trash containers do not overflow and the

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trash nor manure migrates from the trail into the wetlands. Under no circumstances shall trail maintenance occur less than once every two weeks. All efforts should be made for at least weekly trail maintenance.

- k. Evidence of an approved Caltrans encroachment permit for construction of the trail and drainage crossings under I-5.
- l. Evidence of an approved agreement or easement with SBC for use of the utility maintenance road for a public access trail.

The applicants shall undertake development in accordance with the approved final trail plans. Any proposed changes to the approved final trail plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission-approved amendment to this coastal development permit pursuant to the Commission's regulations unless the Executive Director determines that the changes are minor and within the scope of the Commission's permit approval and no amendment is required.

7. Freshwater Runoff Treatment Ponds. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION OF THE FRESHWATER RUNOFF TREATMENT PONDS AND WITHIN 12 MONTHS OF THE COMMISSION'S APPROVAL OF THE FRP, the applicants shall submit final plans for the treatment ponds shown in TP41 to intercept and treat nuisance flows of polluted freshwater that originate in upstream areas of commercial and residential development and that currently flow untreated into the existing wetlands. Said plans shall be in substantial conformance with the document titled *M41 Parcel – Treatment Marsh Descriptions* submitted 2/11/04 and shall incorporate the following:

- a. Construction of the treatment ponds shall minimize impacts to existing seasonal salt marsh, freshwater and brackish marsh to the maximum extent possible while still allowing the treatment ponds to adequately function and reduce discharge of freshwater to the wetland restoration area.
- b. Identification of all impacts from construction of the approved treatment ponds to existing wetlands as delineated in the *Wetland Delineation for the Proposed San Dieguito River Park Coast to Crest Trail, San Diego, California* prepared by Tierra Environmental Services, Inc. and revised July 14, 2005. Disturbance to no more than approximately 4.4 acres of existing delineated wetlands shall be permitted for construction of the treatment ponds and pond berms as shown on Exhibit 13, Tierra Matrix.
- c. Mitigation for impacts to seasonal salt marsh, freshwater and brackish marsh shall be provided in accordance with Special Condition #8.
- d. Grading, erosion control and planting of the treatment ponds as restored freshwater marsh shall be done in accordance with plans submitted pursuant to Special Condition #5 and #8 and shall be the responsibility of the JPA.

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- e. Maintenance and monitoring of the treatment ponds shall be completed in accordance with the maintenance/monitoring plans approved pursuant to Special Condition #10.

The applicants 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 a Coastal Commission-approved amendment to this coastal development permit pursuant to the Commission's regulations unless the Executive Director determines that the changes are minor and within the scope of the Commission's permit approval and no amendment is required.

8. Trail/Treatment Pond Wetland Mitigation Program. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION OF SEGMENTS 4 THROUGH 8 OF THE TRAIL AND THE TREATMENT PONDS AND WITHIN 18 MONTHS OF COMMISSION ACTION ON THE PERMIT, the applicants shall submit for review and written approval of the Executive Director, a final wetland mitigation program for all wetland impacts associated with construction of the coastal segment of the Coast to Crest Trail and the freshwater runoff treatment ponds (TP41). The program shall be developed in consultation with the California Department of Fish & Game and U.S. Fish & Wildlife Service and at a minimum shall include:

- a. A detailed site plan of the wetland impact area that substantially conforms with the *Wetland Delineation for the Proposed San Dieguito River Park, Coast to Crest Trail, San Diego, California* prepared by Tierra Environmental Services, Inc. and revised July 14, 2005 and the *CCC Wetland Study in the Villages Mitigation Bank* prepared by WRA Environmental Consultants dated August 30, 2005. The final plan must delineate all impact areas (e.g., on a map that shows elevations, surrounding landforms, etc.), the types of impact (both permanent and temporary), and the exact acreage of each impact so identified.
- b. A detailed site plan of the coastal sage scrub impact area that substantially conforms to *Wetland Delineation for the Proposed San Dieguito River Park Coast-to-Crest Trail, San Diego, California* and revised July 14, 2005, as referenced and discussed in a letter report dated September 26, 2005 from Mr. Nordby to Ms. J. Loeffler. The final plan must delineate all impact areas (e.g., on a map that shows elevations, surrounding landforms, etc.), the types of impact (both permanent and temporary), and the exact acreage of each impact so identified.
- c. Provision for mitigating the impacts identified in (a) above through creation of a minimum 2.32 acres of salt marsh and 5.07 acres of freshwater marsh, or as the final acreage may be refined during Executive Director approval of the final plans, at the following ratios:
- (1) Permanent impacts to tidal and seasonal salt marsh and freshwater marsh from construction of the drainage crossings, and trail const

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wetlands not within an existing roadbed shall be mitigated in-kind at a 4 to 1 ratio.

- (2) Permanent impacts for trail construction to seasonal salt marsh and disturbed freshwater/brackish marsh within an existing roadbed shall be mitigated in-kind at a 1 to 1 ratio.
 - (3) Temporary impacts (not including construction of berms) to seasonal salt marsh and freshwater and brackish marsh for construction of freshwater Ponds 1 and 2 in TP41 shall be mitigated in-kind at a 1.5 to 1 ratio. Mitigation may include freshwater marsh and salt marsh creation on-site or offsite, if necessary.
 - (4) Temporary impacts for construction of freshwater Ponds 3 and 4 in TP41 to disturbed freshwater/brackish marsh shall be mitigated in-kind at a 1 to 1 ratio, including freshwater marsh created in Ponds 3 and 4.
 - (5) Permanent impacts to seasonal salt marsh and freshwater and brackish marsh for construction of the treatment pond berms shall be mitigated in-kind at a 1 to 1 ratio. Mitigation may include seasonal salt marsh creation on the treatment pond berms.
 - (6) Mitigation for permanent impacts shall involve upland suitable for conversion to wetlands unless otherwise specified. Mitigation for temporary wetland impacts may involve substantial restoration of existing disturbed wetlands.
- d. Provision for mitigating the impacts identified in (b) above through the creation of 1.72 acres of coastal sage scrub within disposal site DS33. The creation of about 56 acres of coastal sage scrub overall, that was primarily proposed for erosion control on the various disposal sites within the project area, minus 1.72 acres of mitigation, remains in effect in accordance with the approved Final Restoration Plan.
- e. Identification of locations for the required mitigation for impacts from the trail and treatment ponds at one or more of the following mitigation sites:
- (1) Freshwater Treatment Ponds (TP41 on-site);
 - (2) Salt marsh mitigation site located east of and adjacent to I-5 and north of the river (on-site);
 - (3) Former Boudreau property (off-site) located west of El Camino Real and south of the river.
 - (4) Coastal sage scrub mitigation site at DS33.
- f. A mitigation program that shall include the following:



- (1) A description of the proposed restoration site.
- (2) A description of the proposed restoration, including, as appropriate, topography, hydrology, vegetation types, sensitive species, and wildlife usage.
- (3) A description of planned site preparation and invasive plant removal.
- (4) A restoration plan including the planting palette (seed mix and container plants), planting design, source of plant material, plant installation, erosion control, irrigation, and remediation.
- (5) A plan for documenting and reporting the physical and biological “as built” condition within 30 days of the restoration work, demonstrating the wetland mitigation sites have been established in accordance with the approved design and construction methods.
- (6) A plan for interim monitoring and maintenance including a schedule, interim performance standards, a description of field activities, the monitoring period, and provision for submission of annual reports of the monitoring results to the Executive Director for the duration of the required monitoring period beginning the first year after submission of the “as-built” report.
- (7) Final success criteria for each habitat type, including species diversity, total ground cover of vegetation, vegetative cover of dominant species and definition of dominants, hydrology, and, where appropriate, presence and abundance of sensitive species and wildlife usage.
- (8) The final design and construction methods that will be used to ensure the mitigation site(s) achieve the defined goals, objectives, and performance standards.
- (9) The method by which “success” will be judged, including type of comparison, identification and description of any reference sites that will be used, test of similarity; the field sampling design to be employed, specification of the maximum allowable difference between the restoration value and the reference value for each success criterion, a statistical power analysis to determine the necessary replication for the sampling design, and, a statement that final monitoring for success will occur after at least 3 years with no remediation or maintenance activities other than weeding.
- (10) Provision for submission of a final monitoring report to the Executive Director at the end of the final performance monitoring period, prepared by a qualified restoration ecologist. The report shall evaluate whether the restoration site conforms to the goals, objectives, and performance

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set forth in the approved final restoration program, and must address all the monitoring data collected over the monitoring period.

- (11) Provision for possible further action. If the final report indicates that the restoration project has been unsuccessful, in part, or in whole, based on the approved performance standards, the JPA shall submit within 90 days a revised or supplemental restoration program to compensate for those portions of the original program which did not meet the approved performance standards. The revised restoration program, if necessary, shall be processed as an amendment to the coastal development permit.
- g. Submittal of a deed restriction(s), in a form and content acceptable to the Executive Director, that the owner of the identified mitigation site(s) shall record against the mitigation sites, free of all prior liens and encumbrances, except for tax liens, and binding on the applicants' successors in interest and any subsequent purchasers of any portion of the real property. The applicants shall make any modifications to the proposed deed restriction(s) the Executive Director determines are necessary to comply with this Permit. Evidence that the deed restriction has been recorded shall be provided to the Executive Director within 30 days of final approval by the Executive Director. The deed restriction shall establish the authorized use of the mitigation area to be habitat restoration, habitat maintenance, open space, and habitat protection over the portion of the property comprising the mitigation area. The restriction shall:
- (1) Permit the applicants and their agents to enter the property when necessary to create and maintain habitat, re-vegetate portions of the area, and fence the newly created/re-vegetated area in order to protect such habitats.
 - (2) Restrict all development, vegetation clearance, fuel modification and grading within the approved mitigation sites, with the exception of TP41 Ponds 1 and 2 where maintenance is permitted in accordance with Special Condition # 10.
 - (3) Permit the Coastal Commission staff to enter and inspect for purposes of determining compliance with Coastal Development Permit No. 6-04-88.
- The deed restriction shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed and shall run with the land in favor of the People of the State of California, binding all successors and assigns.
- h. Implementation of the approved mitigation program and recordation of the deed restrictions shall occur prior to or concurrent with construction of segments #4 through 8 of the trail.

The applicants shall undertake the required mitigation in accordance with the mitigation program. Any proposed changes to the approved mitigation program

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reported to the Executive Director. No changes to the approved mitigation program shall occur without a Coastal Commission-approved amendment to this coastal development permit pursuant to the Commission’s regulations unless the Executive Director determines that the changes are minor and within the scope of the Commission’s permit approval and no amendment is required.

9. Independent Wetland Performance Monitoring Program. This special condition is a reiteration of the provisions of the SONGS permit requiring construction phase monitoring and post-restoration performance monitoring independent of SCE and is included here as a requirement of this Permit as well.

In accordance with the provisions of the SONGS permit (CDP 6-81-330-A), monitoring, management (including maintenance), and remediation shall be conducted over the full operating life of SONGS Units 2 and 3, as defined in Section 3 of Condition A therein. Pursuant to Condition D of the SONGS permit, an independent monitoring program carried out under the direction of the Executive Director and funded by SCE shall be conducted to measure the success of the wetland in achieving restoration goals specified in the Final Restoration Plan and performance standards specified in the SONGS permit. SCE shall be fully responsible for any failure to meet the goals and performance standards during the full operating life of SONGS Units 2 and 3. In accordance with provisions of the SONGS permit, upon the Executive Director’s determination that the goals or standards are not achieved, the Executive Director shall prescribe remedial measures, after consultation with SCE, which shall be immediately implemented by SCE with Commission staff direction.

The independent wetland post-restoration monitoring shall be implemented in accordance with the monitoring plan prepared by Commission staff and contract scientists in consultation with SCE and appropriate wildlife agencies, and approved by the Executive Director. (See Section IV-D for discussion of independent monitoring plan. The Monitoring Plan is incorporated herein as Appendix D.

Independent monitoring shall be performed under the direction of the Executive Director during and immediately after each stage of construction of the wetland restoration project to ensure that the restoration work is conducted according to the approved plans. Such construction phase monitoring shall be performed in accordance with the biannual work program to be approved by the Commission pursuant to Condition D of the SONGS permit, and shall be coordinated with SCE. This independent construction phase monitoring is separate from the applicants’ responsibilities to ensure that the restoration project is constructed according to approved plans (Special Condition #1), to conduct beach sand monitoring (Special Condition #25), or to fulfill monitoring requirements imposed by other permitting agencies, such as, but not limited to, biological and water quality monitoring.

10. Maintenance and Management. Maintenance and management of the restoration project components, excluding the five Least Tern Nesting sites, shall be the responsibility of SCE for a period of time equivalent to the full operating life of SONGS Units 2 and 3, as defined in Section 3 of Condition A of CDP #6-81-330-A, after which time SCE shall transfer maintenance and management responsibilities to the JPA in accordance

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terms of the 1991 Memorandum of Agreement between SCE and JPA as amended August 1, 2005, except for maintenance of the beach access, which shall remain SCE's responsibility. SCE may contract with JPA or another third party (e.g., San Diego County Parks and Recreation Department) to perform SCE's maintenance and management responsibilities prior to transfer to the JPA. Maintenance and management shall be performed as follows:

- a. Both wetland and upland areas of the restoration shall be maintained to control invasive plants and to assure that native plants become established.
- b. Inlet maintenance shall be performed in accordance with and as determined through the document titled *Restored San Dieguito Lagoon Inlet Channel Initial and Periodic Dredging*, dated December 10, 2004, and in accordance with Special Condition #23.
- c. River berms and slope protective works shall be inspected annually between August and November and after major storm events (greater than the 10 year flood with flows overtopping Lake Hodges Dam). After magnitude 5.5 or greater seismic events originating within a 20-mile radius of the project site, inspections shall be made by a hydrologist, restoration specialist and geotechnical engineer, and the results of their determination of any adverse effect shall be provided in writing to the Executive Director. If after inspection, it is apparent repair or maintenance is necessary, the applicants shall contact the Commission office to determine whether permits are necessary.
- d. The weir located between the Villages Parcel (DS32) and the Horse Park property shall be inspected annually between August and November and after major storm events (greater than the 10 year flood with flows overtopping Lake Hodges Dam) to identify any structural damage. If after inspection, it is apparent repair or maintenance is necessary, the applicants should contact the Commission office to determine whether permits are necessary. Sediment and debris shall be removed from the weir and culverts located in the river berms annually between August and November and after major storm events (greater than the 10 year flood with flows overtopping Lake Hodges Dam). Biofouling organisms (e.g., mussels) shall be removed from the weirs and culverts as needed.
- e. Active Freshwater runoff treatment ponds 1 and 2 (Northside) shall be maintained by the JPA for water quality treatment purposes by removing vegetation and accumulated sediment no more frequently than annually, but at a minimum of once every three years. Invasive plant material shall be removed annually. No plant material other than invasive species may be removed from the outside or tops of any banks around the ponds. No tree species may be removed unless they are non-native species. Material shall only be removed by hand or by a backhoe that will reach from the trail surface through the vegetation openings left along the trail edge.
- f. Passive Freshwater runoff treatment ponds 3 and 4 (Southside) shall be maintained and inspected annually to identify the sustainability and viability of a

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native species. Corrective action shall be conducted within 3 months of this inspection period. Corrective action includes the infill planting of approved species and removal of all non-native or invasive species.

- g. The maintenance of the Freshwater runoff treatment ponds and achievement of success criteria shall be substantially consistent with the document titled *M41 Parcel – Treatment Marsh Descriptions* submitted 2/11/04 and as revised in accordance with Special Conditions #5 and #8.
- h. Public access and education components of the restoration project, except for the improved beach access, shall be maintained and managed in accordance with Section 4.6.2.4 Public Access and Park Facility Management Plan in the FRP.
- i. The existing beach access trail south of the inlet shall be maintained by SCE in its current condition, at a minimum. The access ramp north of the inlet shall be maintained to provide ADA accessible public access from Camino del Mar to the beach at all times.

11. Permanent Maintenance Road. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, revised plans for the permanent maintenance road extending from Racetrack View Drive east toward I-5 shown on City of San Diego Sheets 7, 15 and 16 dated 5/26/05. The plans shall be in substantial conformance with the revised alignment shown on the plan dated 6/30/05 utilizing the existing road extending from Racetrack View Drive to the western property line of APN 300-490-17 in the Del Mar Estates subdivision. The revised plans shall incorporate the following:

- a. Year round public pedestrian use of the proposed maintenance road extending from Racetrack View Drive to the existing cul-de-sac as shown on the 6/30/05 plan. (Exhibit 16) A gate shall be installed at the DFG property boundary and access restricted north of the gate to authorized personnel only. The existing City of San Diego easement from the road to the cul-de-sac shall be open year around to public pedestrian use, except during rainy periods. Equestrian use and dog access shall be prohibited at all times.
- b. A mitigation plan in substantial conformance with the mitigation plan dated July 26, 2005 and prepared by Project Design Consultants for impacts to 500 sq. ft. of existing coastal sage scrub habitat that is part of mitigation required pursuant to CDP # 6-02-153 (Caltrans).
- c. Evidence that an amendment to the Caltrans permit No. 6-02-153 has been approved by the Commission and that the revised mitigation has been implemented in accordance with the approved plan.

The applicants 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 a Coastal Commission



approved amendment to this coastal development permit pursuant to the Commission's regulations unless the Executive Director determines that the changes are minor and within the scope of the Commission's permit approval and no amendment is required.

12. Beach Access Trail Plans. NO LATER THAN TWELVE (12) MONTHS AFTER THE COMMENCEMENT OF INLET DREDGING, the applicants shall submit to the Executive Director for review and written approval, final public access trail plans, approved by the City of Del Mar, for the beach access trails that include the following:

- a. The applicant shall take no action that will result in closure or removal of the existing path from Camino Del Mar to the beach south of the river mouth for pedestrian access.
- b. Plans for an accessible path and/or ramp from Camino Del Mar (north of bridge) to the beach north of the river mouth to provide continual coastal access that is otherwise interrupted by the mouth opening. The foundation of the access ramp at beach level shall be located as far landward as possible and shall be designed to not require protection from storm waves at any time.
- c. The relocated storm drain inlet, if necessary, shall be designed so the discharge point and any required riprap are located inland of the toe of the existing slope.
- d. Signage to be located on the beach and on the street, north and south of the inlet, to direct the public to the alternative access opportunities.
- e. The plans shall indicate installation of the public access paths addressed in (b) above and (g) below shall occur in order to provide alternative public access to either side of the river mouth. Construction of the final public accessways shall begin no later than 60 days (unless extended due to restrictions on summer beach construction) from the Executive Director's written approval of the submitted plans for such accessways and construction shall be in full compliance with the construction related special conditions of this permit, and be completed in a reasonable amount of time.
- f. Maintenance of the beach access trails shall be the responsibility of SCE.
- g. Plans for accessway and parking improvements at 29th Street (south of bridge) to include a handicap parking stall, marked diagonal parking for a minimum of nine vehicles, a travel path to the existing sea wall, a viewing platform, and an improved stairway leading to the beach sand. The foundation of the access stairway at beach level shall be located as far landward as possible and shall be designed to not require additional protection from storm waves at any time.

The applicants 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 a Coastal Commission approved amendment to this coastal development permit pursuant to the Commission's

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regulations unless the Executive Director determines that the changes are minor and within the scope of the Commission’s permit approval and no amendment is required.

13. Water and Sediment Quality. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the applicants shall submit to the Executive Director for review (1) any modifications to the August 2, 2004 Storm Water Pollution Prevention Plan (SWPPP) and (2) a copy of the comprehensive water quality monitoring plan required by the San Diego Regional Water Quality Control Board (SDRWQCB) in the Waste Discharge Requirements for this project (Order No. R9-2005-0213). Copies of the monthly water quality monitoring reports, required by Order No. R9-2005-0213 during dredging operations, shall be submitted to the Executive Director at the same time that they are submitted to the SDRWQCB.

14. Other Permits. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the applicants shall provide to the Executive Director copies of all required state or federal discretionary permits for the development authorized by CDP #6-04-88 including, but not necessarily limited to, the Army Corps of Engineers Permits and Regional Water Quality Control Board approval, except that removal of trees and/or shrubs in upland areas where grading will occur for the project as described in the revised Final Restoration Plan approved pursuant to Special Condition #1 may occur at any time after the CDP issued, if such vegetation removal is in compliance with the provisions of Special Condition #19. Before commencing any removal of trees and/or shrubs, the applicants must submit for the review and approval of the Executive Director a plan identifying the areas where the activity will occur and methods that will be used. Any mitigation measures or other changes to the project required through said permits shall be reported to the Executive Director. Such changes shall not be incorporated into the project until the applicants obtain an amendment to this permit, unless the Executive Director determines that no amendment is legally required. In addition, the applicants shall demonstrate to the satisfaction of the Executive Director that the City of San Diego, the City of Del Mar and all resource agencies have approved the grading plans for that portion of the project located within their respective jurisdictions and for any associated infrastructure and improvements, including (but not limited to) the existing sewer force main crossing the San Dieguito River from the 22nd District Agricultural Association (22nd DAA).

15. Least Tern Nesting Sites. Construction of the four new Least Tern nesting sites shown in the Final Restoration Plan as NS11, NS12, NS13 and NS14 shall not commence until an amendment to the 22nd District Agricultural Association’s CDP No. 6-84-525 requiring the 22nd DAA’s maintenance and monitoring of these least tern nesting sites has been approved by the Coastal Commission, the 22nd DAA has accepted the terms of said amendment, and the amendment has been issued.

PRIOR TO THE COMMENCEMENT OF REHABILITATING the existing Least Tern nesting site shown in the Final Restoration Plan as NS15, the applicants shall provide evidence of the California Department of Fish and Game’s commitment to maintain and monitor the refurbished site in perpetuity.

16. Access to California Department of Fish and Game San Dieguito Ecological Reserve. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicants shall obtain access authorization or a temporary construction easement from the California Department of Fish and Game.



Department of Fish and Game to perform work within the San Dieguito Lagoon Ecological Reserve. The applicants shall coordinate all work within the Reserve with the Ecological Reserve Manager.

17. Property Use Agreements and Easements. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT the applicants shall submit to the Executive Director, for review and written acceptance, copies of the signed and approved three-way agreement between JPA, SCE and 22nd District Agricultural Association dated September 21, 2005. The Grant of Easement for the San Dieguito River Mouth, Public Trail (referred to in the three-way agreement as the Restoration Easement) shall be submitted in a form and content acceptable to the Executive Director and suitable for recordation, within twelve months of permit issuance and prior to commencement of the inlet dredging or trail construction. The Grant of Easement for the Least Tern Nesting Habitat Sites (referred to in the three-way agreement as the Habitat Easement) shall be submitted in a form and content acceptable to the Executive Director and suitable for recordation, within twelve months of permit issuance and prior to commencement of construction of the least tern islands. Evidence of recordation of the approved documents shall be submitted within 30 days of Executive Director approval of the documents for recording.

The three property use agreements (1) Memorandum of Agreement between the San Dieguito River Valley Regional Open Space Park Joint Powers Authority and the Southern California Edison Company, dated August 14, 1991, and First Amendment to Memorandum of Agreement between the San Dieguito River Valley Regional Open Space Park Joint Powers Authority and Southern California Edison, dated August 1, 2005; (2) November 16, 1998 Memorandum of Agreement between City of San Diego, Southern California Edison Company, and San Dieguito Regional River Valley Open Space Park Joint Powers Authority; and (3) Agreement between the 22nd District Agricultural Association, Southern California Edison Company, and San Dieguito River Park Joint Powers Authority, dated September 21, 2005 and all grants of easement executed in compliance with those agreements are incorporated into this CDP by reference. Change in use, boundaries or zoning of any properties within the restoration project requiring revision of these agreements and/or easements will require an amendment to the CDP.

18. Contractor's Acknowledgement. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicants shall submit a signed statement from the project contractor indicating that the contractor has received a copy of the coastal development permit and special conditions and is aware of all permit conditions.

19. Timing of Construction/Seasonal and Habitat Restrictions. PRIOR TO COMMENCEMENT OF CONSTRUCTION AND WITHIN 12 MONTHS OF COMMISSION ACTION ON THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, a final construction plan and schedule, which shall be incorporated into construction bid documents. The project must comply with the following restrictions, which shall be specified in the schedule:

- a. Construction activities shall not occur in areas where breeding is occurring for raptors, migratory birds and threatened and endangered bird species.



restriction can be met by either avoiding known breeding periods, or by conducting pre-construction surveys to demonstrate that breeding is not occurring. Threatened or endangered species include: Belding's Savannah Sparrow, Western Snowy Plover, California Least Tern, Least Bell's Vireo, and Light Footed Clapper Rail. The months and areas of restriction shall be in substantial conformance with the two sets of plans submitted June 20, 2005 (City of Del Mar Sheets 26-27, dated 6/17/05, and City of San Diego Sheets 61-62, dated 5/26/05).

- b. Regardless of season, construction shall not occur in designated areas of restriction within minimum distances of occupied nests of bird species specified in (a) above. The minimum distance for Belding's Savannah Sparrow and Least Bell's Vireo is 150 feet, the minimum distance for migratory birds is 200 feet, and the minimum distance for raptors is 500 feet. Further, the U.S. Fish and Wildlife Service shall be consulted for advice on geographic restrictions of construction if nests of Snowy Plovers, California Least Terns, Least Bell's Vireo or Light Footed Clapper Rails are encountered in the project area. This guidance shall be followed regardless of whether the nests are encountered in or out of the seasonal restrictions specified in (a) above.
- c. Construction shall, if possible, avoid areas containing threatened and endangered or otherwise rare plant species including but not limited to the Southern tarplant, Red sand verbena, Coulter's goldfields, Del Mar Mesa sand aster, Lewis's evening primrose, and Woolly seablite. Construction fencing shall be placed outside of and around these restricted areas and signs indicating sensitivity shall be placed every 100' along the perimeter of the restricted areas. If avoidance is not possible, whole plants and seeds of sensitive species shall be salvaged and transplanted to areas specified in the plans submitted June 20, 2005 (City of Del Mar Sheets 26-27, dated 6/17/05 and City of San Diego Sheets 61-63, dated 5/26/05).
- d. Prior to disposing materials on beach areas during February through August, the applicants shall consult with the California Department of Fish and Game for the expected spawning and hatching periods of the California grunion, and shall provide monitors on the beach during the time of the predicted run. If no grunion are observed, disposal activities can take place until the next predicted run. If grunion are observed, there can be no activities until the next predicted run, at which time the monitoring shall be repeated.
- e. No construction work may occur on sandy beach during the summer months (Memorial Day weekend to Labor Day) of any year. During approved construction periods, any equipment used on the beach shall be removed from the beach at the end of each work day.

20. Staging Areas/Access Corridors. PRIOR TO THE ISSUANCE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Director for review and written approval, detailed plans incorporated into the co

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bid documents for the location of access corridors to the construction sites and staging areas. Use of sandy beach and public parking areas, including on-street parking for the interim storage of materials and equipment shall not be permitted except as provided in Special Condition #22. Access corridors and staging areas shall be located in a manner that has the least impact on public access via the maintenance of existing public parking areas and traffic flow on coastal access routes (Camino Del Mar, Via de la Valle, Jimmy Durante Blvd. and El Camino Real). If more than one staging site is utilized, the plans shall indicate which sites are connected with which portions of the overall development, and each individual site shall be removed and/or restored immediately following completion of its portion of the overall development.

21. Construction Materials. Disturbance to sand and intertidal areas shall be minimized. Beach sand excavated shall be re-deposited on the beach. Local sand, cobbles or shoreline rocks shall not be used for backfill or construction material. The applicants shall remove from the beach and inlet area any and all debris that result from the construction period.

22. North Beach Staging Plan and Beach Access During Construction. PRIOR TO USE OF THE NORTH BEACH STAGING AREA OR COMMENCEMENT OF BEACH RESTORATION ACTIVITIES, the applicants shall provide the Executive Director and the City of Del Mar with detailed plans for the staging of equipment on the North Beach area. This will include the specific months of the year the North Beach area will be used as well as a detailed outline of the proposed staging boundary. No staging or equipment storage shall occur on North Beach from June 1 to Labor Day, without prior approval from the City of Del Mar. The staging plans shall include necessary measures, including barricades and security, to ensure public safety during and after construction hours. Staging areas shall also avoid impacts to any existing wetlands. The project contractor shall bear the responsibility for maintaining the security of the worksite at all times during the construction phase. The contractor shall provide details for safety measures during sand placement on the beach, including lifeguard access, pedestrian traffic, vehicular turn-around locations, flagging requirements, and hours of operation subject to review and approval by the Planning, Public Works, Engineering, and Community Services Departments of the City of Del Mar. Pedestrian and lifeguard beach access shall be maintained during construction as required by the Community Services Department of the City of Del Mar.

23. Inlet Dredging Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, a dredging construction phase impact and mitigation plan, that has been approved by the City of Del Mar. The plans shall include construction schedules, number and type of truck/equipment traffic, type of dredge to be used, and material storage and haul route information. The plan shall specify the anticipated timeframe for the inlet opening and frequency for maintenance openings, and shall include the following specifications for inlet location:

- a. The initial inlet dredging shall be as shown on the approved drawing. The inlet channel shall be located a minimum distance of 50 feet from the



revetment to the south of the channel. At the time the inlet is dredged for the initial opening, any beach depressions from the pre-existing inlet channel shall be filled to a level approximating the adjacent undisturbed beach levels.

- b. In the event the inlet is closed at the time of any subsequent maintenance activities, re-opening shall occur such that the south edge of the inlet channel is located a minimum of 40 feet from the rip-rap and the first priority for dredged sand shall be to restore usable beach area.
- c. In the event the inlet is open at the time of any subsequent maintenance activities, dredging may occur in the inlet as it then exists and any widening shall occur on the channel side closest to mid-point of the lagoon entrance (between the bluffs to the north and the revetment to the south).

The applicants shall undertake inlet dredging 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 a Coastal Commission-approved amendment to this coastal development permit pursuant to the Commission's regulations unless the Executive Director determines that the changes are minor and within the scope of the Commission's permit approval and no amendment is required.

24. Beach Nourishment/Dredge Disposal Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, beach nourishment/dredge disposal plans to insure that only beach quality material shall be used for beach nourishment. During the initial inlet dredging, all beach quality sand dredged from west of Jimmy Durante Bridge shall be placed on the beach, except as noted below for potential use on the least tern nesting sites. In all subsequent inlet maintenance dredging, all beach quality sand shall be placed directly on the beach adjacent to the location of the San Dieguito River inlet. The final beach nourishment/dredge disposal plans shall include the following:

- a. Dredge Plan: The applicants shall provide information for each dredging episode that shall include:
 - (1) Map of all dredging areas and sample locations;
 - (2) All testing results;
 - (3) A proposed placement plan;
 - (4) Estimate of the volume of beach quality material to be dredged;
 - (5) Estimate of the volume of unacceptable beach material to be dredged and plans for disposal; and
 - (6) Schedule for dredging, placement and disposal if needed.



- b. Test Samples: Prior to the initial restoration project, the applicants shall take and test a minimum of ten samples from the channel excavation sites. All samples shall be taken to a depth equal to or in excess of the design excavation depth.
- c. Silt and Clay Limitations: The applicants shall insure that sand comprises at least 90% of the nourishment material and that the nourishment material contains less than 5% clay and less than 10% silt and clay combined, with sand, silt and clay defined by the Unified Soil Classification.
- d. Removal of Large Debris: Prior to placement on the beach, the applicants shall sift all sand excavated from the lagoon area east of the NCTD Railroad Bridge to insure that it is free of stones, organics debris, or lumps exceeding 1 inch in greatest dimension. The applicants shall be responsible for disposal of all unacceptable material in compliance with all applicable federal, state and local laws.
- e. Sand Transport: To the maximum extent feasible, all sand shall be transported via pump or conveyor to minimize the potential impacts of heavy construction traffic on the surrounding community and infrastructure.
- f. Odor from Dredged Sand: If there are public complaints about the odor of the beach quality sand, sand placement on the beach shall stop and the remaining excavated or dredged sand shall be stored near the dredge site until the odor subsides.
- g. Appearance: To the maximum extent feasible dredged sand shall match the color of existing beach sand to avoid public concerns about the safety or cleanliness of the sand placed on the beach.
- h. Tern Islands: If it is determined by the project engineer in consultation with the USFWS that the volume of “airfield” (W1) sand is inadequate for least tern nesting site construction, the applicants may use sand dredged from the area west of Jimmy Durante Bridge to construct the least tern nesting sites and shall notify the Executive Director, in writing, of such determination prior to use of such sand.

The applicants shall undertake beach nourishment and dredge disposal 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 a Coastal Commission-approved amendment to this coastal development permit pursuant to the Commission’s regulations unless the Executive Director determines that the changes are minor and within the scope of the Commission’s permit approval and no amendment is required.

25. Beach Monitoring. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, a beach monitoring program that will consist of beach profiles



channel cross-sections, data analysis and reporting. The beach monitoring program shall be designed to guide and direct placement of dredged beach quality sand and to identify unanticipated changes to the shoreline condition. The monitoring program shall outline the procedure for the necessary surveys, report preparation and submittal, and the skills and qualifications for all personnel. The monitoring program shall record detailed project information regarding the initial placement of sand and subsequent maintenance projects, including, but not limited to, the dates of placement, quantity of sand, locations from which sand was dredged, method of transportation and placement, locations of sand placement, weather conditions, river conditions, and any formal complaints regarding the sand placement activities. The monitoring program shall also establish an independent Coastal Processes Technical Panel that would be able to assist in a rapid response to unforeseeable adverse beach changes. The beach monitoring program shall include the following:

- a. Beach Surveys: Beach surveys shall be performed at 4 historic profile locations, DM-0590, DM-0580, DM-SD0595 and SD-0600 (called SIO1, SIO2, SIO5, and SIO6 by the City of Del Mar in its permit) and at 3 new profile locations approximately 500 feet, 1,000 feet, and 1,500 feet south of DM-0590 (SIO1). Profiles shall be referenced to the City of Del Mar’s Shoreline Protection Area Line (SPA Line) or, for sites that do not have an SPA reference line, to a fixed and identified feature. The profile locations 500 feet and 1,000 south of DM-0590 (SIO1) are in the approximate locations of the profiles identified by Dr. Stone as being RE-13 and RE-18, respectively. Profile locations may be adjusted slightly to establish required profiles in locations for which historic survey information is available. Full profile beach surveys shall be performed in the spring and fall for the 4 historic profile locations (DM-0590, DM-0580, SD-0595, and SD0600) and the survey location approximately 1,000 feet south of DM-0590. The full profile surveys shall be referenced to the SPA Line (or equivalent) and shall survey to the depth of closure (“depth of closure” is the depth beyond which there are no changes in bottom profile due to seasonal variation in wave conditions). Wading depth surveys shall be performed quarterly (every three months) for all profiles, shall be referenced to the SPA Line (or equivalent) and shall survey to at least –6’ NGVD. Wading depth profiles shall also be performed before and after artificial inlet maintenance and following large storms or floods. Information from full profile surveys can substitute for wading depth surveys where available; wading depth surveys shall not be a substitute for required full profile surveys. Surveys shall be conducted by a licensed engineer or surveyor, using the methods from the SANDAG Regional Beach Monitoring Program (SANDAG 2003) or from Elwany et al. (Elwany 2003) or other professional accepted methods. To the extent practicable, these survey requirements shall be met by using available local, regional, state or federal survey efforts, and shall be supplemented as needed by project specific surveys to provide for the required information.
- b. Analyses: Beach survey data shall be analyzed to provide information on beach width for each profile line (from the SPA line or other fixed reference seaward to 0’ NGVD), beach sand volume for each profile line (cubic yards per foot from the SPA line or other fixed reference seaward to 0’ NGVD or to closure).

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beach slope (from the SPA line or other fixed reference seaward to 0' NGVD or to closure) for the surveyed area following each survey. In addition to quantitative information, the analysis shall provide: 1) time series plots of beach width and beach sand volume at each profile location; 2) time series plot of overall sand volume; and 3) time series plots of differences between beach width and sand volume between DM-0580 (SIO2) and all other surveyed profile sites and between DM-0590 (SIO1) and SD-0595 (SIO5).

The analysis shall be used to determine the fate and transport of any sand placed on the beach for nourishment or as a result of inlet dredging, and shall make recommendations for placement locations for beach compatible sand that will be excavated by upcoming dredging episodes. In addition, the analysis shall determine whether observed beach parameters (beach width, beach sand volume, beach profile) are within values measured during the historical monitoring period from January 1978 to the date at which inlet maintenance begins. Specifically, the analyses will determine whether:

- (1) The beach width at DM-0590 (SIO1) is at or less than 32.4 feet (the lowest historically observed minimum)
- (2) The beach width at DM-0590 (SIO1) is at or less than 90 feet and there is more than an 180-foot difference in beach widths measured at DM-0590 and DM-0580 (SIO1 and SIO2); or
- (3) The beach width at SD-0595 (SIO5) is at or less than 74 feet (the lowest historically observed minimum).

- c. Reporting: The Beach Monitoring Program shall provide for prompt reporting of survey data, within 2 weeks following any survey with exceptions noted below, through print and electronic outlets. At a minimum, survey data and analysis shall be provided to the Executive Director, members of the Technical Panel, the City of Del Mar, State Lands Commission and US Army Corps of Engineers, and made available to the public at Del Mar City Hall and Del Mar Library and through the internet. The annual report and/or any report for surveys taken prior to a dredge cycle shall be submitted within 30 days of the survey and shall discuss and provide information on (1) surveyed beach conditions and beach changes, (2) placement of any material removed from the inlet (e.g. volume and placement location), (3) information on other nourishment efforts that might influence the survey results, (4) fate and transport of all placed material; (5) results of descriptive statistics and analyses performed on the data, as detailed in Analyses, above; (6) channel conditions and channel changes as recorded by the channel transects; and (7) recommendations for placement of dredge material for the following dredge cycle(s). Every survey report shall include a determination of whether survey results indicate that beach parameter measurements are outside of values recorded during historical surveys pre-dating permanent inlet maintenance (width, volume or profile) identified in (b) above. The first annual report submitted within one year after issuance of the permit) shall include a

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analysis of all available historic shoreline information (surveys and aerial photographs), as well as the data and analysis from the first year of monitoring. If surveys or analyses indicate that changes to the beach area differ from the pre-project conditions, the applicant shall notify the Executive Director and the CPT Panel in a timely manner and not wait for the following annual report.

- d. CPT (Coastal Processes Technical) Panel: The Beach Monitoring Program shall establish the process for creation of a CPT Panel that shall be kept up to date on all beach survey results and that shall be available throughout the life of the project, to provide technical review and expert opinion on any beach conditions that are determined by the Executive Director to be abnormal. At a minimum, the Executive Director shall convene the CPT Panel within 2 weeks of any survey report that finds that any of the following triggers have been met:
- (1) The beach width at DM-0590 (SIO1) is at or less than 32.4 feet (the lowest historically observed minimum) for six months or three consecutive surveys (whichever is the shorter amount of time); or
 - (2) The beach width at DM-0590 (SIO1) is at or less than 90 feet and there is more than an 180-foot difference in beach widths measured at DM-0590 and DM-0580 (SIO1 and SIO2) for two consecutive surveys (180 feet is the maximum historically observed difference); or
 - (3) The beach width at SD-0595 (SIO5) is at or less than 74 feet (the lowest historically observed minimum) for six months or three consecutive surveys (whichever is the shorter amount of time).

The CPT Panel shall be composed of coastal professionals who are familiar with local coastal conditions and have expertise in the areas of coastal engineering, oceanography, coastal geology, littoral sediment transport, lagoon and inlet hydrodynamics, or other applicable areas. Within six months of issuance of the permit, the applicants shall provide the Executive Director with a list of 10 experts to be considered for service on the CPT Panel. All recommended panelists must have documented expertise in the required knowledge areas, through educational achievements, academic degrees, or published peer-reviewed papers. In addition, panelists shall be independent of both the applicants and Save The Beach and shall not have received any funding from either group, within the past two years, for any work relating to San Dieguito Lagoon or Del Mar Beach. When experts retire from the panel, the applicants shall immediately provide the remaining panel with a list of 4 potential new panelists (with documented expertise), and the remaining panel members shall determine who will best complement the existing panel expertise. The shoreline monitors shall provide input to the panel and attend the panel meetings but shall not be panel members. The applicants shall be responsible for all panel expenses, including the panelists' travel, per diem and salaries, salaries for support staff to record meetings, prepare reports, and costs for meeting space, conference calls, and communication requirements.

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The Executive Director, or designee, shall be the permanent chair of the panel and shall serve as a panel member; a minimum of five additional experts shall serve on the Panel. The Executive Director shall select panel members from the list of experts after consultation with the City of Del Mar, the City of Solana Beach, the SANDAG Shoreline Preservation Committee, Executive Director of State Lands Commission, Executive Director of California Department of Parks and Recreation, the Del Mar Sandy Lane HOA, and the Surfrider Foundation.

The panel will be given full access to all project design materials, historic shoreline information, monitoring reports and other relevant information. The panel shall meet once following the first beach survey and a minimum of twice per year thereafter, and additionally as necessary following shoreline changes that exceed triggers in Condition 25b. Within 3 months of being convened as a result of shoreline changes, the CPT Panel shall provide to the Executive Director a written report that outlines the reason or reasons for the panel being convened; likely range of causes; measures, if any, that should be taken to correct the immediate shoreline erosion problem, such as beach or dune nourishment, sand by-passing, etc.; recommendation for additional monitoring or studies needed to determine the success of the interim corrective actions; recommendations for modified “triggers” to better respond to identified shoreline changes; and, recommendations for follow-up panel meetings. SCE shall be responsible for taking all necessary steps and for obtaining all necessary authorizations to implement the recommendations of the CPT Panel.

- e. Reduction in Monitoring: The beach sand monitoring and placement of dredge material on the beach shall continue for the life of the project. If, after 15 years of monitoring, there is no evidence of any adverse project impacts on the beach, the applicants may request a permit amendment to reduce the monitoring to occur only pre- and post-excavation for inlet openings, to provide only wading depth profiles adjacent to the inlet, to reduce reporting to an annual letter report or electronic notice, and to dismiss the CPT Panel.

26. Waiver of Liability. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

27. Villages Mitigation Bank. The wetland restoration as proposed on module W16 is approved in this Permit, and shall be used to replace mitigation requirements formerly intended to be fulfilled by module W45. Any remaining acreage not used to satisfy the mitigation requirements of eth permit may be available as a part of a Villages Mitigation Bank should the applicant formally submit such a mitigation bank request in the future. However, the proposal to operate W16 as the Villages Wetlands Mitigation Bank fully described in the *Villages Wetlands Mitigation Bank, Bank Enabling I*



prepared by SCE (January 2005), is not approved as part of this CDP application, nor is any mitigation credit that may accrue as a result of restoration of W16 approved at this time. To the extent that the Commission approves a final grading plan (pursuant to Special Condition #3) that includes excess acreage of restored wetlands on module W16 that is not required to comply with CDP No. 6-81-330-A, such excess acreage may be available in the future to satisfy some other wetland mitigation requirement if the use of module W16 as mitigation is authorized pursuant to a future coastal development permit. If module W16 is not fully restored concurrent with the disposal of excavated materials from the restoration project onto Disposal Site 32, an amendment to this CDP is required to revise the restoration plan to avoid or reduce disposal on existing wetlands in DS32.

