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STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE AND DE NOVO HEARING
For A-5-MDR-12-161

Local Government: County of Los Angeles

Local Decision: Approval with Conditions

Appeal Number: **A-5-MDR-12-161**

Applicant: **County of Los Angeles**

Project Location: Northeast corner of Via Marina and Tahiti Way (Parcel 9), Marina del Rey, County of Los Angeles

Project Description: Construction and maintenance of a 1.46 acre public tidal wetland and upland park including site grading and extraction of existing structural pilings, and constructing a tidal inlet through the marina seawall.

Appellants: David Barish (We ARE Marina del Rey) and Marcia Hanscom (Wetlands (Defense Fund)

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that **a substantial issue exists** with respect to the grounds on which the appeal has been filed because the project approved by the County is not consistent with the Marine Resources protection policies of the certified LCP with regards to maintaining, enhancing, and restoring the biological productivity of the existing wetland (see Motion, page 6).

Staff further recommends that the Commission, after a public de novo hearing, approve the permit, with special conditions set forth in the staff report. As conditioned the proposed development will be consistent with the access and resource policies of the LCPA and the Coastal Act (see Motion page 20).

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APPENDICES

EXHIBITS

I. APPEAL PROCEDURES

After certification of a local coastal program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on Coastal Development Permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea, or within three hundred feet of the inland extent of any beach, mean high tide line, or the top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not the designated "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. [Coastal Act Section 30603(a)].

The County of Los Angeles' Marina del Rey LCP was certified on May 10, 1995. The County approval of the proposed project [CDP Number 2006-00006-(4)] is appealable because the project is located between the sea and the first public road paralleling the sea.

Section 30603(a) of the Coastal Act identifies which types of development are appealable. Section 30603(a) states, in part:

> *(a) After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:*
>
> *(1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.*
>
> *(2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.*

The grounds for appeal of an approved local Coastal Development Permit in the appealable area are stated in Section 30603(b)(1), which states:

> *The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.*

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the Commission is deemed to have found that the appeal raises a substantial issue, and the Commission will proceed to the de novo public hearing on the merits of the project.

The de novo hearing will be scheduled at the same hearing or a subsequent Commission hearing. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, findings must be made that any approved project is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing.

The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project.

II. APPELLANTS' CONTENTIONS

The County approval of the proposed development was appealed on June 7, 2012, by David Barish representing We ARE Marina del Rey and Marcia Hanscom representing Wetlands Defense Fund. The appellants contend that:

1. The filling of wetlands to make room for commercial development is not permissible per Coastal Act Section 30233 and existing case law (Bolsa Chica land Trust et al., v. Superior Court of San Diego County

2. The filling and/or restoration of wetlands is only permitted where there is no feasible less environmentally damaging alternative (Coastal Act Section 30233)

3. The existing wetland boundary appears to have been underestimated. Therefore, the extent of the existing wetland proposed to be filled is underestimated.

4. The buffer provided for in the Wetland Project is only 25 feet.

III. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

MOTION:

I move that the Commission determine that Appeal No. A-5-MDR-12-161 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed.

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-5-MDR-12-161 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND AREA HISTORY

The proposed project is located on Parcel 9 in Marina del Rey, County of Los Angeles. Parcel 9 is located in the northeasterly corner of Via Marina and Tahiti Way. Parcel 9 is approximately 3.66 acres in size. The proposed project will be located in the southern approximately 1.46 acres of Parcel 9.

The certified Local Coastal Program, as amended in 2011, designates the northern portion of Parcel 9 (2.2 acres) as "Hotel" with a Waterfront Overlay Zone (WOZ[1]). The southern portion, or 1.46 acres of Parcel 9, is designated as "Open Space" with a WOZ.

The applicant proposes the construction and maintenance of a 1.46 acre public tidal wetland and upland park (Wetland Park) including site grading and extraction of existing structural pilings, and constructing a tidal inlet through the marina seawall. The proposed 1.46 acre Wetland Park will consist of a "muted" tidal salt marsh surrounded by a 25 foot buffer separating the wetland area from surrounding development. The Wetland Park will include (a) a 28 foot wide fire access lane along the northern boundary of the Wetland Park, with a 72-inch wide meandering concrete pedestrian walking

[1] The Waterfront Overlay Zone (WOZ) is a land use category within the Marina del Rey LCP that is intended to provide additional flexibility for development of coastal-related and marine dependent land uses primarily on waterfront parcels.

path; (b) a picnic table in the northwestern corner; (c) a 72-inch wide decomposed granite walking path meandering around the perimeter of the Wetland Park; (d) a viewing area at the western side of the Wetland Park; (e) park landscaping containing native and wetland plant species; (f) a connection pipe that will provide the wetland with a tidal connection to the marina; (g) a 28-foot wide waterfront pedestrian promenade along the Parcel 9 bulkhead; (h) and an educational gathering area with informational signage, seating, and an overhead wood trellis in the northeastern corner of the Wetland Park (see **Exhibit No. 4**).

Parcel 9 is currently vacant. In 1979, the Commission approved, with special conditions, a Coastal Development Permit (A-207-79) for the construction of a four-story, 200 room hotel with 25,000 square feet of commercial space on Parcel 9. The applicant satisfied the conditions of the permit, including payment of an in-lieu fee of $365,000 into a hostel subsidy fund for the construction of a youth hostel[2]. Following issuance of the permit construction began on the site in the early 1980's. The site was graded and foundation piles were constructed. However, shortly after construction began, the applicant filed bankruptcy and the site was abandoned and has remained vacant. Construction activity left a depression in the southern portion of the parcel and due to seasonal ponding approximately .47 acres within the depressed area support a wetland.

B. AREA WIDE DESCRIPTION

Marina del Rey covers approximately 807 acres of land and water in the County of Los Angeles (see **Exhibit No. 2**). Marina del Rey is located between the coastal communities of Venice and Playa Del Rey. The Marina is owned by the County and operated by the Department of Beaches and Harbors. Marina del Rey was historically part of a large estuary but was dredged and filled to create the marina and surrounding development.

The existing marina began its development in 1962 when the dredging of the inland basin was completed. The primary use of the Marina is recreational boating. The marina provides approximately 5,923 boating berths, including transient docks, a public boat launch ramp, repair yards, charter and rental boats, harbor tours, and sailing instructions.

Other recreational facilities include: Burton W. Chase Park, Admiralty Park, a public beach and picnic area, bicycle trail, and limited pedestrian access along the marina bulkheads and north jetty promenade. Along with the recreational facilities the Marina is developed with multi-family residential projects, hotels, restaurants, commercial, retail and office development.

Within the marina, most structural improvements have been made by private entrepreneurs, operating under long-term land leases. These leases were awarded by open competitive bids in the early and mid 1960's. The developers were required to construct improvements on unimproved parcels in conformance with authorized uses designated in their leases and pursuant to a master plan for the Marina. Most leases will expire after 2020.

[2] Coastal Development Permit No. 5-86-175 approved the rehabilitation of a historic building in the City of Santa Monica and conversion of the building into a 196 bed American Youth Hostel. The permit also authorized the transfer of hostel subsidy funds ($730,000) from two Marina del Rey hotel projects (A-207-79 and A-49-79) to fund the Santa Monica hostel project.

Within the existing marina development has occurred on all but one leasehold parcel (parcel 9). This development is generally referred to as Phase I development. Recycling, intensification, or conversion of these initial uses on leased parcels is referred to as Phase II development.

C. LOCAL COASTAL PROGRAM BACKGROUND

In 1984, the Commission certified the County's Land Use Plan portion of the Marina Del Rey/Ballona segment of the County of Los Angeles Local Coastal Program. Subsequent to the Commission's certification, the City of Los Angeles annexed over 525 acres of undeveloped land, which was a portion of the County's LCP area located south of Ballona Creek and east of Lincoln Boulevard (known as Area B and C). Subsequent to the City's annexation, the City submitted the identical Land Use Plan (the Playa Vista segment of the City's Local Coastal Program) covering the City's portion of the original County LCP area. The Commission certified the LCP for the annexed area with suggested modifications on December 9, 1986. The County also resubmitted those portions of their previously certified LUP that applied to areas still under County jurisdiction, including the area known as Area "A", and the existing Marina. The Commission certified the County of Los Angeles' revised Marina Del Rey land Use Plan on December 9, 1986.

On September 12, 1990, the Commission certified, with suggested modifications, an Implementation Program pertaining to the existing marina. The undeveloped area in the County, Playa Vista Area "A" was segmented from the marina and no ordinances were certified for the area. After accepting the suggested modifications, the Commission effectively certified the Marina Del Rey LCP and the County assumed permit issuing authority.

In 1995, the County submitted an amendment to the LCP. In May 1995, the Commission certified the LCPA with suggested modifications. The County accepted the modifications and the LCP was effectively certified as amended.

On November 10, 2011, the Commission approved LCP amendment No. 1-11 with suggested modifications. At the February 2012 hearing, the Commission concurred with the Executive Director's determination that the County's action incorporating the Commission's suggested modifications was legally adequate and effectively certified the LCP amendment No. 1-11. The amendment adjusted the location of development authorized by the existing certified LCP; incorporated changes in response to the Periodic Review; and made minor grammatical, typographical and reference corrections. The LCPA addressed four specific projects (the "Pipeline Projects"):

1. Parcels 10 - A proposal to demolish an existing 136 unit apartment complex, located on Marina del Rey lease parcel 10R, and to build in its place a new apartment complex with 400 units.

   Parcel FF – A proposal to demolish an existing 201 space public parking lot, located on Marina del Rey lease parcel FF, and to build in its place a new apartment complex with 126 units. An in lieu fee for this project is required to replace half of the public parking spots on the existing lot to a location near Chace Park. In addition, the project is also conditioned to provide funds to build a wetland park on the southern portion of Marina del Rey lease parcel 9 and to build a transient boat dock in the basin adjacent to Parcel 9.

2. Parcel OT – A proposal to demolish an existing 186 space public parking lot, and to build in its place a 114-unit Senior Accommodations Facility on Marina del Rey lease parcel OT. This facility would also include 3,500 square feet of Visitor-Serving/Convenience Commercial space and 92 public parking spaces.

3. Parcels 49/77 - A Request for Proposals (RFP) was released, in October of 2009, by the County of Los Angeles for a mixed use project to be built on Marina del Rey lease parcels 49 and 77. The RFP asked for proposals to convert an existing public parking lot and boat storage area into one of the three following options:

    i. Option 1 = A 135,000 square foot Visitor-Serving/Convenience Commercial center.

    ii. Option 2 = A 116,495 square foot Visitor-Serving/Convenience Commercial center with 255 dwelling units.

    iii. Option 3 = Either of the first two options with the addition of a 26,000 square foot Beaches and Harbors administration building.

    The proposed project is conditioned to require that all of the boating amenities currently onsite will be replaced prior to construction of the project

4. Parcel 52/GG – A proposal to demolish an existing 238 space temporary public parking lot, the Department of Beaches and Harbor's trailer complex and the Sheriff's Boatwright/Life Guard facility and replace them with a 345 space dry stack boat storage facility with an additional area for 30 mast up storage spaces.

In addition to the four pipeline projects, the amendment also changed the designated land use on Parcel 9 from "Hotel" to "Hotel" and "Open Space" and included policies to allow the future development of an approximately 1.5 acre "Wetland Park" and restore and enhance the existing wetlands as a tidally influenced salt marsh.

D. DESCRIPTION OF LOCAL APPROVAL

On March 10, 2010, after numerous public hearings, the Los Angeles County Planning Commission approved coastal development permit number 2006-00006-(4), with conditions, for site preparation work (including site grading and extraction of existing structural pilings), and the construction and ongoing maintenance of a public upland and wetland park (including piercing of the seawall to facilitate installation of a pipe allowing a tidal connection from Marina Basin B to the wetland) and an adjacent 28-foot wide waterfront public pedestrian promenade on Parcel 9. Pursuant to section 22.60.230 of the Los Angeles County Code, the Planning Commission's action was appealed by a member of the opposition group "We Are Marina Del Rey" to the Los Angeles County Broad of Supervisors (Board). On April 26, 2011, after public hearing, the Board denied the appeal. Subsequently, on May 15, 2012, the Board approved the coastal development permit.

On May 23, 2012 the County's final action notice was received by the Coastal Commission's South Coast District office.

E. SUBSTANTIAL ISSUE ANALYSIS

Section 30603(a)(1) of the Coastal Act states:

> *The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division*

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

> *With respect to appeals to the Commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., tit. 14, section 13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the Coastal Act;

2. The extent and scope of the development as approved or denied by the local government;

3. The significance of the coastal resources affected by the decision;

4. The precedential value of the local government's decision for future interpretations of its LCP; and

5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the County raises a substantial issue with regard to the appellants' contentions regarding coastal resources.

APPELLANTS' CONTENTIONS THAT RAISE A SUBSTANTIAL ISSUE

1. Appellants contend: The existing wetland boundary appears to have been underestimated. Therefore, the extent of the exiting wetland proposed to be filled is underestimated. The appellants assert that:

> …we have determined that the biologist had incorrectly established the wetland boundary due to inconsistencies in application of the 1-parameter Coastal Commission methodology of wetland delineation and due to misstatements of facts and findings.
>
> The Coastal Commission methodology of wetland delineation requires only one of three wetland parameters be met: wetland hydrology, hydric soils or hydrophytic vegetation.

The appellant is referring to Section 13577 of the California Code of Regulations that defines wetlands as:

> *(1) ... Wetland shall be defined as land where the water table is at, near, or above land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes....[T]he upland limit of a wetland shall be defined as:*
>
> *(A) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;*
>
> *(B) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or*
>
> *(C)in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.*

The property consists of an empty lot vegetated primarily with upland ruderal species. The southern portion of the parcel includes an excavated depression that supports a mixture of native and exotic plant species. The southern margin of the basin consists of a berm made up of excavated material from previous construction activity on the site. The berm supports narrow-leaved willow (Salix exigua). Due to seasonal ponding, portions of the depressed area meet the criteria for wetland designation. The wetland areas support several species of plants characteristic of salt marshes presumably due to fill soils with a high salt content and proximity to nearby salt marsh habitats. The wetland is currently degraded and has low habitat value and function due to its isolation, limited size, and presence of non-native and invasive plant species.

Numerous studies have been conducted to delineate the wetlands on Parcel 9U. Dr. Jonna Engel, Coastal Commission ecologist, has reviewed the studies and has inspected the site and prepared a report of her observations, which are referenced here (for the full report see **Exhibit No. 9**). In reviewing the various delineation reports Dr. Engel states:

The first wetland study was conducted by PCR[3] in 2001. PCR based their wetland boundary on an initial reconnaissance survey to distinguish the vegetation characteristics of the upper areas versus the lower areas on the site and data from three sample locations. From their observations and data, PCR estimated that the site supported 1.3 acres of wetland (Figure 1). In 2003 EDAW[4] conducted a wetland study following the methodology used by PCR (EDAW, however, sampled only two locations) and estimated a wetland boundary similar in outline and extent to PCR (Figure 2). Both PCR and EDAW reported that their wetland boundary estimates were based on jurisdictional wetland delineations using the ACOE three parameter criteria. Glenn Lukas Associates (GLA) next conducted a series of wetland studies spanning nine years (2004/2005, 2008, 2010, 2011, and 2012). Figure 3 depicts the wetland boundary determinations GLA made following their 2004/2005 and 2008 surveys. Figure 4 is a compilation of GLA's survey work through the years including data point locations, estimated wetland boundaries, and ponding boundaries. GLA's final wetland boundary determination consists of a 0.47 acre area. GLA's wetland studies involved a higher level of scrutiny than the PCR and EDAW studies; GLA conducted much more intensive sampling. And the wetland boundary estimates are quite different; GLA's wetland boundary determination is significantly smaller than the wetland boundaries estimated by PCR and EDAW.

According to Dr. Engel several factors may account for the discrepancy in the wetland boundary determinations;

1) PCR and EDAW, like many professionals, treated Italian ryegrass, *Lolium multiflorum,* as synonymous with the wetland indicator perennial ryegrass, *L. perenne,* whereas GLA did not. PCR and EDAW also treated seaside helioptrope, *Heliotropium curassavicum,* and Bermuda grass, *Cynodon dactylon* as wetland indicators while GLA did not[5];

2) PCR and EDAW made broad brush boundary determinations (PCR collected three and EDAW collected two wetland samples) and included slope areas, that in my opinion, would not meet the hydrophytic vegetation, hydric soil, or hydrology criteria, while GLA conducted more intensive studies and collected 8, 14, 7, 3, and 34 samples in 2004/2005, 2008, 2010, 2011, and 2012, respectively; and;

3) GLA excluded areas (Figure 4, area A and area B) that meet the criteria for hydrophytic vegetation because Mr. Bomkamp (Senior Biologist with GLA) contends that the pickleweed (Sarcocornia pacifica) in these areas is acting as a phreatophyte[6] and the other plants with wetland status are acting as upland species. Mr. Bomkamp also

[3] PCR is an environmental consulting corporation.
[4] EDAW is a design, planning, and environmental consulting corporation.
[5] With release of the updated 2012 wetland plant list (Lichvar, R.W. 2012. The National Wetland Plant List (Arid West 2012 Final Regional Wetland Plant List). ERDC/CRREL TR-12-11. Hanover, NH: U.S. Army Corps of Engineers, Cold Regions Research and Engineering Laboratory), that Dr. Engel used as the basis of her wetland boundary analysis, the status of seaside heliotrope, changed from OBL to FACU, and Bermuda grass changed from FAC to FACU.
[6] A phreatophyte is a deep-rooted plant that obtains a significant portion of the water that it needs from ground water or the water table.

> *maintains that areas A and B are not wetlands because he did not find hydric soils and he asserts that these areas do not have the necessary hydrology.*

Because of the discrepancies in the wetland boundary delineations and Mr. Bomkamp's contention that areas with a dominance of wetland plant species are not wetlands, Dr. Engel arranged a site visit with Mr. Bomkamp in July 2012 to compare on-the-ground conditions with the various mapped wetland boundaries and wetland report data. During her inspection of the site, Dr. Engel observed that the upper areas and slopes, surrounding the depressional area that was created by previous construction activity, were dominated by upland weedy native and non-native species and states in her report:

> *The upper areas and slopes surrounding the depression are dominated by weedy upland native and non-native species such as rip-gut brome, Bromus diandrus, red brome, Bromus madritensis rubens, perennial rye grass, Lolium perenne, Bermuda grass, Cynodon dactylon, cheeseweed, Malva parviflora, and chrysanthemum, Chrysanthemum coronarium and scattered individuals and patches of seaside heliotrope, Heliotropium curassavicum. There is a sharp demarcation between the vegetation on the upper areas and slopes versus the depression; knee to thigh high weeds dominate the upper areas and slopes while the depression is characterized by ankle high vegetation and bare areas (Figure 5). Standing on site while examining the PCR and EDAW maps I concluded that their wetland boundaries encompassed some upper areas and slopes dominated by weedy upland species that should be excluded (Figure 1 and 2). GLA's map has the more accurate in-out wetland boundary based on on-the-ground conditions and the sampling data, save two areas (Figure 4, area A and area B), that Mr Bomkamp excluded for the reasons stated above. These areas required closer scrutiny*

Pursuant to Section 13577 of the California Code of Regulations the Coastal Commission's regulations establish a "one parameter definition" that only requires evidence of a single parameter to establish wetland conditions. Wetland determinations based on the Commission definition may be more inclusive than U.S. Army Corps of Engineer's (ACOE) wetland determinations, which are based on a three-parameter definition. This means that wetlands delineated within the coastal zone may fall closer to the dry end along a dry-wet continuum. In addition, the Commission treats man-made, poorly functioning, or degraded areas that meet this definition as wetlands.

The Commission recognizes, however, especially in the arid west, that it is possible to erroneously identify an area as wetland using one parameter. Such cases may involve what the ACOE labels an 'atypical situation' where an indicator has been removed by human activity or a 'problem area' where indicators are difficult to interpret. An example of a problem area would be an area lacking hydric soils, hydrology, and topographical wetland indicators that is dominated by a single FAC plant[7]. Both situations often require further examination to resolve the wetland/non-wetland status. In the case of Parcel 9, it is Dr. Engel's opinion that areas A and B are not examples of

[7] FAC wetland indicator status means that a plant has a 33 to 67% chance of living in a wetland. For example, a particular plant with FAC status might be found in wetlands 33% of the time and uplands 67% of the time. Another plant with FAC status might be found in wetlands 67% of the time and uplands 33% of the time. Both species would be considered wetland indicators in arid west wetland determinations.

problem areas and that the wetland/non-wetland boundaries are easily discerned from her site after review of sampling data and her personal observations at the site.

Based on additional test pits that were excavated at the request of Dr. Engel, and further analysis of the soil type and wetland vegetation, Dr. Engel concluded that to the north and immediately adjacent to the unambiguously mapped wetland, there are additional areas that are wetlands. Therefore, the wetland boundary should be adjusted to include the areas to the north as shown in **Exhibit No. 5**. In addition, based on additional test pits and observations of the vegetation type along the eastern and southern boundaries of the delineation, near the existing berm, Dr. Engel determined that the area did not exhibit wetland characteristics and was not a wetland. Therefore, the wetland delineation map should include additional area to the north and a reduction in area to the south as shown in **Exhibit No. 5**.

Because of the discrepancies in the wetland boundary determination, pursuant to the Coastal Commission's wetland definition, the proposed wetland restoration project may not adequately mitigate the actual wetland area that would be adversely impacted by the project. The certified LCP, as amendment in 2011, includes policies for the enhancement and restoration of the wetland and development of a Wetland Park on Parcel 9. The LCP states that the wetland area within the southern portion of Parcel 9 would be developed as a 1.46 acre park and the wetlands would be restored. The exact size and area of the wetland within the 1.46 acre park would be determined and based on wetland delineations that would be required as part of the County's permitting process. However, the certified LCP, under Section B.4. Marine Resources policies, states that:

> *The existing wetlands, including the flood control basin on a portion of Parcel P, the Marina waters, and a portion of Parcel 9 are the marine resources which shall be maintained and, where feasible, enhanced and restored. Uses permitted in or adjacent to these areas shall be carried out in a manner to protect the biological productivity of these marine resources and maintain healthy populations of marine organisms.*

As determined by Dr. Engel and discussed above, the delineation of the actual wetland boundary that the Counnty relied on in developing the wetland restoration project is not accurate and does not accurately portray the boundaries of the wetland on Parcel 9. Therefore, as currently designed, it is not evident in the County's proposal if all the wetlands on Parcel 9 are, where feasible, being enhanced or restored and properly mitigated by the restoration project. Therefore, based on the information provided, the wetland delineation does not actually represent the boundaries of the wetland, and it can not be determined that there will not be any adverse impacts to the marine resources found on Parcel 9 that are not being maintained, enhanced and restored, and will be consistent with the Marine Resources policy protecting the wetland. Therefore, the appellant's contention does raise a substantial issue with respect to Marine Resource protection provisions of the certified LCP.

APPELLANTS' CONTENTIONS THAT DO NOT RAISE A SUBSTANTIAL ISSUE

1. **Appellants contend:** The filling of wetlands to make room for commercial development is not permissible per Coastal Act Section 30233 and existing case law (Bolsa Chica land Trust et al., v. Superior Court of San Diego County).

Section 30233 of the Coastal Act, that has been incorporated into the LCP, states:

> *(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:*
>
> *(l) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
>
> *(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
>
> *(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.*
>
> *(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
>
> *(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
>
> *(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
>
> *(7) Restoration purposes.*
>
> *(8) Nature study, aquaculture, or similar resource dependent activities.*
>
> *(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.*
>
> *(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 l9 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.
…

Since the certification of the Marina del Rey LCP in 1992, the entire 3.66 acres of parcel 9 was designated as "Hotel". In 1999 the County issued a Request For Proposal for a hotel and park on parcel 9, unaware at the time that a wetland had formed on a portion of the parcel. Subsequently, once the County became aware of the existence of a wetland, the hotel design was suspended until further analysis could be completed. After various wetland delineations were conducted, and consultations with Commission staff, the area for a future hotel was redesigned to be outside of the delineated wetland and buffer area. Then in 2011, under LCP amendment 1-11, the Commission approved a change in land use designation from "Hotel" only to "Hotel" and "Open Space" to allow future development of a hotel in the northern portion of the parcel and the creation of a 1.46 acre Wetland Park in the southern portion to preserve and enhance the existing wetland. In addition, the certified LCP, as amendment in 2011, includes policies to ensure the enhancement and restoration of the wetland and development of a 1.46 acre Wetland Park. The exact size and area of the wetland within the 1.46 acre park would be determined based on wetland delineations that would be required as part of the County's permitting process. In certifying the LCP, the Commission found that the proposed Wetland Park project would be consistent with Section 30233 since the project is a restoration project and the existing degraded wetlands' functional capacity would be enhanced through the restoration. The preservation and restoration of the wetland on parcel 9 and designating the northern portion of the parcel as "Hotel" for future development of a hotel, on the non-wetland portion of the parcel, was thoroughly addressed by the Commission in the approval of the LCP amendment.

The appellant's reliance on the Bolsa Chica court decision [Bolsa Chica Land Trust v. Superior Court (California Coastal Commission) 71 Cal.App.4th. 493] is misplaced as it relates to this project. The court found in the Bosla Chica case that residential development is not an allowable use under section 30233 of the Coastal Act for fill of wetlands. The Bolsa Chica decision is not applicable in this particular case. The proposed project, as stated, does not involve fill of wetlands for residential purposes, rather, it involves restoration of the wetland, an allowable use within wetlands under section 30233 of the Coastal Act and the LCP's marine resource policies that allows the wetland on Parcel 9 to be enhanced, restored and converted to a salt water marsh.. The proposed project will restore the existing wetland through removal of remnants of the previous hotel construction, recontouring the site, creating a tidal inlet, removing non-native vegetation, and replanting the area with a mix of native coastal salt marsh species and transitional vegetation including coastal prairie and coastal sage scrub species. The existing wetlands will not be impacted or replaced by the future planned hotel, there will be no net loss of on-site wetland acreage, and the habitat value will be improved through increased biodiveristy.

As proposed, enhancement and restoration of the existing wetland, the proposed project is consistent with the certified LCP. The standard of review for the appeal is the certified LCP. The appellant has not provided any information or documentation showing how the proposed wetland project is inconsistent with the certified LCP, therefore, the appellant's contention does not raise a valid ground for appeal with respect with the standards of the LCP or the access policies of the Coastal Act.

2. Appellants contend: The filling and/or restoration of wetlands is only permitted where there is no feasible less environmentally damaging alternative (Coastal Act Section 30233)

The project site, as well as the rest of the marina, was historically a tidal salt marsh. With the dredging of the marina in the 1960's the surrounding area was filled in and converted to developable land fill. Because of partial development and abandonment of the site in the early 1980's, a small degraded artificial seasonal wetland developed in the southern portion of the parcel. However, because of the absence of water throughout most of the year and the small area of the wetland, biodiversity is low and the wetland is considered degraded. The County's proposal for the wetland is to create a tidally influenced salt marsh and improve the wetland value, which was approved as part of the certified LCP. This type of wetland was recommended to the County by Dr. John Dixon, Coastal Commission biologist. Dr. Dixon recommended a tidal marsh because the area was historically a tidal salt marsh, and salt marsh wetlands are among the most productive ecosystems supporting higher floral and faunal diversity—providing better habitat value than the existing seasonal degraded wetland—therefore, this type of wetland was considered best for providing optimum habitat for this area.

Furthermore, a coastal development permit (A-207-79) was previously issued and the development of a hotel was vested through the partial construction of the approved hotel. Legally, under the previously issued coastal development permit there is an argument that the entire site, as previously approved, can be developed as a hotel. However, the County, rather than pursue development of a hotel, worked with Commission staff during the preparation of the Marina del Rey 2011 LCP amendment, to preserve the site for wetland restoration and re-designated the southern portion of the parcel as "Open Space" in the LCP, and included development policies to preserve and enhance the existing wetland on Parcel 9. Therefore, restoring the existing degraded wetland into a tidal wetland, creating a more diverse habitat with higher habitat value than what is existing, rather than construction of a hotel, would be a less environmentally damaging alternative, consistent with Section 30233 of the Coastal Act.

As proposed to enhance and restore the existing wetland, the proposed project is consistent with the certified LCP. The standard of review for the appeal is the certified LCP. The appellant has not provided any information or documentation showing how the proposed wetland project is inconsistent with the certified LCP, therefore, the appellant's contention does not raise a valid ground for appeal with respect with the standards of the LCP or the access policies of the Coastal Act.

3. Appellants contend: The record does not show any evidence as to why a 25 foot buffer was selected for the wetland. Coastal Commission typically requires a 100 foot buffer and 50 foot for riparian wetlands. The minimum buffer should be 50 ft. for this type of wetland area.

As stated, the existing wetland area was the result of construction and grading activity that was abandoned and seasonal ponding in the man-made depression. The site is constrained by surrounding development. The southern and eastern boundaries are adjacent to roadways. The western portion of the site is developed with a pedestrian walkway and the marina. The northern area is currently vacant with planned future development of a hotel, as allowed under the certified

LCP. The proposed project will include recontouring the area, planting coastal salt marsh species and transitional coastal prairie and coastal sage scrub species and installing a tidal connection to create a tidally influenced coastal salt marsh, all of which will improve the function and biodiversity of the habitat.

As proposed, the project will provide a 25-foot buffer around the perimeter of the delineated approximately .47 acre wetland. Twenty-five feet is the minimum buffer; in several areas the buffer is much greater. It is also important to note that there will be an approximate 12-foot grade separation between the wetland surface and the upper portions of the buffer, providing additional screening while enhancing the buffer functions. The buffer will be planted with coastal prairie and coastal bluff scrub species in the transitional areas of the Wetland Park. Adjacent to the buffer along the northern area, the plan includes a 28 foot wide bromanite grasscrete fire access lane. The fire lane will include a 72-inch wide concrete pedestrian walkway and a decomposed granite pedestrian walkway along the southern and western portion of the Wetland Park. Along the eastern boundary, the existing 10 foot wide pedestrian promenade will be improved with a new 28 foot-wide waterfront pedestrian promenade.

Buffer areas are generally designed as undeveloped lands surrounding wetlands or other sensitive areas. Buffer areas serve to protect wetlands and other habitat areas from the direct effects of nearby disturbances. In addition, buffer areas can provide necessary habitat for organisms that spend only a portion of their life in the wetland such as amphibians, reptiles, birds, and mammals. Buffer areas can also provide obstructions which help minimize the entry of domestic animals and humans to wetlands and provide visual screening between wetland species that are sensitive to human impacts, such as from lighting. Buffers can also reduce noise disturbances to wetland species from human development.

Commission staff determine buffer dimension recommendations based on a number of factors including quality of the habitat, site contraints, and level of urbanization. The certified LCP does not specify the size of habitat buffers. Typically, for projects reviewed by the Commission, the Commission imposes buffers of 100 feet from the edge of habitat areas, such as wetlands. However, in past coastal permit action, the Commission has approved habitat buffers less than 100 feet and to a minimum of 25 feet based on habitat value and site constrains. For example, in Dana Point, the Commission approved a 25-foot buffer for a disturbed 0.18 to 0.24 acre freshwater marsh adjacent to a proposed 48-unit residential development (CDP 5-92-188-A4). The Commission found that due to the limited size, surrounding development, and disturbed nature of the freshwater marsh, the provision of a 25-foot buffer was adequate under the circumstances. In Seal Beach, the Commission approved a 107 acre 23 lot subdivision with grading and infrastructure improvements for a future Retail/Commercial/Business Park. On site were three drainage ditches (earthen channels) that were constructed on the site in 1966 to drain the existing Boeing facility (CDP No. 5-05-355 Boeing Realty Corporation). The drainage ditches provided .06 acres of wetlands. The project included a wetland enhancement plan increasing the existing 0.06 acre of on-site wetlands to approximately 1.34 acre of wetland habitat. The Commission approved a 25-foot buffer around the wetland area. The Commission found that a 25 foot buffer was expected to be effective because the wildlife usage on the site was limited, the limited habitat value, and the ditches were not natural and were created as drainage conveyance devices. The Commission found that the proposed habitat plan would enhance the existing marginal on-site

habitat areas. For these reasons, the Commission found that the proposed reduced buffers would be effective.

The County, in designing the 1.46 acre Wetland Park, consulted with Dr. Dixon, and designed a 25- foot buffer around the restored wetland consistent with Dr. Dixon's recommendation. In this case, as in the others mentioned above, the 25 foot buffer is expected to be effective because the wildlife usage on the site is limited, the site is very constrained due to surrounding urban development, the wetland is isolated and disturbed by invasive and non-native species and, as such, has low habitat and functional value. The proposed wetland restoration project will enhance the wetland and transition habitats by recontouring, replanting, opening the area to muted tidal exchange thus creating higher value habitat with enhanced function and biodiversity.

Furthermore, as stated above, the certified LCP as amended in 2011, includes policies for the enhancement and restoration of the wetland and development of a Wetland Park on Parcel 9. The LCP states that the wetland area within the southern portion of Parcel 9 would be developed as a 1.46 acre park and the wetlands would be restored. As proposed to enhance and restore the existing wetland, the proposed project is consistent with the certified LCP. The standard of review for the appeal is the certified LCP. The appellant has not provided any information or documentation showing how the proposed wetland project is inconsistent with the certified LCP, therefore, the appellant's contention does not raise a valid ground for appeal with respect with the standards of the LCP or the access policies of the Coastal Act.

Substantial Issue Factors

As discussed above, there is factual and legal evidence that the County-issued CDP raises a substantial issue with regard to its consistency with the certified LCP. The other factors that the Commission normally considers when evaluating whether a local government's action raises a substantial issue also support a finding of substantial issue. The locally-issued CDP will create an adverse precedent for interpretation of the County's LCP. Finally, the one valid objection to the project suggested by the appellant raises a substantial issue of regional or statewide significance since the locally-approved permit did not include the full extent of wetland area slated for restoration as dictated in the LCP.

Conclusion

The Commission finds that a substantial issue exist with respect to the approved project's conformance with the Marine Resources protection policies of the certified LCP with regards to maintaining, enhancing, and restoring the biological productivity of the existing wetland area due to an underestimation of the actual size of the existing wetland area. Therefore, appeal No. A-5-MDR-12-161 raises a substantial issue with respect to the grounds on which the appeals have been filed with regards to consistency with the certified LCP.

V. STAFF RECOMMENDATION ON THE DE NOVO HEARING

Motion:

I move that the Commission approve Coastal Development Permit No. A-5-MDR-12-161 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit 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:

The Commission hereby approves coastal development permit A-5-MDR-12-161 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of the certified Local Coastal Program the public access policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

VI. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

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

VII. SPECIAL CONDITIONS

1. Final Habitat Restoration and Management Plan

A. The permittee shall revise, implement and comply with all the habitat creation, restoration and preservation measures for the project site as approved by the Executive Director in the final Habitat Restoration and Management Plan pursuant to this special condition.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit a revised, final habitat restoration and management plan and map, for review and approval by the Executive Director. Prior to submittal of the final habitat restoration and management plan to the Executive Director, it shall be reviewed and approved by the California Department of Fish & Game and U.S. Fish & Wildlife Service. The final habitat restoration and management plan shall substantially conform to the habitat restoration and management plan dated February 2006 [Revised November 2006] as modified and specified below. The final habitat restoration and management plan shall be modified as follows:

1. Revise Wetland Park Restoration Plan map to represent the change in wetland delineation depicting a total of a minium of 28,590 square feet of restored wetland area.

2. Revise the coastal salt marsh, coastal prairie, and coastal sage scrub plant palettes to reflect those species expected to occur in southern California coastal salt marsh and transitional habitats. And remove maritime chaparral and coastal bluff vegetation from the "Conceptual Restoration Plan for Degraded Artificial Wetland Associated with Prcel 9U Marina del Rey", prepared by Glen Lukos and Associates, dated February 2006 [Revised November 2006].

3. The permittee shall install protective fencing or barriers along any interface with developed areas and/or use other measures, designed in consultation with the Department of Fish and Game and the Fish and Wildlife Service and approved by the Executive Director, to deter human and pet entrance into all restored and preserved wetland and buffer areas. Plans for fencing and/or other preventative measures shall be submitted to the Executive Director for review and approval prior to the issuance of the coastal development permit in accordance with the 'Construction Staging Area and Fencing' special condition of this permit.

4. The permittee shall implement a perpetual management, maintenance and monitoring plan for all the habitat restoration areas. The plan shall include monitoring activities of the final habitat restoration and management plan as approved by the Executive Director and shall also include a perpetual management, maintenance and monitoring plan beyond that specified in the "Conceptual Restoration Plan for Degraded Artificial Wetland Associated with Prcel 9U Marina del Rey", prepared by Glen Lukos and Associates, dated February 2006 [Revised November 2006]. The plan shall also include a specific protocol that details the procedures and substantive criteria for compliance with the Habitat Restoration Plan monitoring report, required by this condition, in subsection C, below.

A. The permittee shall revise, implement and comply with all the habitat creation, restoration and preservation measures for the project site as approved by the Executive Director in the final Habitat Management Plan pursuant to this special condition.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit a revised, final habitat management plan and map, for review and approval by the Executive Director. Prior to submittal of the final habitat management plan to the Executive Director, it shall be reviewed and approved by the California Department of Fish & Game and U.S. Fish & Wildlife Service. The final habitat management plan shall substantially conform to the habitat management plan dated February 2006 [Revised November 2006] as modified and specified below. The final habitat management plan shall be modified as follows:

1. Revise Wetland Park Restoration Plan map to represent the change in wetland delineation depicting a total of 28,896 square feet (.66 acres) of restored wetland area.

2. Remove Maritime Chaparral and coastal bluff vegetation from the proposed plant palette from the "Conceptual Restoration Plan for Degraded Artificial Wetland Associated with Prcel 9U Marina del Rey", prepared by Glen Lukos and Associates, dated February 2006 [Revised November 2006], and replace with a mix of either coastal prairie or coastal sage scrub plants.

3. The permittee shall install protective fencing or barriers along any interface with developed areas and/or use other measures, designed in consultation with the Department of Fish and Game and the Fish and Wildlife Service and approved by the Executive Director, to deter human and pet entrance into all restored and preserved wetland and buffer areas. Plans for fencing and/or other preventative measures shall be submitted to the Executive Director for review approval prior to the issuance of the coastal development permit in accordance with the 'Construction Staging Area and Fencing' special condition of this permit.

4. The permittee shall implement a perpetual management, maintenance and monitoring plan for all the habitat management plan areas. The plan shall include the monitoring activities of the final habitat management plan as approved by the Executive Director and shall also include a perpetual management, maintenance and monitoring plan beyond that specified in the "Conceptual Restoration Plan for Degraded Artificial Wetland Associated with Prcel 9U Marina del Rey", prepared by Glen Lukos and Associates, dated February 2006 [Revised November 2006].

5. Appropriate controls and services that prohibit the entry of domesticated animals into habitat restoration areas shall be identified and implemented. In addition, appropriate controls and services shall be identified and implemented for areas where domestic animals, only on leashes, may be permitted, such as trails.

C. Five years from the date of completion of the Wetland Park the applicant shall submit for the review and approval of the Executive Director, a Habitat Restoration Plan monitoring report,

prepared by a licensed Landscape Architect or qualified Resource Specialist, that includes a determination of whether the on-site landscaping is in conformance with the Final Habitat Management Plan approved pursuant to this Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the Habitat Restoration Plan monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the Habitat Restoration Plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental Habitat Restoration Plan for the review and approval of the Executive Director. A revised Habitat Restoration Plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original Habitat Restoration Plan that have failed or are not in conformance with the original approved Habitat Restoration Plan.

D. The permittee shall undertake development in accordance with the approved final plans. As in all cases, this requirement continues to apply to successors in interest and their ongoing management of their property. Any proposed changes to the approved final plans or phases of construction shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Fence Plans. Fencing shall be designed to be low in order not to obstruct views to or along the Wetland Park or out to the adjacent marina. The fence shall be an open design but shall be designed to keep domesticated animals on the approved trails and walkways and out of the buffer and wetland area. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit final revised plans showing the location, design, height and materials of the fences for the review and approval of the Executive Director.

The permittee shall undertake development in accordance with the approval 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 Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Lighting. All lighting shall be directed and shielded so that light is directed away from wetlands, and other habitat and buffer areas. Floodlamp shielding and/or sodium bulbs shall be used in developed areas to reduce the amount of stray lighting into native restoration and preservation areas. Furthermore, no skyward-casting lighting shall be used. The lowest intensity lighting shall be used that is appropriate to the intended use of the lighting. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the review and approval of the Executive Director, a lighting plan to protect the wetlands, and habitat area from light generated by the project. The lighting plan to be submitted to the Executive Director shall be accompanied by an analysis of the lighting plan prepared by a qualified biologist which documents that it is effective at preventing lighting impacts upon adjacent wetlands and habitat areas.

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

4. **Signage Program.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a signage plan showing the size, wording and location of signs. The size of the signs shall be consistent with the County's sign requirements for public recreational areas.

   a) The signage plan shall include signs identifying public trials and accessways and the Wetland Park shall be installed along the trail entrances along Via Marina, Tahiti Way, and the public pedestrian promenade. The signs along the promenade shall be placed at conspicuous locations and reasonable intervals along the walkway identifying the promenade as public. The plan may include wetland interpretive signs within the park and pedestrian promenade.

   b) Signage shall be placed at the proposed Wetland Park identifying the park as public.

   c) Signage shall be placed at the parking area for the Wetland Park designating at least 21 parking spaces for public parking.

   The signage program shall include location, text and timing of installations of signs and identification and removal of any signs that are not in conformance with the approved parking program. The signs shall be large enough to be seen by the public. They shall be placed where they and the text is legible from Via Marina and other public streets and walkways outside of the project. The sign plan shall be consistent with the County's Design Control Board sign design standards and include approval by the Design Control Board.

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

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

6. **No Future Improvements Restriction.** This permit is only for the development described in coastal development permit amendment No. A-5-MDR-12-161. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, a change in the density or intensity of use land, shall require an amendment to Permit No. A-5-MDR-12-161 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government, unless the Executive Director determines that no amendment or coastal development permit is required.

7. General Construction Responsibilities

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT the applicant shall agree in writing that the final plans shall minimize construction impacts of the project and that all contracts and other written materials shall include the requirements listed below. The applicant shall further agree that the final plans shall identify acceptable locations for stockpiling and staging of materials; plans for control of erosion, stockpiled earth from trenches, and cement; as well as plans for the disposal of construction materials. The plans shall contain the following:

1) The plan shall include source control Best Management Practices as part of a written plan designed to control dust, concrete, demolition pavement or pipe removed during construction, and/ or construction materials, and standards for interim control and for clean up. All sediment waste and debris should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill. Contractors and City Inspectors shall monitor and contain oil or fuel leaks from vehicles and equipment.

2) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: filling or covering all holes/trenches in roadways such that traffic can continue to pass over disturbed areas, stabilization of all stockpiled fill, disturbed soils and trenches with shoring, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. These temporary erosion control measures shall be monitored and maintained at least on a weekly basis until grading or construction operations resume.

3) Construction materials, chemicals, debris and sediment shall be properly contained and secured on site to prevent the unintended transport of material, chemicals, debris, and sediment into habitat areas and coastal waters by wind, rain or tracking. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. BMPs selected shall be maintained in a functional condition throughout the duration of the project. A pre-construction meeting shall be held for all personnel to review procedural and BMP/GHP guidelines.

4) Disposal of debris and excess material. Debris and excess material shall be disposed or recycled at a legal disposal/recycling site. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is required. No debris or excess material shall be placed on or within adjacent park or habitat areas.

5) Debris and sediment shall be removed from the construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into habitat areas and coastal waters.

6) Any and all debris resulting from construction activities shall be removed from the project site within 7 days of completion of construction.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a site access, staging, work area and equipment storage plan(s) which conforms with the requirements of subsection A.1 through A.6 of this special condition. The permittee shall undertake development in accordance with the approved final plan(s). Any proposed changes to the approved final plan(s) shall be reported to the Executive Director. No changes to the approved final plan(s) shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

8. Parking. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a parking plan showing the number and location of public parking in support of the Wetland Park. The plan shall also include the location and type of signage indicating the availability of parking for the public. The signage shall be located in conspicuous locations adjacent to the public parking entrances, informing the public of the public parking. If a fee is charged the fee will be comparable to those charged in public lots in the vicinity of Marina del Rey, as required by the certified LCP

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

9. Archaeological Resources. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director an archeological monitoring plan prepared by a qualified professional, that shall incorporate the following measures and procedures:

1. The monitoring plan shall ensure that any prehistoric or historic archaeological or paleontological cultural resources that are present on the site and could be impacted by the approved development will be identified so that a plan for their protection can be developed. To this end, the cultural resources monitoring plan shall require that archaeological and Native American monitors be present during all grading operations unless the applicant

submits evidence, subject to the review and approval of the Executive Director, that a more complete survey of cultural resources adjacent to and within a one-half mile radius of the project site finds no cultural resources. If cultural resources are found adjacent to, or within a one-half mile radius of the project site, the applicant may choose to prepare a subsurface cultural resources testing plan, subject to the review and approval of the Executive Director, in-lieu of proceeding with development with the presence of archaeological and Native American monitors on the site during grading activities. If the subsurface cultural resources testing plan results in the discovery of cultural resources, the applicant shall prepare a mitigation plan, which shall be peer reviewed and reviewed by the appropriate Native American tribe, and shall apply for an amendment to this permit in order to carry out the mitigation plan.

There shall be at least one pre-grading conference with the project manager and grading contractor at the project site in order to discuss the potential for the discovery of archaeological or paleontological resources.

2. Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, Native American monitor(s) with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading, if required in the approved cultural resources monitoring plan required above.

3. If required by the above cultural resources monitoring plan to have archeological and Native American monitors present during grading activities, the permittee shall provide sufficient archeological and Native American monitors to assure that all project grading that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times;

4. If any archaeological or paleontological, i.e. cultural deposits, are discovered, including but not limited to skeletal remains and grave-related artifacts, artifacts of traditional cultural, religious or spiritual sites, or any other artifacts, all construction shall cease within at least 50 feet of the discovery, and the permittee shall carry out significance testing of said deposits in accordance with the attached "Cultural Resources Significance Testing Plan Procedures" (Appendix 1). The permittee shall report all significance testing results and analysis to the Executive Director for a determination of whether the findings are significant.

5. If the Executive Director determines that the findings are significant, the permittee shall seek an amendment from the Commission to determine how to respond to the findings and to protect both those and any further, cultural deposits that are encountered. Development within at least 50 feet of the discovery shall not recommence until an amendment is approved, and then only in compliance with the provisions of such amendment.

VIII. FINDINGS AND DECLARATIONS FOR DE NOVO HEARING

The Commission hereby finds and declares as follows:

A. Project Description and Location

The applicant proposes the construction and maintenance of a 1.46 acre public tidal wetland and upland park (Wetland Park) including site grading and extraction of existing structural pilings, and constructing a tidal inlet through the marina seawall. The proposed 1.46 acre Wetland Park will consist of a "muted" tidal salt marsh surrounded by a 25 foot buffer separating the wetland area from surrounding development. The Wetland Park will include (a) a 28 foot wide fire access lane along the northern boundary of the Wetland Park, with a 72-inch wide meandering concrete pedestrian walking path; (b) a picnic table in northwestern corner; (c) a 72-inch wide decomposed granite waling path meandering around the perimeter of the Wetland Park; (d) a viewing area at the western side of the Wetland Park; (e) park landscaping containing native and wetland plant species; (f) a connection pipe that will feed the wetland pipe tidally; (g) a 28-foot wide waterfront pedestrian promenade along the Parcel 9 bulkhead; (h) and an educational gathering area with informational signage, seating, and an overhead wood trellis in the northeastern corner of the Wetland Park. The creation of the Wetland Park will require approximately 1,302 cubic yards of cut and 3,177 cubic yards of fill.

The wetland area to be restored was delineated by the County as .47 acres in size in the County's coastal development permit for the wetland restoration project. After investigation by Commission staff in 2012 and further consultation with County staff, the delineated wetland boundaries were revised by the County to include areas to the north and readjusted along the western and southern boundary delineation (see **Exhibit No. 5**). However, based on the readjustment of the boundary the total size of the wetland area, as originally determined by the County at .43 acres remains unchanged. The Wetland Park, which incorporates the wetland and upland areas, remains at 1.46 acres; however, because the applicant will reconfigure the wetland boundary there will be a loss of approximately 4,917 square feet of wetland. The applicant is proposing to mitigate this loss through the creation of 14,751 square feet (mitigation ratio of 3:1) of wetland within the Wetland Park. The total amount of wetland area will increase from the existing .43 acres to .66 acres.

The proposed project is located on Parcel 9 in Marina del Rey, County of Los Angeles. Parcel 9 is located in the northeasterly corner of Via Marina and Tahiti Way. Parcel 9 is approximately 3.66 acres in size. The proposed project will be located in the southern approximately 1.46 acres of Parcel 9. The certified Local Coastal Program, as amended in 2011, designates the northern portion of Parcel 9 (2.2 acres) as "Hotel" with a Waterfront Overlay Zone (WOZ[8]). The southern portion, or 1.46 acres of Parcel 9, is designated as "Open Space" with a WOZ.

Parcel 9 is currently vacant. In 1979, the Commission approved, with special conditions, a Coastal Development Permit (A-207-79) for the construction of a four-story 200 room hotel with 25,000 square feet of commercial space on Parcel 9. The applicant satisfied the conditions of the permit, including payment of an in-lieu fee of $365,000 into a hostel subsidy fund for the construction of a youth hostel[9]. Following issuance of the permit construction began on the site in the early 1980's.

[8] The Waterfront Overlay Zone (WOZ) is a land use category within the Marina del Rey LCP that is intended to provide additional flexibility for development of coastal-related and marine dependent land uses primarily on waterfront parcels.

[9] Coastal Development Permit No. 5-86-175 approved the rehabilitation of a historic building in the City of Santa Monica and conversion of the building into a 196 bed American Youth Hostel. The permit also

The site was graded and foundation piles where constructed. However, shortly after construction began, the applicant filed bankruptcy and the site was abandoned and has remained vacant. Construction activity left a depression in the southern portion of the parcel and due to seasonal ponding portions of the depressed area meet the Coastal Commission's definition of a wetland.

B. Biological Resources

The project site is located immediately adjacent to the marina in Marina del Rey and is sited on dredge spoils, which have, in certain locations, retained wetland values. The certified LCP has incorporated Coastal Act policies that require that marine resources and the biological productivity of wetlands be maintained and where feasible restored including the following:

Section 30230 of the Coastal Act states:

> *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

> *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30233 (a) of the Coastal Act states,

> *(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*
>
> *(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
>
> *(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
>
> *(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision*

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authorized the transfer of hostel subsidy funds ($730,000) from two Marina del Rey hotel projects (A-207-79 and A-49-79) to fund the Santa Monica hostel project.

(b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

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

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

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

(7) Restoration purposes.

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

The certified LCP does provide policies in the Marine Resources and Biological Resources sections protecting marine and biological resources, such as the existing wetlands on Parcel 9:

Section B.4. Marine Resources policies, states that:

The existing wetlands, including the flood control basin on a portion of Parcel P, the Marina waters, and a portion of Parcel 9 are the marine resources which shall be maintained and, where feasible, enhanced and restored. Uses permitted in or adjacent to these areas shall be carried out in a manner to protect the biological productivity of these marine resources and maintain healthy populations of marine organisms.

In Section B.5. Important Biological Resources, Conservation Policies for Wetland Park at Parcel :

To the extent permitted under engineering constraints, tidally influenced saltmarsh habitat will be restored/enhanced at the Wetland Park.

It should be noted that the LCP does not designate biological resource areas within the marina as environmentally sensitive habitat areas (ESHA). This was an issue addressed in the certification of the County's LCP amendment 1-11. The certified LCPA 1-11, states that:

…no Environmentally Sensitive Habitat Areas (ESHA) exit in Marina del Rey and therefore no Coastal Act policies relating to environmentally sensitive habitat areas currently apply. However, while no ESHA exist in Marina del Rey, and therefore, no Coastal Act policies relating to environmentally sensitive habitat areas currently apply, Important Biological Resources (IBR)…do exist within the bounds of MDR and require policy protection as coastal resources per Coastal Act sections 30230, 30231, 30233, and 30250…

<u>Allowable Use</u>

Section 30233 of the Coastal Act allows filling of coastal waters and wetlands only under very limited circumstances. Under this section, any approved filling of open coastal waters or wetlands must be for an allowable use, mitigation measures must be provided to minimize adverse environmental effects, and the project requiring the fill must be found to be the least environmentally damaging alternative. In this case, the proposed fill would result from the recontouring and enhancement of the wetland area. Section 30233(a)(7) of the Coastal Act allows fill for wetland restoration purposes and as a restoration project, the proposed project is an allowable use. The proposed project is a restoration project and will improve the habitat value of the existing degraded wetland.

Less Damaging Alternative

The marina area, including this parcel was created through the dredging and filling of the lands surrounding the marina in the 1960's. In the early 1980's, pursuant to an approved coastal development permit (A-207-79) a developer started the construction of a hotel but was subsequently stopped and the site abandoned. Remnants of the hotel foundation and grading activity remain on the site. The County, rather than pursue development of a hotel, worked with Commission staff during the preparation of the Marina del Rey 2011 LCP amendment, to preserve the site for wetland restoration and re-designated the southern portion of the parcel as "Open Space" in the LCP, and included development policies to preserve and enhance the existing wetland on Parcel 9. Therefore, restoring the existing degraded wetland into a tidal wetland, creating a more diverse habitat with higher habitat value than what is existing, rather than construction of a hotel, would be a less environmentally damaging alternative, consistent with Section 30233 of the Coastal Act.

Wetland Delineation

The property consists of a vacant approximately 3.66 acre lot vegetated primarily with upland ruderal species. The southern portion of the parcel includes an excavated depression that supports a mixture of native and non-native wetland plant species. The southern margin of the depression consists of a berm made up of excavated material from previous construction activity on the site. The berm supports narrow-leaved willow (*Salix exigua*).

As originally approved by the County in their coastal development permit, the wetland boundary was determined to be .43 acres in size as shown in **Exhibit No. 5.** The original restoration plan did not provide for mitigation for loss of wetland acreage because based on the wetland boundary delineation that was prepared by Glenn Lukos Associates January 2006 (revised November 2006), which the County relied on in designing their restoration plan, the restoration plan would restore all wetland areas impacted by the project within the proposed restoration area (mitigation ratio of 1:1. The ratio was agreed to by Coastal Commission's biologist, Dr. John Dixon, because of the degraded nature and low habitat value provided by the wetland in this location). However, after further investigation by the Commission's ecologist, Dr. Jonna Engel (see Dr. Engel's delineation report, **Exhibit No. 9**), the wetland boundary was determined to include an additional 4,917 square foot area not originally mapped as wetlands by Glenn Lukos Associates (see **Exhibit No. 5)** and not designated for in-place restoration. In addition, based on additional analysis by Dr. Engel, Dr. Engel also determined that the eastern and southern boundaries of the delineation, near

the existing berm, did not exhibit wetland characteristics and was not a wetland. Therefore, based on Dr. Engel's determination and the inclusion of wetlands to the north and exclusion of some areas to the west and south, the wetland area has been reconfigured but the total wetland area remains the same at .43 acres.

Based on Dr. Engel's investigation, an additional 4,917 square foot wetland area north of the unambiguous mapped wetland was not being restored or enhanced, and according to the original County plans, would be lost or converted to upland habitat. Allowable fill of a wetland must be mitigated to minimize adverse environmental effects. In past projects that included filing of coastal waters and impacts to wetlands, the Commission has consistently required mitigation. In other similar projects that required filling of wetlands, the Commission has consistently required that impacts be mitigated with replacement or enhancement of similar habitat at a ratio of 3:1(mitigation to impact). A higher mitigation ratio, such as 4:1, is not required for this project, due to the low habitat value of the impacted area. The Commission has also consistently required that mitigation sites be located on-site, or areas that are ecologically connected.

After consultation with staff and reconfiguring the wetland delineation based on Dr.Engel's investigation, the County revised the restoration plan to reconfigure the plan and include adequate on-site mitigation for impacts due to the loss of wetland habitat. The applicant is proposing to mitigate all impacts to the existing wetland on-site through the recontouring and reconfiguring of the wetland and expanding the wetland from the existing .43 acres to .66 acres, a gain of .23 acres. As proposed, the applicant will restore 13,839 square feet in the same location within the existing wetland delineation at a mitigation ratio of 1:1. In addition to the 13,839 square feet proposed to be mitigated at 1:1, the applicant will provide mitigation at 3:1 for 4,917 square feet that will be impacted and removed as wetlands resulting in an additional 14,751 square feet being provided on-site and incorporated into the Wetland Park, resulting in a total of 28,590 square feet of wetland restoration/mitigation. The applicant's submitted conceptual plan shows an additional 306 square feet of wetland area for a total of 28,896 square feet of wetland area that will be restored. **Special Condition No. 1** requires the applicant to submit a final Wetland Park restoration plan incorporating the revised delineated and mitigation area for a total wetland area of a minimum of 28,590 square feet.

Restoration Plan

Glenn Lukos Associates, Inc. prepared a coastal salt marsh restoration plan for the degraded seasonal wetland in February 2006 (revised November 2006). While the plan provides a good outline and general framework for the restoration work, updated biological information for Marina del Rey is available and a number of project adjustments/revisions have occurred in the interim such that the plan will need to be revised (modified and updated) and the final plan must be reviewed and approved by the Executive Director before the permit for the project is issued.

The goal of the restoration/enhancement plan prepared by Glenn Lukos Associates, Inc., is to create coastal salt marsh habitat with a "muted" tidal regime that supports a suite of native plants that also provides enhanced functions for wildlife. Enhancement of the excavated depression would include re-contouring the depression and establishment of a muted tidal connection to

provide enhanced hydrologic and habitat functions. This remains an important goal for the restoration/enhancement.

The restoration plan will establish coastal salt marsh habitat typical of this region of southern California. The coastal salt marsh would be expected to support invertebrates, vertebrates (e.g. fish), along with a number of avian species including shorebirds, and waterfowl commonly associated with salt marsh habitats. Provision of a buffer with transitional habitat that includes native coastal prairie and coastal sage scrub species will enhance the overall habitat value of the coastal salt marsh system.

The plan will include introduction of hydrologic functions to the site that would be enhanced through re-contouring of the basin to raise the bottom elevation, in conjunction with establishment of a muted tidal connection. The muted tidal connection would be provided through installation of a inlet/outlet pipe that would provide the tidal connection from the adjacent marina basin. According to the restoration plan the establishment of more reliable hydrology will allow for introduction of a suite of native coastal salt marsh species.

The revised plan will include restoration of a total of 28,896 square feet (.66 acres) of wetlands, along with a minimum 25-foot native vegetative buffer and upland area. All trials/ accessways will be located outside of the buffer area. The restoration plan also includes monitoring and success criteria over a five year period.

Dr. Engel has reviewed the restoration plan and concurs with the overall goal of the plan; however, the restoration plan needs to be revised to reflect the current delineation, as recently established by Dr. Engel, she does not believe that coastal bluff scrub and maritime chaparral species are appropriate for the buffer zone and that the coastal prairie, coastal sage scrub, and coastal salt marsh plant palettes must be reviewed and revised to ensure that the plant species are appropriate for the small constrained site and for the type of salt marsh habitat that will be created. Therefore, **Special Condition No.** 1 requires the applicant to submit, for review and approval, to the Executive Director a final restoration plan, including a revised list of plants.

The restoration plan does not include any fencing within the Wetland Park. However, because of the proximity to a highly urban area, encroachments in the buffer and wetland area by domestic pets or by people, could destroy habitat and harass avifaunal and other marine animals that may habituate the area once the wetlands has been restored. The construction of a low fence along public trails and outside of the buffer and wetland area can serve as an effective barrier for people and keep most domestic pets out of the sensitive areas. Therefore, **Special Condition No. 2** requires the applicant to provide a fence plan for review and approval by the Executive Director. The fence shall be designed to minimize public view impacts to and along the Wetland Park and out to the marina by being of low height and of an open design.

The County restoration plan will include signage informing the public of the available public trails and interpretive signs regarding the wetland habitat and wildlife in the area. **Special Condition No. 4** requires the applicant to submit final signage design plans to ensure that the signage is consistent with the County's signage requirements and the LCP and will not adversely impact habitat or scenic views.

To ensure that the final restoration plan is consistent with other resource agencies, such as U.S. Army Corp of Engineers, and U.S. Fish and Wildlife, **Special Condition No. 5** requires the applicant to provide evidence of other agencies review and approval to ensure that mitigation measures with respect to preservation and protection of the marine environment are complied with. Furthermore, any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the certified Local Coastal Program and the Coastal Act.

To ensure that the plans and future changes to the restoration plan are consistent with the LCP and Coastal Act policies, **Special Condition No. 6** requires that all future development within the Wetland Park on Parcel 9 shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government, unless the Executive Director determines that no amendment or coastal development permit is required.

Buffer size

Buffers and development setbacks protect biological productivity by providing the horizontal spatial separation necessary to preserve habitat values and transitional terrestrial habitat area. Furthermore, buffers may sometimes supports limited human use such as low-impact recreation, and minor development such as trails, fences and similar recreational appurtenances when it will not significantly affect resource values. Buffer areas are not in themselves a part of the habitat area to be protected. Spatial separation minimizes the adverse effects of human use and urban development on wildlife habitat value through physical partitioning. The greater the spatial separation, the greater the protection afforded the biological values that are at risk. Buffers may also provide ecological functions essential for species in biological areas.

The size of a buffer varies depending on the habitat, location of the habitat, and site constraints. Typically, for projects reviewed by the Commission, the Commission imposes buffers of 100 feet from the edge of habitat areas, such as wetlands. However, in past coastal permit action, the Commission has approved habitat buffers less than 100 feet and to a minimum of 25 feet based on habitat value, site constraints, and level of urbanization. For example, in Dana Point, the Commission approved a 25-foot buffer for a disturbed 0.18 to 0.24 acre freshwater marsh adjacent to a proposed 48-unit residential development (CDP 5-92-188-A4). The Commission found that due to the limited size, surrounding development, and disturbed nature of the freshwater marsh, the provision of a 25-foot buffer was adequate under the circumstances.
In Seal Beach, the Commission approved a 107 acre 23 lot subdivision with grading and infrastructure improvements for a future Retail/Commercial/Business Park. On site were three drainage ditches (earthen channels) that were constructed on the site in 1966 to drain the existing Boeing facility (CDP No. 5-05-355 Boeing Realty Corporation). The drainage ditches provided .06 acres of wetlands. The project included a wetland enhancement plan increasing the existing 0.06 acre of on-site wetlands to approximately 1.34 acre of wetland habitat. The Commission approved a 25-foot buffer around the wetland area. The Commission found that a 25 foot buffer was expected to be effective because the wildlife usage on the site was limited, the limited habitat value, and the ditches were not natural and were created as drainage conveyance devices. The

Commission found that the proposed habitat plan would enhance the existing marginal on-site habitat areas. For these reasons, the Commission found that, the proposed reduced buffers would be effective.

The Wetland Park area has site constraints due to existing surrounding development such that a 100-foot buffer is infeasible. There is an existing walkway along the eastern boundary of the property and roadways along the west and south. All of which are within 100 feet of the proposed restored wetland. The northern portion of the site is vacant and undeveloped which would make a 100 foot buffer feasible in that location; however, the County, in designing the 1.46 acre Wetland Park, consulted with Dr. Dixon, and designed a 25-foot buffer around the entire perimeter of the proposed restored wetland consistent with Dr. Dixon's recommendation. The reduced buffer recommendation for this site was made in the context of the current conditions; that is for highly degraded, low functioning seasonal wetlands located on a highly constrained site surrounded by existing development within highly urbanized Marina del Rey, and fencing provided along the boundary of the buffer will adequately protect the wetland area.

As noted, the proposed project should include fencing between the trails/walkways and the buffer to discourage public activity and keep pets out of the wetland/buffer area. The fence should be located outside of the buffer to minimize impacts to the buffer and maximize protection of the entire habitat area. The fence shall be designed as a low barrier, so as not to create a visual impediment, but adequate to keep pets, such as dogs, out of the wetland. **Special Condition No. 2** requires the applicant to submit a final fence plan for the review and approval of the Executive Director.

Lighting

The proposed project is not designed with lighting within the Wetland Park; however, accent/security lighting is proposed along the pedestrian promenade which will be improved to a width of 28- feet along the eastern edge of the Wetland Park and adjacent to the waterfront. Depending on the design and intensity of the lighting, lighting could disturb wildlife if not properly controlled. Lighting impacts could be controlled by the direction of light and minimizing the amount and intensity of lighting. Controlling the direction of light on to the site from nearby light sources will aid in avoiding impacts to the habitat. **Special Condition No. 3** requires the applicant to submit a final lighting plan for the adjacent pedestrian promenade. The plan shall indicate the use of low intensity lighting, directing light toward the ground and away from sensitive biological habitat (e.g. using light shields and directional lenses, as appropriate), and minimizing the amount of lighting required.

Conclusion

The proposed restoration project, as conditioned by this permit, will be consistent with the Biological and Marine resource sections of the certified LCP and Coastal Act Sections 30230, 30231 and 30233.

C. Erosion Control

The certified LCP states

> *All new development or redevelopment shall be designed to minimize erosion, sedimentation and other pollutants in runoff from construction-related activis to the maximum extent practicable. Development or redevelopment shall minimize land disturbance activies during construction (e.g., clearing, grading and cut-and- fill), especially in erosive areas (including steep slopes, unstable areas and erosive soils), to minimize the impacts on water quality.*

The protection of water quality is an important aspect of the Coastal Act. As previously noted, water from Marina del Rey and surrounding areas flows into the County's storm drain system and ultimately drains into the marina and Pacific Ocean. Stormwater runoff (including storm sewer discharges) continues to be the largest source of pollution in Santa Monica Bay and across California. It is a predominant cause of beach closures in each region of the state. It is the source of significant impact to the Marina as well. The County Periodic Review submittal of water quality testing results noted that the Marina is impacted spatially from pollutants from Oxford Retention Basin and Ballona Creek, both of which collect runoff from significant inland areas, from the open ocean as well as other temporal impacts.

The proposed project poses water quality issues with respect to construction activity adjacent to the marina and street storm drains. The proposed project will involve grading approximately xxxx square feet of area with heavy equipment and equipment staging areas on site. To ensure that construction activities do not adversely impact water quality by introducing sediments or other contaminants into coastal waters, **Special Condition No. 7** requires the applicant to submit a erosion control plan. The Commission, therefore, finds that, as conditioned, the development will be consistent with the certified LCP and Sections 30230 and 30231 of the Coastal Act.

D. Recreation and Visitor Serving Facilities

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for development that is between the first public road and the sea, or shoreline of any body of water located within the coastal zone, must be consistent with the public access and public recreation policies of the Coastal Act. The Legislature has required, in the Coastal Act, that lands suitable for public recreation be designated for recreation. Development that is coastal dependent or that supports the public's use of the beaches and waters of the state is preferred over other uses. The Coastal Act recreation policies also require provision and protection of lower-cost facilities and provision of adequate recreational land by residential uses so that new residents do not overcrowd coastal recreation areas to the exclusion of others. These policies are set forth in the following sections of the Coastal Act.

Section 30213

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

Section 30221

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

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The protection, enhancement and provision of public access and recreation is an important aspect of the Coastal Act and the certified LCP. Public access and recreation are essential to the Coastal Act since they provide opportunities for the general public to enjoy the California coastline. Marina del Rey is a favorable location to provide amenities that will enhance the general publics' access to the coast.

The certified LCP, designates parcel 9 as "Open Space" and provides policies for the creation of a Wetland Park which will contribute to the Marina's overall open space and public recreation facilities. As proposed the Wetland Park will provide public passive recreational space through the provision of a walking trail and provide scenic views of the enhanced wetland and to the marina.

As a public recreational facility, public parking is necessary to improve public access and use of the park. Parking should be located near the park to provide optimum public access to the park. The LCP requires that public parks provide 1 parking space per .5 acres. Based on the LCP requirements the 1.46 acre park would require 3 parking spaces. According to the County's coastal development permit, the County is requiring the provision of 21 parking spaces to be provided on parcel 9. The County states that the parking spaces will be located adjacent to the park and within the hotel designated portion of the parcel. The hotel designated portion of the site is currently vacant and once a hotel is developed on the site pursuant to the LCP, the County will require the hotel to continue to provide the 21 public spaces. If a fee is charged, the fee will be comparable to those charged in public lots in the vicinity of Marina del Rey, as required by the certified LCP. **Special Condition No. 8** requires the applicant to provide a final parking plan showing the location of the public parking and appropriate signage. As conditioned, the proposed development will be consistent with the access and recreation policies of both the Coastal Act and the relevant provisions of the 1995 certified LCPA.

E. Visual Resources

Section 30251 of the Coastal Act, which has been incorporated in the certified LCP, states:

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. New development

in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The Coastal Visual Resource protection policies of the certified LCP address development and the protection of marine views. The LCP states in part:

***Views of theHharbor a Priority**. Maintaining and enhancing views of the Marina shall be a priority goal of this Plan….*

The proposed project involves the creation of a public 1.46 acre Wetland Park. The proposed park will include (1) a 28 foot wide fire access lane along the northern boundary of the Wetland Park, with a 72-inch wide meandering concrete pedestrian walking path; (2) a picnic table in northwestern corner; (3) a 72-inch wide decomposed granite waling path meandering around the perimeter of the Wetland Park; (4) a viewing area at the western side of the Wetland Park; (5) and interpretive signage. The park will not have any significant structures, except for benches and a small trellis along the western edge of the park.

As proposed, the project will provide various public viewing areas to and along the wetlands from the public trials and viewing areas, and because development of the wetland will be at and below street grade the park will provide and protect views to the marina from the surrounding streets and within the park. As proposed, the project is consistent with the Coastal Visual Resource protection policies of the certified LCP

F. Cultural Resources

The certified LCP requires that the Office of State Historic Preservation and the Native American Heritage Commission be notified once archaeological resources are discovered, and to require that development be carried out consistent with the coastal program and with the provisions of State law that protect archeological resources. This will ensure that the preservation of cultural resources is coordinated with the coastal permit process and that recovery plans are duly noticed as required by the Coastal Act. The certified LCP provides that potential cultural resource impacts must be reviewed through the County's environmental review process and that appropriate environmental documentation and mitigation measures shall be incorporated as conditions of any approved coastal development permit.

22.46.1190.5. Protection of Cultural Heritage Resources. Cultural resources located shall be identified and protected. All applications that include disturbance of native soils or vegetation, including but not limited to excavation, pile driving and grading shall include:

a. Report by a qualified archaeologist. The archaeology report shall comply with the guidelines of the State Office of Historical Preservation. Mitigation measures suggested in the report, and approved by the department of regional planning, shall be undertaken. For the purpose of this report, a "qualified archaeologist" is a person who has been certified by the Society of Professional Archaeologists and who has a minimum of three years experience investigating and interpreting sites in Southern California. A copy of the report, signed by said qualified

archaeologist, shall be submitted with the application. In accordance with the findings set forth in the archaeology report submitted with the development application, cultural resources shall be collected and maintained at the Los Angeles County Natural History Museum or other site acceptable to the State Historic Preservation Officer. The department of regional planning shall be notified if any resource is discovered during any phase of development.

b. Notification of the Office of State Historic Preservation and the Native American Heritage Commission of the location of any proposed disturbance of native soils or vegetation. The notification shall include the proposed extent of the grading and dates on which the work is expected to take place.

c. Acknowledgment of receipt of Sections 7050.5 of the Health and Safety code, section 5097.94 of the Public Resources code and Section 5097.88 and 5097399 of the Public Resources code. The applicant shall place a note on the project plans summarizing the procedures that apply in the event of discovery of Native American remains or grave goods.

The county shall approve archaeological recovery programs as permit amendments. The standard of review is the archaeological recovery program's consistency with this Specific Plan and with other provisions of state law.

Because the site has been partially graded and is located on dredged fill, no surface traces of archeological or paleontological resources were likely to be present. Therefore, the initial archeological survey was waived. However, the proposed wetland restoration project will require additional excavation. It is possible that such grading activity may expose previously unknown archeological resources. Therefore, **Special Condition No. 9** requires that the applicant submit evidence of notification to the Office of State Historic Preservation and the Native American Heritage Commission of the location of the proposed grading, the extent of the grading proposed, and the dates on which the work is expected to take place and also is requiring the applicant to acknowledge receipt of copies of laws that protect cultural resources. As conditioned, the Commission finds that the proposed development is consistent with cultural resources policies of the certified LCP.

G. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act:

> *(a) Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local*

> *Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.*

In 1984, the Commission certified the County's Land Use Plan portion of the Marina Del Rey/Ballona segment of the County of Los Angeles Local Coastal Program. Subsequent to the Commission's certification, the City of Los Angeles annexed over 525 acres of undeveloped land, which was a portion of the County's LCP area located south of Ballona Creek and east of Lincoln Boulevard (known as Area B and C). Subsequent to the City's annexation, the City submitted the identical Land Use Plan (the Playa Vista segment of the City's Local Coastal Program) covering the City's portion of the original County LCP area. The Commission certified the LCP for the annexed area with suggested modifications on December 9, 1986. The County also resubmitted those portions of their previously certified LUP that applied to areas still under County jurisdiction, including the area known as Area "A", and the existing Marina. The Commission certified the County of Los Angeles' revised Marina Del Rey land Use Plan on December 9, 1986.

On September 12, 1990, the Commission certified, with suggested modifications, an Implementation Program pertaining to the existing marina. The undeveloped area in the County, Playa Vista Area "A" was segmented from the marina and no ordinances were certified for the area. After accepting the suggested modifications, the Commission effectively certified the Marina Del Rey LCP and the County assumed permit issuing authority.

In 1995, the County submitted an amendment to the LCP. In May 1995, the Commission certified the LCPA with suggested modifications. The County accepted the modifications and the LCP was effectively certified as amended.

On November 10, 2011, the Commission approved LCP amendment No. 1-11 with suggested modifications. At the February 2012 hearing, the Commission concurred with the Executive Director's determination that the County's action accepting the suggested modifications was legally adequate and effectively certified the LCP amendment No. 1-11. The amendment adjusted the location of development authorized by the existing certified LCP; incorporated changes in response to the Periodic Review; and made minor grammatical, typographical and reference corrections. The LCPA addressed four specific projects (the "Pipeline Projects"):

1. Parcels 10 - A proposal to demolish an existing 136 unit apartment complex, located on Marina del Rey lease parcel 10R, and to build in its place a new apartment complex with 400 units.

   Parcel FF – A proposal to demolish an existing 201 space public parking lot, located on Marina del Rey lease parcel FF, and to build in its place a new apartment complex with 126 units. An in lieu fee for this project is required to replace half of the public parking spots on the existing lot to a location near Chace Park. In addition, the project is also conditioned to provide funds to build a wetland park on the southern portion of Marina del Rey lease parcel 9 and to build a transient boat dock in the basin adjacent to Parcel 9.

2. Parcel OT – A proposal to demolish an existing 186 space public parking lot, and to build in its place a 114-unit Senior Accommodations Facility on Marina del Rey lease parcel OT. This facility would also include 3,500 square feet of Visitor-Serving/Convenience Commercial space and 92 public parking spaces.

3. Parcels 49/77 - A Request for Proposals (RFP) was released, in October of 2009, by the County of Los Angeles for a mixed use project to be built on Marina del Rey lease parcels 49 and 77. The RFP asked for proposals to convert an existing public parking lot and boat storage area into one of the three following options:

    i. Option 1 = A 135,000 square foot Visitor-Serving/Convenience Commercial center.

    ii. Option 2 = A 116,495 square foot Visitor-Serving/Convenience Commercial center with 255 dwelling units.

    iii. Option 3 = Either of the first two options with the addition of a 26,000 square foot Beaches and Harbors administration building.

    The proposed project is conditioned to require that all of the boating amenities currently onsite will be replaced prior to construction of the project

4. Parcel 52/GG – A proposal to demolish an existing 238 space temporary public parking lot, the Department of Beaches and Harbor's trailer complex and the Sheriff's Boatwright/Life Guard facility and replace them with a 345 space dry stack boat storage facility with an additional area for 30 mast up storage spaces.

In addition to the four pipeline projects, the amendment also changed the designated land use on Parcel 9 from "Hotel" to "Hotel" and "Open Space" and included policies to allow the future development of an approximately 1.5 acre "Wetland Park" and restore and enhance the existing wetlands as a tidally influenced salt marsh.

For the reasons stated in this report, the proposed development,, as conditioned, is consistent with the certified Marina del Rey LCP. In this case, that finding can be made since the proposed project, as conditioned, is consistent with the land use, biological resources, marine resources, access, recreation, coastal visual resources, and water quality policies of the County's Marina del Rey LCP. Therefore, the Commission approves the Coastal Development Permit.

H. California Environmental Quality Act

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

As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.

APPENDIX--SUBSTANTIVE FILE DOCUMENTS:

1. Cultural Resources Significance Testing Plan Procedures
2. Marina Del Rey certified Local Coastal Plan, as amended in 2011.
3. Los Angeles County CDPs No. 2006-00006-(4).

APPENDIX 1
CULTURAL RESOURCES SIGNIFICANCE TESTING PLAN PROCEDURES

A. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a Significance Testing Plan for the review and approval of the Executive Director. The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), and the Most Likely Descendent (MLD) when State Law mandates identification of a MLD. The Executive Director shall make a determination regarding the adequacy of the Significance Testing Plan within 10 working days of receipt. If the Executive Director does not make such a determination within the prescribed time, the plan shall be deemed approved and implementation may proceed.

1. If the Executive Director approves the Significance Testing Plan and determines that the Significance Testing Plan's recommended testing measures are de minimis in nature and scope, the significance testing may commence after the Executive Director informs the permittee of that determination.

2. If the Executive Director approves the Significance Testing Plan but determines that the changes therein are not de minimis, significance testing may not recommence until after an amendment to this permit is approved by the Commission.

3. Once the measures identified in the significance testing plan are undertaken, the permittee shall submit the results of the testing to the Executive Director for review and approval. The results shall be accompanied by the project archeologist's recommendation as to whether the findings are significant. The project archeologist's recommendation shall be made in consultation with the Native American monitors and the MLD when State Law mandates identification of a MLD. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director a supplementary Archeological Plan in accordance with subsection D of this condition and all other relevant subsections. If the deposits are found to be not significant, then the permittee may recommence grading in accordance with any measures outlined in the significance testing program.

B. An applicant seeking to recommence construction following a determination by the Executive Director that the cultural deposits discovered are significant shall submit a supplementary Archaeological Plan for the review and approval of the Executive Director. The supplementary Archeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the Most Likely Descendent (MLD) when State Law mandates identification of a MLD, as well as others identified in subsection E of this condition. The supplementary Archeological Plan shall identify proposed investigation and mitigation measures. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Mitigation measures considered may range from in-situ preservation to recovery

and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and placing cultural resource areas in open space. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the Supplementary Archaeological Plan.

1. If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director informs the permittee of that determination.

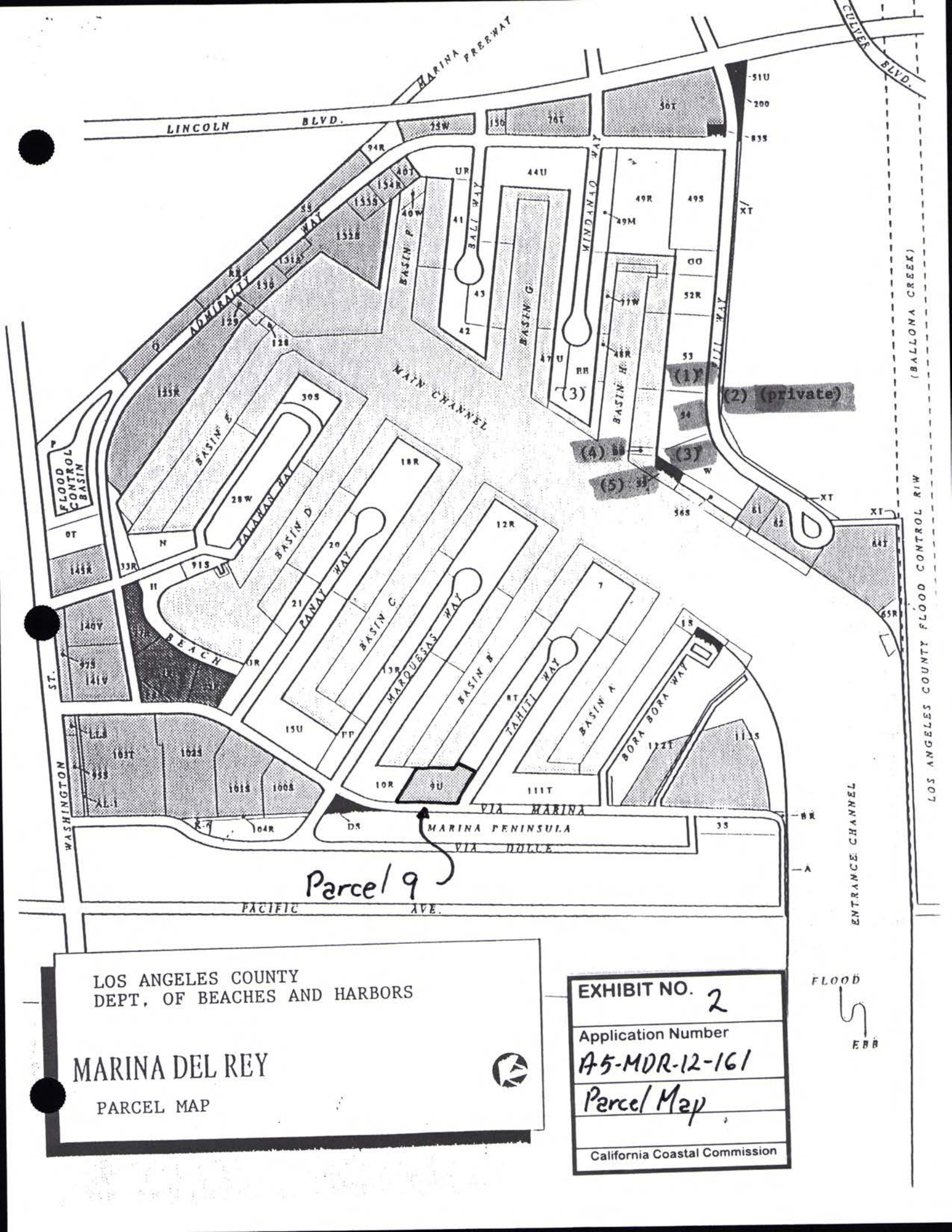
2. If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

C. Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, except the Significance Testing Plan, shall have received review and written comment by a peer review committee convened in accordance with current professional practice that shall include qualified archeologists and representatives of Native American groups with documented ancestral ties to the area. Names and qualifications of selected peer reviewers shall be submitted for review and approval by the Executive Director. The plans submitted to the Executive Director shall incorporate the recommendations of the peer review committee. Furthermore, upon completion of the peer review process, all plans shall be submitted to the California Office of Historic Preservation (OHP) and the NAHC for their review and an opportunity to comment. The plans submitted to the Executive Director shall incorporate the recommendations of the OHP and NAHC. If the OHP and/or NAHC do not respond within 30 days of their receipt of the plan, the requirement under this permit for that entities' review and comment shall expire, unless the Executive Director extends said deadline for good cause. All plans shall be submitted for the review and approval of the Executive Director.

RECEIVED
South Coast Region

CALIFORNIA COASTAL COMMISSION

EXHIBIT NO. 1
APPLICATION NO. A-5-MDR-12-161
Regional Map
California Coastal Commission



LOS ANGELES COUNTY
DEPT. OF BEACHES AND HARBORS

MARINA DEL REY

PARCEL MAP

EXHIBIT NO. 2

Application Number
A5-MDR-12-161

Parcel Map

California Coastal Commission

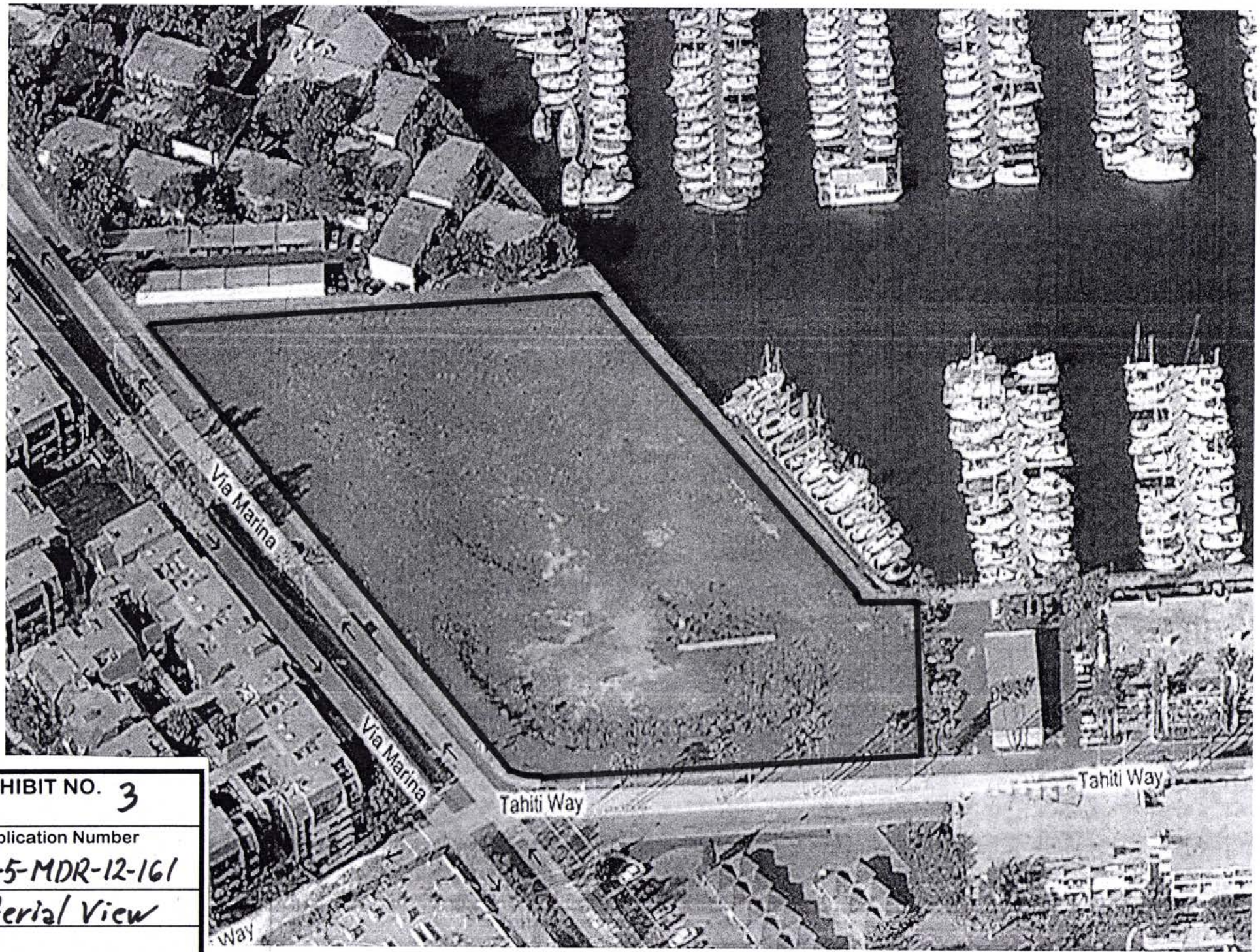


EXHIBIT NO. 3

Application Number

A-5-MDR-12-161

Aerial View

California Coastal Commission

PHOTOGRAPHS OF CREATED SALTWATER MARSH HABITAT SIMILAR TO HABITAT PROPOSED FOR THE PARCEL P9U WETLAND PARK

LOS ANGELES COUNTY DEPT. OF BEACHES AND HARBORS

MARINA DEL REY, CALIFORNIA

WETLAND PARK RESTORATION PLAN
PARCEL 9U

GLENN LUKOS ASSOCIATES
Regulatory Services

PLOT DATE: 5-24-12

Exhibit No. 4
A-5-MDR-12-161
Conceptual Plan

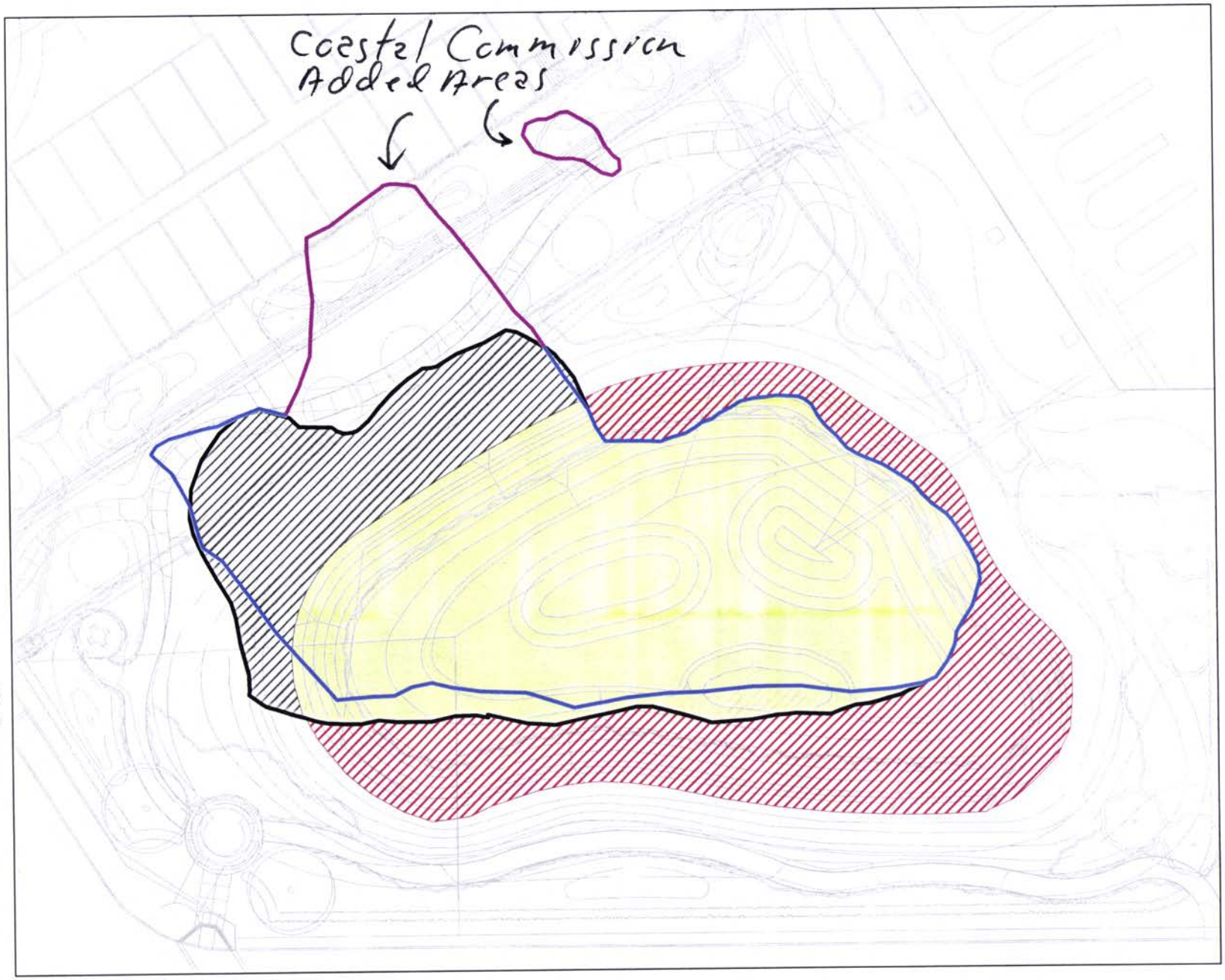
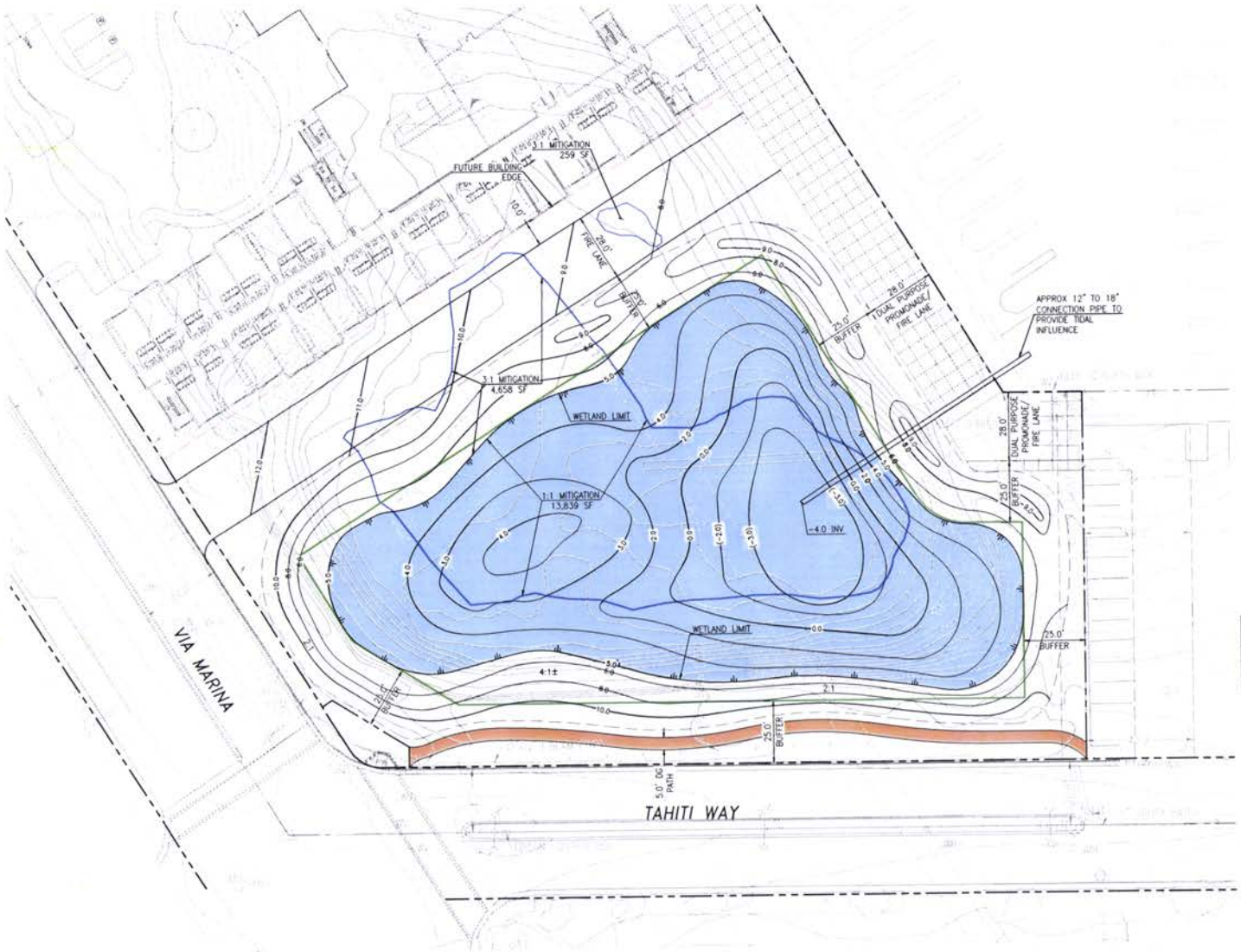


Exhibit No 5
A-5-MDR-12-161
Wetland Delineation



MITIGATION AREA	
REQUIRED 1:1 MITIGATION	13,839 SF
REQUIRED 3:1 MITIGATION	(4,658+259) x 3 = 14,751 SF
TOTAL REQUIRED WETLAND	28,590 SF
PROVIDED WETLAND	28,896 SF

LEGEND

- 25 FEET BUFFER
- EXISTING WETLAND
- FUTURE BUILDING EDGE
- LIMIT OF WETLAND
- 5.0 ELEVATION
- TOP OF SLOPE
- RIGHT OF WAY
- CENTER LINE

PROPOSED WETLAND EXHIBIT

EARTHWORK ESTIMATE
PRELIMINARY

CUT (RAW)	FILL (RAW)
1,302 CY	3,177 CY

IMPORT = 1,875 CY

SCALE: 1" = 20'

FUSCOE ENGINEERING
16795 Von Karman, Suite 100
Irvine, California 92606
tel 949.474.1960 fax 949.474.5315
www.fuscoe.com

OCT 16, 2012

Exh. 3 & 4 No. 6
A-5-MDR-12-161
Proposed Wetland

STATE OF CALIFORNIA – THE RESOURCES AGENCY

RECEIVED
South Coast Region

EDMUND G. BROWN JR., Govern

JUN 7 2012

CALIFORNIA COASTAL COMMISSION

CALIFORNIA COASTAL COMMISSION
SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802-4416
VOICE (562) 590-5071 FAX (562) 591-5084

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: David Barish - We ARE Marina del Rey AND Marcia Hanscom - Wetlands Defense Fund

Mailing Address: David Barish PO BOX 9096, MdR CA 90292/Marcia Hanscom 322 Culver Blvd, Ste. 317

City: Playa del Rey Zip Code: 90293 Phone: 310-909-6697

SECTION II. Decision Being Appealed

1. Name of local/port government:

Los Angeles County

2. Brief description of development being appealed:

Proposed Wetland Park, Project Number R2006-03643-(4)/CDP #200600006-(4) on Parcel 9 in Marina del Rey which proposes to restore the existing delineated wetland

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Parcel 9 at Tahiti Way and Via Marina in Marina del Rey, Los Angeles County

4. Description of decision being appealed (check one.):

☒ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: [redacted]

DATE FILED: [redacted]

DISTRICT: [redacted]

EXHIBIT NO. 7
Application Number
A-5-MDR-12-161
Appeal
1/66
California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: May 15, 2012

7. Local government's file number (if any): Project Number R2006-03643-(4)

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Los Angeles County Department of Beaches and Harbors, 13837 Fiji Way, Marina del Rey, CA 90292

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) List of persons who submitted written comments and/or testified at local government hearings (addresses not available): Eric Preven, Lynne Shapiro, Nancy Vernon Marino, Hans Etter, Whitney Blumenfeld From Councilman Rosendahl's Office, Bobbi Buescher from Assemblymember Butler's Office, Daniel Gottlieb, Dean Francois, Lee Jay Berman, Carla Andrus, Raylene Baron, Cynthia Mcclain-Hill, Strategic Consulting; Jon Rizzo, Marina Tenants Assocation; Ruth Galanter; Larry Koch; Jon Nahhas, The Boating Coalition; David Levine, Marina Lesee's Association, David Barish

(2) Aaron Clark/Dale Goldsmith: Armbruster, Goldsmith & Delvan LLP, 11611 San Vicente Boulevard, Suite 900, Los Angeles, CA, 90049

(3) The Hardage Group, 11975 El Camino Real, Suite 104, San Diego, CA 92130

(4) Anita Guttierez Principal Planner and Richard Bruckner, Director of Los Angeles County Department of Regional Planning

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See Attachment 1 and related exhibits.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Marcia Hanscom

Signature of Appellant(s) or Authorized Agent

Date: 6/6/2012

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date: _____

Attachment 1
CDP#2006-00006-(4) does not Conform to the Certified Marina del Rey LCP and the Public Access and Recreation sections of the Coastal Act

The proposed Wetland Park Project (CDP #200600006-(4), the "Wetland Project") calls for the construction of a 1.46-acre public wetland and upland park on the southern portion of the 3.66-acre Parcel 9 in Marina del Rey.

Because of the reasons listed below, the Wetland Project does not conform to the standards set forth in Section 5a of the Certified Marina del Rey Local Coastal Program which incorporates Coastal Act Section 30233 because:

1. The filling of wetlands to make room for commercial development is not permissible per Coastal Act Section 30233 and existing case law (Bolsa Chica Land Trust et al., v. Superior Court of San Diego County) AND
2. The filling and/or restoration of wetlands is only permitted where there is no feasible less environmentally damaging alternative (Coastal Act Section 30233)
3. The existing wetland boundary appears to have been underestimated. Therefore, the extent of the existing wetland proposed to be filled is underestimated
4. The buffer provided for in the Wetland Project is only 25 feet

Based on our review of the restoration plan, site plans and related documents, we have determined that the Wetland Project's restoration plan will do the following:

1. Fill in parts of the northern end of the existing delineated wetland, which includes a 3-paramater delineated area (the extent of one parameter wetland, which is protected under the Coastal Commission's legally supported guidelines is needed to determine what area needs protection). The 3-parameter approach is what is used by the US Army Corps of Engineers and is a definition that was determined for use after researchers had studied mostly east coast wetlands. The one-parameter approach takes into account more arid, low rainfall areas, like the southwestern United States, and is also the approach used by the U.S. Fish & Wildlife Service.

   AND

2. Create a new wetland environment (a type conversion of habitat) on the remaining existing wetland AND on the southern end of the parcel, an area which is currently <u>not included</u> in the delineated wetland boundary

In other words, the restoration "fills and moves" the existing wetland south to make room for the proposed hotel project on the same Parcel 9.

Therefore, we urge the Coastal Commission to find that substantial issue has been raised by our appeal and that a de novo hearing be scheduled.

1. WETLAND CANNOT BE FILLED/MOVED AND/OR RESTORED FOR COMMERCIAL DEVELOPMENT PURPOSES

The restoration plan for the proposed Wetland Project violates Coastal Act Section 30233 because case law, including Bolsa Chica Land Trust et al., v. Superior Court of San Diego County, has found that neither restoration that is carried out for the purpose of development nor the movement/fill of wetlands for the purpose of development is permitted under Section 30233.

We took the proposed Parcel 9 hotel project site plans, both original (Exhibit 1A) and as most recently modified (Exhibit 1B), and measured two lines across the parcel that represent the edge of a 25-foot buffer around the existing wetland AND the edge of the 3-parameter wetland area within the existing wetland (Exhibits 1A/1B).

The result was the hotel grounds (original plans) and hotel building (modified plans) would extend into a 25-foot buffer around the existing wetland. Additionally, the hotel's fire lane under both plans would extend into the 3-paramater wetland area within the existing wetland (about 40-50 feet). A one-parameter wetland area needs to be delineated in order to determine exact compliance under the Coastal Act and the Coastal Commission's guidelines.

We also took the wetland delineation boundary map from the project EIR and measured two lines across the parcel that represent the edge of a 25-foot buffer around the existing wetland AND the edge of the proposed Wetland Project including 25-foot buffer (Exhibit 1C). This diagram clearly demonstrates how parts of the existing wetland will be filled and shows the southward movement of the restored wetland under the proposed Wetland Project when compared to the existing wetland.

The proposed hotel plans cannot fit onto Parcel 9 alongside the existing delineated wetland. Thus, in order to make room for the proposed hotel project on Parcel 9, including its required fire lane and the included 25-foot buffer around the proposed wetland park, the Wetland Project restoration plan calls for filling parts of the existing wetland; reshaping and moving the existing wetland south by approximately 40-50 feet; and adding new wetland areas on the south that were not delineated as wetland previously. (Exhibits 2A/2B)

In fact, the developer for the proposed hotel admitted in an email LA County's consultant, Andi Culbertson dated June 3, 2004, that the hotel will encroach on the wetland (Exhibit 3).

And Richard Bruckner, Director of LA County's Department of Regional Planning, confirmed in his memo to Commissioner Shallenberger dated 11/1/2011 (Exhibit 4) that the hotel does encroach on the existing wetland but not as reconfigured:

> 'Basically, the commenters impose the 25-foot buffer around this construction relic* as it currently exists as opposed to as reconfigured by restoration jointly prepared by the County and Coastal Commission Staff." (emphasis included in original memo)
>
> *By construction relic, he means the existing delineated wetland.

In other words, the proposed hotel projects would encroach on the existing wetland but not the Wetland Park as proposed and restored. This is the exact issue that was litigated in the Bolsa Chica decision. The wetlands were not in a convenient location for the developers, and they wanted to move them so that the housing and roads could be more easily located together. The Appeals Court found this to be impermissible.

Based on the site plans in Exhibits 1-2, this means an existing 3-parameter delineated area within the overall existing wetland will be filled in and the buffer zone of the proposed Wetland Park and fire lane of the proposed Hotel will be built over the existing wetland.

LA County has not indicated any plans to proceed with the site restoration absent any development. In fact, the Wetland Park is integrally tied to the Parcel FF Project, CDP#2006-00009-(4) because the proposed Wetland Park is serving as mitigation for the loss of open space/public park (Exhibit 5), a project that is concurrently being appealed to this Commission (see Parcel FF Appeal).

Furthermore, the cost of the proposed Wetland Park project will be funded in full by the developers of the proposed adjacent hotel project and the developers of the Parcel FF Project.

Coastal Act Section 30233 and existing case law (Bolsa Chica Land Trust et al., v. Superior Court of San Diego County) do not permit restoration that is carried out for the purpose of development nor do they allow wetlands to be moved/filled in for the purpose of development or restoration.

Therefore, CDP # 2006-00006-(4), violates the MdR LCP and the Coastal Act and requires a de novo hearing by the Commission.

2. WETLAND PARK NOT LESS ENVIRONMENTALLY DAMAGING ALTERNATIVE

Coastal Act section 30233 only permits restoration where there is no feasible less environmentally damaging alternative. The proposed Wetland Park is not a less environmentally damaging alternative as a 3-parameter delineated wetland currently exists on site, and it has been utilized by wildlife, including Great Blue Herons and Great Egrets foraging (feeding) and resting for many years.

Additionally, the restoration plan for the proposed Wetland Park calls for taking a large part of the existing 3-parameter wetland and turning it into a tidally influenced salt marsh which will be inundated daily with the tides. This will preclude the presence of current wetland indicator plants (hydrophytic vegetation), which are more in harmony with the fresh and brackish water marshes that the historical T-sheets inform us were present. Thus, a 3-parameter wetland will be converted to a 1-parameter wetland (or possibly 2-parameters), and it will be a type-conversion of habitat–not the sort of habitat that currently exists there nor the type of habitat historically present in this area. A feasible, less damaging alternative is to design the project so as to leave the present habitat values in place, design buffers, buildings and walkways so as to avoid impacts to the currently functioning wetland and to plant additional wetland plants that would complement the current conditions, not remove the current conditions and create a new wetland.

Therefore, CDP # 2006-00006-(4), violates the MdR LCP and the Coastal Act and requires a de novo hearing by the Commission.

3. EXISTING WETLAND BOUNDARY UNDERESTIMATED

Based on a review of the 2008 Jurisdictional Wetland Status Memo prepared by Glen Lukos and Associates (Exhibit 6), including the data forms in Appendix A and B to said memo, we have determined that the biologist had incorrectly established the wetland boundary due to inconsistencies in application of the 1-parameter Coastal Commission methodology of wetland delineation and due to misstatements of facts and findings.

The Coastal Commission methodology of wetland delineation requires only one of three wetland parameters be met: wetland hydrology, hydric soils OR hydrophytic vegetation.

Northern Boundary

The data forms included in Appendix B of the 2008 JDR Memo for points 08H to 08N, points all located to the north of the northern wetland boundary detailed on Exhibit 3 of the 2008 JDR Memo all show that one of the three parameters are met, eg a predominance of hyrophytic vegetation is present. In fact, data points 08-D, 08F and 08G are all included in the 1-parameter wetland delineation despite showing just one parameter is met, that of a predominance of hyrophytic vegetation.

To justify the exclusion of data points 8J-8N from the wetland delineation, the author of the memo, Tony Bomkamp, concludes:

> 'Each of the five data points exhibited a predominance of plants with an indicator status of FAC or wetter, including sicklegrass (*Parapholis incurva*, OBL), Australian saltbush (*Atriplex semibaccata*, FAC), small-flowered iceplant (*Mesembryanthemum nodiflorum,* FAC), fivehook bassia

8

(*Bassia hyssopifolia*, FAC), Bermuda grass (*Cynodon dactylon*, FACU), Italian ryegrass (*Lolium multiflorum*, UPL), seaside heliotrope (*Heliotropium curassavicum*, FAC) and ripgut brome (*Bromus diandrus*, UPL). However, relative to the areas vegetated with pickleweed and sicklegrass that are included within the one-parameter wetland boundary discussed above and depicted by Exhibit 3, which included no dominant facultative species, **these five data points contained a significant number of facultative and upland species. More importantly, these areas demonstrably lack wetland hydrology and as such, the plants cannot be growing as "hydrophytes" because the area lacks wetland hydrology**." (emphasis added)

However, the conclusions above are not supported by the underlying data collected in the field by the author as demonstrated by the following table:

Data Point	% Cover OBL/FACW	% Cover FAC	% Cover UPL	% Cover Bare Ground	Dominant FAC Species
08-J	95%	2%	3%	0%	None
08-K	65%	0%	0%	35%	None
08-L	45%	10%	0%	45%	None
08-M	95%	0%	5%	5%	1 (20% cover)
08-N	42%	0%	0%	58%	None

First, on all the data forms for the above points, Hydrophytic Vegetation was checked as present. And as you can see from these table, these five data points **DO NOT** contain significant number of facultative and upland specifies, in fact, just minimal percentages. Only one data point includes one dominant FAC species (08-M). In fact, bare ground is a perfectly acceptable–and even desirable–condition for wetlands, particularly ones where seasonally inundated soils exist.

Second, the author claims that because these data points did not exhibit wetland hydrology, a second wetland parameter under the Coastal Act, these points could not be included in the wetland. But this statement contradicts the Coastal Act which requires only meeting 1-parameter, not 2 or 3.

Furthermore, there are three data points (08-D, 08-F and 08-G) that only meet 1-parameter, a predominance of hyrophytic vegetation, which are included in the wetland boundary. The only evidence the author suggests for differentiating these points from points 08-H to 08N is that the former do not include any FAC or UPL plants, while the latter points contained a significant number of facultative and upland species. However, as shown in the table above, of the 5 additional data points excluded from the wetland boundary, only two show minimal presence of FAC plants and two show minimal presence of UPL plants. Thus, there is no conclusive evidence as to why certain data points that meet 1-

parameter definition of a predominance hydrophytic vegetation were included and the others were not.

The data supports INCLUSION of points 08H to 08N in the 1-paramter coastal commission based wetland delineation and an expansion of the wetland boundary.

Southern Boundary
To the south of the southern wetland boundary, the .22-acre willow community along the southern berm was not included in the 1-parameter Coastal Commission delineated wetland. Data point 3, dated 10/22/04, showed *salix exigua* at 50% cover, along with *bromus diandrusat* 50%. Since this date, the willow community has grown and visually, is the dominant vegetation. This data point was not reviewed again in 2008 and based on the evidence, it has not proven that it should be excluded from the wetland delineation.

To conclude, data points 8H to 8N should be included in the Coastal Commission 1-parameter wetland delineation and the boundary redrawn. Additionally, the .22-acre willow community should be included in the wetland delineation. Once this is done, the project would need to be revisited to determine its impacts on the existing wetland.

Therefore, CDP # 2006-00006-(4), violates the MdR LCP and the Coastal Act and requires a de novo hearing by the Commission.

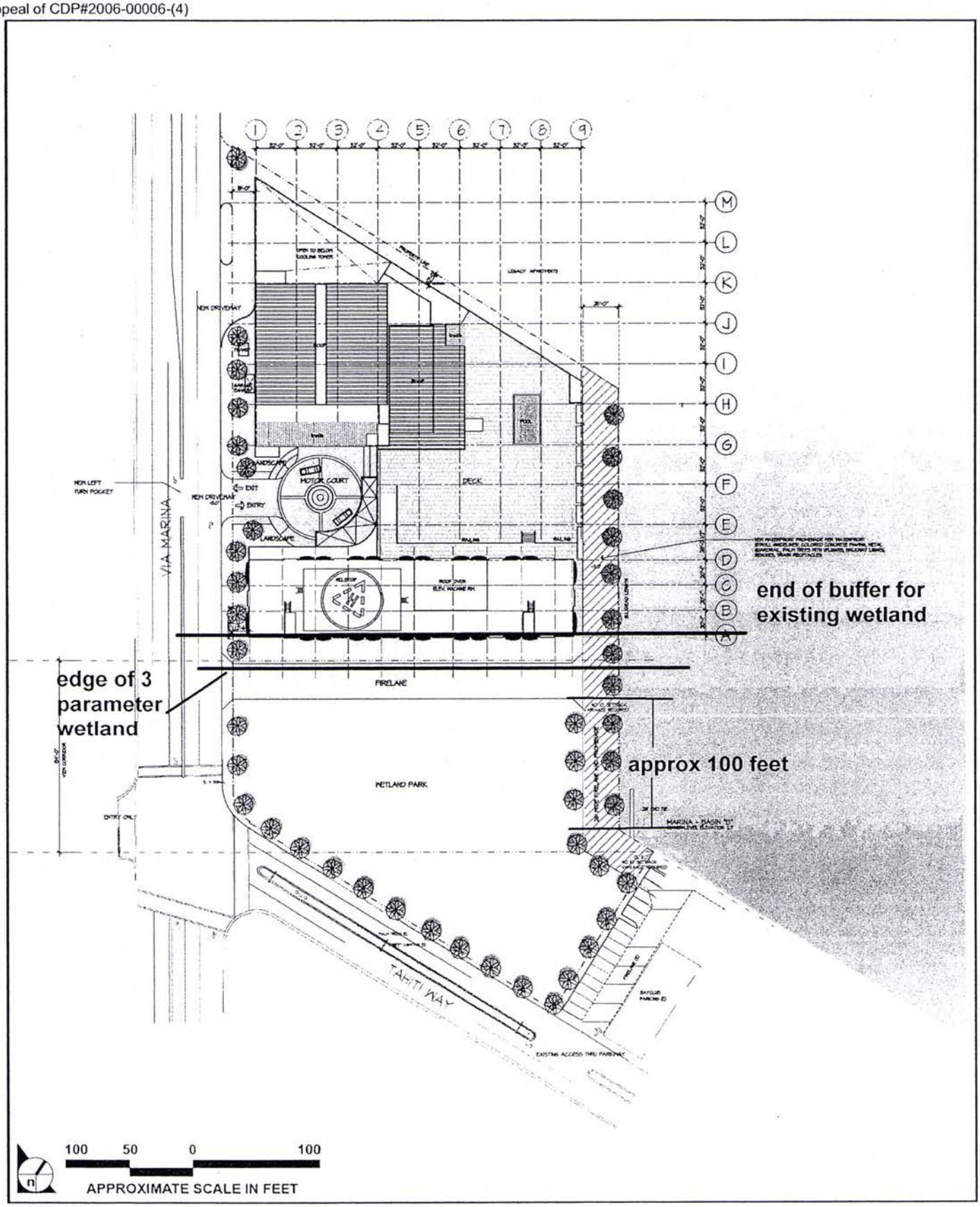
4. **BUFFER OF PROPOSED WETLAND PARK**

The record does not show any evidence as to why a 25 foot buffer was selected for the wetland. Coastal Commission typically requires a 100 foot buffer and 50 foot for riparian wetlands. The minimum buffer should be 50 ft. for this type of wetland area.

Based on this, CDP # 2006-00006-(4), may violate the MdR LCP and the Coastal Act and requires a de novo hearing by the Commission.

Exhibit 1A Site Plan Woodfin Hotel

Appeal of CDP#2006-00006-(4)



SOURCE: Gin Wong Associates – February 2006

FIGURE 3.0-12

Site Plan: Woodfin Suite Hotel and Timeshare Resort

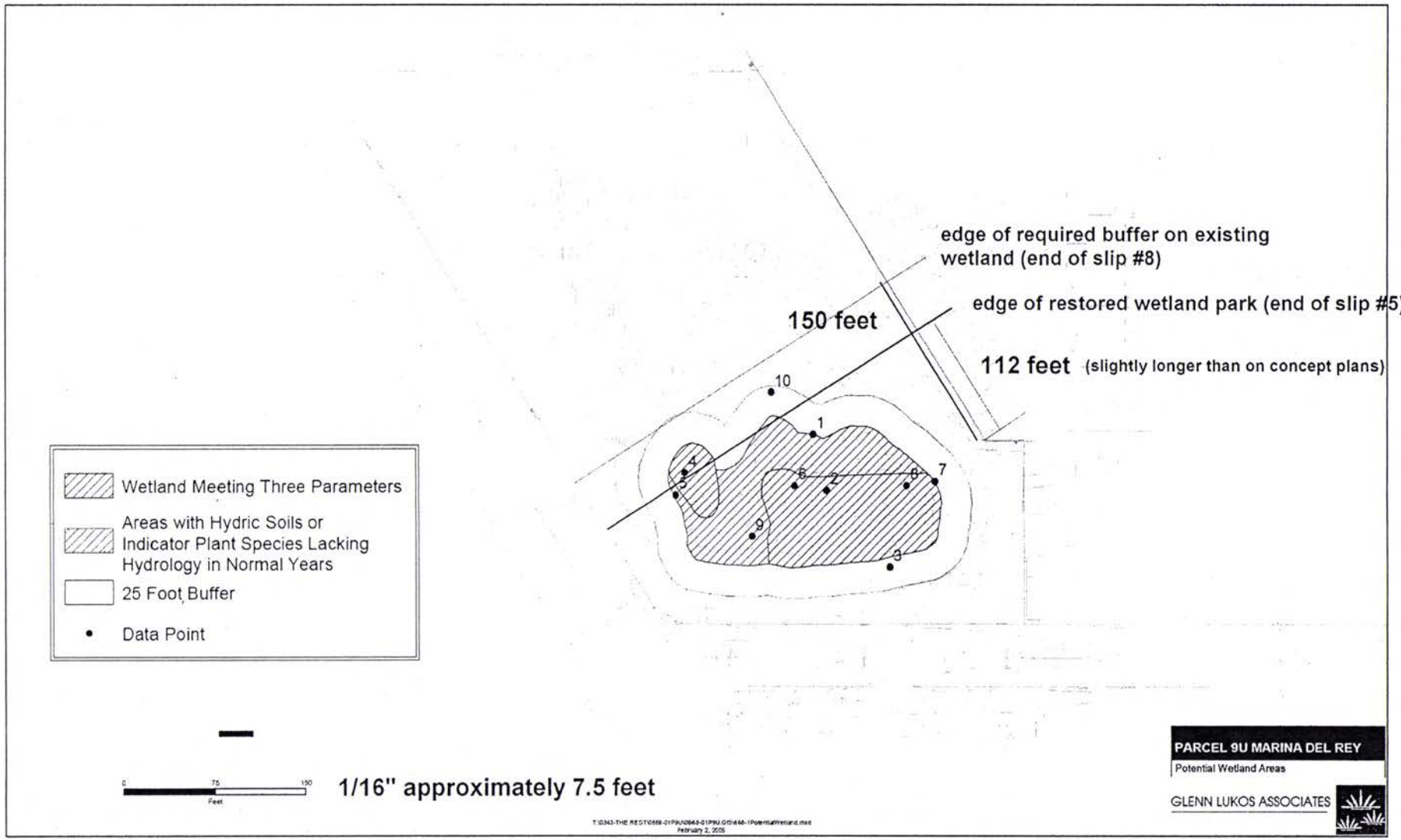
460-04•12/07

Exhibit 1B Modified Hotel Project Site Plans

Appeal of CDP#2006-00006-(4)

Appellant 1
Modified Woodfin Hotel Plans

Appendix H
2006 Wetland Delineation Boundary



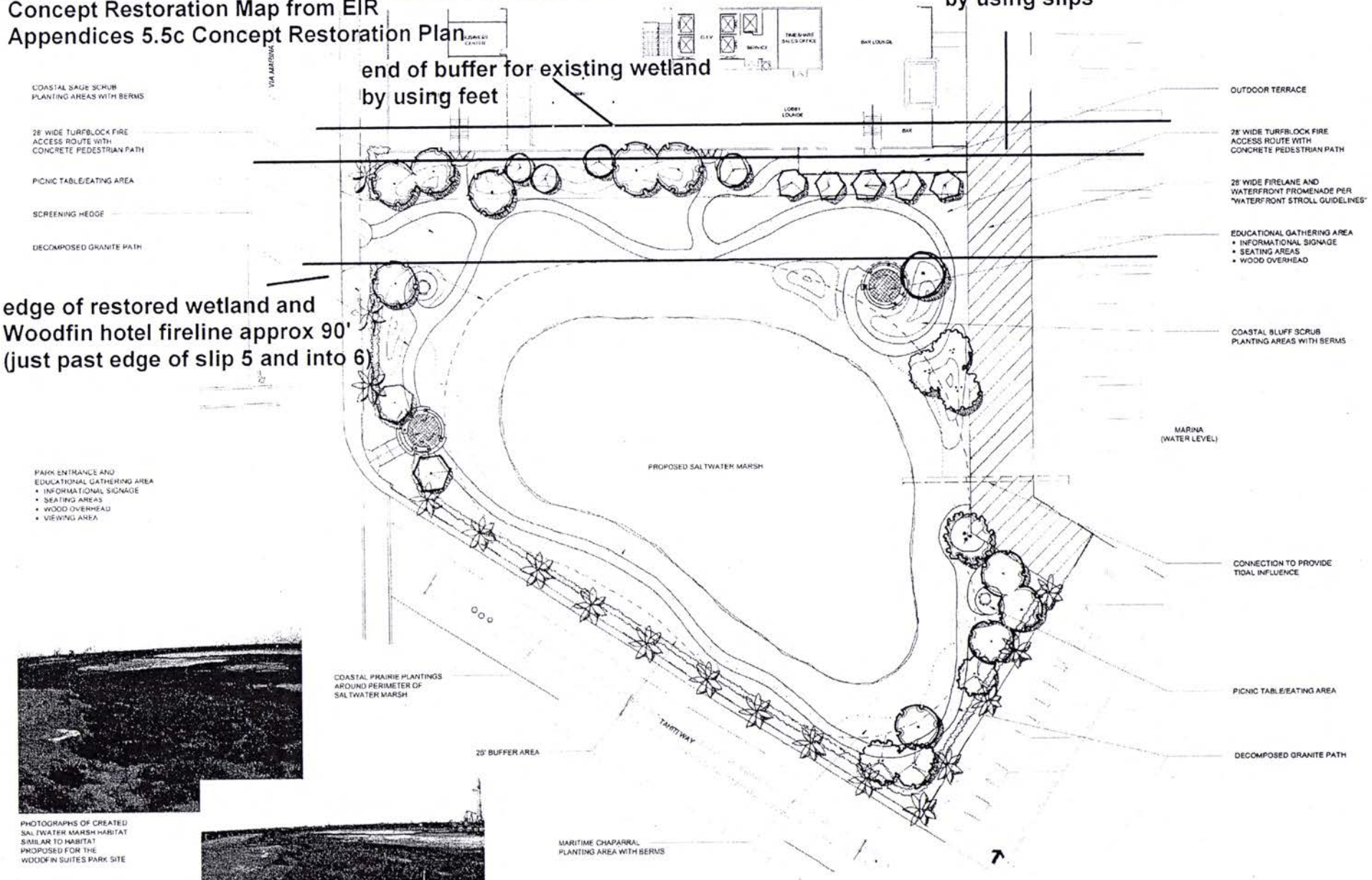
Appendix H

Concept Restoration Map from EIR Appendices 5.5c Concept Restoration Plan

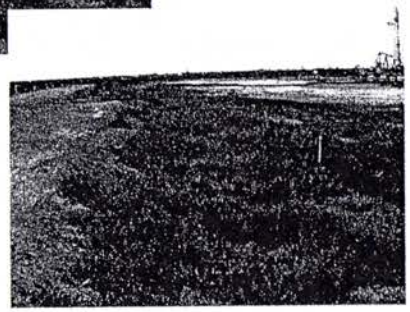
end of buffer for existing wetland by using slips

end of buffer for existing wetland by using feet

edge of restored wetland and Woodfin hotel fireline approx 90' (just past edge of slip 5 and into 6)



PHOTOGRAPHS OF CREATED SALTWATER MARSH HABITAT SIMILAR TO HABITAT PROPOSED FOR THE WOODFIN SUITES PARK SITE



GRAPHIC SCALE 1/16" = 1'-0"

5/16" = 16'

WOODFIN SUITES
CONCEPTUAL PARK PLAN

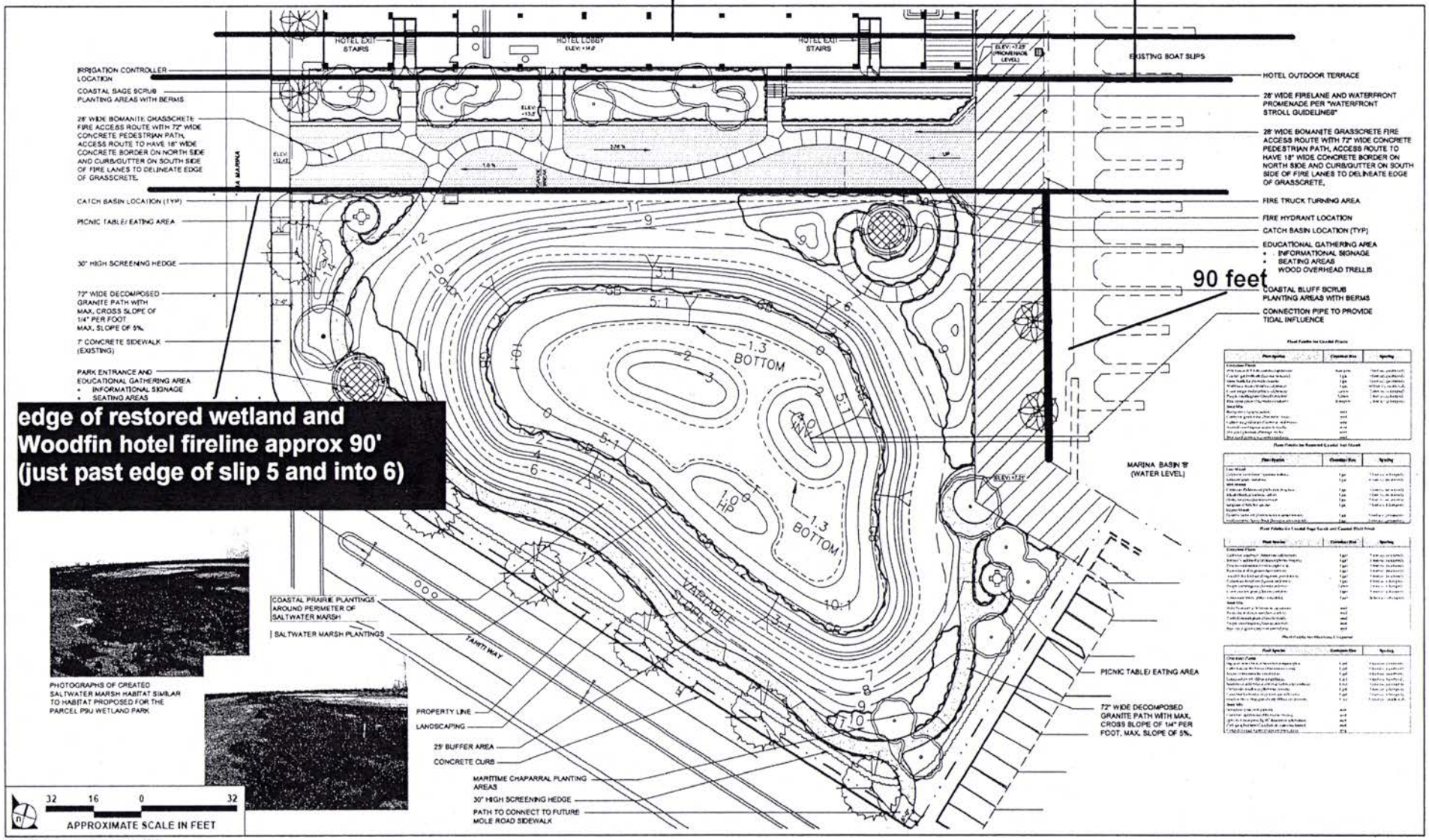
Exhibit 2A Concept Restoration Plan for Wetland Project

Appeal of CDP#2006-00006-(4)

Appendix H
Concept Restoration Plan

end of buffer for existing wetland by using feet

end of buffer for existing wetland by using slips



PHOTOGRAPHS OF CREATED SALTWATER MARSH HABITAT SIMILAR TO HABITAT PROPOSED FOR THE PARCEL P9U WETLAND PARK

SOURCE: Glenn Lukos Associates - July 2008

FIGURE 3.0-26

Conceptual Wetland Mitigation Plan

460-004-08/08

Exhibit 3 Email from Woodfin to LA County about Hotel encroachment on wetland
Appeal of CDP#2006-00006-(4)

Julie Carpenter

From: Tom Farrell [tfarrell@woodfinsuites.com]
Sent: Thursday, June 03, 2004 2:22 PM
To: Joe Chesler; M. Andriette Culbertson Esq. (E-mail); Roger Moliere; Alex Kalamaros
Cc: Moore, Charles J.; Aaron Clark; Julie Carpenter
Subject: Meeting/Conf Call w/Andi Culbertson

Joe,

Just a note to thank you, Alex and company for taking the time for our conference call this morning. I was impressed by Andi's grasp of the problem and I've got to believe if we work together on this we'll find a way to solve the problem.

One thing Andi mentioned was the likelihood that Coastal would want to know whether we had explored the alternative of switching places between the hotel and the park. At the behest of Aaron and Impact Sciences, I had Gin Wong conduct this exercise last month, and I can report that leaving the park the same area as before does not allow us to fit all the pieces for the hotel on the remaining portion of the site to the North. The geometry of the site with the tight acute angle limits useable area, and we're not able to fit in the parking structure, for example. Even if we did reduce the size of the park, we would still have to reduce the scope of the hotel, and in any event the required fire lane would have to encroach into the "wetland". And of course, the resulting park would be far less desirable in terms of public access.

Again, thanks for the time this morning, we're looking forward to following up with Andi to find a common-sense solution.

Tom

Julie Cook, AICP, Planner
Dept of Beaches & Harbors
13483 Fiji Way #3
Marina del Rey, CA 90292

ph - 310-305-9530
fx - 310-821-7856
jcook@dbh.co.la.ca.us

Research. In fact, as noted in those guidelines, the only way a park is acceptable particularly in an urban environment such as Marina del Rey, is with noise walls and other noise inclusion features, and even so, new park development is discouraged. Therefore, this is not a reasonable use for this property.

Hotel plans encroach on the wetland on Parcel 9

Again, only by redefining the facts can the commenters reach the conclusion that the required 25-foot setback from this construction relic, now legitimately meeting the wetland definition used by the Coastal Commission is not met. Basically, the commenters impose the 25-foot buffer around this construction relic as it currently exists as opposed to as reconfigured by restoration jointly prepared by the County and Coastal Commission staff. In the restoration of this wetland, no structures will penetrate the 25-foot buffer except a small footpath, interpretative exhibits, and assembly areas (for lectures, etc.) which are acceptable resource-dependent uses.

In addition, the commenters' claims that the wetland park and the hotel site bear more wetland indicators than stated in the delineations, is similarly incorrect. The Commission has previously dealt with such issues in other local projects and not found these indicators as wetland indicators. Therefore, the four delineations that have been done remain accurate.

The DeLange memo

The County incorporates its response to WAMDR here with respect to the insistence that the resources involved are ESHA, and that the Commission may not consider new evidence showing that they are not. Again, the County draws the reader's attention to the memo from Dan Cooper, Cooper Ecological Monitoring, Inc., in this regard.

Conclusion

Throughout this LCPA and Periodic review process, the County has endeavored to consider each and every suggestion, proposal, criticism and complaint. The County has changed its plans in several ways to accommodate the concerns of local residents, while still carrying out what the County considers the Coastal Act's objectives of increasing general visitor opportunities. Consistent with the Commission's suggestions in the 1995 amendment and in the 2008 Periodic review, the County has sought ways of compelling long-term leases in good standing to provide public amenities. For this reason, the project must be fairly regarded as connected – Parcel OT's development is connected to the delivery of additional parking at Marina Beach, and to the creation of the plaza park. In similar fashion, the County's approval of development on Parcel FF catalyzes the creation of a wetland park on Parcel 9, together with transient docks.

Exhibit 5 Email from Legacy Partner's Attorney to LA County

Appeal of CDP#2006-00006-(4)

Julie Carpenter

From: Aaron Clark [aaron@ag-landuse.com]
Sent: Monday, August 09, 2004 3:42 PM
To: Julie Carpenter
Subject: RE: Park

Well, the park is really related to both proposals, though it is located on Parcel 9U (Woodfin's parcel). Legacy needs the park in order to build apartment units on Parcel FF; Woodfin is tied to the park because it will be sited on its parcel, 9U. The plan is for Woodfin and Legacy to split the cost of constructing the park, but Woodfin has agreed to pay for the park maintenance. As our DCB narrative states, Legacy is going to need a plan amendment to authorize the conversion of the "park" portion of Parcel 9U from "Hotel" to "Open Space." Woodfin does not require a plan amendment for that purpose because it is able to construct a park on its "Hotel" designated parcel as a matter of course per the site zoning. Let me know if you have any further questions.

AC

-----Original Message-----
From: Julie Carpenter [mailto:jcarpenter@dbh.co.la.ca.us]
Sent: Monday, August 09, 2004 1:48 PM
To: Aaron Clark
Subject: Park

Aaron -

Both P-9 and P-10/FF discuss the park. My understanding is that it is formally part of the P-9 submittal. Please confirm.

Thanks,

Julie

Julie Carpenter, AICP, Planner
Dept of Beaches & Harbors
13483 Fiji Way #3
Marina del Rey, CA 90292

ph - 310-305-9530
fx - 310-821-7856
jcarpenter@dbh.co.la.ca.us

GLENN LUKOS ASSOCIATES

Regulatory Services

June 9, 2005

Tom Farrell
Woodfin Suite Hotels
12730 High Bluff Drive
San Diego, California 92130

SUBJECT: Jurisdictional Wetland Status of Parcel 9U, Marina del Rey, Los Angeles County, California

Dear Mr. Farrell:

This letter report summarizes our preliminary findings of U.S. Army Corps of Engineers (Corps) and California Department of Fish and Game (CDFG) jurisdiction, as well as California Coastal Commission (CCC) wetlands for the above-referenced property.[1] The subject parcel covers approximately 3.8 acres and includes an excavated depression in the southern portion of the site. The depression was created in 1984 during construction activities within an upland area that were abandoned and left unfinished. Areas outside the depression are vegetated with upland ruderal species. The excavated depression supports a mixture of plant species that exhibit a range relative to their wetland indicator status from upland (UPL) to obligate (OBL). The southern margin of the basin consists of a berm comprised of spoil materials excavated from the basin. The berm supports narrow-leaf willow (*Salix exigua*, OBL) and upland grasses. Soils below the upper 0.6 feet to two feet of existing soil profile, which consist of dredge material deposited in the 1950s and early 1960s, appear to be relictual hydric soils that formed at depth prior to excavation of the basin. Limited areas within the upper two feet exhibit hydric soil characteristics that appear to have formed in place due to ponding, consistent with the depressional topography. Exhibits 1 and 2 are regional and vicinity maps. Exhibit 3 depicts the location of wetland areas within the excavated depression. Exhibits 4-7 are historic aerials of the site from 1928, 1936, 1956, and 1962 showing changes in land use, including initial development of the site between 1928 and 1936 with further development associated with construction of the marina in the late 1950s through early 1960s.

[1] This report presents our best effort at estimating the subject jurisdictional boundaries using the most up-to-date regulations and written policy and guidance from the regulatory agencies. Only the regulatory agencies can make a final determination of jurisdictional boundaries. If a final jurisdictional determination is required, GLA can assist in getting written confirmation of jurisdictional boundaries from the agencies.

On August 18, October 22, November 3, and December 1, 2004, and January 14, 2005 Regulatory Specialists of Glenn Lukos Associates, Inc. (GLA) examined the project site to determine potential presence of (1) Corps jurisdiction pursuant to Section 404 of the Clean Water Act, (2) CDFG jurisdiction pursuant to Division 2, Chapter 6, Section 1600 of the Fish and Game Code, and (3) any wetlands as defined by the California Coastal Commission. Enclosed is a 125-scale map [Exhibit 3], which depicts the areas of potential Corps jurisdiction as well as potential wetlands as defined under the California Coastal Act. Wetland data sheets are attached as Appendix A.

I. METHODOLOGY

Prior to beginning the field delineation a 200-scale aerial photograph and 100-scale base topographic map of the property, were evaluated along with previous constraints reports prepared by PCR Service and EDAW to determine the locations of potential areas of Corps/CDFG jurisdiction and CCC-defined wetlands. Suspected jurisdictional areas were field checked for the presence of wetland vegetation, soils and hydrology using the methodology set forth in the U.S. Army Corps of Engineers 1987 Wetland Delineation Manual[2] (Wetland Manual). While in the field locations where vegetation, soils, and hydrology data were collected were recorded onto a 100-scale base topographic map using visible landmarks. The field data were recorded onto wetland data sheets.

As noted above, site visits were conducted on August 18, October 22, November 3, and December 1, 2004, with the October 22 and November 3 visits timed to evaluate the site within seven days of significant rainfall events, providing for optimal conditions for evaluating wetland hydrology. A succession of winter storms during late December and early January, which ended on January 10, 2005, resulted in record rainfall for a 15-day period. This period of rainfall that accounted for approximately 15 inches, and resulted in inundation of the depression. For purposes of determining wetland hydrology, this period does not represent a "normal" or "average" rainfall year and is not suitable for making a positive determination for wetland hydrology. As such, the limits of jurisdictional wetlands (or potential wetlands) discussed below are based on the data collected prior to the storms of late December and early January 2004/05.

[2] Environmental Laboratory. 1987. Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, U.S. Army Engineer Waterways Experimental Station, Vicksburg, Mississippi.

A. Soils

The Soil Conservation Service (SCS)[3] has mapped the "Oceano" soil type as occurring in the general vicinity of the project site.[4] A review of historic aerial photographs indicate that prior to development in the late 1920s or early 1930s, the site consisted of "Tidal Flats", a soil type not included in the Los Angeles County Soil Survey. Currently, the entire site is overlain by dredge spoils/hydraulic fill that were placed behind the seawall constructed during development of the marina [Exhibit 7 shows the site following deposition of the hydraulic fill]. The fill varies from over ten feet deep on the highest portions of the site to between 0.6 and 2.0 feet in the lowest portions of the depression.[5]

Oceano

Oceano soils occur on undulating dune-like areas between sea level and 100 feet. These soils are over 60 inches deep and exhibit rapid permeability. They have grayish-brown, slightly acid and medium acid sand surface layers with strongly acid substratum also consisting of sand.

The soil series Oceano is not included in the SCS's publication, Hydric Soils of the United States[6]; and are not identified as hydric in the local hydric soils list for the Los Angeles Area, California. Previous activities on the site have included deposition of dredge spoils during construction of the adjacent marina and excavation performed during construction of commercial facilities that was halted shortly after the excavation was completed. As such, soil conditions on the site do not appear to represent the "native" condition but rather, reflect the various activities that have occurred on the site during the last four to five decades.

Tidal Flats

Tidal flats are nearly level areas adjacent to bays and lagoons along the coast. Periodically these are covered by tidal overflow. Some of the higher areas are covered only during very high tides. Tidal flats are stratified clayey to sandy deposits. They are poorly drained and high in salts. As noted above, hydraulic fill was deposited on the site, and the excavation in 1984 removed much

---

[3] SCS is now known as the National Resource Conservation Service or NRCS.
[4] United States Department of Agriculture, Soil Conservation Service. 1969. Report and General Soil Map, Los Angeles County, California. Foldout map accompanying report is dated 1994.
[5] Van Beveren & Butelo, Inc. Letter Report to Mr. Thomas Farrell. Subject: Surface of Natural Soil Deposits Proposed Hotel and parking Structure Site, Marina del Rey, Los Angeles County, California.
[6] United States Department of Agriculture, Soil Conservation Service. 1991. Hydric Soils of the United States, 3rd Edition, Miscellaneous Publication Number 1491. (In cooperation with the National Technical Committee for Hydric Soils.)

of this material leaving only 0.6 to 2.0 feet overlaying the native substrate that consisted presumably of tidal flats, which remain under the layer of fill.

B. Aerial Photographic Analysis

In order to better understand the site conditions and how previous activities have altered the site, GLA has conducted an analysis of historic aerial photographs of the site in conjunction with a review of the history of the site covering the period between 1927 and the present. This review includes a review of previous documentation that addresses soil/geological conditions on the site and interviews with local experts who have conducted geotechnical investigations during the previous five decades.

II. JURISDICTION

Federal Jurisdiction

A. Army Corps of Engineers

1. Section 404 of the Clean Water Act

Pursuant to Section 404 of the Clean Water Act, the Corps regulates the discharge of dredged and/or fill material into waters of the United States. The term "waters of the United States" is defined in Corps regulations at 33 CFR Part 328.3(a) as:

> *(1) All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;*
> *(2) All interstate waters including interstate wetlands;*
> *(3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect foreign commerce including any such waters:*
> > *(i) Which are or could be used by interstate or foreign travelers for recreational or other purposes; or*
> > *(ii) From which fish or shell fish are or could be taken and sold in interstate or foreign commerce; or*
> > *(iii) Which are used or could be used for industrial purpose by industries in interstate commerce...*

> *(4) All impoundments of waters otherwise defined as waters of the United States under the definition;*
> *(5) Tributaries of waters identified in paragraphs (a) (1)-(4) of this section;*
> *(6) The territorial seas;*
> *(7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) (1)-(6) of this section.*
>
> *Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 123.11(m) which also meet the criteria of this definition) are not waters of the United States.*

In the absence of wetlands, the limits of Corps jurisdiction in non-tidal waters, such as intermittent streams, extend to the OHWM which is defined at 33 CFR 328.3(e) as:

> *...that line on the shore established by the fluctuation of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.*

The term "wetlands" (a subset of "waters of the United States") is defined at 33 CFR 328.3(b) as "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support...a prevalence of vegetation typically adapted for life in saturated soil conditions." In 1987 the Corps published a manual to guide its field personnel in determining jurisdictional wetland boundaries. The methodology set forth in the 1987 Wetland Delineation Manual generally requires that, in order to be considered a wetland, the vegetation, soils, and hydrology of an area exhibit at least minimal hydric characteristics. While the manual provides great detail in methodology and allows for varying special conditions, a wetland should normally meet each of the following three criteria:

- more than 50 percent of the dominant plant species at the site must be typical of wetlands (i.e., rated as facultative or wetter in the National List of Plant Species that Occur in Wetlands[7]);

[7] Reed, P.B., Jr. 1988. National List of Plant Species that Occur in Wetlands. U.S. Fish and Wildlife Service Biological Report 88(26.10).

- soils must exhibit physical and/or chemical characteristics indicative of permanent or periodic saturation (e.g., a gleyed color, or mottles with a matrix of low chroma indicating a relatively consistent fluctuation between aerobic and anaerobic conditions); and

- hydrologic characteristics must indicate that the ground is saturated to within 12 inches of the surface for at least five percent of the growing season during a normal rainfall year[8].

a. Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers, et al.

Pursuant to Article I, Section 8 of the U.S. Constitution, federal regulatory authority extends only to activities that affect interstate commerce. In the early 1980s the Corps interpreted the interstate commerce requirement in a manner that restricted Corps jurisdiction on isolated (intrastate) waters. On September 12, 1985, EPA asserted that Corps jurisdiction extended to isolated waters that are used or could be used by migratory birds or endangered species, and the definition of "waters of the United States" in Corps regulations was modified as quoted above from 33 CFR 328.3(a).

On January 9, 2001, the Supreme Court of the United States issued a ruling on *Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers, et al.* (SWANCC). In this case the Court was asked whether use of an isolated, intrastate pond by migratory birds is a sufficient interstate commerce connection to bring the pond into federal jurisdiction of Section 404 of the Clean Water Act.

The written opinion notes that the court's previous support of the Corps' expansion of jurisdiction beyond navigable waters (*United States v. Riverside Bayview Homes, Inc.*) was for a wetland that abutted a navigable water and that the court did not express any opinion on the question of the authority of the Corps to regulate wetlands that are not adjacent to bodies of open water. The current opinion goes on to state:

> *In order to rule for the respondents here, we would have to hold that the jurisdiction of the Corps extends to ponds that are not adjacent to open water. We conclude that the text of the statute will not allow this.*

Therefore, we believe that the court's opinion goes beyond the migratory bird issue and says that no isolated, intrastate water is subject to the provisions of Section 404(a) of the Clean Water Act (regardless of any interstate commerce connection). However, the Corps and EPA have issued a

[8] For most of low-lying southern California, five percent of the growing season is equivalent to 18 days.

joint memorandum which states that they are interpreting the ruling to address only the migratory bird issue and leaving the other interstate commerce clause nexuses intact..

b. Adjacency and Adjacent Wetlands

As noted in Paragraph 7 of 33 CFR 328.3, the Corps regulates wetlands that are adjacent to other jurisdictional waters. Corps regulations define adjacent to mean "bordering, contiguous, or neighboring" and further state: "Wetlands separated from other waters of the United States by man-made dikes or barriers, natural river berms, beach dunes and the like are 'adjacent wetlands'. It should be noted that the courts have interpreted the 'criterion' for adjacency broadly, and found that wetland were 'adjacent' even when separated by substantial distances or by substantial barriers. For example, one court found adjacency for lots one-half-mile from a navigable water and in another instance where a wetland was separated from a navigable water by a fifty-foot-wide paved street.

2. Section 10 of the Rivers and Harbors Act

Pursuant to Section 10 of the Rivers and Harbors Acts of 1899 (33 U.S.C. 403), the Corps regulates any obstruction or alteration to navigable waters of the United States. Navigable waters of the Pacific Ocean extend to the line on the shore reached by the mean of the higher high waters (MHHW)[9]. The MHHW reaches an elevation of about 3.0 feet near Marina del Rey.

State of California Jurisdiction

B. California Coastal Commission - California Coastal Act

1. California Coastal Act Wetland Definitions and Policy Guidance

The CCC regulates the diking, filling, or dredging of wetlands within the coastal zone. Section 30121 of the Coastal Act defines "wetlands" as land "*which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.*" The 1981 CCC Statewide Interpretive Guidelines state that hydric soils and hydrophytic vegetation "*are useful indicators of wetland conditions, but the presence or absence of hydric soils and/or hydrophytes alone are not necessarily determinative when the Commission identifies wetlands under the Coastal Act. In the past, the Commission has considered all relevant information in making such*

[9] Corps of Engineers. Los Angeles District. November 29, 1972. Public Notice Relative to Navigable Waters Within the Los Angeles District.

determinations and relied upon the advice and judgment of experts before reaching its own independent conclusion as to whether a particular area will be considered wetland under the Coastal Act. The Commission intends to continue to follow this policy."

The 1981 CCC Statewide Interpretive Guidelines define riparian habitats as areas of riparian vegetation. Riparian vegetation is defined as "*an association of plant species which grows adjacent to freshwater watercourses, including perennial and intermittent streams, lakes, and other bodies of fresh water.*" Riparian habitats may encompass wetland areas, but may also extend beyond those areas.

As discussed above (and below), areas regulated by the Corps, CCC, and CDFG are often not coincident due to the differing goals of the respective regulatory programs and also because these agencies use different definitions for determining the extent of wetland areas. For example, the Corps requires that positive indicators for the presence of wetland hydrology, hydric soils, and a predominance of hydrophytic vegetation be present for an area to meet the Corps' wetland definition. The Coastal Commission does not necessarily require that indicators for wetland hydrology, hydric soils, and a predominance of hydrophytic vegetation be present for an area to be determined to by a "wetland"; rather, the presence of hydric soils in the absence of a predominance of hydrophytes (or vice versa) could be sufficient for a positive wetland determination.

2. California Coastal Act – Environmentally Sensitive Habitat Areas

The California Coastal Act (California Public Resources Code Division 20, Section 30240a) restricts land uses within or adjacent to environmentally sensitive habitat areas (ESHAs). The Coastal Act Section 30107.5 defines an ESHA as:

> *...any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Included within this definition are wetlands, estuaries, streams, riparian habitats, lakes, and portions of open coastal waters, which meet the rare or valuable habitat criteria. Not all wetlands necessarily meet the "rare or valuable habitat criteria" and as set forth in Section 30233, "where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects" degraded or low-value

wetlands that do not which meet the rare or valuable habitat criteria may be subject to restoration in accordance with Section 30233.7. [10]

B. Regional Water Quality Control Board

Subsequent to the SWANCC decision, the Chief Counsel for the State Water Resources Control Board issued a memorandum that addressed the effects of the SWANCC decision on the Section 401 Water Quality Certification Program.[11] The memorandum states:

> *California's right and duty to evaluate certification requests under section 401 is pendant to (or dependent upon) a valid application for a section 404 permit from the Corps, or another application for a federal license or permit. Thus if the Corps determines that the water body in question is not subject to regulation under the COE's 404 program, for instance, no application for 401 certification will be required...*
>
> *The SWANCC decision does not affect the Porter Cologne authorities to regulate discharges to isolated, non-navigable waters of the states....*
>
> *Water Code section 13260 requires "any person discharging waste, or proposing to discharge waste, within any region that could affect the waters of the state to file a report of discharge (an application for waste discharge requirements)." (Water Code § 13260(a)(1) (emphasis added).) The term "waters of the state" is defined as "any surface water or groundwater, including saline waters, within the boundaries of the state." (Water Code § 13050(e).) The U.S. Supreme Court's ruling in SWANCC has no bearing on the Porter-Cologne definition. While all waters of the United States that are within the borders of California are also waters of the state, the converse is not true—waters of the United States is a subset of waters of the state. Thus, since Porter-Cologne was enacted California always had and retains authority to regulate discharges of waste into any waters of the state, regardless of whether the COE has concurrent jurisdiction under section 404. The fact that often Regional Boards opted to regulate discharges to, e.g., vernal pools, through the 401 program in lieu of or in addition to issuing waste discharge requirements (or waivers thereof) does not preclude the regions*

[10] Although ESHA policies do not exist within the LCP, this report elaborates on ESHA policies simply to demonstrate that the evidence does not suggest this area constitutes ESHA.

[11] Wilson, Craig M. January 25, 2001. Memorandum addressed to State Board Members and Regional Board Executive Officers.

from issuing WDRs (or waivers of WDRs) in the absence of a request for 401 certification....

Thus, discharge of fill material into waters of the State that do not fall under the jurisdiction of the Corps pursuant to Section 404 of the Clean Water Act, may require authorization through application for waste discharge requirements (WDRs) or through waiver of WDRs.

C. California Department of Fish and Game

Pursuant to Division 2, Chapter 6, Sections 1600-1603 of the California Fish and Game Code, the CDFG regulates all diversions, obstructions, or changes to the natural flow or bed, channel, or bank of any river, stream, or lake, which supports fish or wildlife.

CDFG defines a "stream" (including creeks and rivers) as "a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having surface or subsurface flow that supports or has supported riparian vegetation." CDFG's definition of "lake" includes "natural lakes or man-made reservoirs."

CDFG jurisdiction within altered or artificial waterways is based upon the value of those waterways to fish and wildlife. CDFG Legal Advisor has prepared the following opinion:

- Natural waterways that have been subsequently modified and which have the potential to contain fish, aquatic insects and riparian vegetation will be treated like natural waterways...

- Artificial waterways that have acquired the physical attributes of natural stream courses and which have been viewed by the community as natural stream courses, should be treated by [CDFG] as natural waterways...

- Artificial waterways without the attributes of natural waterways should generally not be subject to Fish and Game Code provisions...

Thus, CDFG jurisdictional limits closely mirror those of the Corps. Exceptions are CDFG's exclusion of isolated wetlands (those not associated with a river, stream, or lake), the addition of artificial stock ponds and irrigation ditches constructed on uplands, and the addition of riparian habitat supported by a river, stream, or lake regardless of the riparian area's federal wetland status.

III. RESULTS

A. Review of Historic Conditions

An aerial photograph from 1928 [Exhibit 4] indicates that historically, the site was part of the Balloña wetland complex and likely supported salt marsh vegetation. Between 1928 and 1936 development occurred on the site, which remained generally unchanged until the extensive development associated with construction of the marina in the late 1950s through early 1960s. Exhibits 5 and 6 depict the site as developed between 1936 and 1956. Construction of the marina in the late 1950s and early 1960s included construction of a seawall that allowed for deposition of hydraulic fill behind the seawall to create a pad for future building construction.[12] Exhibit 7 is an aerial photograph from 1962 that shows the site with the sewer vent that is now located within the excavated depression.

The depression was excavated in 1984 for a development project, but was halted well before completion, leaving between 0.60 and two feet of historic fill overlaying the natural surface in the lowest portions of the excavated depression as noted in Section I.A above. The I-beam pilings installed as part of the construction operation still ring the site and a concrete foundational structure, which was installed within the excavated basin, is still intact. The excavated depression is clearly not a natural feature and is hydrologically isolated (i.e., the closed basin does not exhibit surface hydrological connections to other jurisdictional waters including the adjacent marina). Rather, the site is surrounded on all sides by existing development. While limited areas within this feature exhibit positive indicators for the presence of wetland characteristics, as discussed below under "Jurisdictional Delineation", wetland functions associated with the feature are minimal as noted below under "Wetland Functions".

B. Jurisdictional Delineation

The entire site covers approximately 3.8 acres and the excavated depression in the southern portion of the site covers little over one acre. Areas outside the depression are vegetated with upland ruderal species including riput (*Bromus diandrus*, UPL), soft chess (*Bromus hordeaceus*, UPL), bur clover (*Medicago polymorpha*, UPL), foxtail barley (*Hordeum murinum*ssp. *Leporinum*, NI), cheeseweed (*Malva parviflora*, UPL), small-flowered iceplant (*Mesembryanthemum nodiflorum*, UPL), and garland chrysanthemum (*Chrysanthemum coronarium*, UPL). The excavated depression supports a mixture of plant species that exhibit a range relative to their wetland indicator status from upland (UPL) to obligate (OBL), based at

[12] Van Beveren & Butelo, Inc. Letter Report to Mr. Thomas Farrell. Subject: Surface of Natural Soil Deposits Proposed Hotel and parking Structure Site, Marina del Rey, Los Angeles County, California.

least in part with their location in the basin. The southern margin of the basin consists of a berm made up of spoil materials, which is presumed to have been created using material from the excavated basin. The berm supports narrow-leaf willow (*Salix exigua*, OBL) and upland grasses. Data was collected at ten locations including eight locations within the depression and two on the berm. A description of the vegetation, soils, and potential hydrology are discussed for each data collection point.

1. Three Parameter Wetlands [Potential Corps and Coastal Commission Wetlands]

Data collected at Data Points 2, 4, 6, and 8 [encompassed by the polygons depicted on Exhibit 3], exhibit vegetation, soils and hydrology that are consistent with the presence of wetlands. The wettest area in the vicinity of Data Points 2 and 8, support alkali bulrush (*Scirpus maritimus*, OBL), alkali weed (*Cressa truxillensis*, FACW) with the presence of the alkali bulrush as the strongest indicator for wetland conditions. Hydric soil indicators observed at Data Points 2, 4, 6, and 8 appear to have formed in response to current site hydrological conditions including sulfidic odor in Soil Pit 2 (i.e., Data Point 2) and low chroma matrix with areas with redoxymorphic features for Data Points 4, 6, and 8. Wetland hydrology, at Data Points 2, 4, 6, and 8, was indicated by the presence of saturated lenses within the upper 12 inches of the soil.

As noted above, the Corps requires that all three parameters be present in order to make a positive wetland determination. Because the area encompassed by the polygons that include data points 2, 4, 6, and 8 satisfy all three criteria, the area could be determined to be a jurisdictional wetland if the Corps determines that the wetland area is adjacent to the jurisdictional waters associated with Marina del Rey. The area encompassed by the two polygons covers approximately 0.26 acre.

The 0.26-acre area that exhibits positive indicators for wetland hydrology, hydric soils and hydrophytic vegetation is not connected hydrologically to other navigable waters (i.e., Marina del Rey/Pacific Ocean). As discussed in II.A.1.b above, the Corps could assert jurisdiction over the 0.26-acre area based on adjacency to other navigable waters (i.e., Marina del Rey/Pacific Ocean), and given the proximity of the 0.26-acre area to the marina (approximately 85 feet) it is expected that the Corps will in fact assert jurisdiction over this feature.

2. Single Parameter Wetlands [Potential Coastal Commission Wetlands]

Data collected at Data Points 1, 5, and 9 [encompassed by the polygon on Exhibit 3], do not exhibit all three parameters; however, they do exhibit positive indicators for hydric soils [Data Point 1] or hydrophytic vegetation [Data Points 1, 5, and 9]. These areas lacked wetland hydrology during the field visits conducted in October, November and early December 2004, although rainfall totals were above average during this period. Subsequently, following the

extreme storms of late December 2004 and early January 2005, the area became inundated; however the approximately 15 inches of rain in a two week period do not represent "normal" conditions and would not be used in determining whether the site exhibits wetland hydrology. Nevertheless, the presence of hydric soils (potentially relictual) and/or hydrophytic vegetation may be sufficient for the Coastal Commission to make a wetland determination for this portion of the site and as such it is identified as an area with hydric soils and hydrophytic vegetation. The area encompassed by this polygon covers approximately 0.21 acre. Combined, the 0.26 acre area that exhibits characteristics consistent with the presence of a three-parameter wetland and 0.21-acre area that exhibits at least one parameter would both be regulated as wetland by the Coastal Commission for a total of 0.47 acre of Coastal Commission jurisdiction.

3. California Department of Fish and Game

The excavated depression does not meet the definition of either a lake or a stream in accordance with the California Fish and Game Code, and would not be subject to regulation by CDFG pursuant to Section 1602 of the California Fish and Game Code.

4. Regional Water Quality Control Board

If the Corps asserts jurisdiction over the 0.26-acre portion of the isolated depression, it will be necessary to obtain a Section 401 Water Quality Certification from the Regional Board as a condition of the Section 404 from the Corps. If the Corps does not assert jurisdiction over this feature, then the Regional Board would assert jurisdiction in accordance with the Porter Cologne Act and require a waste discharge permit (WDR).

C. Wetland Functions Associated with Portions of Excavated Basin

As noted above, approximately 0.26 acre of the excavated basin meets the Corps definition of wetland as it exhibits positive indicators (albeit minimally) for wetland hydrology, hydric soils and a predominance of hydrophytes. An additional 0.21 acre exhibits positive indicators for the presence of hydric soils and/or hydrophytes and could be considered wetland under the California Coastal Act.

It does not follow from the mere presence of wetland indicators, that the 0.26 acre area or 0.21 acre area exhibit important or even measurable wetland functions. In fact, the excavated basin exhibits minimal wetland function as it supports very limited areas of native vegetation and includes a large percentage of non-native species. The site does not support or have the potential to support state- or federally listed plants or animals or other special-status plants or animals. Additionally, as noted above, the small site (less than four acres with the potential wetland areas totaling less than 0.50 acre combined) is completely surrounded by development and supports

only wildlife species that are adapted to the urban environment. Because the potential wetland areas are associated with a closed depression the potential for hydrologic or water quality functions are very limited.

If you have any questions about this letter report, please contact Tony Bomkamp at (949) 837-0404.

Sincerely,

GLENN LUKOS ASSOCIATES, INC.

Tony Bomkamp

Tony Bomkamp
Regulatory Specialist

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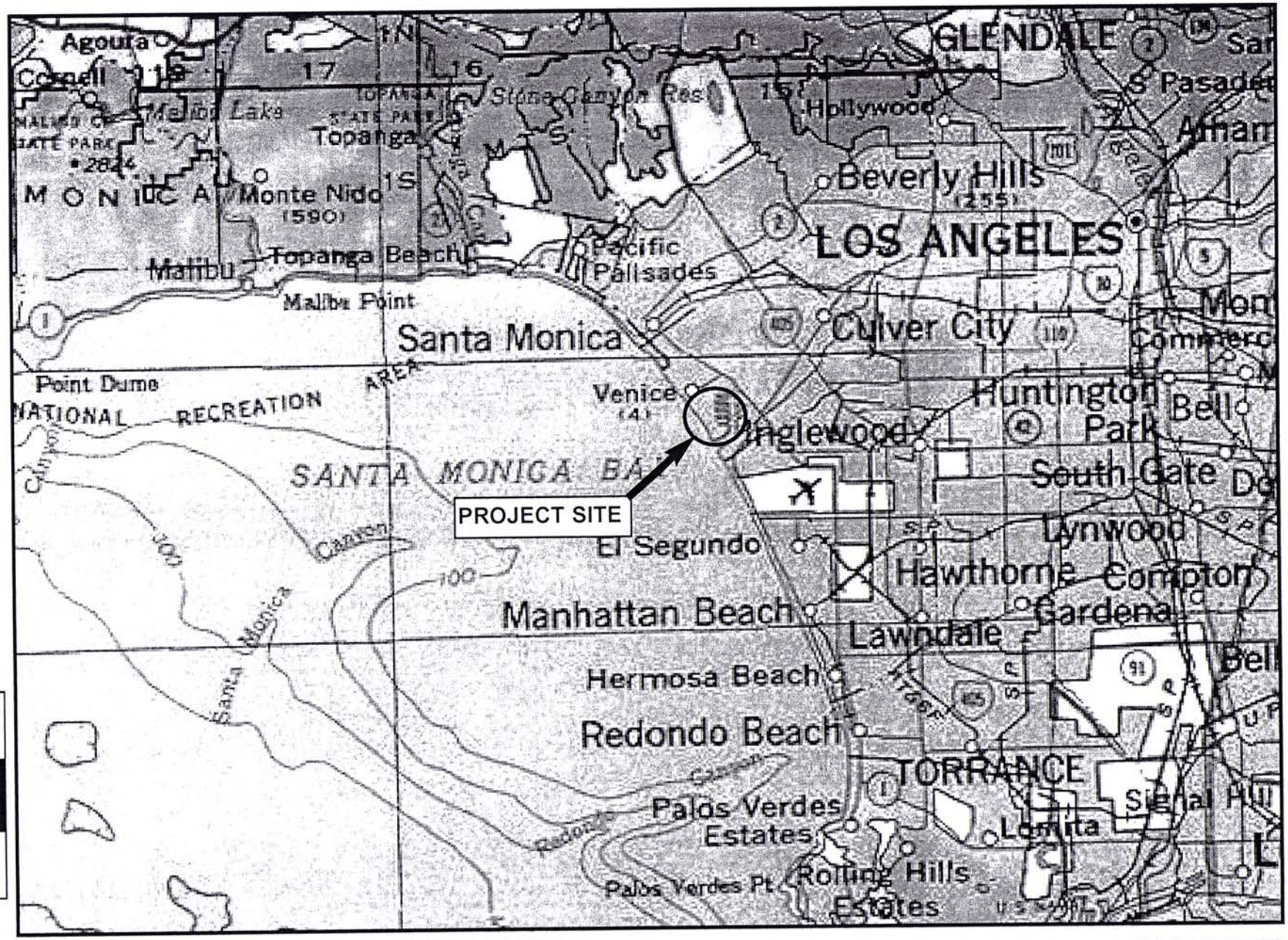


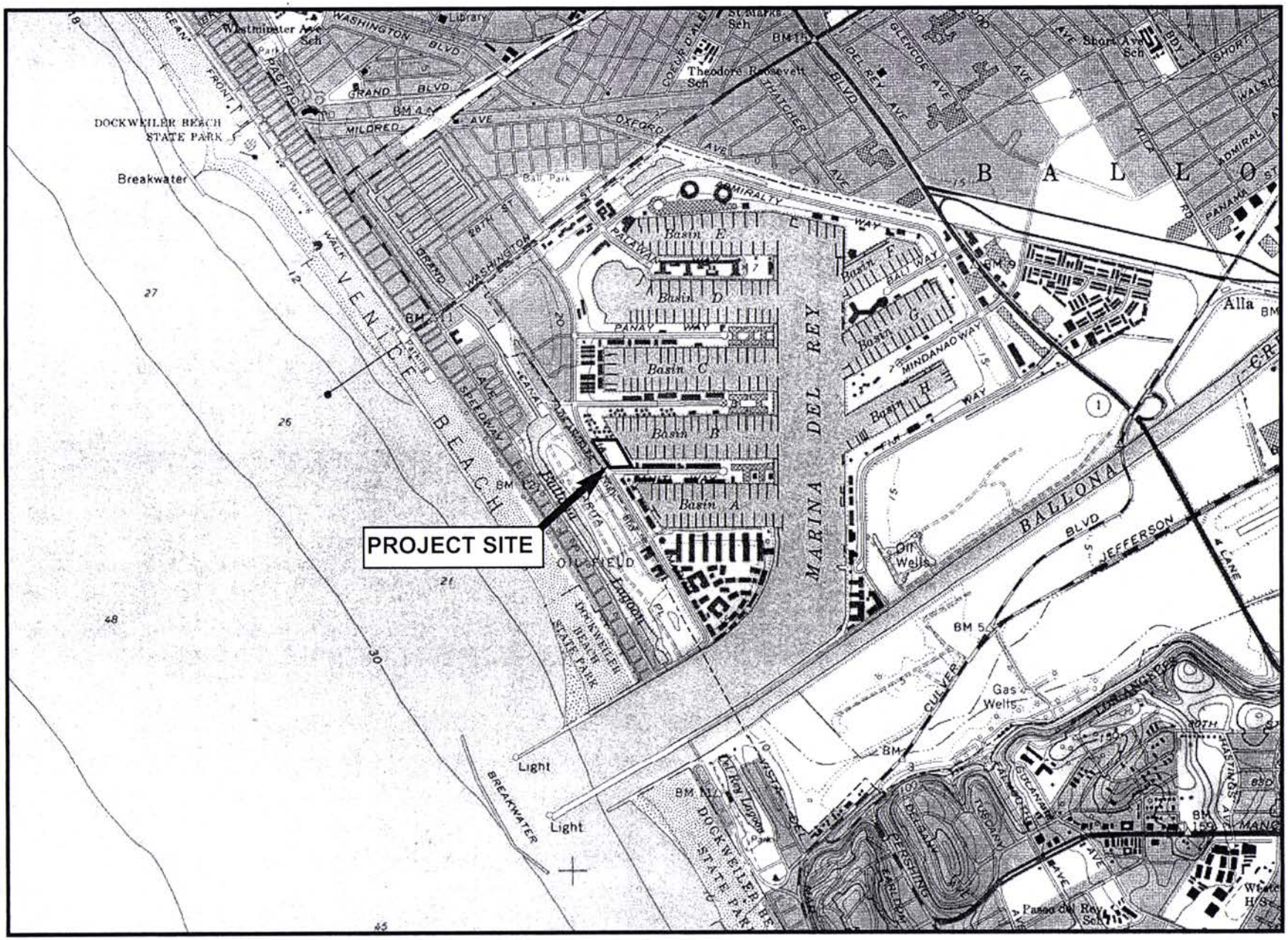
Adapted from National Geographic TOPO!

PARCEL 9U

Regional Map

GLENN LUKOS ASSOCIATES

EXHIBIT 1



PARCEL 9U

Vicinity Map

GLENN LUKOS ASSOCIATES

EXHIBIT 2

GLENN LUKOS ASSOCIATES

Exhibit 4

PARCEL 9U

1928 Historic Aerial Photograph

Adapted from Fairchild Aerial Photography Collection Flight C-164 Frame 14

NORTH

GLENN LUKOS ASSOCIATES

Exhibit 5

PARCEL 9U

1936 Historic Aerial Photograph

Adapted from Fairchild Aerial Photography Collection
Flight C-3847 Frame 11

NORTH

GLENN LUKOS ASSOCIATES

Exhibit 6

PARCEL 9U

1956 Historic Aerial Photograph

Adapted from Fairchild Aerial Photography Collectioin
Flight C-22403A Frame 11

NORTH

GLENN LUKOS ASSOCIATES

Exhibit 7

PARCEL 9U

1962 Historic Aerial Photograph

Adapted from Fairchild Aerial Photography Collection
Flight C-24400 Frame 16:101

NORTH

DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: Parcel 9u - Marina del Rey
Applicant/Owner: Woodfin Suites
Investigator: TBomkamp

Date: 10-22-04
County: LA
State: CA

Do Normal Circumstances exist on the site? (Yes) No
Is the site significantly disturbed (Atypical Situation)? Yes (No)
Is the area a potential Problem Area? Yes (No)
(If needed, explain on reverse.)

Community ID: Ruderal
Transect ID:
Plot ID: 1

VEGETATION

Dominant Plant Species	Stratum	Indicator
1. Cressa truxillensis	H	FACW
2. Bassia hyssopifolia	H	FAC
3. Paraphalis incurva	H	OBL
4.		
5.		
6.		
7.		
8.		

Dominant Plant Species	Stratum	Indicator
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-). 100%

Remarks:

HYDROLOGY

___ Recorded Data (Describe in Remarks):
___ Stream, Lake, or Tide Gauge
___ Aerial Photographs
___ Other
X No Recorded Data Available

Field Observations:

Depth of Surface Water: None (in.)
Depth to Free Water in Pit: None (in.)
Depth to Saturated Soil: None (in.)

Wetland Hydrology Indicators:
Primary Indicators:
___ Inundated
___ Saturated in Upper 12 Inches
NONE ___ Water Marks
___ Drift Lines
___ Sediment Deposits
___ Drainage Patterns in Wetlands
Secondary Indicators (2 or more required):
___ Oxidized Root Channels in Upper 12 Inches
NONE ___ Water-Stained Leaves
___ Local Soil Survey Data
___ FAC-Neutral Test
___ Other (Explain in Remarks)

Remarks: Rain on 10/16 + 10/20
Pit to 14" - no saturation - only slightly moist

SOILS

Map Unit Name
(Series and Phase): Oceano

Drainage Class: Excessive

Taxonomy (Subgroup): N/A

Field Observations
Confirm Mapped Type? Yes (No)

Profile Description:

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions, Structure, etc.
		See Data Sheet From 8-18-04			

Hydric Soil Indicators:

- ___ Histosol
- ___ Histic Epipedon
- ___ Sulfidic Odor
- ___ Aquic Moisture Regime
- ___ Reducing Conditions
- ___ Gleyed or Low-Chroma Colors
- ___ Concretions
- ___ High Organic Content in Surface Layer in Sandy Soils
- ___ Organic Streaking in Sandy Soils
- ___ Listed on Local Hydric Soils List
- ___ Listed on National Hydric Soils List
- ___ Other (Explain in Remarks)

Remarks:

WETLAND DETERMINATION

Hydrophytic Vegetation Present? (Yes) No (Circle)
Wetland Hydrology Present? Yes (No)
Hydric Soils Present? Yes (No)

Is this Sampling Point Within a Wetland? (Circle) Yes (No) #

Remarks: Meets single parameter Potential wetland for CCC.

Approved by HQUSACE 3/92

DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: Parcel 9U - Marina del Rey
Applicant/Owner: City OF L.A.
Investigator: TBOMKAMP

Date: 8-18-04
County: LA
State: CA

Do Normal Circumstances exist on the site? (Yes) No
Is the site significantly disturbed (Atypical Situation)? Yes (No)
Is the area a potential Problem Area? Yes (No)
(If needed, explain on reverse.)

Community ID: BulRush
Transect ID:
Plot ID: 2

VEGETATION

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. Cressa truxillensis	H	FACW	9.		
2. Scirpus Maritimus	H	OBL	10.		
3.			11.		
4.			12.		
5.			13.		
6.			14.		
7.			15.		
8.			16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-). 100%

Remarks:

HYDROLOGY

___ Recorded Data (Describe in Remarks):
___ Stream, Lake, or Tide Gauge
___ Aerial Photographs
___ Other
X No Recorded Data Available

Field Observations:

Depth of Surface Water: / (in.)
Depth to Free Water in Pit: / (in.)
Depth to Saturated Soil: / (in.)

Wetland Hydrology Indicators:
Primary Indicators:
___ Inundated
___ Saturated in Upper 12 Inches
___ Water Marks
___ Drift Lines
___ Sediment Deposits
___ Drainage Patterns in Wetlands
Secondary Indicators (2 or more required):
___ Oxidized Root Channels in Upper 12 Inches
___ Water-Stained Leaves
___ Local Soil Survey Data
X FAC-Neutral Test
___ Other (Explain in Remarks)

Remarks: Dry at 18"

One secondary indicator-

SOILS

Map Unit Name (Series and Phase): Oceano

Drainage Class: Well

Taxonomy (Subgroup): N/A

Field Observations Confirm Mapped Type? Yes (No)

Profile Description:

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions, Structure, etc.
0-2		10YR 3/2	NONE		
2-9		2.5Y 3/2	7.5YR 4/6	Common/Distinct	Sandy loam
9-18		3/N	7.5YR	" "	

Hydric Soil Indicators:

- ___ Histosol
- ___ Histic Epipedon
- ___ Sulfidic Odor
- ___ Aquic Moisture Regime
- ___ Reducing Conditions
- ___ Gleyed or Low-Chroma Colors
- ___ Concretions
- ___ High Organic Content in Surface Layer in Sandy Soils
- ___ Organic Streaking in Sandy Soils
- ___ Listed on Local Hydric Soils List
- ___ Listed on National Hydric Soils List
- ___ Other (Explain in Remarks)

Remarks: Hydric soils appear to have formed under Regime of Groundwater Saturation - NOT Present currently - Further investigation needed to determine whether it is existing.

WETLAND DETERMINATION

Hydrophytic Vegetation Present?	(Yes)	No	(Circle)
Wetland Hydrology Present?	Yes	No	TBD
Hydric Soils Present?	(Yes)	No	
	*		

Is this Sampling Point Within a Wetland? (Circle) Yes No TBD

Remarks: * May be relictual - TBD

Approved by HQUSACE 3/92

DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: Parcel 9 V
Applicant/Owner: WOODFIN Suites
Investigator: Boardamp

Date: 10-22-04
County: LA
State: CA

Do Normal Circumstances exist on the site? (Yes) No
Is the site significantly disturbed (Atypical Situation)? Yes (No)
Is the area a potential Problem Area? Yes (No)
(If needed, explain on reverse.)

Community ID: EMERGENT MARSH
Transect ID:
Plot ID: 2

VEGETATION

Dominant Plant Species	Stratum	Indicator
1. Scirpus maritimus	H	OBL
2. Cressa truxillensis	H	FACW
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-). 100%

Remarks:

HYDROLOGY

___ Recorded Data (Describe in Remarks):
___ Stream, Lake, or Tide Gauge
___ Aerial Photographs
___ Other
X No Recorded Data Available

Field Observations:

Depth of Surface Water: NONE (in.)
Depth to Free Water in Pit: 7-8" (in.)
Depth to Saturated Soil: 6-7" (in.)

Wetland Hydrology Indicators:
Primary Indicators:
___ Inundated
X Saturated in Upper 12 Inches
___ Water Marks
___ Drift Lines
___ Sediment Deposits
___ Drainage Patterns in Wetlands
Secondary Indicators (2 or more required):
___ Oxidized Root Channels in Upper 12 Inches
___ Water-Stained Leaves
___ Local Soil Survey Data
___ FAC-Neutral Test
___ Other (Explain in Remarks)

Remarks:

SOILS

Map Unit Name (Series and Phase): Oceano — Drainage Class: Excessive

Taxonomy (Subgroup): _____ Field Observations Confirm Mapped Type? Yes (No)

Profile Description:

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions, Structure, etc.
		~~See Data Sheet~~			
		~~From 8-18-04~~			

Hydric Soil Indicators:

- ___ Histosol
- ___ Histic Epipedon
- ___ Sulfidic Odor
- ___ Aquic Moisture Regime
- ___ Reducing Conditions
- X Gleyed or Low-Chroma Colors
- ___ Concretions
- ___ High Organic Content in Surface Layer in Sandy Soils
- ___ Organic Streaking in Sandy Soils
- ___ Listed on Local Hydric Soils List
- ___ Listed on National Hydric Soils List
- ___ Other (Explain in Remarks)

Remarks: Saturation at 6-7 inches is likely cause of depleted / Gleyed Matrix

WETLAND DETERMINATION

Hydrophytic Vegetation Present?	(Yes) No (Circle)	(Circle)
Wetland Hydrology Present?	(Yes) No	
Hydric Soils Present?	(Yes) No	Is this Sampling Point Within a Wetland? (Yes) No

Remarks:

Approved by HQUSACE 3/92

DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: Parcel 9U Marina del Rey Applicant/Owner: City of LA Investigator: TBotkamp	Date: 8-18-04 County: LA State: CA
Do Normal Circumstances exist on the site? (Yes) No Is the site significantly disturbed (Atypical Situation)? Yes (No) Is the area a potential Problem Area? Yes (No) (If needed, explain on reverse.)	Community ID: Ruderal Transect ID: Plot ID: 3

VEGETATION

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. Salix exigua	S	OBL	9.		
2. Bromus diandrus	H	UPL	10.		
3.			11.		
4.			12.		
5.			13.		
6.			14.		
7.			15.		
8.			16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-). 50 %

Remarks:

HYDROLOGY

___ Recorded Data (Describe in Remarks):
___ Stream, Lake, or Tide Gauge
___ Aerial Photographs
___ Other
X No Recorded Data Available

Field Observations:

Depth of Surface Water: Dry (in.)
Depth to Free Water in Pit: Dry (in.)
Depth to Saturated Soil: Dry (in.)

Wetland Hydrology Indicators:
Primary Indicators:
___ Inundated
None ___ Saturated in Upper 12 Inches
___ Water Marks
___ Drift Lines
___ Sediment Deposits
___ Drainage Patterns in Wetlands
Secondary Indicators (2 or more required):
___ Oxidized Root Channels in Upper 12 Inches
None ___ Water-Stained Leaves
___ Local Soil Survey Data
___ FAC-Neutral Test
___ Other (Explain in Remarks)

Remarks: Pit to 18" - very Dry

SOILS

Map Unit Name (Series and Phase): Oceano

Drainage Class: Well

Taxonomy (Subgroup): NA

Field Observations Confirm Mapped Type? Yes (No)

Profile Description:

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions, Structure, etc.
0-B		2.5Y 3/3	7.5Y 4/6	Few Distinct	Clay areas Mixed w/ sand

Hydric Soil Indicators:

- ___ Histosol
- ___ Histic Epipedon
- ___ Sulfidic Oder
- ___ Aquic Moisture Regime
- ___ Reducing Conditions
- ___ Gleyed or Low-Chroma Colors
- ___ Concretions
- ___ High Organic Content in Surface Layer in Sandy Soils
- ___ Organic Streaking in Sandy Soils
- ___ Listed on Local Hydric Soils List
- ___ Listed on National Hydric Soils List
- ___ Other (Explain in Remarks)

Remarks: Soils Relictual

WETLAND DETERMINATION

Hydrophytic Vegetation Present? Yes (No) (Circle)

Wetland Hydrology Present? Yes (No)

Hydric Soils Present? Yes (No)

Is this Sampling Point Within a Wetland? Yes (No) (Circle)

Remarks:

Approved by HQUSACE 3/92

DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: Parcel 9V Applicant/Owner: Woodfin Investigator: TBowkamp	Date: 10-22-04 County: LA State: CA
Do Normal Circumstances exist on the site? (Yes) No Is the site significantly disturbed (Atypical Situation)? Yes (No) Is the area a potential Problem Area? Yes (No) (If needed, explain on reverse.)	Community ID: Willows Transect ID: Plot ID: 3

VEGETATION

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. Salix exigua	S	OBL	9.		
2. Bromus diandrus	H	UPL	10.		
3.			11.		
4.			12.		
5.			13.		
6.			14.		
7.			15.		
8.			16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-): 50%

Remarks:

HYDROLOGY

___ Recorded Data (Describe in Remarks):
- ___ Stream, Lake, or Tide Gauge
- ___ Aerial Photographs
- ___ Other

X No Recorded Data Available

Field Observations:

Depth of Surface Water: NONE (in.)

Depth to Free Water in Pit: NONE (in.)

Depth to Saturated Soil: NONE (in.)

Wetland Hydrology Indicators:

Primary Indicators:
- ___ Inundated
- ___ Saturated in Upper 12 Inches
- NONE ___ Water Marks
- ___ Drift Lines
- ___ Sediment Deposits
- ___ Drainage Patterns in Wetlands

Secondary Indicators (2 or more required):
- ___ Oxidized Root Channels in Upper 12 Inches
- ___ Water-Stained Leaves
- NONE ___ Local Soil Survey Data
- ___ FAC-Neutral Test
- ___ Other (Explain in Remarks)

Remarks:

SOILS

Map Unit Name
(Series and Phase): _____ Drainage Class: _____

Taxonomy (Subgroup): _____ Field Observations
Confirm Mapped Type? Yes No

Profile Description:

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions, Structure, etc.
0-18		2.5Y 3/3	7.5 Y 4/6	Few / DISTINCT	

Hydric Soil Indicators:

- ___ Histosol
- ___ Histic Epipedon
- ___ Sulfidic Odor
- ___ Aquic Moisture Regime
- ___ Reducing Conditions
- ___ Gleyed or Low-Chroma Colors
- ___ Concretions
- ___ High Organic Content in Surface Layer in Sandy Soils
- ___ Organic Streaking in Sandy Soils
- ___ Listed on Local Hydric Soils List
- ___ Listed on National Hydric Soils List
- ___ Other (Explain in Remarks)

Remarks: Does not meet as MUST have chroma of 2 OR less w/ MOTTLES. Likely indicates Relictual character of MOTTLES which were transported FROM excavated Material

WETLAND DETERMINATION

Hydrophytic Vegetation Present? Yes (No) (Circle)
Wetland Hydrology Present? Yes (No)
Hydric Soils Present? Yes (No)

Is this Sampling Point Within a Wetland? (Circle) Yes (No)

Remarks:

Approved by HQUSACE 3/92

DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: Parcel 9 v Marina del Rey
Applicant/Owner: City of LA
Investigator: Thornkamp

Date: 8-18-04
County: LA
State: CA

Do Normal Circumstances exist on the site? (Yes) No
Is the site significantly disturbed (Atypical Situation)? Yes (No)
Is the area a potential Problem Area? Yes (No)
(If needed, explain on reverse.)

Community ID: Ruderal
Transect ID:
Plot ID: 4

VEGETATION

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. Cressa truxillensis	H	FACW	9.		
2.			10.		
3.			11.		
4.			12.		
5.			13.		
6.			14.		
7.			15.		
8.			16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-).

Remarks:

HYDROLOGY

___ Recorded Data (Describe in Remarks):
___ Stream, Lake, or Tide Gauge
___ Aerial Photographs
___ Other
X No Recorded Data Available

Field Observations:

Depth of Surface Water: None (in.)
Depth to Free Water in Pit: None (in.)
Depth to Saturated Soil: None (in.)

Wetland Hydrology Indicators:
Primary Indicators:
___ Inundated
None ___ Saturated in Upper 12 Inches
___ Water Marks
___ Drift Lines
___ Sediment Deposits
___ Drainage Patterns in Wetlands
Secondary Indicators (2 or more required):
None ___ Oxidized Root Channels in Upper 12 Inches
___ Water-Stained Leaves
___ Local Soil Survey Data
___ FAC-Neutral Test
___ Other (Explain in Remarks)

Remarks: Pit dry to 18"

SOILS

Map Unit Name (Series and Phase): Oceano

Drainage Class: Well

Taxonomy (Subgroup): NA

Field Observations Confirm Mapped Type? Yes (No)

Profile Description:

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions, Structure, etc.
0-4		Sand			
	Sandy Laminations	5y 4/3	Alternating w/		
4-7		2.5y 4/1	NONE		
		2.5y 3/2			
7-12		10 YR 3/6	NONE		
12-18		Layers of Gleyed sand + clay			

Hydric Soil Indicators:

- ___ Histosol
- ___ Histic Epipedon
- ___ Sulfidic Odor
- ___ Aquic Moisture Regime
- ___ Reducing Conditions
- ___ Gleyed or Low-Chroma Colors
- ___ Concretions
- ___ High Organic Content in Surface Layer in Sandy Soils
- ___ Organic Streaking in Sandy Soils
- ___ Listed on Local Hydric Soils List
- ___ Listed on National Hydric Soils List
- ___ Other (Explain in Remarks)

Remarks: Potential Redox Formation

WETLAND DETERMINATION

Hydrophytic Vegetation Present? (Yes) No (Circle)

Wetland Hydrology Present? Yes (No)

Hydric Soils Present? (Yes) No * Potential

Is this Sampling Point Within a Wetland? (Circle) Yes (No)

Remarks:

Approved by HQUSACE 3/92

DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: Parcel 9V Applicant/Owner: Wrapfin Suites Investigator: TBornkamp	Date: 10-22-04 County: LA State: CA
Do Normal Circumstances exist on the site? (Yes) No Is the site significantly disturbed (Atypical Situation)? Yes (No) Is the area a potential Problem Area? Yes (No) (If needed, explain on reverse.)	Community ID: Ruderal Transect ID: Plot ID: 4

VEGETATION

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. Cressa truxillensis	H	FACW	9.		
2.			10.		
3.			11.		
4.			12.		
5.			13.		
6.			14.		
7.			15.		
8.			16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-). 100%

Remarks:

HYDROLOGY

___ Recorded Data (Describe in Remarks):
- ___ Stream, Lake, or Tide Gauge
- ___ Aerial Photographs
- ___ Other

X No Recorded Data Available

Field Observations:

Depth of Surface Water:	NONE	(in.)
Depth to Free Water in Pit:	11-12	(in.)
Depth to Saturated Soil:	11-12	(in.)

Wetland Hydrology Indicators:

Primary Indicators:
- ___ Inundated
- X Saturated in Upper 12 Inches
- ___ Water Marks
- ___ Drift Lines
- ___ Sediment Deposits
- ___ Drainage Patterns in Wetlands

Secondary Indicators (2 or more required):
- ___ Oxidized Root Channels in Upper 12 Inches
- ___ Water-Stained Leaves
- ___ Local Soil Survey Data
- ___ FAC-Neutral Test
- ___ Other (Explain in Remarks)

Remarks: Saturated zone at 11-12 inches on top of clay area

SOILS

Map Unit Name (Series and Phase): Oceano

Drainage Class: Exessive

Taxonomy (Subgroup): NA

Field Observations Confirm Mapped Type? Yes (No)

Profile Description:

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions, Structure, etc.
		See sheet from 8-18-04			

Hydric Soil Indicators:

- ___ Histosol
- ___ Histic Epipedon
- ___ Sulfidic Odor
- ___ Aquic Moisture Regime
- ___ Reducing Conditions
- ___ Gleyed or Low-Chroma Colors
- ___ Concretions
- ___ High Organic Content in Surface Layer in Sandy Soils
- ___ Organic Streaking in Sandy Soils
- ___ Listed on Local Hydric Soils List
- ___ Listed on National Hydric Soils List
- ___ Other (Explain in Remarks)

Remarks: Redox observed on 8-18-04 consistent w/ shallow perched water at 11-12 inches

WETLAND DETERMINATION

Hydrophytic Vegetation Present? (Yes) No (Circle)

Wetland Hydrology Present? (Yes) No

Hydric Soils Present? (Yes) No

(Circle)

Is this Sampling Point Within a Wetland? (Yes) No

Remarks:

Approved by HQUSACE 3/92

DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: Parcel 9U - Marina del Rey Applicant/Owner: CITY OF LA Investigator: TBoomkamp	Date: 8-18-04 County: LA State: CA
Do Normal Circumstances exist on the site? (Yes) No Is the site significantly disturbed (Atypical Situation)? Yes (No) Is the area a potential Problem Area? Yes (No) (If needed, explain on reverse.)	Community ID: Ruderal Transect ID: Plot ID: 5

VEGETATION

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. Cynodon dactylon	H	FAC	9.		
2. Bromus diandrus	H	UPL	10.		
3. Parapholis incurva	H	OBL	11.		
4.			12.		
5.			13.		
6.			14.		
7.			15.		
8.			16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-). 66/67%

Remarks:

HYDROLOGY

___ Recorded Data (Describe in Remarks):
___ Stream, Lake, or Tide Gauge
___ Aerial Photographs
___ Other
X No Recorded Data Available

Field Observations:

Depth of Surface Water: Dry (in.)
Depth to Free Water in Pit: Dry (in.)
Depth to Saturated Soil: Dry (in.)

Wetland Hydrology Indicators:
Primary Indicators:
___ Inundated
___ Saturated in Upper 12 Inches
NONE ___ Water Marks
___ Drift Lines
___ Sediment Deposits
___ Drainage Patterns in Wetlands
Secondary Indicators (2 or more required):
___ Oxidized Root Channels in Upper 12 Inches
___ Water-Stained Leaves
NONE ___ Local Soil Survey Data
___ FAC-Neutral Test
___ Other (Explain in Remarks)

Remarks: Dry to 18"

SOILS

Map Unit Name (Series and Phase): Oceano — Drainage Class: well

Taxonomy (Subgroup): NA — Field Observations Confirm Mapped Type? Yes (No)

Profile Description:

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions, Structure, etc.
0-8	Sandy	2.5Y 3/2	-3/3	NO MOTTLES	
8-12		2.5Y 3/1	NONE		

Hydric Soil Indicators:

- ___ Histosol
- ___ Histic Epipedon
- ___ Sulfidic Odor
- ___ Aquic Moisture Regime
- ___ Reducing Conditions
- ___ Gleyed or Low-Chroma Colors
- ___ Concretions
- ___ High Organic Content in Surface Layer in Sandy Soils
- ___ Organic Streaking in Sandy Soils
- ___ Listed on Local Hydric Soils List
- ___ Listed on National Hydric Soils List
- ___ Other (Explain in Remarks)

Remarks:

WETLAND DETERMINATION

Hydrophytic Vegetation Present? (Yes) No (Circle)
Wetland Hydrology Present? Yes (No)
Hydric Soils Present? Yes (No)

Is this Sampling Point Within a Wetland? (Circle) Yes (No)

Remarks:

Approved by HQUSACE 3/92

DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: Parcel 9V Applicant/Owner: WOODFIN Suites Investigator: TBoonKamp	Date: 10-22-04 County: LA State: CA
Do Normal Circumstances exist on the site? (Yes) No Is the site significantly disturbed (Atypical Situation)? Yes (No) Is the area a potential Problem Area? Yes (No) (If needed, explain on reverse.)	Community ID: Ruderal Transect ID: Plot ID: 5

VEGETATION

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. Cynodon dactylon	H	FAC	9.		
2. Bromus diandrus	H	UPL	10.		
3. Parapholis incurva	H	OBL	11.		
4.			12.		
5.			13.		
6.			14.		
7.			15.		
8.			16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-). 67%

Remarks:

HYDROLOGY

___ Recorded Data (Describe in Remarks):
___ Stream, Lake, or Tide Gauge
___ Aerial Photographs
___ Other
X No Recorded Data Available

Field Observations:

Depth of Surface Water: DRY to 18" (in.)

Depth to Free Water in Pit: DRY to 18" (in.)

Depth to Saturated Soil: DRY to 18" (in.)

Wetland Hydrology Indicators:
Primary Indicators:
___ Inundated
___ Saturated in Upper 12 Inches
___ Water Marks
___ Drift Lines
___ Sediment Deposits
___ Drainage Patterns in Wetlands
NONE
Secondary Indicators (2 or more required):
___ Oxidized Root Channels in Upper 12 Inches
___ Water-Stained Leaves
___ Local Soil Survey Data
___ FAC-Neutral Test
___ Other (Explain in Remarks)
NONE

Remarks:

SOILS

Map Unit Name
(Series and Phase): _____ Drainage Class: _____

Field Observations
Confirm Mapped Type? Yes No

Taxonomy (Subgroup): _____

Profile Description:

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions, Structure, etc.
0-8	Sandy	2.5Y 3/2	-3/3	no Redox	
8-12		2.5Y 3/1	NONE		

Hydric Soil Indicators:

- ___ Histosol
- ___ Histic Epipedon
- ___ Sulfidic Odor
- ___ Aquic Moisture Regime
- ___ Reducing Conditions
- ___ Gleyed or Low-Chroma Colors
- ___ Concretions
- ___ High Organic Content in Surface Layer in Sandy Soils
- ___ Organic Streaking in Sandy Soils
- ___ Listed on Local Hydric Soils List
- ___ Listed on National Hydric Soils List
- ___ Other (Explain in Remarks)

Remarks:

WETLAND DETERMINATION

Hydrophytic Vegetation Present? (Yes) No (Circle)
Wetland Hydrology Present? Yes (No)
Hydric Soils Present? Yes (No)

(Circle)
Is this Sampling Point Within a Wetland? Yes (No)

Remarks:

NO For Three Parameter - Potentially at Boundary For CCC wetland

Approved by HQUSACE 3/92

DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: Parcel 9U Applicant/Owner: Wooden Suites Investigator: TBoumkamp	Date: 10-22-04 County: LA State: CA
Do Normal Circumstances exist on the site? (Yes) No Is the site significantly disturbed (Atypical Situation)? Yes (No) Is the area a potential Problem Area? Yes (No) (If needed, explain on reverse.)	Community ID: Ruderal Transect ID: Plot ID: 6

VEGETATION

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. Cressa truxillensis	H	FACW	9.		
2. Bassia hyssopifolia	H	FAC	10.		
3.			11.		
4.			12.		
5.			13.		
6.			14.		
7.			15.		
8.			16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-). 100%

Remarks:

HYDROLOGY

___ Recorded Data (Describe in Remarks):
- ___ Stream, Lake, or Tide Gauge
- ___ Aerial Photographs
- ___ Other

X No Recorded Data Available

Field Observations:

Depth of Surface Water: NONE (in.)

Depth to Free Water in Pit: * 12-13 (in.)

Depth to Saturated Soil: * 12-13 (in.)

Wetland Hydrology Indicators:

Primary Indicators:
- ___ Inundated
- X Saturated in Upper 12 Inches
- ___ Water Marks
- ___ Drift Lines
- ___ Sediment Deposits
- ___ Drainage Patterns in Wetlands

Secondary Indicators (2 or more required):
- ___ Oxidized Root Channels in Upper 12 Inches
- ___ Water-Stained Leaves
- ___ Local Soil Survey Data
- ___ FAC-Neutral Test
- ___ Other (Explain in Remarks)

None

Remarks: * Perched zone of saturation between 12 and 13 inches

SOILS

Map Unit Name (Series and Phase): Oceano — Drainage Class: Excessive

Taxonomy (Subgroup): N/A — Field Observations Confirm Mapped Type? Yes (No)

Profile Description:

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions, Structure, etc.
0-8		10YR 2/2	7.5YR 4/6	Common/distinct	Sandy Loam
8-18		2.5YR 3/2	Same	" "	" "
		Mottles may be Relictual			

Hydric Soil Indicators:

- ___ Histosol
- ___ Histic Epipedon
- ___ Sulfidic Odor
- X Aquic Moisture Regime — narrow perched zone
- ___ Reducing Conditions
- ___ Gleyed or Low-Chroma Colors
- ___ Concretions
- ___ High Organic Content in Surface Layer in Sandy Soils
- ___ Organic Streaking in Sandy Soils
- ___ Listed on Local Hydric Soils List
- ___ Listed on National Hydric Soils List
- ___ Other (Explain in Remarks)

Remarks:

WETLAND DETERMINATION

Hydrophytic Vegetation Present? (Yes) No (Circle)
Wetland Hydrology Present? (Yes) No
Hydric Soils Present? (Yes) No

Is this Sampling Point Within a Wetland? (Circle) (Yes) No

Remarks:

Approved by HQUSACE 3/92

DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: Parcel 9V
Applicant/Owner: WoodFin Suites
Investigator: E Bornkamp / F. Hoffman

Date: 12-1-04
County: LA
State: CA

Do Normal Circumstances exist on the site? (Yes) No
Is the site significantly disturbed (Atypical Situation)? Yes (No)
Is the area a potential Problem Area? Yes (No)
(If needed, explain on reverse.)

Community ID: Willow Scrub
Transect ID:
Plot ID: 7

VEGETATION

Dominant Plant Species	Stratum	Indicator
1. Salix exigua	S	OBL
2. Cynodon dactylon	H	FAC
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-). 100%

Remarks:

HYDROLOGY

___ Recorded Data (Describe in Remarks):
___ Stream, Lake, or Tide Gauge
___ Aerial Photographs
___ Other
X No Recorded Data Available

Field Observations:
Depth of Surface Water: Dry to 16" (in.)
Depth to Free Water in Pit: 1' (in.)
Depth to Saturated Soil: 0" (in.)

Wetland Hydrology Indicators:
Primary Indicators:
___ Inundated
___ Saturated in Upper 12 Inches
___ Water Marks
___ Drift Lines
___ Sediment Deposits
___ Drainage Patterns in Wetlands
Secondary Indicators (2 or more required):
___ Oxidized Root Channels in Upper 12 Inches
___ Water-Stained Leaves
___ Local Soil Survey Data
___ FAC-Neutral Test
___ Other (Explain in Remarks)

Remarks: Pit ≈ 1/2 way up slope

SOILS

Map Unit Name (Series and Phase): Oceano

Drainage Class: Excessive

Taxonomy (Subgroup): NA

Field Observations Confirm Mapped Type? Yes (No)

Profile Description:

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions, Structure, etc.
0-16		2.5Y3/2	NONE		Sand + SILT

Hydric Soil Indicators:

NOT
- ___ Histosol
- ___ Histic Epipedon
- ___ Sulfidic Odor
- ___ Aquic Moisture Regime
- ___ Reducing Conditions
- ___ Gleyed or Low-Chroma Colors

NONE
- ___ Concretions
- ___ High Organic Content in Surface Layer in Sandy Soils
- ___ Organic Streaking in Sandy Soils
- ___ Listed on Local Hydric Soils List
- ___ Listed on National Hydric Soils List
- ___ Other (Explain in Remarks)

Remarks:

WETLAND DETERMINATION

		(Circle)
Hydrophytic Vegetation Present?	(Yes)	No
Wetland Hydrology Present?	Yes	(No)
Hydric Soils Present?	Yes	(No)

Is this Sampling Point Within a Wetland? (Yes) No (Circle)

Remarks: Sampling Point at Wetland Boundary

Approved by HQUSACE 3/92

DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: Parcel 9U Applicant/Owner: Woodfin Suites Investigator: E Bemkamp / F Hoffman	Date: 12-1-04 County: LA State: CA
Do Normal Circumstances exist on the site? Yes No Is the site significantly disturbed (Atypical Situation)? Yes No Is the area a potential Problem Area? Yes No (If needed, explain on reverse.)	Community ID: Willow Scrub Transect ID: Plot ID: 8

VEGETATION

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. Salix exigua	S	OBL	9.		
2. Cressa truxillensis	H	FACW	10.		
3.			11.		
4.			12.		
5.			13.		
6.			14.		
7.			15.		
8.			16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-): 100%

Remarks:

HYDROLOGY

___ Recorded Data (Describe in Remarks):
- ___ Stream, Lake, or Tide Gauge
- ___ Aerial Photographs
- ___ Other

X No Recorded Data Available

Field Observations:

Depth of Surface Water: NONE (in.)

Depth to Free Water in Pit: 11-12 (in.)

Depth to Saturated Soil: 11-12 (in.)

Wetland Hydrology Indicators:

Primary Indicators:
- ___ Inundated
- X Saturated in Upper 12 Inches
- ___ Water Marks
- ___ Drift Lines
- ___ Sediment Deposits
- ___ Drainage Patterns in Wetlands

Secondary Indicators (2 or more required):
- ___ Oxidized Root Channels in Upper 12 Inches
- ___ Water-Stained Leaves
- ___ Local Soil Survey Data
- ___ FAC-Neutral Test
- ___ Other (Explain in Remarks)

Remarks:

SOILS

Map Unit Name (Series and Phase): Oceano

Drainage Class: Excessive

Taxonomy (Subgroup): NA

Field Observations Confirm Mapped Type? Yes (No)

Profile Description:

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions, Structure, etc.
0-4		2.5Y 5/2	10YR 5/8		
4-16		2.5Y 3/1	NONE		

Hydric Soil Indicators:

- ___ Histosol
- ___ Histic Epipedon
- ___ Sulfidic Odor
- ___ Aquic Moisture Regime
- ___ Reducing Conditions
- X Gleyed or Low-Chroma Colors

Potentially Relictual though could be from Subsurface Hydrology.

- ___ Concretions
- ___ High Organic Content in Surface Layer in Sandy Soils
- ___ Organic Streaking in Sandy Soils
- ___ Listed on Local Hydric Soils List
- ___ Listed on National Hydric Soils List
- ___ Other (Explain in Remarks)

Remarks:

WETLAND DETERMINATION

Hydrophytic Vegetation Present? (Yes) No (Circle)
Wetland Hydrology Present? (Yes) No
Hydric Soils Present? (Yes) No

Is this Sampling Point Within a Wetland? (Circle) (Yes) No

Remarks: Potentially Relictual but presumed in due to presence of subsurface hydrology

Approved by HQUSACE 3/92

DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: Parcel 9 U
Applicant/Owner: WOODFin Suites
Investigator: T Bomkamp

Date: 10-22-04
County: LA
State: CA

Do Normal Circumstances exist on the site? Yes No
Is the site significantly disturbed (Atypical Situation)? Yes No
Is the area a potential Problem Area? Yes No
(If needed, explain on reverse.)

Community ID: Ruderal
Transect ID:
Plot ID: 9

VEGETATION

Dominant Plant Species	Stratum	Indicator
1. Cressa truxillensis	H	FACW
2. Bassia hyssopifolia	H	FAC
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-): 100%

Remarks:

HYDROLOGY

___ Recorded Data (Describe in Remarks):
___ Stream, Lake, or Tide Gauge
___ Aerial Photographs
___ Other
X No Recorded Data Available

Field Observations:
Depth of Surface Water: Dry to 18" (in.)
Depth to Free Water in Pit: Dry to 18" (in.)
Depth to Saturated Soil: Dry to 18" (in.)

Wetland Hydrology Indicators:
Primary Indicators:
___ Inundated
___ Saturated in Upper 12 Inches
NONE ___ Water Marks
___ Drift Lines
___ Sediment Deposits
___ Drainage Patterns in Wetlands
Secondary Indicators (2 or more required):
___ Oxidized Root Channels in Upper 12 Inches
___ Water-Stained Leaves
NONE ___ Local Soil Survey Data
___ FAC-Neutral Test
___ Other (Explain in Remarks)

Remarks:

SOILS

Map Unit Name (Series and Phase): Oceano

Drainage Class: Excessive

Field Observations Confirm Mapped Type? Yes (No)

Taxonomy (Subgroup): NA

Profile Description:

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions, Structure, etc.
0-16		2.5Y 3/3	NONE - clean Brown Soil on Small Rise at elevation 2.5		

Hydric Soil Indicators:

None
- ___ Histosol
- ___ Histic Epipedon
- ___ Sulfidic Odor
- ___ Aquic Moisture Regime
- ___ Reducing Conditions
- ___ Gleyed or Low-Chroma Colors

None
- ___ Concretions
- ___ High Organic Content in Surface Layer in Sandy Soils
- ___ Organic Streaking in Sandy Soils
- ___ Listed on Local Hydric Soils List
- ___ Listed on National Hydric Soils List
- ___ Other (Explain in Remarks)

Remarks:

WETLAND DETERMINATION

Hydrophytic Vegetation Present? (Yes) No (Circle)
Wetland Hydrology Present? Yes (No)
Hydric Soils Present? Yes (No)

Is this Sampling Point Within a Wetland? * (Yes) No (Circle)

Remarks:

* Area lacks hydrology and soil clearly different and more "upland" That in areas around Pits 1 and 4. However based on vege - Potential CCC wetland

Approved by HQUSACE 3/92

DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: Parcel 9U Marina del Rey Applicant/Owner: Woodfin Suites Investigator: TBonnkemp	Date: 10-22-04 County: LA State: CA
Do Normal Circumstances exist on the site? (Yes) No Is the site significantly disturbed (Atypical Situation)? Yes (No) Is the area a potential Problem Area? Yes (No) (If needed, explain on reverse.)	Community ID: Ruderal Transect ID: Plot ID: 10

VEGETATION

Dominant Plant Species	Stratum	Indicator
1. Mesembryanthemum nodiflorum	H	UPL
2. Bromus rubens	H	UPL
3. Cressa truxillensis	H	FACW
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-): 33%

Remarks:

HYDROLOGY

___ Recorded Data (Describe in Remarks):
- ___ Stream, Lake, or Tide Gauge
- ___ Aerial Photographs
- ___ Other

X No Recorded Data Available

Field Observations:

Depth of Surface Water:	None	(in.)
Depth to Free Water in Pit:	None	(in.)
Depth to Saturated Soil:	None	(in.)

Wetland Hydrology Indicators:

Primary Indicators: (None)
- ___ Inundated
- ___ Saturated in Upper 12 Inches
- ___ Water Marks
- ___ Drift Lines
- ___ Sediment Deposits
- ___ Drainage Patterns in Wetlands

Secondary Indicators (2 or more required): (None)
- ___ Oxidized Root Channels in Upper 12 Inches
- ___ Water-Stained Leaves
- ___ Local Soil Survey Data
- ___ FAC-Neutral Test
- ___ Other (Explain in Remarks)

Remarks: Rain on 10/16 + 10/20
Pit TD 14" no saturation - Some Moisture in Profile

SOILS

Map Unit Name (Series and Phase): Ollano

Drainage Class: Excessive

Taxonomy (Subgroup): —

Field Observations Confirm Mapped Type? Yes (No)

Profile Description:

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions, Structure, etc.
0-8		2.5Y 3/3	NONE		Sandy loam
8-12		2.5Y 3/1	NONE		Sandy loam

Hydric Soil Indicators:

___ Histosol
___ Histic Epipedon
___ Sulfidic Odor
___ Aquic Moisture Regime
___ Reducing Conditions
___ Gleyed or Low-Chroma Colors
___ Concretions
___ High Organic Content in Surface Layer in Sandy Soils
___ Organic Streaking in Sandy Soils
___ Listed on Local Hydric Soils List
___ Listed on National Hydric Soils List
___ Other (Explain in Remarks)

Remarks:

WETLAND DETERMINATION

Hydrophytic Vegetation Present? Yes (No) (Circle)
Wetland Hydrology Present? Yes (No)
Hydric Soils Present? Yes (No)

Is this Sampling Point Within a Wetland? (Circle) Yes (No)

Remarks:

Approved by HQUSACE 3/92

CONCEPTUAL RESTORATION PLAN FOR DEGRADED ARTIFICIAL WETLAND ASSOCIATED WITH PARCEL 9U MARINA DEL REY

FOR THE WOODFIN RESORT

CITY OF MARINA DEL REY
LOS ANGELES COUNTY, CALIFORNIA

FEBRUARY 2006
[REVISED NOVEMBER 2006]

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The project site covers approximately 3.8 acres and includes an excavated depression in the southern portion of the property. The depression was created in 1984 during construction activities within an upland area that were abandoned and left unfinished. Areas outside the depression are vegetated with upland ruderal species. The excavated depression supports a mixture of plant species that exhibit a range relative to their wetland indicator status from upland (UPL) to obligate (OBL). The southern margin of the basin consists of a berm comprised of spoil materials excavated from the basin that supports narrow-leaf willow (*Salix exigua*, OBL) and upland grasses. Soils below the upper 0.6 feet to two feet of existing soil profile, which consist of dredge material deposited in the 1950s and early 1960s, appear to be relictual hydric soils that formed at depth prior to excavation of the basin. Limited areas within the upper two feet exhibit hydric soil characteristics that appear to have formed in place due to ponding, consistent with the depressional topography of the excavated basin.

A jurisdictional delineation conducted by Glenn Lukos Associates (GLA) in 2005 identified approximately 0.47 acre of wetlands within the excavated basin of which 0.26 acre consists of wetlands that exhibit positive indicators for wetland hydrology, hydrophytic vegetation and hydric soils and an additional 0.21 acre that lacked positive indicators for at least one of the three criteria but would still be considered wetland pursuant to California Coastal Act policies. In order to enhance the aquatic function of the excavated wetland basin, the applicant proposes a rehabilitation program for the basin that would include re-contouring, removal of non-native species, enhancement of the hydrological regime through creation of a muted tidal connection, and establishment of native coastal salt marsh habitat appropriate to the area, including special-status species that would enhance the overall value of the wetland. In addition to the restoration of the 0.47 acre saltwater marsh, the open space areas surrounding the marsh would be planted with species indicative of native habitats along the California coast such as coastal prairie, coastal sage scrub, coastal bluff scrub and maritime chaparral. These plantings will serve as a buffer for the saltwater marsh, and will provide educational opportunities for the public.

A. Location of Project

The 3.8-acre Parcel 9U is located in the City of Marina Del Rey, Los Angeles County, California [USGS 7.5' Venice, California quadrangle map at Township 2S, Range 15W, unsectioned], [Exhibit 1 – Regional Map]. The project is located north of Tahiti Way, west of Basin B of Marina Del Rey, east of Via Marina, and south of a residential development [Exhibit 2 – Vicinity Map]. According to the U.S. Geological Survey (USGS) topographic map of Venice, California [dated 1964 and photorevised in 1981], the Project area supports no blue-line streams. Adjoining properties consist of residential development and Basin B of Marina Del Rey.B.

B. Responsible Parties

Applicant:

Woodfin Suites Hotels
12730 High Bluff Drive
San Diego, California 92130

Preparers of Restoration Plan:

Glenn Lukos Associates, Inc.
29 Orchard
Lake Forest, California 92630
Phone: (949) 837-0404
Fax: (949) 837-5834
Contact: Tony Bomkamp

C. Areas to be Restored by Habitat Type

The excavated depression supports a mixture of native and non-native plant species that exhibit a range relative to their wetland indicator status from upland (UPL) to obligate (OBL), based at least in part with their location in the basin. The southern margin of the basin consists of a berm made up of spoil materials, which is presumed to have been created using material from the excavated basin. The berm supports narrow-leaf willow (*Salix exigua*, OBL) and upland grasses with ripgut brome (*Bromus diandrus*, UPL) as the most prevalent. The wettest (lowest) area in basin supports limited areas of alkali bulrush (*Scirpus maritimus*, OBL), alkali weed (*Cressa truxillensis*, FACW) and small patches of pickleweed (*Salicornia virginica*). Large portions of the basin exhibit little vegetation or support non-native five-hook bassia (*Bassia hyssopifolia*, FAC).

D. Type(s), Functions, and Values of the Areas to be Restored

The basin is artificial, having been created during previous construction efforts that were left unfinished. The basin is very deep, approximately eight feet below the ground surface on the adjacent portions of the site and only exhibits wetland conditions during high rainfall years. In dry

years, the basin exhibits upland characteristics. Other than very limited areas of native wetland habitat (alkali bulrush, alkali weed and pickleweed), the existing basin is either unvegetated or vegetated with non-native ruderal species such as five-hook bassia.

Hydrologic Functions

As noted, the artificial basin is very deep, well below the surface of the adjacent upland areas. Furthermore, because much of the site was subject to deposition of dredge material during construction of the marina, the substrate in much of the basin is sand that allows rapid percolation of rain water such in most years rainfall and local runoff from limited portions of the site do not result in ponded conditions. As such, the depression exhibits ponding only during above-average rainfall years and supports wetland plant during these years. During other years the basin supports a predominance of upland species.

Biogeochemical Functions

The vegetation located along the upper margins of the pool provides limited filtering of sediments and pollutants prior to entering the pool; however, as the ponded area is mostly unvegetated, the pool provides very limited water quality benefits. Furthermore, because the basin is a closed depression, there is no hydrologic connection with any areas offsite, limiting the effects of any biogeochemical functions to the site.

Functions Related to Habitat

The basin supports very limited habitat value for both native plants and animals. A small area of native alkali bulrush occurs within the deepest portion of the basin. Narrow-leaf willow occurs on the upland berm adjacent to the southern margin of the basin that lacks wetland hydrology and hydric soils. The limited area of willow habitat supports species common within the urban setting such as black phoebe, common mallard, and mourning dove.

II. GOAL OF RESTORATION

A. Type(s) of Habitat to be Created/Enhanced

The wetland basin to be enhanced was created during previous construction on the site, which left an eight-foot-deep depression. The depression exhibits only limited wetland function and other than approximately 150-200 square feet that is occupied by native alkali bulrush and alkali weed, the site is best characterized as "ruderal." The goal of the restoration/enhancement program is to create coastal salt marsh habitat with a "muted" tidal regime that supports a suite of native plants that also exhibits enhanced functions for wildlife. Enhancement of the excavated depression would

include re-contouring of the depression and establishment of a muted tidal connection to provide enhanced hydrologic and habitat functions. Areas surrounding the basin would be planted with coastal prairie, coastal sage scrub, coastal bluff scrub and maritime chaparral plantings to provide a buffer zone for the restored saltwater marsh.

B. Functions and Values of Habitat to be Created/Enhanced

Hydrologic Functions

Hydrologic functions would be enhanced through re-contouring of the basin to raise the bottom elevation, in conjunction with establishment of a muted tidal connection. The muted tidal connection would be provided through installation of a pipe that would provide the tidal connection.[1] Establishment of more reliable hydrology will allow for introduction of a suite of native coastal salt marsh species set forth in Table 1 below.

Biogeochemical Functions

The current basin exhibits very limited biogeochemical function due to the limited amounts of vegetation. The enhanced basin would support more native vegetation and exhibit minimally higher levels of biogeochemical function.

Functions Related to Habitat

The primary focus of the habitat enhancement will be establishment of coastal salt marsh habitat typical of this region of southern California. The coastal salt marsh would be expected to support invertebrates, vertebrates (e.g. fish), along with a number of avian species including shorebirds, herons and egrets, and waterfowl commonly associated with salt marsh habitats. Provision of a native buffer that includes coastal prairie, coastal sage scrub, coastal bluff scrub and maritime chaparral l elements will enhance the overall habitat value of the saltmarsh area.

C. Time Lapse

Enhancement would begin at the time project construction begins.

D. Estimated Total Cost

Table 1 below is a summary of the estimated cost for implementation including site preparation and plnatings, five-year maintenance, and five-year monitoring of the 0.47 acre saltwater marsh

[1] The location and size of the tidal connection will be determined by a coastal engineer/hydrologist with experience in coastal salt marsh restoration/creation.

and surrounding coastal prairie, coastal sage scrub, coastal bluff scrub and maritime chaparral buffer areas. The cost estimate also includes hardscape that would be incorporated into the park. As described in more detail below, the buffers will be planted with upland species native to the area and the final plant palettes will be determined at the time detailed landscape plans are developed. A detailed breakdown of project costs is included as Appendix A.

TABLE 1
ESTIMATED RESTORATION COST FOR 0.47 ACRE SALTWATER MARSH AND SURROUNDING BUFFER AREA

Task: Wetland Restoration	Cost
Final Contouring of Basin including establishment of muted tidal connection	N/A*
Mobilization	$2,000
Site Preparation	$440
Irrigation System	$3,840
Plant Installation (includes cost of plants and seed/seed collection)	$8,170
Project Maintenance (30 visits)	$17,800
Project Monitoring (32 visits, annual reports)	$55,460
Wetland Subtotal	**$87,710**
Task: Upland Buffer Creation	
Mobilization	$3,000
Site Preparation	$660
Irrigation System	$5,750
Plant Installation (includes cost of plants and seed/seed collection)	$16,000
Project Maintenance (30 visits)	$26,800
Project Monitoring (32 visits, annual reports)	$57,360
Upland Buffer Subtotal	**$109,570**

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TABLE 1 ESTIMATED RESTORATION COST FOR 0.47 ACRE SALTWATER MARSH AND SURROUNDING BUFFER AREA	
Task: Non-Habitat Park Elements	
Hardscape Items	$174,300
Irrigation	1,400
Plantings and Maintenance	46,700
Non-Habitat Park Elements Subtotal	**$222,400**
TOTAL	**$419,680**

* GLA estimates grading cost for contouring of the wetland basin with tidal connection via a piped inlet to range between $25,000 and $40,000; however, the cost is not included in the table as this needs to be confirmed by the project Civil Engineer. Assuming that GLA's assumptions are accurate, the wetland restoration would cost between $135,000 and $150,000.

III. FINAL SUCCESS CRITERIA

A. Target Functions and Values

Enhancement efforts will result in provision of tidal inundation to the 0.47 acre of restored salt marsh. The restored marsh will exhibit elevations ranging from approximately 0.0 feet MSL (low marsh habitat) up to 5.0+ feet MSL (high marsh habitat). Establishment of a tidal connection will allow colonization by a variety of benthic organisms as well as use by fish, which will in turn attract shorebirds and waterfowl.

B. Target Hydrological Regime

Restoration will include establishment of a "muted" tidal regime through a below grade culverted or piped connection into Marina del Rey Harbor. The muted tidal regime will provide for tidal inundation typical of salt marsh habitats in Southern California.

C. Target Wetland Acreage to be Created/Enhanced

A total of 0.47 acre of coastal salt marsh habitat would be restored.

IV. PROPOSED RESTORATION SITE

A. Location and Size of Restoration Area

The proposed restoration site is located in the southern portion of the site [see Exhibit 4], and covers approximately 0.47 acre of saltwater marsh plantings and 0.73 acre of coastal prairie, coastal sage scrub, coastal bluff scrub and maritime chaparral buffer plantings.

B. Ownership Status

The property is currently owned by the County of Los Angeles.

C. Present and Proposed Uses of Restoration Area

The proposed enhancement area is currently occupied by the degraded wetland basin and adjacent berm that is vegetated with the narrow-leaf willow. The basin currently provides limited hydrologic, biogeochemical and habitat functions typical of "seasonal pond" habitat. Establishment of a "muted" tidal regime would ensure substantially higher functions consistent with coastal salt marsh habitat. To ensure the permanent status of the enhancement area (a total of 0.47 acre) for habitat functions, the applicant will record a restrictive covenant in the form of a conservation easement that will prevent development of the areas proposed for wetland enhancement

D. Jurisdictional Delineation

Data collected within the existing constructed basin [encompassed by the polygons depicted on Exhibit 3], exhibit vegetation, soils and hydrology that are consistent with the presence of wetlands. The wettest area supports alkali bulrush (*Scirpus maritimus*, OBL) and alkali weed (*Cressa truxillensis*, FACW) with the presence of the alkali bulrush as the strongest indicator for wetland conditions. In limited areas, hydric soil indicators appear to have formed in response to current site hydrological conditions including sulfidic odor and low chroma matrix. The areas that exhibit wetland vegetation, soils and hydrology cover approximately 0.26 acre.

Additional areas exhibit positive indicators for hydric soils or hydrophytic vegetation cover approximately 0.21 acre. Combined, the 0.26-acre area that exhibits characteristics consistent with the presence of a three-parameter wetland and 0.21-acre area total of 0.47 acre.

E. Present and Proposed Uses of All Adjacent Areas

Portions of the restoration site currently consist of an artificial wetland basin and willow-dominated berm. The remaining portion of the undeveloped site supports primarily ruderal, with dominant

species in the upland portions including ripgut (*Bromus diandrus*), rattail fescue (*Vulpia myuros*), telegraph weed (*Heterotheca grandiflora*), slender wild oat (*Avena barbata*), hare barley (*Hordeum murinum* ssp. *leporinum*), soft chess (*Bromus hordeaceus*), garland chrysanthemum (*Chrysanthemum coronarium*), cheeseweed (*Malva parviflora*), white-stemmed filaree (*Erodium moschatum*), bur clover (*Medicago polymorpha*), sow-thistle (*Sonchus oleraceus*), small flower iceplant (*Mesembryanthemum nodiflorum*), Australian saltbush (*Atriplex semibaccata*), alkali heliotrope (*Heliotropum curassivicum*), and giant horseweed (*Conyza canadensis*). The surrounding land use is consists of developed areas.

V. IMPLEMENTATION PLAN

A. Rationale for Expecting Implementation Success

Re-contouring of the wetland area, along with establishment of a muted tidal connection, will include final elevations that include areas of low-, mid- and high-marsh elevations (ranging from between 0.0 and 1.0 feet MSL up to approximately 5.0 feet MSL[2]). Upland areas surrounding the basin will be planted with species common to coastal upland habitats such as coastal prairie, coastal sage scrub, coastal bluff scrub and maritime chaparral.

B. Responsible Parties

The applicant or the applicant's successors will be the responsible party.

C. Site Preparation and Invasive Plant Removal

Site preparation will be supervised by a qualified habitat restoration specialist, knowledgeable in coastal salt marsh restoration. Site preparation is to consist of grading necessary to re-contour the wetland area and establishment of elevations that include areas of low-, mid and high-marsh (0.0 feet MSL up to 5.0+ feet MSL). During grading, the seed bank consisting of non-native species will be removed. Grading will be conducted to create the microtopography typically found in coastal salt marsh at the direction of the habitat restoration specialist.

D. Planting Design

Expanded and enhanced coastal salt marsh habitat would be planted within the enhanced wetland area as set forth in Table 2. These species would replace the non-native species removed during

[2] The bottom elevation will be determined by grading and will range between 0.0 and 1.0 feet MSL as noted. The upper elevation will be determined by the size of the pipe that provides the tidal connection and will be determined by a coastal engineer. Salt marsh vegetation will be planted up to an elevation of 6.0 feet; however, these areas will not be inundated except in rare events.

site preparation. The proposed low and mid-marsh species would be planted in zones of appropriate wetness. Variations in microtopography within the basin will allow for establishment of mosaic of coastal salt marsh habitat. Upland areas surrounding the enhanced wetland will be planted with species native to coastal prairie, coastal sage scrub, coastal bluff scrub and maritime chaparral habitats (Tables 3, 4, 5 & 6).

E. Plant Palette

All of the coastal salt marsh plants included in the planting palette (Table 2) are able to tolerate periods of tidal inundation alternating with brief periods of drying. The coastal prairie, coastal sage scrub, coastal bluff scrub and maritime chaparral plantings located in the areas surrounding the wetland area are adapted to seasonally dry conditions of coastal southern California. Initial planting will be accomplished during the fall.

F. Source of Plant Material

Plant materials will be obtained from a local nursery or seed source specializing in the cultivation of native coastal salt marsh plants.

G. Plant Installation

Container stock will be installed by a contractor specializing in the restoration of habitats native to southern California. Planting will be accomplished by digging a hole approximately twice the depth and width of the plant container. The planting hole will be filled with water and allowed to drain prior to planting. A small amount of backfill with be placed in the hole and lightly tamped down prior to placing the container stock. The plant root ball will be placed on the backfill and the area will be backfilled entirely while applying water to the backfill soil.

H. Erosion Control

Appropriate erosion control measures will be used during plant establishment. This will include use of BMPs such as jute netting on slopes to hold soil in place during the establishment period. Erosion control measures will be focused on the basin slope, as significant erosion is not expected to occur within the low-gradient basin floor. Should erosion be observed during site monitoring efforts, corrective measures will be applied.

I. As-Built Conditions

The applicant will submit a report (including site photographs and a narrative that addresses the enhancement/creation activities) to the Coastal Commission Executive Director within 30 days of completion of site preparation and planting, describing as-built status of the Enhancement project.

Table 2
Plant Palette for Restored Coastal Salt Marsh

Plant Species	Container Size	Spacing
Low-Marsh		
California Cord Grass (*Spartina foliosa*)	1 gal	3 foot o.c. (clumped)
Saltwort (*Batis maritima*)	1 gal	6 foot o.c. (scattered)
Mid-Marsh		
Common Pickleweed (*Salicornia virginica)*	1 gal	3 foot o.c. (scattered)
Alkali Heath (*Frankenia salina*)	1 gal	3 foot o.c. (scattered)
Fleshy Jaumea (*Jaumea carnosa)*	1 gal	3 foot o.c. (scattered)
Saltgrass (*Distichlis spicata*)	1 gal	3 foot o.c. (clumped)
Upper-Marsh		
Parish's Saltwort (*Arthrocnemum subterminalis*)	1 gal	3 foot o.c. (perimeter)
Southwestern Spiny Rush (*Juncus acutus leopoldi*)	1 gal	3 foot o.c. (perimeter)

Table 3
Plant Palette for Coastal Prairie

Plant Species	Container Size	Spacing
Container Plants		
Wild hyacinth (*Dichelostema capitatum*)	Rosepots	3 foot o.c. (scattered)
Coastal goldenbush (*Isocoma menziesii*)	1 gal	8 foot o.c. (scattered)
Mesa horkelia (*Horkelia cuneata*)	1 gal	3 foot o.c. (scattered)
Wishbone bush (*Mirabilis californica*)	1 gal	10 foot o.c. (scattered)
Coast range melic (*Melica californica*)	Liners	2 foot o.c. (clumped)
Purple needlegrass (*Nassella pulchra)*	Liners	2 foot o.c. (clumped)
Blue eyed grass (*Sisyrinchium bellum*)	Rosepots	2 foot o.c. (clumped)
Seed Mix		
Bentgrass (*Agrostis pallens*)	seed	
Common goldenstar (*Bloomeria crocea*)	seed	
California goldfields (*Lasthenia californica*)	seed	
Foothill needlegrass (*Nassella lepida*)	seed	
Dot seed plantain (*Plantago erecta*)	seed	
Blue eyed grass (*Sisyrinchium bellum*)	seed	

Table 4
Plant Palette for Coastal Sage Scrub and Coastal Bluff Scrub

Plant Species	Container Size	Spacing
Container Plants		
California sagebrush (*Artemisia californica*)	1 gal	5 foot o.c. (scattered)
Brewer's saltbush (*Atriplexlentiformis breweri*)	1 gal	8 foot o.c. (scattered)
Encelia californica (*Encelia californica*)	1 gal	5 foot o.c. (scattered)
Buckwheat (*Eriogonum fasciculatum*)	1 gal	5 foot o.c. (scattered)
Sea cliff buckwheat (*Eriogonum parvifolium*)	1 gal	6 foot o.c. (scattered)
California Boxthorn (*Lycium californica*)	1 gal	6 foot o.c. (clumped)
Purple needlegrass (*Nassella pulchra)*	Liners	2 foot o.c. (clumped)
Coast prickly pear (*Opuntia prolifera)*	1 gal	8 foot o.c. (clumped)
Lemonade berry (*Rhus integrifolia*)	1 gal	20 foot o.c. (clumped)
Seed Mix		
Wild hyacinth (*Dichelostema capitatum*)	seed	
Buckwheat (*Eriogonum fasciculatum*)	seed	
Foothill needlegrass (*Nassella lepida*)	seed	
Purple needlegrass (*Nassella pulchra*)	seed	
Blue eyed grass (*Sisyrinchium bellum*)	seed	

Table 5
Plant Palette for Maritime Chaparral

Plant Species	Container Size	Spacing
Container Plants		
Big-pod ceanothus (*Ceanothus megacarpus*)	1 gal	8 foot o.c. (scattered)
Little-leaved Redberry (*Rhamnus crocea*)	1 gal	5 foot o.c. (scattered)
Toyon (*Heteromeles arbutifolia*)	1 gal	8 foot o.c. (scattered)
Lemonadeberry (*Rhus integrifolia*)	1 gal	8 foot o.c. (scattered)
Southern California dudleya (*Dudleya lanceolata*)	1 gal	4 foot o.c. (clumped)
California fuschia (*Epilobium canum)*	1 gal	5 foot o.c. (clumped)
Coast Buckwheat (*Eriogonum parviflorum*)	1 gal	5 foot o.c. (clumped)
Fuschia flowering gooseberry (*Ribes speciosum*)	1 gal	10 foot o.c. (scattered)
Seed Mix		
Bentgrass (*Agrostis pallens*)	seed	
Common goldenstar (*Bloomeria crocea*)	seed	
Splendid mariposa lily (*Calochortus splendens*)	seed	
Pink gnaphalium (*Gnaphalium ramosossimum*)	seed	
Collard annual lupine (*Lupinus truncatus*)	seed	

VI. MAINTENANCE DURING MONITORING PERIOD

A. Maintenance Activities

The purpose of this program is to ensure the success of the enhancement/ creation program. Maintenance will occur over the life of the project (five years). As the weed eradication and plant installation is completed, the habitat restoration specialist will schedule a meeting with key members of the landscape maintenance crew in order to identify proper maintenance procedures. The following tasks will be performed as general maintenance duties:

1. Weeding

Weeding will be conducted monthly during the first six months of the project and quarterly during years two through five, or as necessary and as directed by the Project Restoration Specialist. Because the salt marsh habitat will support a predominance of species that are not commonly recognized by landscape contractors, training will be necessary to ensure that target species are not inadvertently removed during weeding. Furthermore, because the non-native seed bank will be removed and tidal inundation will suppress many of the common weeds, the amount of weeding may be very limited and as such will be coordinated by the project biologist.

2. Plant Replacement

Dead or damaged container stock will be replaced during the first year as necessary to ensure compliance with the performance standards.

3. Pruning and Staking

None of the target species will require pruning or staking.

4. Trash Removal

Trash removal will be conducted during weeding and other maintenance visits.

5. Tree Protection

None of the shrub species selected are expected to require special protection.

B. Responsible Parties

The Applicant or its successors will be responsible for financing and carrying out maintenance activities. The applicant may assign the maintenance responsibilities to an appropriate contractor, but will retain ultimate responsibility for maintenance of the Enhancement site.

C. Schedule

As noted, weed control may be limited; however, as determined necessary by the project biologist, weeding will be conducted on an as-needed basis during the dry-phased of the basin during the first season of the project and each following year as needed. As the first season passes into the summer and fall the weed problem is expected to decrease, and, depending on the health and spread of the desired plants, the weed maintenance schedule will likely lighten into the second year of project with a decreasing through the life of the monitoring program.

VII. MONITORING PLAN

Monitoring will focus on characteristics of the coastal salt marsh, coastal prairie, coastal sage scrub, coastal bluff scrub and maritime chaparral.

A. Initial Monitoring Effort

Vegetation will be monitored following installation of the container stock. The initial biological and ecological status of the site will be established and the as-built condition of the site will be documented. Long-term monitoring of the site will begin following this initial assessment.

B. Performance Criteria

The success of a restoration site is defined as the restoration of a functional ecosystem. Success is usually measured by percent coverage by target species. While a fully successful restoration and enhancement plan might be viewed as one that results in 100-percent coverage, such coverage is unlikely. Natural habitats rarely exhibit 100-percent coverage, but rather include a considerable proportion of open spaces.

The means of determining successful restoration for this site will be through series of measurements for native cover and diversity, exotic species cover, and use by resident and non-resident nekton. All of these, except non-native species cover, should increase over time. Cover by non-native species should be the opposite; it should decrease with time, particularly because one of the primary goals of the project is to substantially reduce or eliminate non-native species from the site.

After the initial grading, site preparation, and planting effort has been completed, the Restoration area will be monitored by the project monitor on a monthly basis for the 12 months and quarterly for the remainder of the monitoring period. Qualitative surveys, consisting of a general site walkover and habitat characterization, will be completed during each monitoring visit. General observations, such as fitness and health of the planted species, pest problems, weed persistence/establishment, mortality, and drought stress, will be noted in each site walkover. The Project Monitor will determine remedial measures necessary to facilitate compliance with performance standards.

As habitat for wildlife is a stated Final Success Criteria of this plan, notes regarding wildlife usage will be collected during each visit. Based on current wildlife use of the site as well as the location of the site, it is expected that wildlife use will primarily consist of foraging by shorebirds, herons, egrets and waterfowl.

Quantitative data will be collected annually using accepted vegetative sampling methods in order to evaluate survivorship, species coverage, and species composition.

In the event that plantings should fail to meet the specified requirements, compliance will be ensured by the performance of either or both of the following remedial procedures by the contractor on an as-needed basis as directed by the Project Monitor: (1) replacing unsuccessful plantings with appropriate-sized stock or seed mixes to meet stated cover or survival requirements, and /or (2) performing maintenance procedures to ensure the site conditions are appropriate (e.g., non-native species removal). Remedial actions in planting areas shall be based on detailed investigations (such as soil tests and excavations of failed plantings to examine root development) to determine causes of failure. If substantial non-compliance with the performance occurs, the applicant will consult the California Coastal Commission to determine whether corrective measures and an extension of the five-year monitoring period will be necessary.

Vegetation Performance Standards

Saltwater MarshPlantings

First-Year Monitoring

Success Standard: 30-percent coverage of native species (5-percent deviation allowed);
At least 80-percent of the planted species will be represented in the restoration site;
No more than 10-percent coverage by non-native plant species

Second-Year Monitoring

Success Standard: 40-percent coverage of native species (<5-percent deviation allowed);
At least 80-percent of the planted species will be represented in the

restoration site;
No more than Five-percent coverage by non-native plant species

Third-Year Monitoring
Success Standard: 50-percent coverage of native species (<5-percent deviation allowed);
At least 80-percent of the planted species will each attain at least five-percent cover of the total native cover;
No more than Five-percent coverage by non-native plant species

Fourth-Year Monitoring
Success Standard: 60-percent coverage of native species (<5-percent deviation allowed);
At least 80-percent of the planted species will each attain at least five-percent cover of the total native cover;
No more than Five-percent coverage by non-native plant species

Fifth-Year Monitoring
Success Standard: 75-percent coverage of native species (<5-percent deviation allowed);
At least 80-percent of the planted species will each attain at least five-percent cover of the total native cover;
No more than five-percent coverage by non-native plant species

Coastal Prairie Plantings

First-Year Monitoring
Success Standard: 35-percent coverage of native species (5-percent deviation allowed);
At least 80-percent of the planted species will be represented in the restoration site;
No more than 10-percent coverage by non-native plant species

Second-Year Monitoring
Success Standard: 50-percent coverage of native species (<5-percent deviation allowed);
At least 80-percent of the planted species will be represented in the restoration site;
No more than Five-percent coverage by non-native plant species

Third-Year Monitoring
Success Standard: 60-percent coverage of native species (<5-percent deviation allowed);
At least 80-percent of the planted species will each attain at least five-percent cover of the total native cover;
No more than Five-percent coverage by non-native plant species

Fourth-Year Monitoring
Success Standard: 70-percent coverage of native species (<5-percent deviation allowed);
At least 80-percent of the planted species will each attain at least five-percent cover of the total native cover;
No more than Five-percent coverage by non-native plant species

Fifth-Year Monitoring
Success Standard: 80-percent coverage of native species (<5-percent deviation allowed);
At least 80-percent of the planted species will each attain at least five-percent cover of the total native cover;
No more than five-percent coverage by non-native plant species

Coastal Sage Scrub, Coastal Bluff Scrub and Maritime Chaparral Plantings

First-Year Monitoring
Success Standard: 35-percent coverage of native species (5-percent deviation allowed);
No more than 10-percent coverage by non-native plant species

Second-Year Monitoring
Success Standard: 50-percent coverage of native species (<5-percent deviation allowed);
No more than Five-percent coverage by non-native plant species

Third-Year Monitoring
Success Standard: 60-percent coverage of native species (<5-percent deviation allowed);
No more than Five-percent coverage by non-native plant species

Fourth-Year Monitoring
Success Standard: 70-percent coverage of native species (<5-percent deviation allowed);
No more than Five-percent coverage by non-native plant species

Fifth-Year Monitoring
Success Standard: 80-percent coverage of native species (<5-percent deviation allowed);
No more than five-percent coverage by non-native plant species

C. Monitoring Methods

Monitoring will assess the attainment of annual and final success criteria and identify the need to implement contingency measures in the event of failure. Vegetation monitoring methods include field-sampling techniques that are based upon the California Native Plant Society field sampling

protocol.[3] Please refer to *A Manual of California Vegetation* for further details on this sampling method.

1. Vegetation Monitoring

Vegetation monitoring shall be conducted during the active growing season in September of every year. Monitoring shall be performed by a qualified habitat restoration specialist, biologist, or horticulturist with appropriate credentials and experience in native habitat restoration. Continuity within the personnel and methodology of monitoring shall be maintained insofar as possible to ensure comparable assessments. Records will be kept of mortality and other problems, such as insect damage. Other potential site problems, such as weed infestation and soil loss, will also be identified by the project monitor. Remedial measures undertaken will be referenced in the annual report to the Executive Director of the California Coastal Commission.

Sampling Techniques
Sampling protocols for the restoration area is described below.

Quantitative sampling within the restoration area will be performed using two-decimeter quadrats that will be placed randomly throughout the site. Placement of quadrats will be determined using random numbers tables to provide two coordinates, one that indicates the distance along a longitudinal centerline bisecting the site and one that determines the distance form the line. Plots will be placed on alternating sides of the centerline and perpendicular to the centerline. Vegetative cover will be visually estimated within the quadrat for each species present, and recorded on a data sheet. Any species observed during the sampling that does not fall within a quadrat will be recorded and included on the list of species for the restoration site. At least 30 replicates will be initially sampled. Sample variance from data collection in years one through three will be used to determine if 30 samples is adequate. If a power analysis indicates that more than 30 samples are required, additional transects or quadrats will be added. If power analysis indicates that fewer than 30 samples are required, the number of quadrats will be reduced. Sampling will be conducted with sufficient replication to detect a 10% difference in absolute ground cover between the mean of the restoration and the success standard with 90% power at an alpha level of 0.10. The mean native cover for the restoration site will be compared to the performance criteria at the end of five years using an appropriate inferential test such as a single-sample t-test. The mean cover for the restoration site will be considered to meet the performance criteria if the resulting alpha level is greater than 0.10.

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[3] Sawyer, John O. and Todd Keeler-Wolf. 1995. *A Manual of California Vegetation*. California Native Plant Society.

Photo-Documentation
Several permanent stations for photo-documentation of the restoration area will be established. Photos shall be taken each monitoring period from the same vantage point and in the same direction each year, and shall reflect material discussed in the annual monitoring report.

Final Success Criteria Resolution
If the project meets all success criteria at the end of the five-year monitoring period, the habitat creation will be considered a success. If not, the maintenance and monitoring program will be extended one full year at a time and a specific set of remedial measures, approved by the Executive Director of the California Coastal Commission, will be implemented until the standards are met. Only those areas that fail to meet the success criteria will require additional work. This process will continue until all year-five standards are met or until the Executive Director of the California Coastal Commission determines that other re-vegetation measures are appropriate.

Final success criteria will not be considered to have been met until a minimum of three years after all human support (excluding routine weeding), including irrigation, has ceased. Should the re-vegetation effort meet all goals prior to the end of the five-year monitoring period, the Executive Director of the California Coastal Commission, at his discretion, may terminate the monitoring effort.

The permittee recognizes that failure to meet success criteria may result in the requirement to replace that portion of failed Enhancement.

D. Annual Reports

At the end of each of the five monitoring period growing seasons following the "as-built" assessment, an annual report will be prepared for submittal to the Executive Director of the California Coastal Commission. These reports will assess both attainment of yearly target criteria and progress toward final success criteria. These reports will include the following:

- a list of names, titles, and companies of all persons who prepared the content of the annual report and participated in monitoring activities for that year
- an analysis of all qualitative monitoring data
- copies of monitoring photographs
- maps identifying monitoring areas, transects, planting zones, etc. as appropriate.
- copies of all previous reports

E. Schedule

Annual Reports will be submitted by December 31 of each year for the year in which quantitative sampling was performed.

VIII. COMPLETION OF RESTORATION

A. Notification of Completion

When the initial monitoring period is complete, and if the applicant believes final success criteria have been met, the applicant will notify the Executive Director of the California Coastal Commission by submitting a Final Monitoring Report that documents this completion. The final performance monitoring will take place after the five-year monitoring period is complete or after at least three years without remediation or maintenance other than weeding, whichever is longer.

B. Agency Confirmation

Following receipt of the final report, the applicant will, at the request of the Executive Director of the California Coastal Commission, provide access and guidance through the project site to confirm the adequate completion of the habitat creation effort.

C. Contingency Plan

Should any portion of the restoration site fail to meet the final success criteria after the five-year monitoring period, an alternate restoration plan will be developed to compensate for the failed areas. The alternate plan will be submitted to the Coastal Commission for approval within 90 days after submitting the Final Monitoring Report.

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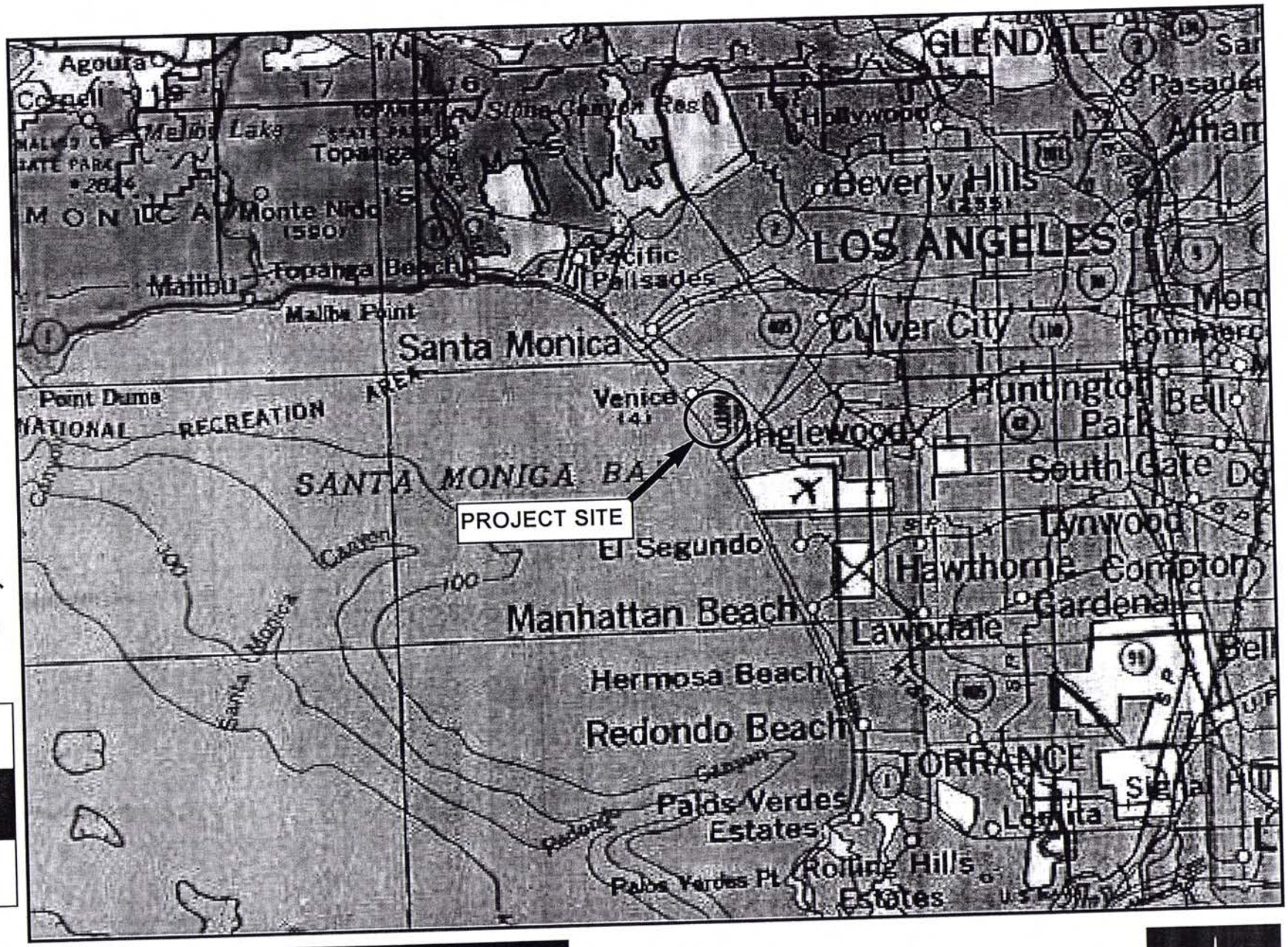


PARCEL 9U

Regional Map

GLENN LUKOS ASSOCIATES

EXHIBIT 1

GLENN LUKOS ASSOCIATES

EXHIBIT 2

PARCEL 9U

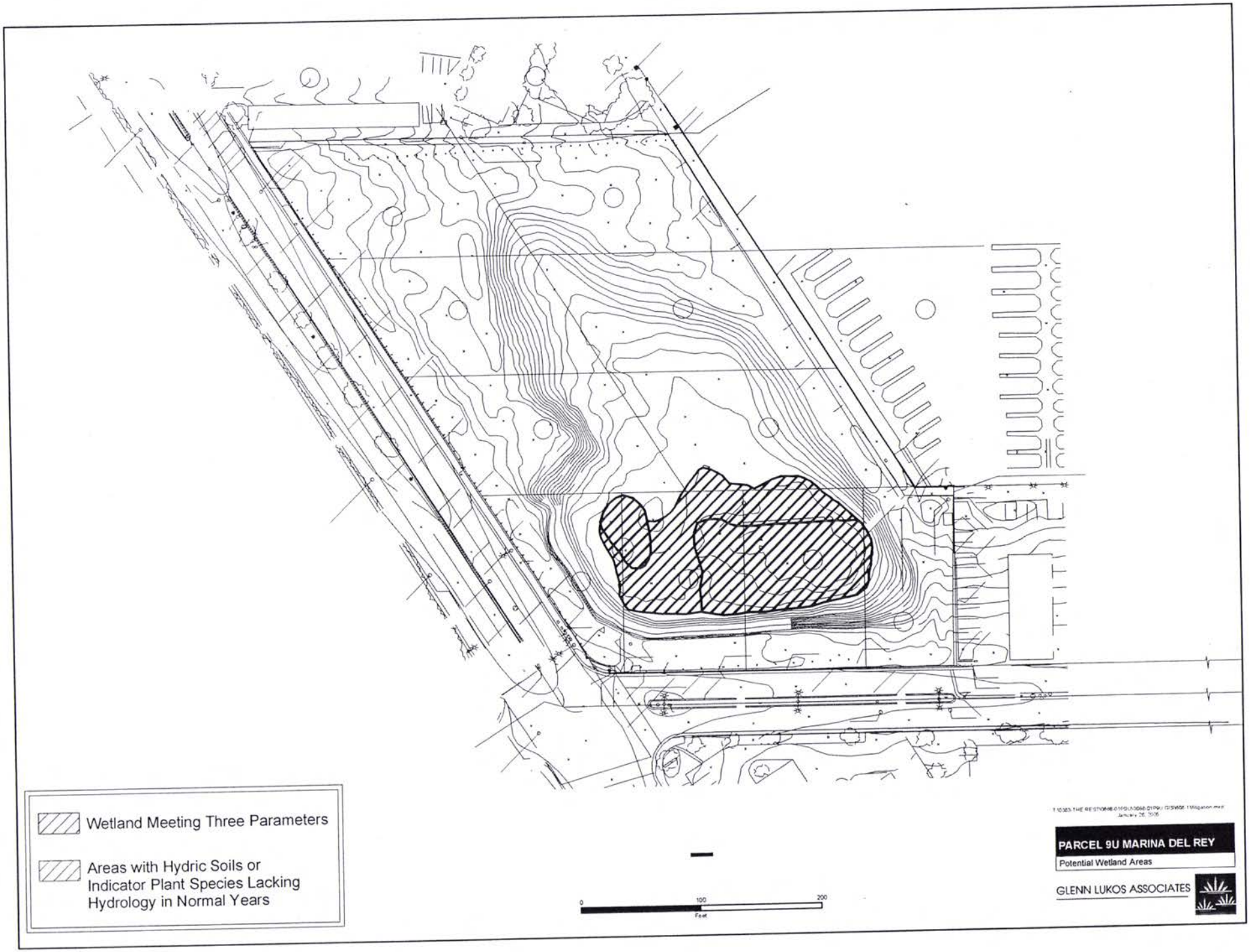
Vicinity Map

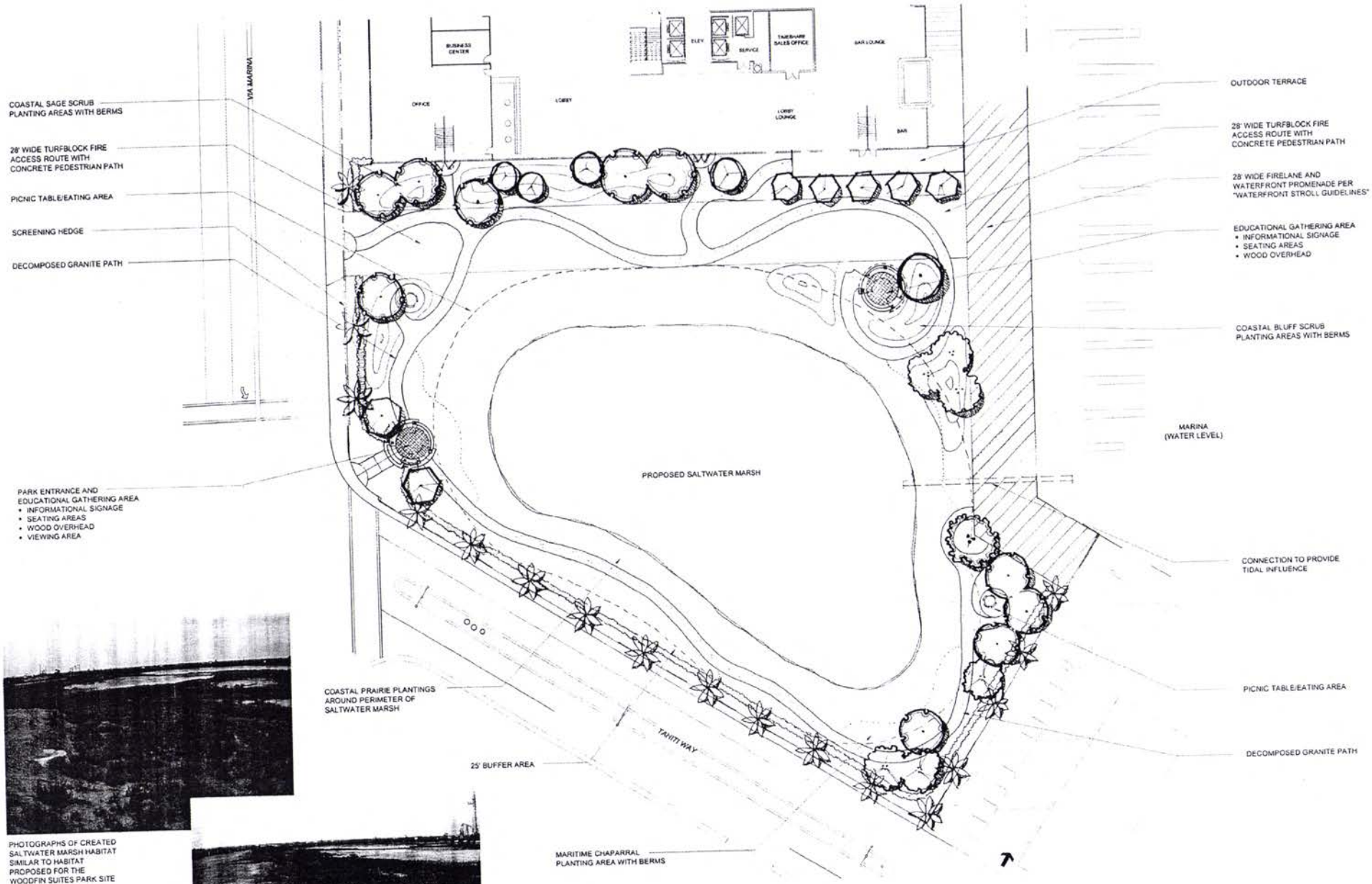
Adapted from USGS Venice quadrangle

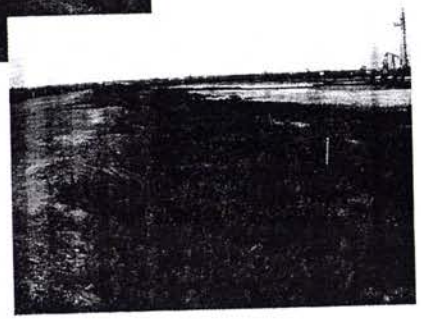
NORTH

0 1000 2000 3000

FEET


Wetland Meeting Three Parameters
Areas with Hydric Soils or Indicator Plant Species Lacking Hydrology in Normal Years
0
100
200
Feet
PARCEL 9U MARINA DEL REY
Potential Wetland Areas
GLENN LUKOS ASSOCIATES





PHOTOGRAPHS OF CREATED SALTWATER MARSH HABITAT SIMILAR TO HABITAT PROPOSED FOR THE WOODFIN SUITES PARK SITE

GRAPHIC SCALE 1/16" = 1'-0"

WOODFIN SUITES
CONCEPTUAL PARK PLAN

STATE OF CALIFORNIA – THE RESOURCES AGENCY

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

EXHIBIT NO. 9
Application Number
A-5-MDR-12-161
Dr. Engel's
Memorandum
California Coastal Commission

1/16

MEMORANDUM

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

TO: Al Padilla, Coastal Program Analyst

SUBJECT: Appeal of Wetland Park Project (CDP# 200600006-4), Parcel 9U, Marina del Rey

DATE: November 29, 2012

Documents Reviewed:

Fuscoe Engineering. October 16, 2012. Proposed Wetland Exhibit. Prepared for Los Angeles County.

Glenn Lukos Associates. August 11, 2012. Parcel 9U, August 2012 Wetland Delineation, Marina del Rey, California. Project # 06680001P9U. Memorandum from Tony Bomkamp, Senior Biologist, GLA, to Dr. John Dixon, Senior Ecologist, CCC and Dr. Jonna Engel, Ecologist, CCC.

Glenn Lukos Associates. May 6, 2011. Response to Comments by "We Are Marina del Rey" dated April 25, 2011. Regarding Wetland Boundary at Parcel 9U, Marina del Rey. Project # 06680001P9U. Memorandum from Tony Bomkamp, Senior Biologist, GLA, to Andi Culbertson, Agent, Los Angeles County.

Glenn Lukos Associates. 2008. P9U Jurisdictional Wetland Delineation Map.

Glenn Lukos Associates. June 20, 2006. Occurrences of Seaside Heliotrope (*Heliotropum curassavicum*) at Parcel 9U, Marina del Rey, California. Project # 06680001P9U. Memorandum from Tony Bomkamp, Senior Biologist, GLA, to Andi Culbertson, Agent, Los Angeles County.

Dixon, John. October 14, 2005. Email to: Pam Emerson; cc: Deborah Lee. Subject: Marina del Rey Wetland.

Glenn Lukos Associates. June 9, 2005 [Third Revision May 6, 2011] Jurisdictional Wetland Status of Parcel 9U, Marina del Rey, Los Angeles County. Prepared by Tony Bomkamp, Senior Biologist, GLA, for Sam Hardage, The Hardage Group and Tim O'Brian, Legacy Partners Residential, Inc.

Glenn Lukos Associates. June 9, 2005 [Second Revision May 27, 2008] Jurisdictional Wetland Status of Parcel 9U, Marina del Rey, Los Angeles County. Prepared by

Tony Bomkamp, Senior Biologist, GLA, for Sam Hardage, The Hardage Group and Tim O'Brian, Legacy Partners Residential, Inc.

Glenn Lukos Associates. June 9, 2005 [First Revision, November 20, 2006] Jurisdictional Wetland Status of Parcel 9U, Marina del Rey, Los Angeles County. Prepared by Tony Bomkamp, Senior Biologist, GLA, for Sam Hardage, The Hardage Group and Tim O'Brian, Legacy Partners Residential, Inc.

Glenn Lukos Associates. June 9, 2005. Jurisdictional Wetland Status of Parcel 9U, Marina del Rey, Los Angeles County. Prepared by Tony Bomkamp, Senior Biologist, GLA, for Sam Hardage, The Hardage Group and Tim O'Brian, Legacy Partners Residential, Inc.

EDAW, Inc. July 9, 2003. Parcel 9U Results of Bird Nest Surveys and Updated Wetland Delineation. Prepared by Paula Jacks, Senior Biologist, EDAW, for Mr. Joe Chesler, AICP, Los Angeles County, Beaches and Harbors.

PCR. July 18, 2001. Biological Constraints Analysis and Jurisdictional Wetland Determination for the Marina del Rey (Parcel 9U) Project Site, Los Angeles County, California. Prepared by Dr. Eric Stein, Principal Ecologist, PCR and Stephanie A. Seapin, Assistant Biologist, PCR, for Mr. Joe Chesler, AICP, Los Angeles County, Beaches and Harbors.

Los Angeles County Department of Beaches and Harbors has submitted a permit application to restore and enhance a degraded wetland (as a wetland park feature) on the south-east half of a site, referred to as parcel 9U, that is on the corner of Via Marina and Tahiti Way adjacent to the marina in Marina del Rey. Appellants of the project have made several assertions including that the wetland boundary has been underestimated, that the proposed wetland buffer is not adequate, and that restoring to a tidally influenced wetland system is inappropriate. I have reviewed the numerous wetland delineation maps and reports prepared for the site and have visited the site to examine on the ground conditions. I conducted my site visit on Friday, July 27, 2012 with Al Padilla, Commission Coastal Analyst, Michael Tripp, Los Angeles County Planner, and Tony Bomkamp, Senior Biologist, Glenn Lukos Associates.

The site of the proposed hotel and wetland park is currently vacant. In 1979, the Commission approved, with conditions, a Coastal Development Permit (A-207-79) for the construction of a four-story 200 room hotel with 25,000 square feet of commercial area. The applicant satisfied the conditions of the permit, including payment of an in-lieu fee of $365,000 into a hostel subsidy fund for the construction of a youth hostel[1]. Following issuance of the permit construction began on the site in the early 1980's. The

[1] Coastal Development Permit No. 5-86-175 approved the rehabilitation of a historic building in the City of Santa Monica and conversion of the building into a 196 bed American Youth Hostel. The permit also authorized the transfer of hostel subsidy funds ($730,000) from two Marina del Rey hotel projects (A-207-79 and A-49-79) to fund the Santa Monica hostel project

site was graded and foundation piles were constructed. However, shortly after construction began, the applicant filed bankruptcy and the site was abandoned and has remained vacant. Part of the initial construction included preparation for an underground parking structure that left a depression in the southern portion of the site. Due to seasonal ponding, portions of the depressed area meet the criteria for wetland designation. The wetland areas support several species of plants characteristic of salt marshes presumably due to fill soils with a high salt content [2] and proximity to nearby salt marsh habitats. The wetland is currently degraded and has low habitat value and function due to its isolation, limited size, and presence of non-native and invasive plant species.

Numerous studies have been conducted to delineate wetlands on Parcel 9U. The first wetland study was conducted by PCR in 2001. PCR based their wetland boundary on an initial reconnaissance survey to distinguish the vegetation characteristics of the upper areas versus the lower areas on the site and data from three sample locations. From their observations and data, PCR estimated that the site supported 1.3 acres of wetland (Figure 1). In 2003 EDAW conducted a wetland study following the methodology used by PCR (EDAW, however, sampled only two locations) and estimated a wetland boundary similar in outline and extent to PCR (Figure 2). Both PCR and EDAW reported that their wetland boundary estimates were based on jurisdictional wetland delineations using the ACOE three parameter criteria. Glenn Lukas Associates (GLA) next conducted a series of wetland studies spanning nine years (2004/2005, 2008, 2010, 2011, and 2012). Figure 3 depicts the wetland boundary determinations GLA made following their 2004/2005 and 2008 surveys. Figure 4 is a compilation of GLA's survey work through the years including data point locations, estimated wetland boundaries, and ponding boundaries. GLA's final wetland boundary determination consists of a 0.47 acre area. GLA's wetland studies involved a higher level of scrutiny than the PCR and EDAW studies; GLA conducted much more intensive sampling. And the wetland boundary estimates are quite different; GLA's wetland boundary determination is significantly smaller than the wetland boundaries estimated by PCR and EDAW.

Several factors may account for the discrepancy in the wetland boundary determinations;

1) PCR and EDAW, like many professionals, treated Italian ryegrass, *Lolium multiflorum*, as synonymous with the wetland indicator perennial ryegrass, *L. perenne,* whereas GLA did not. PCR and EDAW also treated seaside helioptrope, *Heliotropium curassavicum,* and Bermuda grass, *Cynodon dactylon* as wetland indicators while GLA did not[3].

[2] The site was one of the locations where soils were deposited during the creation of the marina.
[3] With release of the updated 2012 wetland plant list (Lichvar, R.W. 2012. The National Wetland Plant List (Arid West 2012 Final Regional Wetland Plant List). ERDC/CRREL TR-12-11. Hanover, NH: U.S. Army Corps of Engineers, Cold Regions Research and Engineering Laboratory), that I use as the basis for my wetland boundary analysis, the status of seaside heliotrope, has changed from OBL to FACU, and Bermuda grass has changed from FAC to FACU.

2) PCR and EDAW made broad brush boundary determinations (PCR collected three and EDAW collected two wetland samples) and included slope areas, that in my opinion, would not meet the hydrophytic vegetation, hydric soil, or hydrology criteria, while GLA conducted more intensive studies and collected 8, 14, 7, 3, and 34 samples in 2004/2005, 2008, 2010, 2011, and 2012, respectively; and

3) GLA excluded areas (Figure 4, area A and area B) that meet the criteria for hydrophytic vegetation because Mr. Bomkamp (Senior Biologist with GLA) contends that the pickleweed (*Sarcocornia pacifica*) in these areas is acting as a phreatophyte[4] and the other plants with wetland status are acting as upland species. Mr. Bomkamp also maintains that areas A and B are not wetlands because he did not find hydric soils and he asserts that these areas do not have the necessary hydrology.

It was clear to me a site visit was necessary given the wetland delineation boundary discrepancies and Mr. Bomkamp's contention that areas with a dominance of wetland plant species are not wetlands as described above. My primary objectives for the July 27 site visit were to examine the dominance pattern of wetland versus non-wetland plants species on site, to review this pattern in relation to site geomorphology (depressions, slopes, toe of slope), to compare on-the-ground conditions with mapped wetland boundaries, and to examine plants and soils in areas Mr. Bomkamp contends are not wetlands in order to make a conclusive CCC wetland boundary determination.

The site of the proposed hotel and wetland park, parcel 9U, has sat empty and relatively untouched since the '80's when the last applicant went bankrupt. As described earlier the site has a depressional area on the south end of the parcel from initial construction activities. The upper areas and slopes surrounding the depression are dominated by weedy upland native and non-native species such as rip-gut brome, *Bromus diandrus*, red brome, *Bromus madritensis rubens*, perennial rye grass, *Lolium perenne*, Bermuda grass, *Cynodon dactylon*, cheeseweed, *Malva parviflora*, and chrysanthemum, *Chrysanthemum coronarium* and scattered individuals and patches of seaside heliotrope, *Heliotropium curassavicum*. There is a sharp demarcation between the vegetation on the upper areas and slopes versus the depression; knee to thigh high weeds dominate the upper areas and slopes while the depression is characterized by ankle high vegetation and bare areas (Figure 5). Standing on site while examining the PCR and EDAW maps I concluded that their wetland boundaries encompassed some upper areas and slopes dominated by weedy upland species that should be excluded (Figure 1 and 2). GLA's map has the more accurate in-out wetland boundary based on on-the-ground conditions and the sampling data, save two areas (Figure 4, area A and area B), that Mr Bomkamp excluded for the reasons stated above. These areas required closer scrutiny.

[4] A phreatophyte is a deep-rooted plant that obtains a significant portion of the water that it needs from ground water or the water table.

It is important to clarify that the Coastal Commission's regulations establish a "one-parameter definition" that only requires evidence of a single parameter to establish wetland conditions:

> *Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. (14 CCR Section 13577)*

Wetlands determined based on the Commission definition may be more inclusive than ACOE's jurisdictional wetland determinations, which are based on a three-parameter definition. This means that wetlands delineated within the coastal zone may fall closer to the dry end along a dry-wet continuum. In addition, the Commission treats man-made, poorly functioning, or degraded areas that meet this definition as wetlands.

The Commission recognizes, however, especially in the arid west, that it is possible to erroneously identify an area as wetland using one parameter. Such cases may involve what the ACOE labels an 'atypical situation' where an indicator has been removed by human activity or a 'problem area' where indicators are difficult to interpret. An example of a problem area would be an area lacking hydric soils, hydrology, and topographical wetland indicators that is dominated by a single FAC plant[5]. Both situations often require further examination to resolve the wetland/non-wetland status. In my opinion, Areas A and B on Parcel 9U are not examples of a 'problem area' and the wetland/non-wetland boundaries are easily discerned from my site visit observations and review of sampling data.

Area A is immediately adjacent to unambiguously mapped wetland and area B is a small patch approximately 30 feet north of area A and slightly higher in elevation (Figure 4). Mr. Bomkamp and I concur that the dominant species in the unambiguously identified wetland portion of the depression and the two areas in question (area A and B) are pickleweed, *Salicornia pacifica* (OBL), spreading alkali weed, *Cressa truxillensis* (FACW), and curved sickle grass, *Parapholis incurve* (FAC). In addition to these species, individuals and small patches of five-horn smotherweed, *Bassia hyssopifolia* (FAC), slender-leaf iceplant, *Mesembryanthemum nodiflorum* (FAC), and prickly lettuce, *Lactuca serriola* (FACU) are sporadically interspersed among the dominant species listed above. Area A is characterized by areas dominated by spreading alkali weed and curved sickle grass (Figure 6) and patches of 100% pickleweed and 100% bare space

[5] FAC wetland indicator status means that a plant has a 33 to 67% chance of living in a wetland. For example, a particular plant with FAC status might be found in wetlands 33% of the time and uplands 67% of the time. Another plant with FAC status might be found in wetlands 67% of the time and uplands 33% of the time. Both species would be considered wetland indicators in arid west wetland determinations.

(Figure 7). Area B is also characterized by areas dominated by spreading alkali weed and curved sickle grass and patches of pickleweed and bare space (Figure 8). In area B curved sickle grass has a higher cover than the spreading alkali weed and the patches of pickleweed are small and quite dry.

While Mr. Bomkamp agrees that area A and B support a dominance of hydrophytic vegetation, as stated above, he maintains that the pickleweed is acting as a phreatophyte and the other species with wetland indicator status are acting as upland species. However, Mr. Bomkamp has not provided support for his phreatophyte hypothesis, and furthermore, area A and B are not characterized by a single dominant FAC species; instead the areas are dominated by five species with OBL (pickleweed), FACW (spreading alkali weed), and FAC (curved sickle grass, five-horn smotherweed, slender-leaf iceplant) wetland indicator status. In my opinion this is not a problem area, rather there is overwhelming evidence for area A and B meeting the hydrophytic vegetation parameter. Additionally, as discussed below, two soil pits in area A met the criteria for hydric soils, providing evidence of two wetland parameters in area A.

In addition to observing and sampling vegetation we dug four soil pits during our site visit. One in the area unambiguously identified as wetland; the soil in this pit was clearly hydric soil (sandy loam/loamy sand 2.5Y 3/2 with greater than 5% prominent redox concentrations, Figure 9). The next two soil pits we dug were in area A. In both cases the soil was damp and met hydric soil criteria. The soil profile for the first pit we dug in area A was: 0-6": 2.5Y 3/2; 6"-9 ": 2.5Y 3/2 (4 inch layer with greater than 5% prominent redox concentrations) and 8"-12": 2.5Y 3/2 (Figure 10). The second soil pit had very similar characteristics. These results took Mr. Bomkamp by surprise because he had not found hydric soils in any of the samples he took in this area. We attempted to dig another pit closer to the depression edge in area A but the soil was too hard to penetrate. The soil pit we dug in area B did not meet hydric soil criteria.

The observations and information obtained during our site visit, along with careful review of all the wetland delineation reports prepared for the site, and consideration of the data in light of the recently released 2012 wetland plant list[6], enabled me to make a conclusive wetland boundary determination based on the Commission one-parameter criteria. My wetland boundary determination includes both areas A and B in addition to the wetland boundary delineated by GLA. The black line labeled "August 2012 CCC Updated Wetland Boundary" on Figure 4 depicts the wetland boundary determination I support.

Appellants of the project have questioned the adequacy of the 25-foot buffer that has been applied to the wetland park. While the Commission typically applies 100 foot buffers for wetland habitats, bigger or smaller buffers may be applied depending on on-the-ground conditions. The reduced buffer recommendation for this site was made in the context of the current conditions; that is for highly degraded, low functioning

[6] Lichvar, R.W. 2012. The National Wetland Plant List (Arid West 2012 Final Regional Wetland Plant List). ERDC/CRREL TR-12-11. Hanover, NH: U.S. Army Corps of Engineers, Cold Regions Research and Engineering Laboratory

seasonal wetlands located on a highly constrained site surrounded by existing development within highly urbanized Marina del Rey. The existing wetland is isolated and disturbed by invasive and non-native species. The southern and eastern boundaries of the site are adjacent to roadways. The western portion of the site is developed with a pedestrian walkway and the marina. And the northern area is currently vacant with planned future development of a hotel, as allowed under the certified LCP. Given these conditions, I believe that a reduced buffer of 25 feet is appropriate. And while the minimum buffer is 25 feet, much of the buffer for the proposed wetland park is considerably greater than 25 feet (Figure 11).

Another objection the appellants have raised is restoration of the seasonal marsh to tidally influenced coastal salt marsh habitat; they contend this habitat conversion is not appropriate. This objection is baseless in my opinion. Historical photos demonstrate that the site once supported coastal salt marsh habitat and currently several of the existing wetland species are plants found in salt marsh habitats. Restoration of the existing seasonal marsh to tidally influenced coastal salt marsh will greatly enhance the habitat value and function of the disturbed wetlands and will support a much greater diversity of native plants and animals. A successful restoration will result in a coastal salt marsh habitat typical of Southern California that will support native terrestrial and aquatic invertebrates and vertebrates including fish, shorebirds, and waterfowl commonly associated with coastal salt marsh habitats. Provision of a buffer with transitional habitat that includes native coastal prairie and coastal sage scrub species will enhance the overall habitat value of the coastal salt marsh system.

In order to address the appellant's assertions that the wetland boundary has been underestimated, that the proposed wetland buffer is not adequate, and that restoring to a tidally influenced wetland system is inappropriate, I carefully reviewed all the wetland studies performed on the site, conducted a site visit, and reviewed historical photos. I found that the wetland boundaries determined by PCR and EDAW were over-estimations while the wetland boundary determined by GLA was an underestimation. My wetland boundary determination contains less area than the PCR and EDAW boundaries and more area than the GLA boundary and is depicted by the black line on Figure 4. Los Angeles County has agreed to accept my final wetland boundary determination and has revised the wetland park plans to reflect my wetland boundary line. I worked with other Commission Staff and the County on the wetland park revision and we (Commission staff) determined that the mitigation ratio requirement for impacts to the degraded seasonal wetland remaining wetland should be 1:1 while the mitigation ratio for impacts to the degraded seasonal wetland that will be filled should be 3:1[7]. These ratios are incorporated in the areal extent of the restored coastal salt marsh (wetland park) plan (Figure 11).

I considered the appellant's concerns that a 25-foot buffer is inadequate and that conversion from a seasonal marsh to a tidally influenced coastal salt marsh is

[7] While the Commission typically requires a ratio of 4:1 for wetland impacts, larger and smaller ratios have been applied depending on the on-the-ground wetland conditions; larger ratios for high habitat value and highly functional wetlands and smaller ratios for low habitat value and lower functioning wetlands.

inappropriate. I disagree with both of these assertions as discussed above and find that a 25-foot buffer is adequate given the current conditions and conversion to a tidally influenced coastal salt marsh is appropriate given the site history, presence of salt marsh species, and the opportunity to create a higher habitat value and higher functioning system.

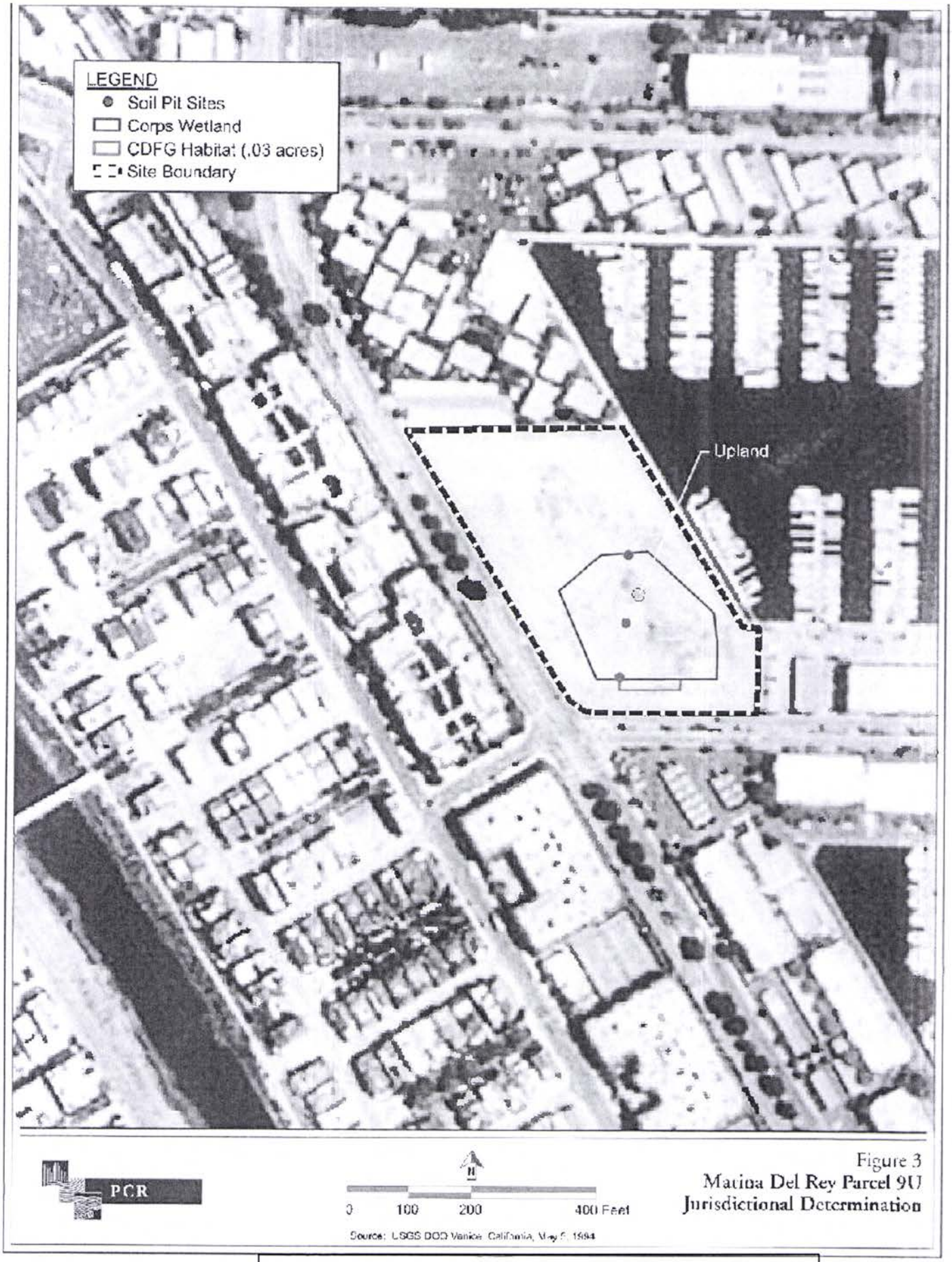


Figure 1. PCR's jurisdictional wetland boundary outlined in blue with the location of their three sample sites shown as red dots. Figure is from PCR's "Biological Constraints Analysis and Jurisdictional Wetland Determination for the Marina del Rey (Parcel 9U) Project Site, Los Angeles County, California" report.

CALIFORNIA COASTAL COMMISSION
Technical Services Division - GIS Unit

All Locations Approximate.
For Illustrative Purposes Only.
Source: PCR.

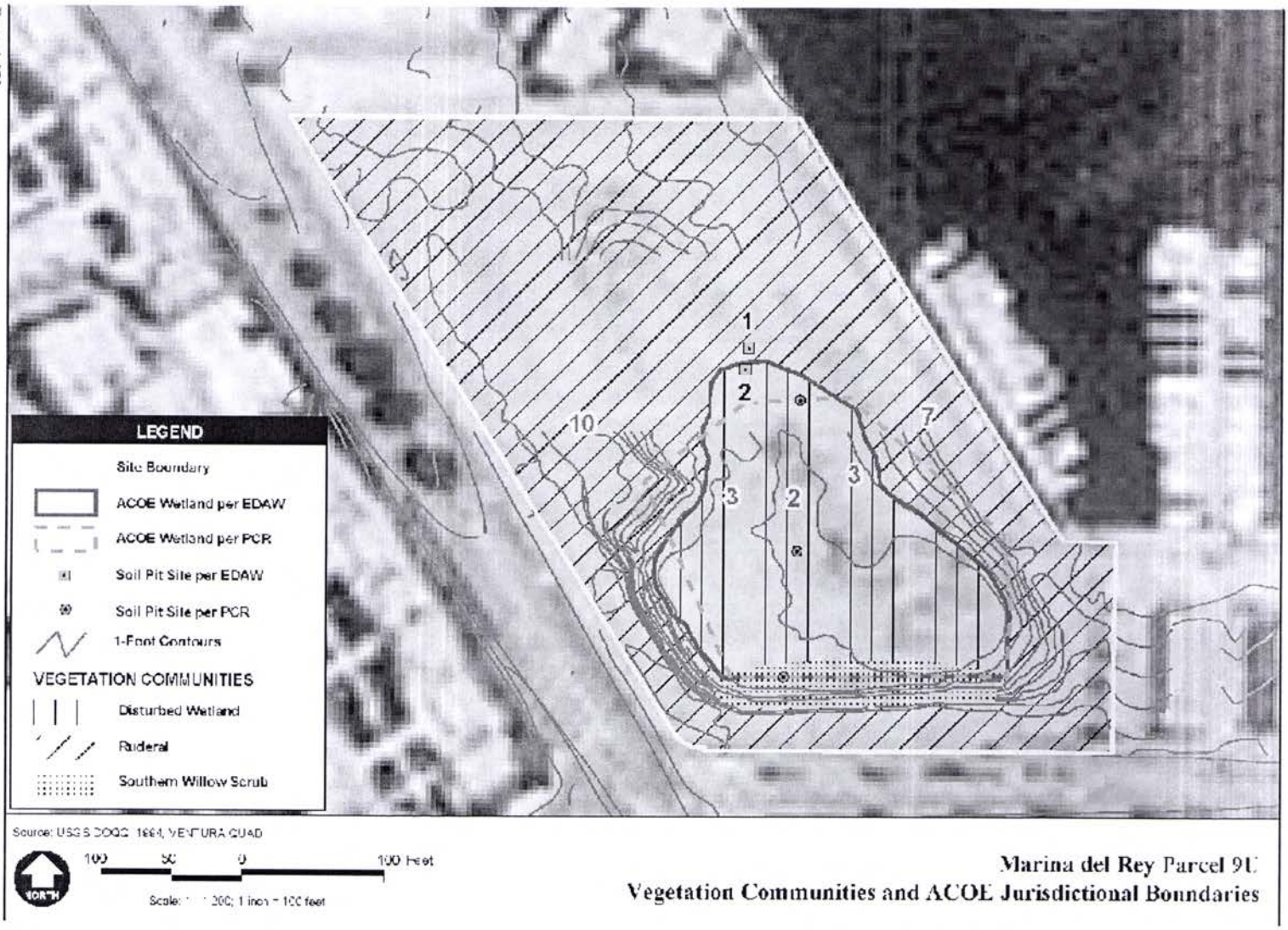


Figure 2. PCR and EDAW's wetland boundaries outlined in blue dashes and a red line, respectively, and depicting the location of PCR's three sample sites and EDAW's two sample sites. Figure is from EDAW's "Parcel 9U Results of Bird Nest Surveys and Updated Wetland Delineation" report.

CALIFORNIA COASTAL COMMISSION
Technical Services Division - GIS Unit
DSM 11/12

All Locations Approximate.
For Illustrative Purposes Only.
Source: EDAW.

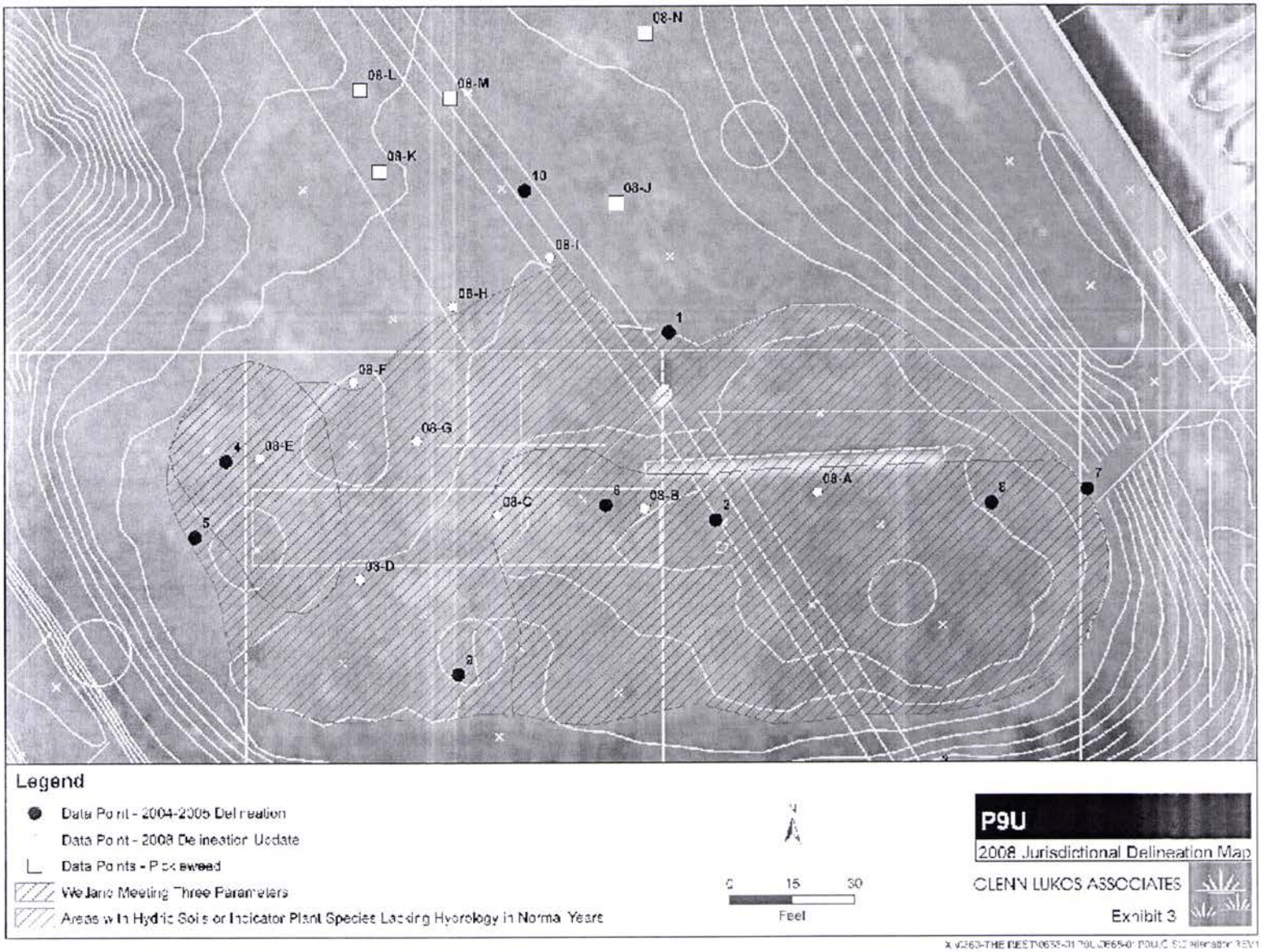


Figure 3. GLA's 2004/2005 and 2008 wetland boundaries and sample locations. Figure from GLA's "Jurisdictional Wetland Status of Parcel 9U, Marina del Rey, Los Angeles County, June 9, 2005 [Second Revision May 27, 2008]".

CALIFORNIA COASTAL COMMISSION
Technical Services Division - GIS Unit
DSM 11/12

All Locations Approximate.
For Illustrative Purposes Only.
Source: GLA.

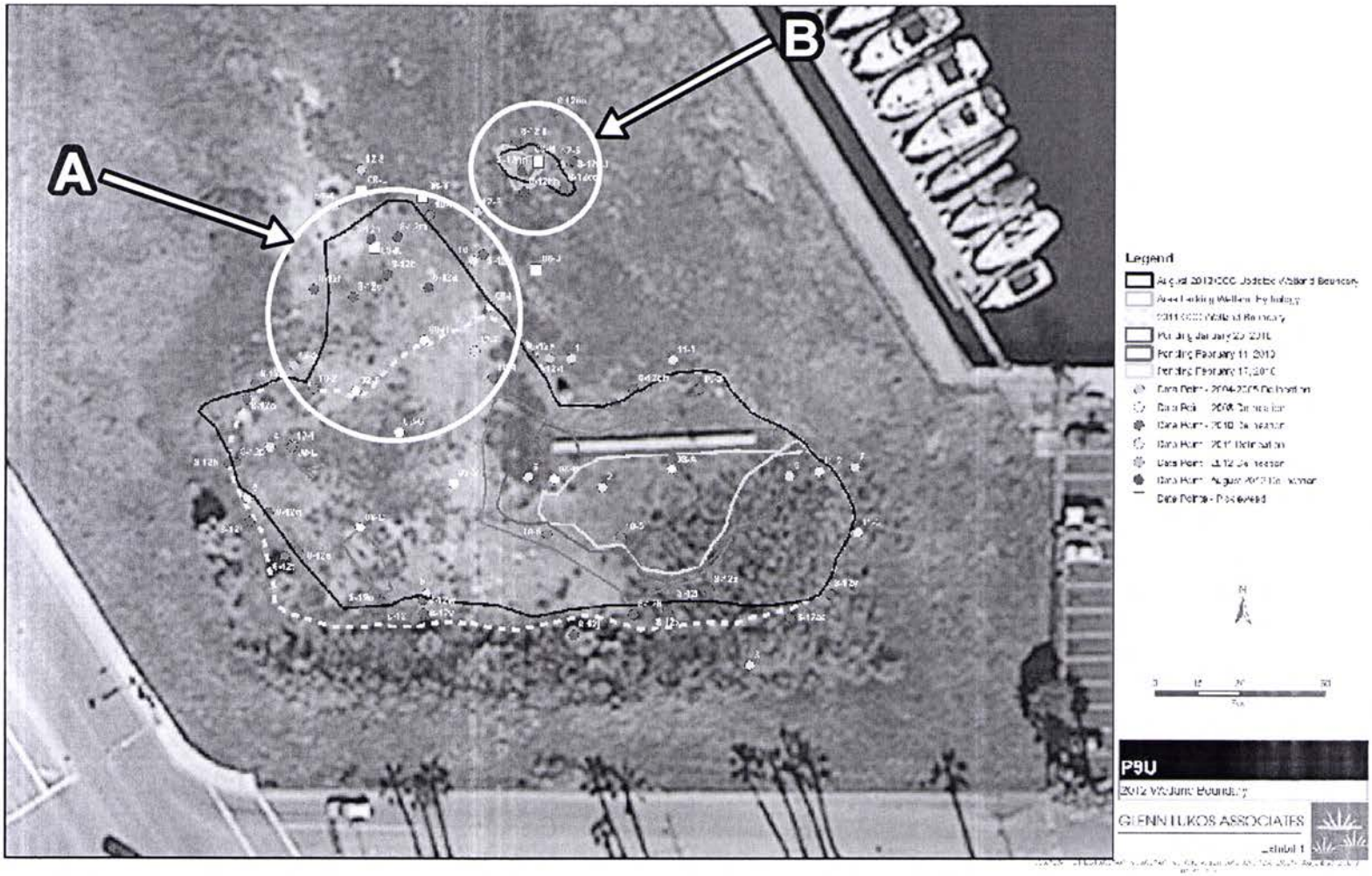


Figure 4. Compilation depicting GLA's 2004/2005, 2008, 2010, 2011, and 2012 wetland boundaries and sample locations from GLA's "Parcel 9U, August 11, 2012 Wetland Delineation, Marina del Rey, California, Project # 06680001P9U" report. Black line labeled "August 2012 CCC Updated Wetland Boundary" depicts the CCC final wetland boundary determination. Location of areas A and B identified on figure.

CALIFORNIA COASTAL COMMISSION
Technical Services Division - GIS Unit
DSM 11/12

All Locations Approximate.
For Illustrative Purposes Only.
Source: GLA 2012.

Figure 5. Photo depicts the sharp demarcation between the vegetation on the upper areas and slopes versus the depression; knee to thigh high weeds dominate the upper areas and slopes while the depression is characterized by ankle high vegetation and bare areas.

Figure 6. Close up of area A – Area A characterized by areas dominated by spreading alkali weed and curved sickle grass.

All Locations Approximate.
For Illustrative Purposes Only.

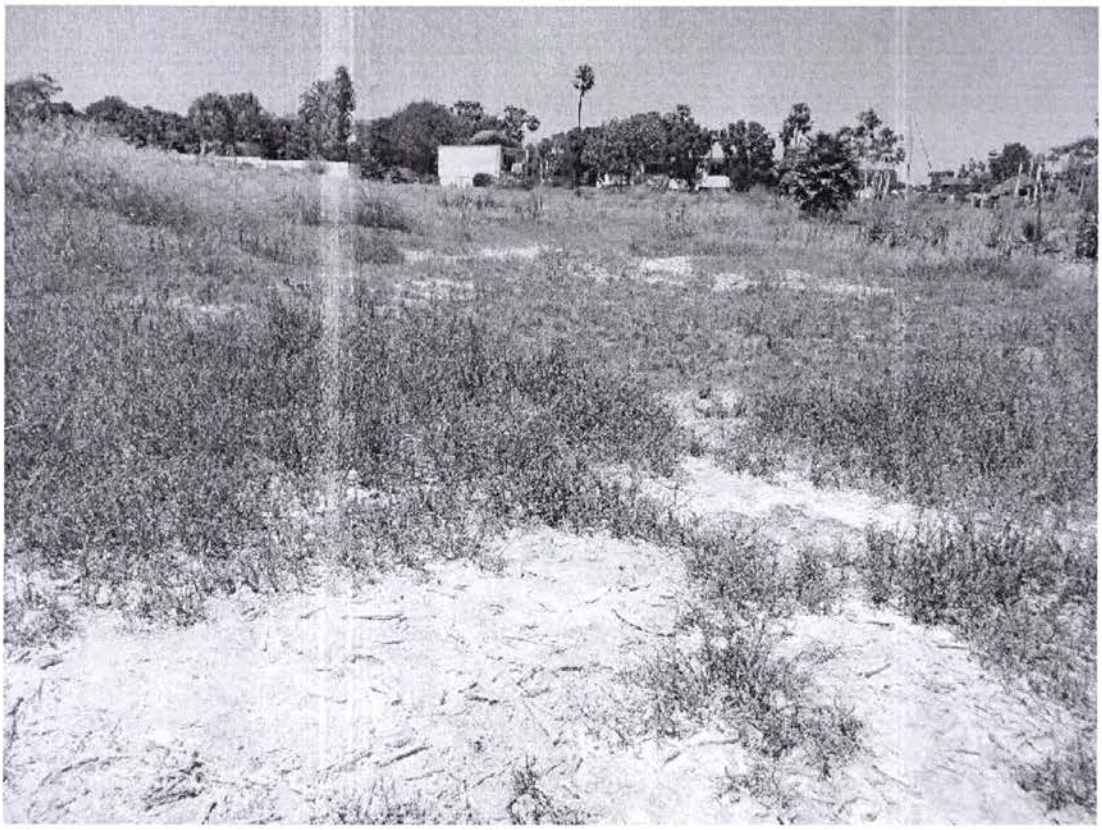


Figure 7. Photo of area A showing patches of 100% pickleweed and areas of 100% bare space.

Figure 8. Photo of area B. Area B characterized by areas dominated by spreading alkali weed and curved sickle grass and patches of pickleweed and bare space.

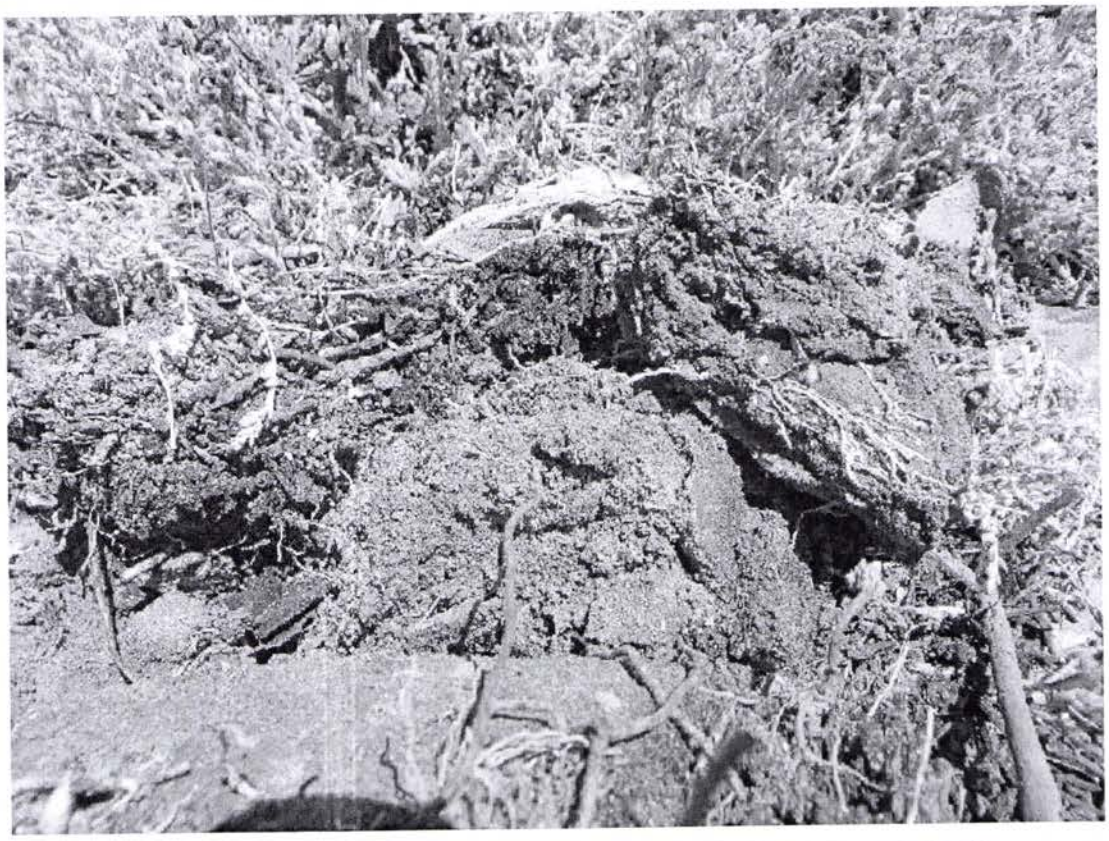


Figure 9. Photo of soil from soil pit in the area unambiguously identified as wetland; soil clearly hydric soil (sandy loam/loamy sand 2.5Y 3/2 with greater than 5% prominent redox concentrations.

Figure 10. Photo of soil profile from area A showing the layer below 4 inches with greater than 5% prominent redox concentrations.

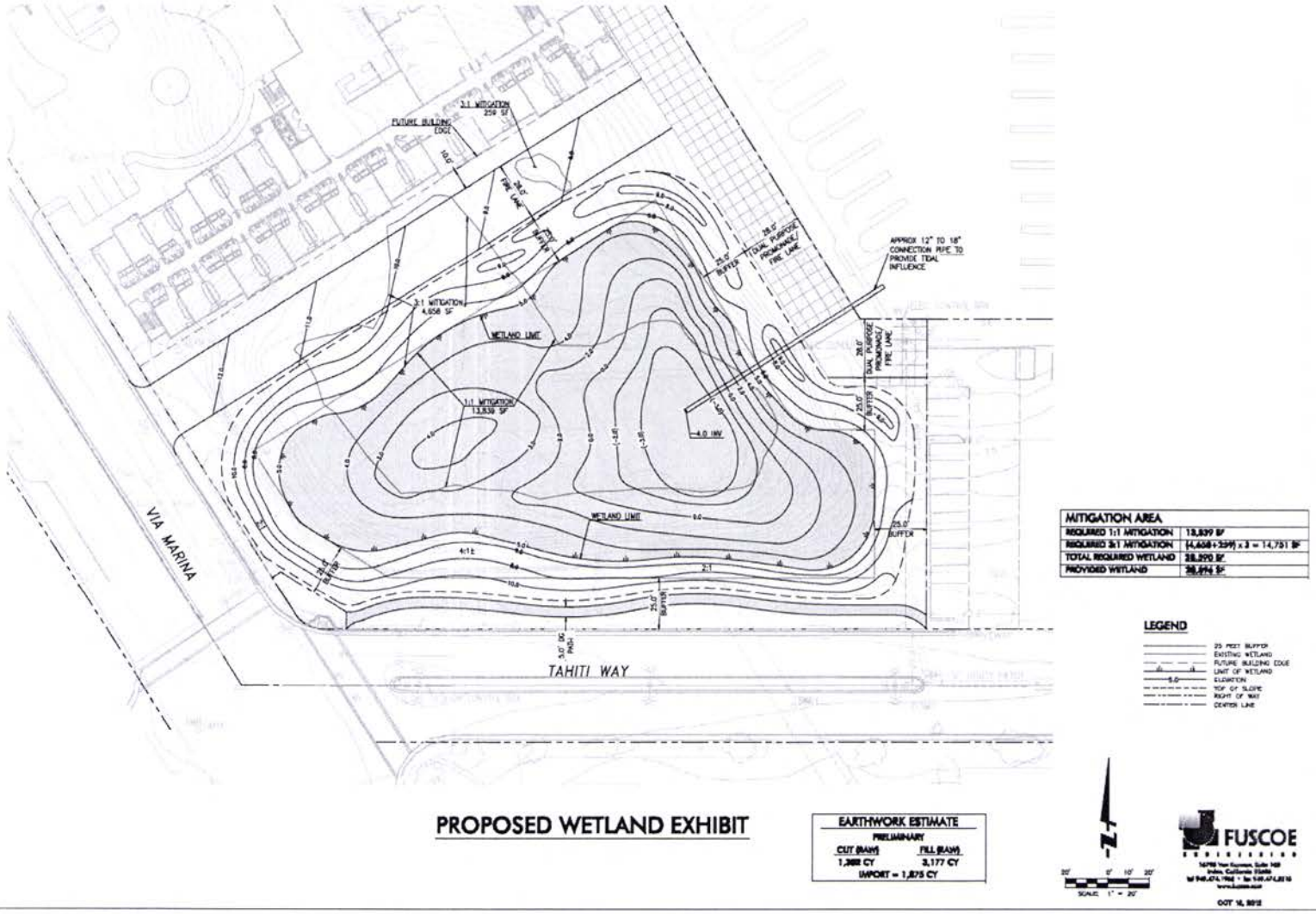


Figure 11. Restored wetland park plan prepared by Fuscoe Engineering. Plan includes the existing August 2012 CCC wetland boundary (in blue) and the proposed coastal salt marsh boundary and buffer dimensions.

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Source: Fuscoe Engineering.