

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4402  
(619) 767-2370



# W23b

Click here to go to  
original staff report

## Addendum

November 7, 2013

To: Commissioners and Interested Persons

From: California Coastal Commission  
San Diego Staff

Subject: Addendum to **Item W23b**, Coastal Commission Permit Application  
**No. 6-13-010 (22<sup>nd</sup> District Agricultural Association)**, for the  
Commission Meeting of Wednesday, November 13, 2013

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Staff recommends the following changes be made to the above-referenced staff report. Deletions shall be marked by a ~~strike through~~ and additions shall be underlined.

1. On Page 1 of the staff report, the following shall be added before "Summary of Staff Recommendation:"

### STAFF NOTE

Since distribution of the staff report for CDP Application No. 6-13-010, Commission staff has received a response from the Applicant and multiple public comments both in support of and in opposition to the application. In order to more directly address the questions and comments contained in the responses since distribution, Commission staff drafted an addendum to modify the original staff report accordingly.

2. On Page 7 of the staff report, Special Condition No. 6 shall be revised as follows:
  6. **Transportation Demand Management (TDM) Program.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit a Final Transportation Demand Management Program to the Executive Director for review and written approval. Said program shall include, at a minimum, the following provisions:
    - a. When calculating the maximum number of events to schedule for any given day, excepting the summer county fair and summer thoroughbred horse race meet, the applicant will not schedule any event or events whose projected parking demand exceeds the amount available on site at the time

of the event, but not including the parking capacity contained in the lower-third of the EOL, “Area 3” as identified in Exhibit 7.

- b. Annual monitoring reports of facility usage and parking, including parking demand for each scheduled event, shall be submitted to the Executive Director within 60 days of the end of each year.
- c. When hosting events utilizing the EOL and GDR for parking during or within 48 hours after a storm event, the applicant shall first utilize all available parking within the main Fairgrounds complex. If that is not sufficient, then only portions of the EOL and GDR that are deemed safe and usable by 22<sup>nd</sup> DAA Management ~~sufficiently dry and solid~~ may be utilized for parking. If parking demand is still not met, then the permittee shall utilize the Horse Park property for parking.  
[...]

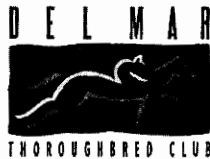
- 3. On Page 12 of the staff report, the last paragraph shall be revised as follows:

Regarding the proposed temporary events to be held in the main Fairground complex, excepting the summer county fair and summer thoroughbred horse race meet, Linscott, Law, & Greenspan conducted an off-season peak-hour traffic analysis in April of 2011 for the Applicant in order to establish a baseline Level of Service (LOS) for surrounding roads and intersections. The study found that all but one of the surrounding 19 intersections operated at acceptable LOS D or better on both weekdays and weekends. Many of the temporary events that occurred at that time still occur, mainly within the much larger main fairgrounds complex (Exhibit 3). Traffic volumes are lower for multiple reasons, including it no longer being a busy tourist season, the temporary events being smaller in scale and less popular than the summer events, and because inclement weather can dampen attendance numbers. Nevertheless, temporary events of substantial size and number could still have the cumulative traffic impact to interfere with public access to nearby coastal resources and communities. The Applicant’s parking data states that during the non-summer off-season they have an approximately 10,350 space on-site parking capacity available for use throughout the main Fairgrounds complex, EOL, and GDR (this includes the 1,400 space capacity of the southern third of the EOL). In order to ensure that parking and traffic impacts do not spill out of the Fairgrounds property and into surrounding communities, this permit will limit any given day’s projected parking demand – either from one event or many – to that maximum on-site capacity, minus the 1,400 space capacity of the southern third of the EOL, which can only be utilized for parking during the summer fair and race season or the second horse race season in the fall. Furthermore, in the event that the second fall horse race meet is cancelled or has very low attendance, the lower third of the EOL cannot be considered as a site for holding temporary events. In light of the numerous other venues and facilities available to host events within the approximately 340-acre Fairgrounds property, the prohibition of hosting events within the 10-acre lower-third of the EOL should not substantially impact event activity. This will help ensure that the scheduled slate of events will be able

to be adequately serviced by existing onsite resources. Additionally, TDM measures that promote greater use of alternative transportation or carpooling among employees of the Applicant and its lessees, regardless of whether an event is expected to increase parking demand, will ensure that a consistent pattern of alternative transportation use is fostered and provide information that can be applied to other areas of Fairground traffic management. With such a requirement, the Commission is not seeking to limit the Applicant's ability to maximize use of the facility and provide public recreational opportunities but the Applicant must begin to look at and plan for alternate methods to address user demand. Parking vehicles should not continue to be the primary means of doing so. While the Applicant has proposed that monitoring of TDMs be required only during the summer county fair, such a change would dramatically decrease the available information Commission staff will have at its disposal in determining the adequacy and effectiveness of TDM in combating traffic congestion and over-reliance on parking. Thus, because this will help ensure traffic volumes are more manageable, the conducting of temporary events is not foreseen to create the types of heavy traffic situations experienced during the fair and races. Instead, a coastal visitor serving resource – the Fairgrounds - will be able to be better utilized by the public through the conducting of a greater number of visitor serving events and activities in the coastal zone.

4. On Page 13 of the staff report, the second paragraph shall be revised as follows:

However, even with the above limitations, the second race meet, due to its approximately 5-week duration and national character - bringing in jockeys and horses from around the world – has the potential to create attendance and traffic demand much higher than traditional off-season events and closer to the summer events, namely the summer race season. While it is true that inclement weather could dampen attendance figures, many horse races are still run during or after storm events, and thus could still attract a significant number of attendees. The Applicant acknowledges as much when they state that they foresee usage of the EOL and GDR for parking during at least some of the second race season (Exhibit 4). While it is true that use of off-site shuttle lots could be used to combat traffic and lessen demand – as is done during the summer county fair – the type of shuttle lots most conducive to use by the Applicant are the parking lots found in schools, due to their size and proximity. However, as the second horse race meet will occur in the fall, when schools are in session, the procurement of these lots for off-site parking purposes is unlikely. Thus, ~~To~~ to limit the potential for substantial traffic impacts to surrounding communities, the Applicant will not be able to host simultaneous temporary events during the second race meet unless it has been clearly demonstrated to the Executive Director that on-site parking demand will be sufficient to meet all foreseeable demands.



W23b

Office of the President

November 6, 2013

Chairwoman Mary Shallenberger  
California Coastal Commission  
45 Fremont Street  
San Francisco, CA 94105

Re: Coastal Development Permit Application #6-13-010 – Support

Dear Chairwoman Shallenberger:

I am writing to express my support for the 22nd District Agricultural Association's application for Coastal Development Permit #6-13-010 (CDP), which includes a request to authorize the operation of a second horse racing meeting at the Del Mar Race Track beginning in the fall of 2014 as well as permanent authorization of existing short-term events held at the Del Mar Fairgrounds on a year-round basis.

Horse racing at the Del Mar Race Track is operated by the Del Mar Thoroughbred Club and the annual summer race season is considered one of the most successful and prestigious race meetings in the country. With the permanent closure of Hollywood Park Race Track (Inglewood, CA) later this year, the operation of a second horse racing season at Del Mar is critical to the year-round survival of horse racing in California. The California horse racing industry is responsible for 50,000 jobs - many of them union positions - and provides over \$2.5 billion annually to the state's economy. Without the proposed fall meeting at Del Mar many jobs will be in jeopardy. In addition, the lack of a fall season at Del Mar will produce a gap in the state's racing calendar that will require California-based horsemen and horsewomen to look to other states to race their horses to ensure an ongoing income stream.

As you are likely aware, the ability for Del Mar to conduct a second meet was recently unanimously approved by the state's legislature via Assembly Bill 1074 (Atkins) and signed in to law by the Governor. The passage of that bill allowed the California Horse Racing Board to allocate additional dates to the Del Mar Thoroughbred Club to conduct a fall race meeting. We look forward to the continued cooperation by the Coastal Commission to ensure that there will be no gap in the state's horse racing calendar and that the Del Mar Fairgrounds and Race Track remains a significant participant in the long-term viability of the California horse racing industry.

Regards,

Joe Harper  
Chief Executive Officer

Letters of Support 29



# City of Del Mar



November 5, 2013

Mary K. Shallenberger, Honorable Chair California Coastal Commission  
c/o Coastal Commission San Diego District Office  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4402

Re: CDP Permit Application No. 6-13-010 (22<sup>nd</sup> DAA Property)

Dear Chairperson Shallenberger and Commissioners:

On behalf of the Del Mar City Council, I offer this comment letter on the referenced CDP application submitted by the 22<sup>nd</sup> District Agricultural Association (22<sup>nd</sup> DAA).

Generally, the City is in support of the staff recommendation for conditional approval of the application. However, the City does have concerns about the traffic impacts associated with the proposed expansion of uses at the Fairgrounds site. These include traffic impacts on two roadways, Jimmy Durante Boulevard and Via de la Valle that provide public access to the ocean and to the shoreline of San Dieguito Lagoon.

The concerns are detailed in correspondence submitted by the City on the separate but related application on your agenda, CDP 6-12-067, also submitted by the 22<sup>nd</sup> DAA. In brief, the concerns relayed in that correspondence involve: 1) the failure of existing traffic control practices to serve certain large events already occurring at the Fairgrounds, let alone expanded use; 2) the need for more analysis of current and future traffic impacts in an effort to identify proven mitigation measures that will reduce traffic impacts; and 3) a commitment on the part of the 22<sup>nd</sup> DAA to implement those traffic measures attributed to their operations.

Rather than repeating those detailed concerns herein, the City asks that Commissioners review the referenced correspondence submitted for CDP 6-12-067.

Respectfully submitted,

  
Terry Sinnott  
Mayor

cc: Del Mar City Council  
22<sup>nd</sup> DAA Board of Directors  
City Manager



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22ND DISTRICT AGRICULTURAL ASSOCIATION  
State of California

November 7, 2013

Chairwoman Mary Shallenberger  
California Coastal Commission  
45 Fremont St.  
San Francisco, CA 94105

Dear Chairwoman Shallenberger and Commissioners:

The 22<sup>nd</sup> District Agricultural Association (22<sup>nd</sup> DAA) has reviewed the revised staff report for coastal development permit (CDP) application #6-12-067 and the newly prepared staff report for CDP application #6-13-010. Although we appreciate that staff was trying to craft a compromise, we were disappointed to see Coastal staff's change in position regarding the East Overflow Lot (EOL), specifically its recommendation that use of the lower third of the EOL be phased out over 10 years. In concert with the conditions set forth in the staff report for #6-13-010, the second CDP required under the Consent Orders and pending before you, the DAA would immediately lose all use of the lower third of the EOL. Such an outcome is contrary to the Consent Orders. We simply do not believe it is possible to mitigate for the loss of parking on the lower third of the EOL and thus the phase out plan is unacceptable to the 22<sup>nd</sup> DAA.

During last month's hearing on CDP #6-12-067, in response to a question from the Commission regarding additional mitigation, the 22<sup>nd</sup> DAA offered to dedicate, in fee, a 4.5-acre parcel of land located along the San Dieguito River just south of the Horsepark facility. The Commission voted to continue the hearing in order to allow representatives of the San Dieguito River Park Joint Powers Authority (JPA) adequate time to review and consider this offer. The Commission also asked the 22<sup>nd</sup> DAA and the JPA to meet and determine whether they could come to an agreement regarding the 22<sup>nd</sup> DAA's future use of the EOL.

Per the direction of the Commission, in a good faith effort to reach agreement, 22<sup>nd</sup> DAA Board President Fred Schenk and the 22<sup>nd</sup> DAA staff met with County Supervisor and JPA Board Member David Roberts, members of Supervisor Roberts' staff, and members of the JPA staff to discuss issues related to use of the southern third of the EOL as well as the 4.5-acre Horsepark parcel. While the 22<sup>nd</sup> DAA believed that some progress was made at that meeting, the JPA staff rejected the offer of the 4.5-acre Horsepark parcel as well as any compromise regarding use of the EOL. Instead it recommended a proposal that would severely restrict the DAA's use of the EOL and adjacent Golf Driving Range (GDR) and require a mandatory phase out of uses on the southern third of the EOL. The JPA Board of Directors adopted this restrictive proposal, in spite of an alternate and less restrictive proposal negotiated and presented to them by 22<sup>nd</sup> DAA Board Vice President David Watson and JPA Board members Don Mosier and Lesa Heebner.

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While Commission-requested negotiations were ongoing between the 22<sup>nd</sup> DAA and the JPA, CCC staff crafted its own "compromise," revising its original recommendation on CDP 6-12-067 in favor of a plan to phase out all use of the lower third of the EOL, also known as "Area 3", within 10 years of permit approval. Staff has included two additional conditions regarding use of the EOL in its new staff report on CDP 6-13-010, which, in concert with the conditions in the revised staff report for CDP 6-12-067, effectively, and immediately, prohibit all use of EOL Area 3. CDP 6-13-010 Special Conditions 4 and 6 would prohibit the use of EOL Area 3 for temporary events, and would prohibit the 22<sup>nd</sup> DAA from including the parking capacity in EOL Area 3 when it calculates the number of events which it may schedule for any given day on the Fairgrounds. While we appreciate staff's efforts, we respectfully point out that the revised recommendation and the new permit conditions are not consistent with the Consent Orders, or with the direction given by the Commission at its October hearing. As was articulately explained by CCC staff at the previous hearing, the 22<sup>nd</sup> DAA's application for CDP 6-12-067 is consistent with both the Consent Orders and the Coastal Act. The DAA's offer of an additional 4.5 acres of mitigation at last month's hearing only enhanced an application which already satisfied Coastal Act requirements.

The staff-proposed conditions requiring the 22<sup>nd</sup> DAA to immediately cease all use of the lower third of the EOL are inconsistent with both the letter and the spirit of the Consent Orders. Furthermore, they simply do not work from an operational standpoint.

- The DAA is already having difficulty replacing the parking on the South Overflow Lot (SOL). The parking assessment relied upon by the JPA and others as evidence that the EOL is not needed for parking is not, and was never, applicable to the EOL. The study was prepared, pursuant to the Consent Orders, to demonstrate parking alternatives for the SOL, and even those alternatives were considered "potential."
- There are no guarantees that offsite parking lots will be available for use by Fairgrounds patrons. The offsite lots are not available during the first or last week of the summer fair and races, nor are they available during the "off-season" which extends from September to June.
- Even with additional shuttle lots, patrons will try to park at the Fairgrounds. When they don't find parking, they will clog freeways, surface streets and neighborhoods.
- The traffic generated by Fair patrons searching for parking would shut down access to the beach and coastal areas.
- Parking-related traffic congestion would also create safety issues, impeding access to the Fairgrounds by emergency services providers, the County sheriff, and the CHP.
- Shuttles transporting patrons from offsite lots to the Fairgrounds also have to park - more shuttles mean the elimination of even more parking spaces on the Fairgrounds.
- Building a multi-level parking structure is not financially feasible.
- Re-stripping of parking lots as recommended in SOL parking assessment was implemented by the DAA but did not work. Drive aisle widths as well as parking stall widths were too narrow and did

not allow adequate space for mid-size or larger vehicles.

- While the DAA supports the construction of a rail platform at the Fairgrounds, it cannot rely upon this future and anticipated development to replace EOL parking needs.

In addition, based on current population growth projections prepared by the San Diego Association of Governments (SANDAG), it is expected that even more residents within the County of San Diego will utilize the Fairgrounds and the local streets/roadways and regional freeways, to attend/participate in events such as the annual County Fair, the live horse racing meet, or any of the other events held at the facility. In the year 2000 the population in San Diego County was 2,813,833. In 2010 the population had grown to 3,095,313, a 10% increase. SANDAG estimates that the population will grow by an additional 14% to approximately 3,535,000 by the year 2020. Year 2050 estimates exceed 4,300,000 residents, an increase in population of 48% from the year 2000.

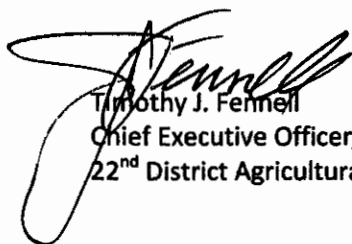
CDP 6-12-067 is the crux of the Consent Orders, and represents a carefully negotiated compromise between the Coastal Commission and the 22<sup>nd</sup> DAA that would ensure the long-term protection of coastal resources while allowing the 22<sup>nd</sup> DAA to fulfill its mission to manage the Del Mar Fairgrounds on behalf of the State of California. Over the course of nearly two years, in good faith, the 22<sup>nd</sup> DAA has met each requirement and timeline set forth in the Consent Orders with the understanding that past violations, as well as the permitting of existing and future uses, would be addressed by the two CDPs currently pending before the Commission. The DAA objects to the following Special Conditions recommended by CCC staff, which it believes are not only contrary to the letter of the Consent Orders, but undermine their spirit and intent.

- The DAA objects to CDP 6-12-067 Special Conditions 1 and 11. Special Condition 1 requires that all usage of EOL Area 3 be phased out over 10 years. Special Condition 11 requires that a conservation easement be recorded over EOL Area 3 which permits parking only during the Fair and Race season. Under the easement, parking may occur on Area 3 in the off-season only when other on-site parking has been exhausted.
- The DAA further objects to CDP 6-13-010 Special Conditions 4 and 6. As noted above, these conditions would immediately prohibit all use of EOL Area 3.

The DAA respectfully requests that the Commission grant CDPs 6-12-067 and 6-13-010, with the following changes:

1. Deletion of CDP 6-12-067 Special Conditions 1 and 11.
2. Modification of CDP 6-13-010 Special Conditions 4 and 6, as set forth in Attachment 1.

Sincerely,  
22<sup>nd</sup> District Agricultural Association



Timothy J. Fennell  
Chief Executive Officer/General Manager  
22<sup>nd</sup> District Agricultural Association/Del Mar Fairgrounds



## ATTACHMENT 1

### Suggested revisions to Special Conditions #4 and #6 of Coastal Development Permit Application #6-13-010

**4. Event Scheduling During Second Race Season.** The applicant shall not use, and shall prohibit its patrons from using, any portion of the East Overflow Lot (EOL) for temporary events during the second thoroughbred horse race meet, with the exception that the EOL may be used only for the following activities during the second race season:

- a. Overflow parking for second race meet;
- b. Race meet logistics (i.e. horse trailer and hay/straw storage); or
- c. Emergency evacuation staging.

The prohibition against using the EOL for temporary events during the second race meet shall not apply in the event that (1) the second race meet is discontinued or otherwise does not take place, or (2) it can be demonstrated that sufficient underutilized parking on the Main Lot will be available during the second race season such that the EOL is not needed for parking during the second race season. At least two months prior to the commencement of the second race meet, the applicant shall submit to the Executive Director for review and written approval, a mechanism for determining the amount of parking on the Main Lot that would constitute "sufficient underutilized parking" such that the prohibition on temporary events be lifted. ~~However, even with a request for reconsideration, EOL Area 3, as identified in Exhibit 7, cannot be utilized for temporary events at any time.~~

**6. Transportation Demand Management (TDM) Program.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit a Final Transportation Demand Management Program to the Executive Director for review and written approval. Said program shall include, at a minimum, the following provisions:

- a. When calculating the maximum number of events to schedule for any given day, excepting the summer county fair and summer thoroughbred horse race meet, the applicant will not schedule any event or events whose projected parking demand exceeds the amount available on site at the time of the event, ~~but not including the parking capacity contained in the lower third of the EOL, "Area 3" as identified in Exhibit 7.~~
- b. Annual monitoring reports of facility usage and parking, for events or combination of events that anticipate use of the EOL, including parking demand for each scheduled events meeting this criteria, shall be submitted to the Executive Director within 60 days of the end of each year.

c. When hosting events utilizing the EOL and GDR for parking during or within 48 hours after a storm event, the applicant shall first utilize all available parking within the main Fairgrounds complex. If that is not sufficient, then only portions of the EOL and GDR that are ~~sufficiently dry and~~ deemed safe and useable by 22<sup>nd</sup> DAA Management, ~~and~~ may be utilized for parking. If parking demand is still not met, then the permittee shall utilize the Horse Park property for parking.

d. During the annual San Diego County Fair, ~~the~~ the applicant shall provide incentives for employees of the applicant or on-site lessees to use public transportation, including the provision of subsidized public transit passes to employees, and/or walk or bike to the subject site;

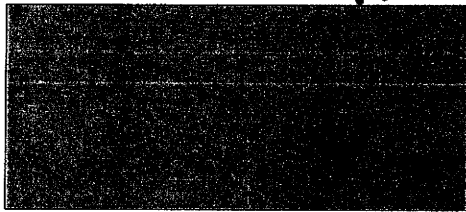
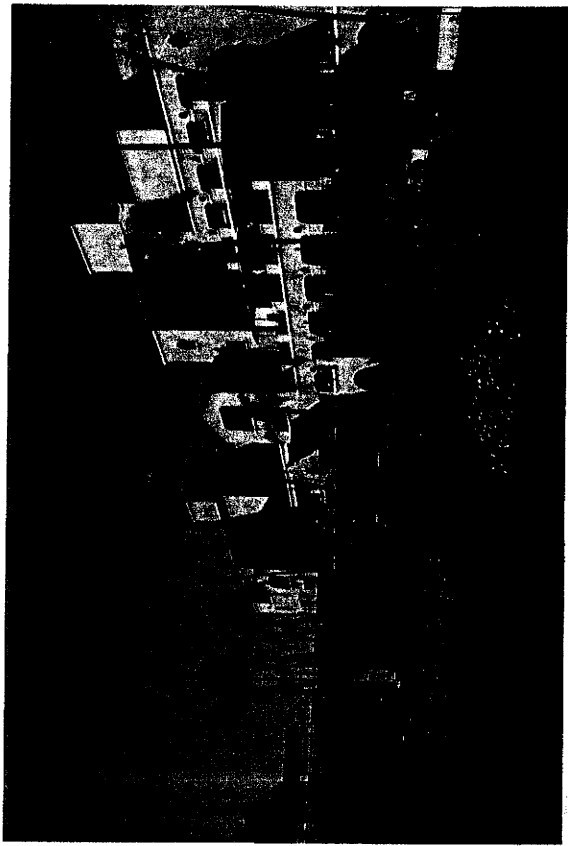
e. During the annual San Diego County Fair, ~~the~~ the applicant shall draft and implement a carpool plan for employees of the applicant or on-site lessees and will reasonably coordinate with lessees in scheduling work schedules and posting notices of the carpool program in employee work areas;

f. During the annual San Diego County Fair, ~~the~~ information regarding the carpool program or subsidized public transportation shall be part of any employment paperwork for employees of either the applicant or lessees and shall be a condition of the leases that the applicant require lessees to implement the TDM;

g. During the annual San Diego County Fair, ~~the~~ the applicant shall undertake annual surveys of employees to document the frequency with which they are using alternate transportation to get to work and the success of the Transportation Demand Management Program. Surveys shall be submitted annually to the Executive Director for as long as this permit is in effect.

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

W23a & D



22<sup>ND</sup> AGRICULTURAL DISTRICT  
CDP #6-12-067 & #6-13-010

ITEMS W23A & B \* NOV. 13, 2013

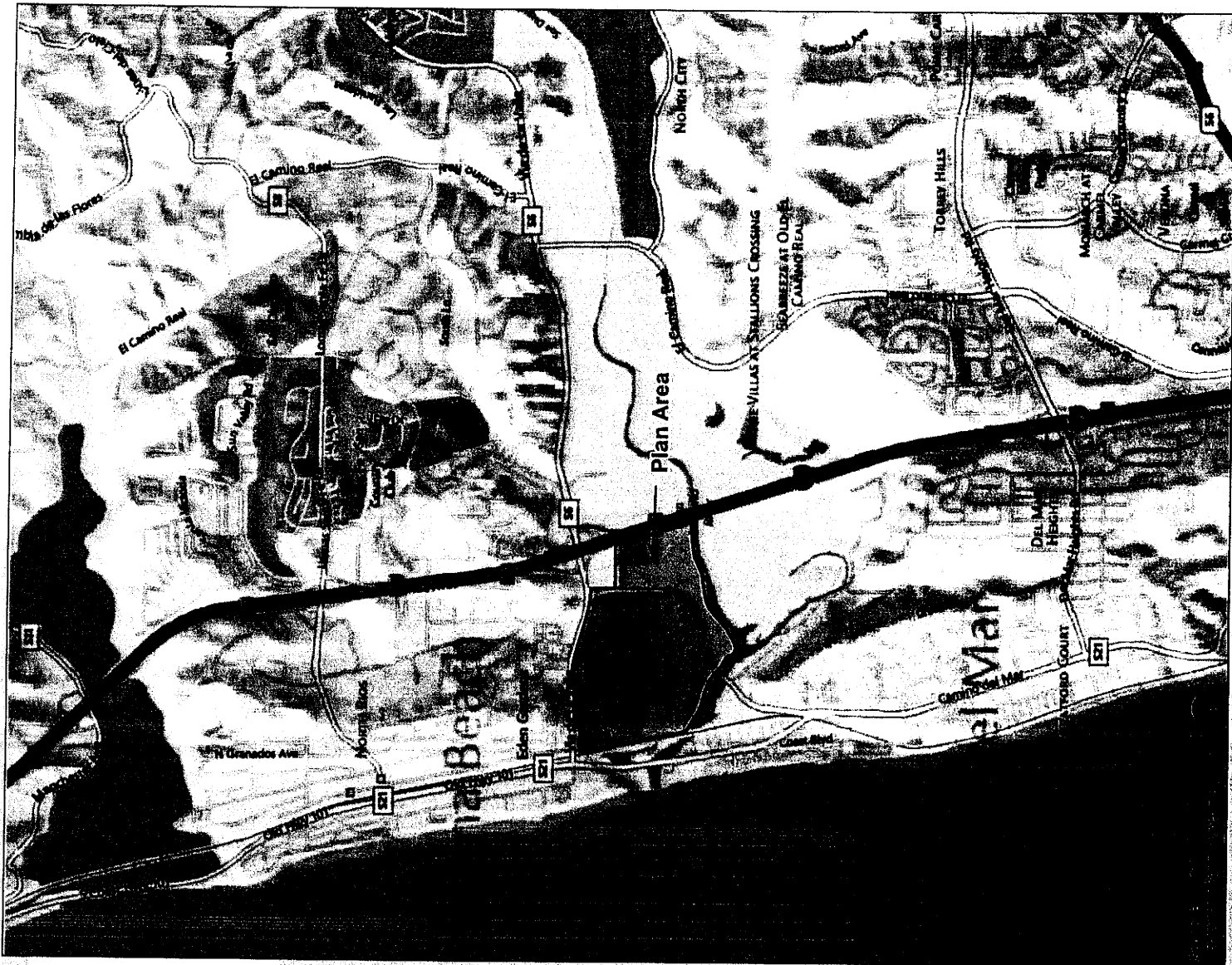
W23a & b

*Applicant's Response to Staff Dec.*

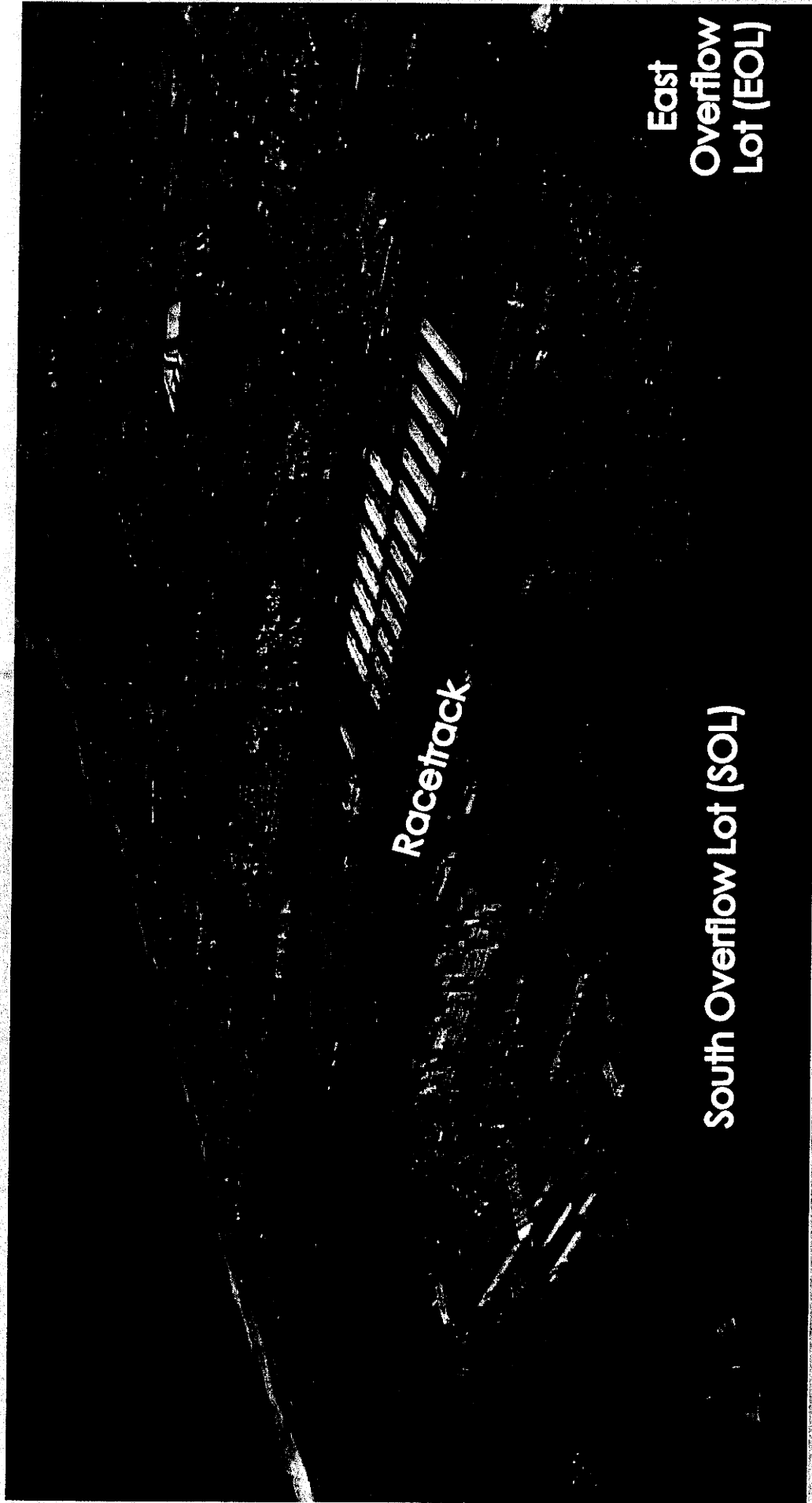
A copy of this briefing booklet has been provided to CCC District Staff

# LOCATION

Fairgrounds located within  
Cities of Del Mar and San  
Diego, San Diego County



# SUBJECT SITE



East  
Overflow  
Lot (EOL)

South Overflow Lot (SOL)

# BACKGROUND

## SETTLEMENT AGREEMENT

- CDP is one component of historic settlement agreement between 22<sup>nd</sup> DAA and CCC unanimously approved by both agencies in early 2012
- Consent Orders are result of extensive discussion and negotiation between 22<sup>nd</sup> DAA and CCC staff
- Consent Orders resolve past unpermitted development on the Fairgrounds, mitigate for that development, and set out a path for future development in compliance with the Coastal Act and Commission regulations.
- Since approval of Consent Orders, 22<sup>nd</sup> DAA has worked diligently to comply with all requirements and currently has two CDP applications pending for interim and long-term uses on the Fairgrounds

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# BENEFITS OF CONSENT ORDERS

- Under Consent Orders, 22<sup>nd</sup> DAA has agreed to undertake numerous actions to protect and enhance coastal resources on its property, including the following:
  - Creation of 100 foot buffers along southern edge of the SOL, EOL and GDR
  - Creation of varying width buffers in other areas (30 feet on southern edge of property and 8-25 feet on western edge of the property).
  - Construction of a segment of the Coast to Crest Trail on the northern edge of the SOL concurrent with restoration
  - Removal of rip-rap on northern shore of San Dieguito River and restoration of underlying area
  - Protection of re-created wetlands and buffer areas with conservation easements, which will allow a third party to manage environmentally sensitive area

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# BENEFITS OF CONSENT ORDERS

## *Continued...*

- \$20,000/year for 5 years (starting in 2013) to assist San Dieguito River Park JPA with management of wetlands and a public access trail
- Provision of office space at Fairgrounds for JPA ranger until such time as permanent facilities are developed
- Trash pick-up and removal along the Coast to Crest Trail on DAA property
- Installation of interpretive signs along buffer and restoration areas to be developed with input and guidance from San Dieguito River Park JPA
- Projects to promote coastal awareness, including addition of coastal conservation component to San Diego County Fair's Plant/Grow/Eat program and/or its school tours program to be developed in consultation with CCC's Public Education Program
- Sponsorship of annual San Dieguito River Park cleanup west of I-5
- Complimentary booth space at San Diego County Fair for CCC's public education program, to use for educational and outreach purposes regarding coastal resources and inclusion of a coastal conservation component on the Fairgrounds website, including a link to CCC's public education website

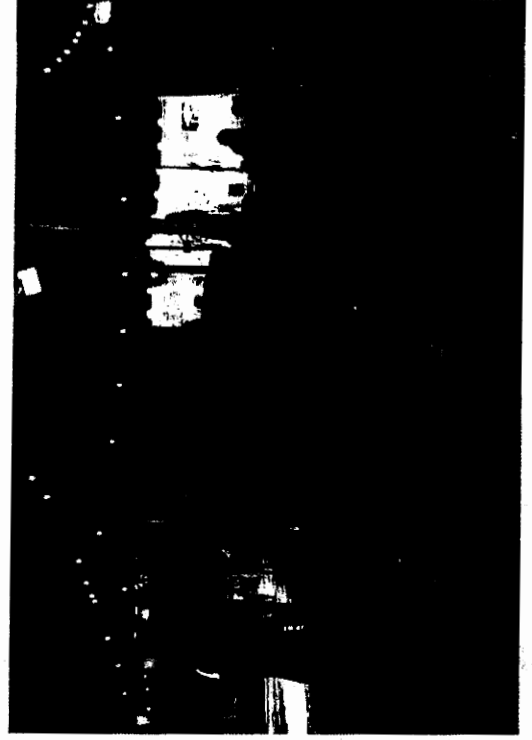
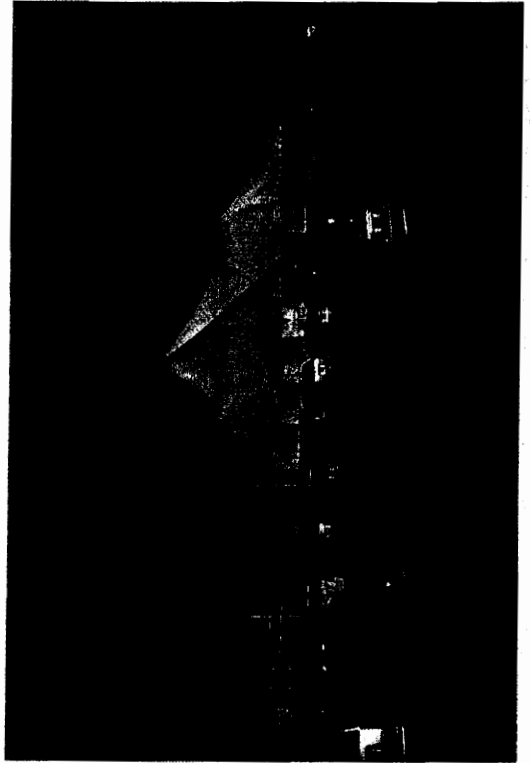
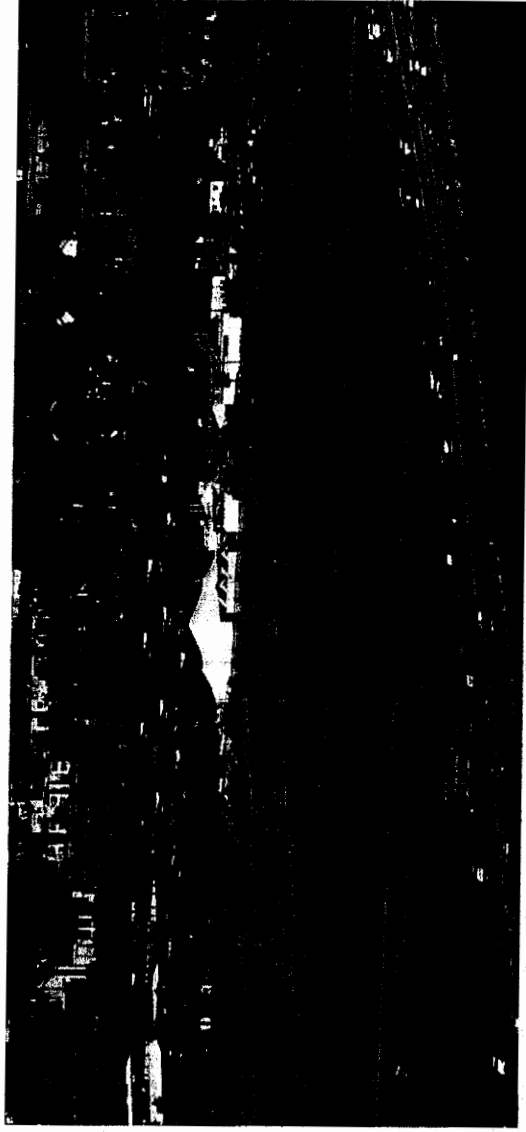


# PROJECT DESCRIPTION #6-12-067

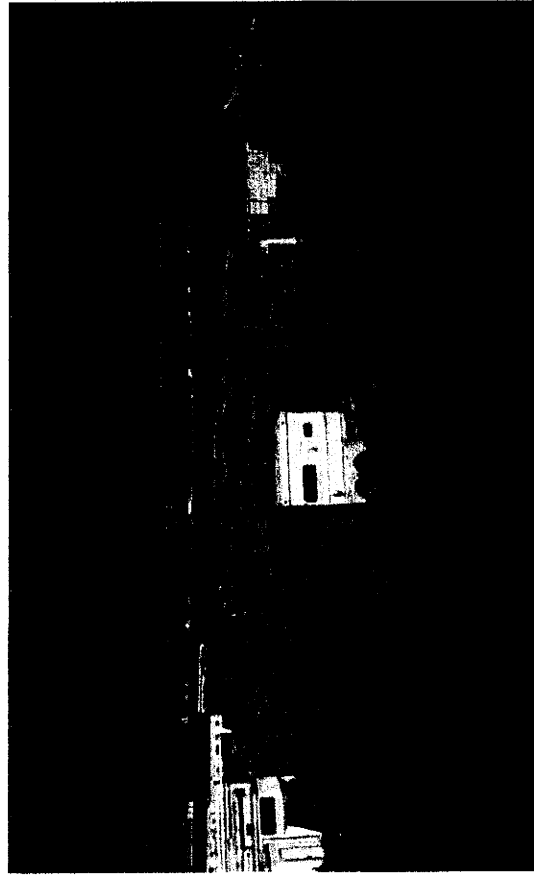
- CDP would authorize continued use of East Overflow Lot (EOL) and Golf Driving Range (GDR), two areas which provide important support for major operations of Del Mar Fairgrounds
  - Specifically, permit would allow 22<sup>nd</sup> DAA to continue to use EOL and GDR for overflow parking. It would also allow the DAA to hold temporary events on the EOL, including the annual Pumpkin Patch and Christmas Tree events.
  - Permit imposes use restrictions and site development standards to ensure that temporary events won't adversely impact coastal resources, including restrictions on lighting and noise, and best management practices for protection of water quality.
  - CDP also imposes use and height standards to ensure that visual resources not impacted.
- If CDP approved, 22<sup>nd</sup> DAA would restore South Overflow Lot (SOL) to functioning wetlands

# PROJECT COMPONENTS #6-12-067

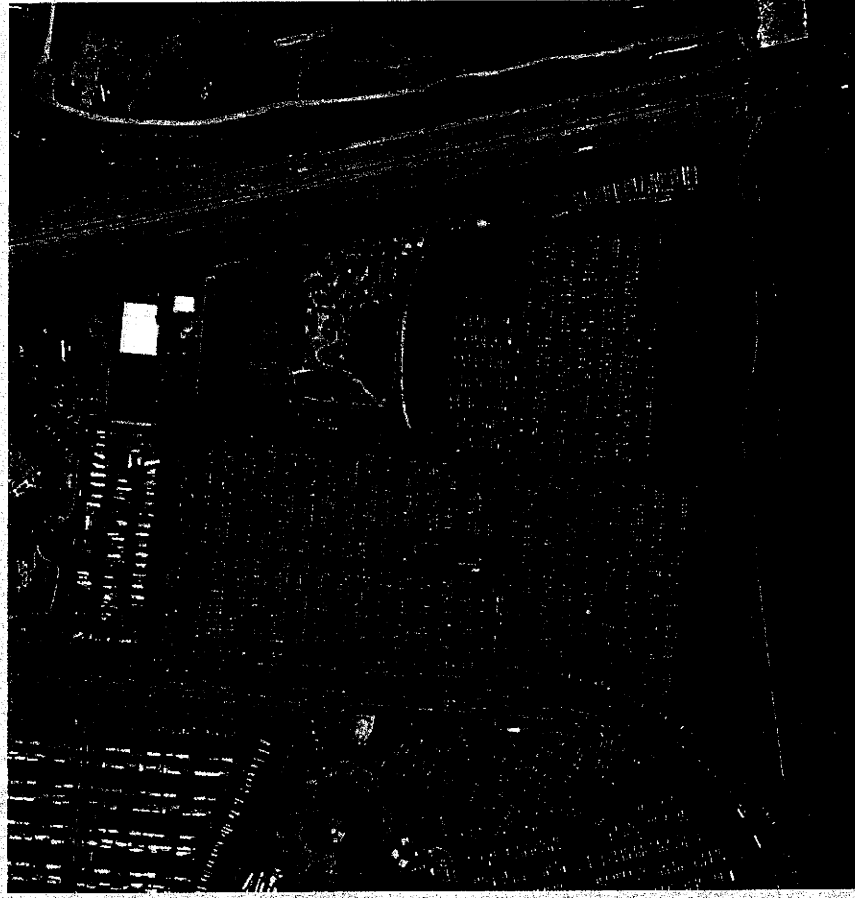
Pumpkin Patch  
& Christmas Tree  
Sales Events  
on EOL



# PROJECT COMPONENTS #6-12-067



Temporary storage of  
horse trailers & hay bales



Year round overflow parking  
on EOL & GDR

Note: Photo taken during peak use period  
(SD County Fair)

# PROJECT DESCRIPTION #6-13-010

- CDP would permanently authorize all typical short-term events within the Fairgrounds that the 22nd DAA wishes to continue to perform.
- All short-term events for which permanent authorization is sought are described in the Del Mar Fairgrounds Consent Order Compliance Report, including such events as the Good Guys Car Show, home and garden shows, the Fred Hall Bait and Tackle show, as well weddings, business training, school testing, and local, state and federal law enforcement training and specific authorization to conduct a Second Race Meet.
- Second Race Meet involves approximately four days of racing over a five week time period starting in late October through the first week of December each year.

# RESTORATION AREAS



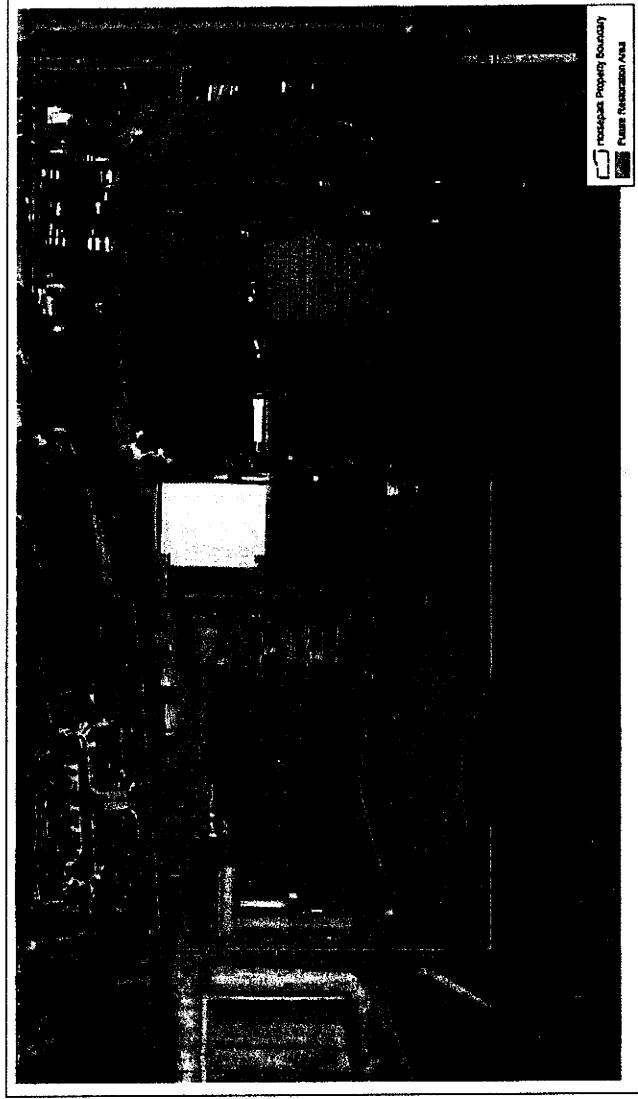
Source: ESRI, DigitalGlobe, GeoEye, i-Stock, USDA, USGS 2013  
Approximate Scale: 1 inch = 850 feet at 11x17



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# ADDITION OF HORSEPARK

- Since October 2013 hearing, project description modified to include an offer by the 22nd DAA to deed an approximately 4.5 acre portion of the Horsepark to a public or non-profit agency for the purpose of habitat restoration.



4.5 ACRE FUTURE RESTORATION AREA

# STAFF RECOMMENDATION

- Staff is recommending approval of **CDP #6-12-067** subject to special conditions requiring:
  - Cessation of parking on southern 1/3 of EOL within 10 years. (Special Cond. #1)
  - Recordation of OTD for conservation easement over southern 1/3 of EOL (Special Cond. #11)
  - Conditions unacceptable to 22<sup>nd</sup> Ag District.
- Staff recommending approval of **CDP #6-13-010** subject to special conditions requiring:
  - Prohibition of parking on southern 1/3 of EOL for temporary events at any time (Special Cond. #4 and #6)
  - Conditions unacceptable to 22<sup>nd</sup> Ag District.

49



# CONCLUSION

- 22<sup>nd</sup> DAA requests:
  - Approval of CDP #6-12-067 with **removal of Special Conditions 1 and 11.**
  - Approval of CDP #6-13-010 with **revisions to Special Conditions 4 and 6** to reflect full use of the EOL per the submitted permit applications.
- As proposed and conditioned, both CDPs ensure protection and enhancement of sensitive coastal environment, while recognizing significant visitor-serving uses at the Fairgrounds.





W23a:b

22<sup>nd</sup> Ag District CDP application

W23a:b

Letters of Opposition

## JPA's recommendation is a compromise

Under the Coastal Act, Section 30233, it is illegal to fill wetlands unless it is for one of 7 reasons. Nothing the DAA wishes to undertake falls under any of those 7 reasons. The DAA's entire proposal is not consistent with the Coastal Act.

Staff's assumptions that are invalid:

1- That the DAA has a vested right to use the EOL and GDR

- a) They have never applied for a vested rights determination and without one they do not have vested rights
  - b) Once they applied for a CDP but failed to have a vested rights determination they lost their right to do so
  - c) They admitted in the Consent Order that they have expanded their use of the EOL and GDR. A vested right is lost if any changes are made to it
- 2- That the Consent Order is no longer valid if the Commission does not approve all of the development. There is no language in the CO to that effect.

3- That conflict resolution can be used to legalize the fill of wetlands

- a) Since the CO is valid with or without any development there is no conflict
- b- Even if the CO was voided, there are no policies that are in conflict.

The policies cited by staff: concentration of development, water quality and public access do not cause any actual conflict, since denial of the development would result in equal or better protections.



# Paving of the EOL

At the October hearing the 22<sup>nd</sup> Ag district denied they planned on paving the EOL. The Atkins Conceptual Improvement Plan, a part of their CDP application states on page 53:

## 5.3.6- Semi-permeable paving of EOL

"The site development criteria approved under CDP 6-12-067 will remain in effect until the permit is amended to allow for the paving of the EOL as described in this Plan.

Conceptual plans include paving of the EOL (using semi-permeable paving) to provide approximately 3,200 all-weather parking spaces, a tram path, and pedestrian circulation. Access to the parking area would be provided by driveways off Jimmy Durante Boulevard and from the adjacent Surf and Turf parking area."

(con't)

(cont)

After the October hearing, 10/18 email from Alex Llerandi, CCC staff to Shawna Anderson:

**From:** Llerandi, Alexander@Coastal [mailto:[Alexander.Llerandi@coastal.ca.gov](mailto:Alexander.Llerandi@coastal.ca.gov)]

**Sent:** Friday, October 18, 2013 11:14 AM

**To:** [shawna@sdrp.org](mailto:shawna@sdrp.org)

**Subject:** Change to second 22nd DAA applications 6-12-067 and 6-13-010.

Hi Shawna,

I wanted to inform you that 22<sup>nd</sup> DAA has changed their application project descriptions. Application 6-12-067 has been changed to include relinquishing title to the 4.5 acre parcel south of Horse Park. Application 6-13-010 has been changed to completely remove the Conceptual Improvement Plan.

While the paving is no longer included, if use of the EOL for parking is approved now, the legal basis for preventing its paving in the future will be removed.

The JPA's initial position was to support the 22<sup>nd</sup> DAA's currently proposed CDP 6-12-067, with the exception that Area 3 of the East Overflow Lot (EOL) be preserved and not be used for parking and events (as proposed by DAA), and that overflow parking on the Golf Driving Range (GDR) only be permitted during the Fair and existing summer race season (not year round as proposed by DAA) as permits for that use already exist. In a subsequent action, the JPA position was modified to offer a compromise to the DAA to support a phasing plan for DAA use of EOL Area 3 for overflow Fair and race season parking over a 5-10 year period while DAA secures replacement parking, with a stipulation that a conservation easement be placed over Area 3 immediately to ensure it is completely and legally preserved.

JPA Board made a second compromise offer based on comments received from DAA

NOW THEREFORE BE IT RESOLVED, the JPA adopts the following recommended conditions for a phased approach to preserve Area 3 of the EOL as follows:

Within 90 days of issuance of CDP to DAA, an irrevocable conservation easement dedicated to the San Diego River Park Joint Powers Authority (JPA) on the area identified on the DAA's CDP site plan as "Area 3" of the East Overflow Lot will be submitted to the Coastal Commission and JPA for approval.

Subsequent to the placement of the irrevocable conservation easement on EOL Area 3, Area 3 and the GDR may be used for overflow parking only and only during the annual Del Mar Fair and existing summer race season. Any and all use of EOL Area 3 will be prohibited outside of these two events and the area will be fenced or barricaded off by DAA during the off season to prohibit such use.

Within 12 months of CDP issuance, the DAA will submit to the Coastal Commission a phasing and parking management plan to relinquish EOL Area 3 over a defined time period as replacement parking strategies identified in the DAA's CDP and parking plan are implemented to replace parking on the South Overflow Lot (600 spaces) and Area 3 of the East Overflow Lot (1,400 spaces).

52 (con't)

(con't)

Independent of accomplishing the specific replacement parking conditions under the CDP, the buffer fence along the southern edge of the EOL will be moved northward by 150 feet every three years (commencing four years after issuance of the CDP) and the DAA will cease use of that portion of Area 3, with the goal to permanently preserve EOL Area 3.

Starting at year five, the DAA will provide annual progress reports to the Coastal Commission and JPA on implementing DAA's phasing/parking strategies to eventually replace parking spaces lost on the SOL and EOL Area 3.

Implementation of the buffer enhancement plan will be delayed until such time as EOL Area 3 is relinquished of all uses by DAA. At that time, the buffer will be moved to the northern edge of existing Area 3 and implemented as identified in the approved buffer enhancement plan.

## CDP 6-13-010 (original application)

Atkins Conceptual Improvements Plan-originally a part of the 2nd CDP (6-13-010):  
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“Overall, on a sustained basis, parking demand during the off-season is substantially lower than for the Fair and Races. A few large events may, on occasion, require use of the EOL and GDR parking areas.”

“The SOL is no longer used for off-season parking.”

**To date, the 22nd DAA has never needed to use off-site lots to accommodate parking for off-season temporary events.** While this Plan does not anticipate such a need, the same off-site parking lots and shuttle service utilized during the Fair can be implemented if it is anticipated that the parking requirements for an event(s) will exceed the number of spaces within the Fairgrounds.



We ask that you support your staff's recommendation with an amendment making two changes to conditions 1 and 11 and one new condition

1- Condition 1b be changed to read

b. Allow Area 3 to be used for parking during the summer fair and race season *only* and ~~during the non-summer off-season when all other available on-site parking has been exhausted;~~

2- Condition 11 b be changed to read:

~~.....irrevocably offering to dedicate to San Dieguito River Park JPA, third-party approved by the Executive Director,~~ an open space and conservation easement for the purpose of preserving open space and future wetland and/or habitat creation. *The terms of condition 1 as they relate to the use of area 3 of the EOL, shall be made a part of the easement.*

*New condition: No grading or contouring of area 3 of the EOL*

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
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SAN DIEGO, CA 92108-4421  
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# W23b

Filed: 5/22/13  
180th Day: 11/18/13  
Staff: A. Llerandi-SD  
Staff Report: 10/31/13  
Hearing Date: 11/13/13

**STAFF REPORT: REGULAR CALENDAR**

**Application No.:** 6-13-010

**Applicant:** 22<sup>nd</sup> District Agricultural Association

**Agent:** Dustin Fuller

**Location:** Del Mar Fairgrounds, 2260 Jimmy Durante Boulevard, Del Mar, San Diego, San Diego County (APN No. 299-042-01, 299-042-02, 299-003-04)

**Project Description:** Authorization to hold temporary events within the main Del Mar Fairgrounds complex, except for the summer fair and summer thoroughbred horse race meet, and initiation of a new, approximately 5-week annual fall thoroughbred horse racing season and associated parking on EOL and GDR.

**Staff Recommendation:** Approval with Conditions

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**SUMMARY OF STAFF RECOMMENDATION**

Staff is recommending approval of this project, with conditions. The proposed project is authorization of temporary events to be held within the main Del Mar Fairgrounds complex (excepting the current summer county fair and summer thoroughbred horse race meet), and initiation of a new, approximately 5-week annual fall thoroughbred horse racing season starting in 2014. The project site is the Del Mar Fairgrounds, namely the main complex located north Jimmy Durante Boulevard.

The proposed project raises issues of public access, hydrology/flooding, water quality, wetland impacts, and visual resources. Public access issues arise because the Del Mar Fairgrounds is a popular destination for low-cost visitor serving recreation in the coastal zone, but can also cause severe traffic impacts that interfere with public access to the surrounding beaches and river valley. Hydrology and flooding issues arise due to the project site's location within the San Dieguito River floodplain. Water quality issues arise because runoff from the SOL, EOL, and GDR, which may be utilized for parking for temporary events in the main Fairgrounds complex, flows south towards the San Dieguito River. Issues of wetland impacts arise because temporary events in the main Fairgrounds complex may require parking in the EOL and GDR, which contain delineated wetlands. Visual resource issues arise due to the project site's location within the scenic San Dieguito River Valley and the potential for temporary events to block views down the river valley.

Special conditions mandating waivers of future flood protection, assumption of liability, limits on the conducting of future temporary events, will mitigate the foreseeable impacts from the proposed development and ensure the development occurs in a manner consistent with Chapter 3 policies in the Coastal Act.

Commission staff recommends **approval of** coastal development permit application 6-13-010, as conditioned.

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## APPENDICES

### Appendix A – Substantive File Documents

## EXHIBITS

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Exhibit 5 – Drainage Basins

Exhibit 6 – Current Public View

Exhibit 7 – EOL Area 3

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit No. 6-13-010 pursuant to 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 a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 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.*

## II. STANDARD CONDITIONS

This permit is granted subject to the following 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 applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director of 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

The permit is subject to the following conditions:

1. **Revised Final/BMP Plans.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final project and BMP plans. Said plans shall include, but not be limited to, the recommended BMP and water quality measures contained in the Backstretch and PolyTrack Water Quality Improvements report prepared by Fuscoe Engineering in March, 2013.

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

2. **Assumption of Risk, Waiver of Liability, and Indemnity Agreement**

- i. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs, (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- ii. PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also include that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this

permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

- iii. **Liability for Costs and Attorneys Fees:** The Permittees shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorney fees – including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay – that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the applicant against the Coastal Commission, its officers, employees, agents, successors, and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.
3. **No Future Flood Protection.** No berms, walls, or any other form of protection against flooding shall ever be constructed for the purpose of protecting the development approved by this permit from flooding. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such channelization or substantial alteration of a river or stream for the purpose of protecting the permitted development.
4. **Event Scheduling During Second Race Season.** The applicant shall not use, and shall prohibit its patrons from using, any portion of the East Overflow Lot (EOL) for temporary events during the second thoroughbred horse race meet, with the exception that the EOL may be used only for the following activities during the second race season:
  - a. Overflow parking for second race meet;
  - b. Race meet logistics (i.e. horse trailer and hay/straw storage); or
  - c. Emergency evacuation staging.

The prohibition against using the EOL for temporary events during the second race meet shall not apply in the event that (1) the second race meet is discontinued or otherwise does not take place, or (2) it can be demonstrated that sufficient underutilized parking on the Main Lot will be available during the second race season such that the EOL is not needed for parking during the second race season. At least two months prior to the commencement of the second race meet, the applicant shall submit to the Executive Director for review and written approval, a mechanism for determining the amount of parking on the Main Lot that would constitute “sufficient underutilized parking” such that the prohibition on temporary events be lifted. However, even with a request for reconsideration, EOL Area 3, as identified in Exhibit 7, cannot be utilized for temporary events at any time.

5. **Lighting.** Temporary lighting proposed to be used for uses in the East Overflow Lot and Golf Driving Range shall be consistent with the following:
- a. Temporary lighting is permitted adjacent to the wetland restoration areas for only safety and security reasons during the San Diego County Fair, Del Mar Horse Racing Season, or during other temporary events.
  - b. Light spillover levels into the restored wetlands and the wetland buffers shall be minimized to the greatest extent practicable through the use of the lightning shields which direct light away from the restored wetland buffers.
  - c. A maximum of 5 lighting standards (defined as portable lighting units with 4 bulbs per unit) shall be allowed to be placed within 200 feet of restored or existing wetland habitat in the EOL (southern edge) and GDR (southern edge).
  - d. There shall be a minimum distance of 250 feet between each light standard.
  - e. All lighting equipment and lighting standards shall be located outside of the 100 foot wetland buffers and lighting shall be directed away from the wetlands.

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

6. **Transportation Demand Management (TDM) Program.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit a Final Transportation Demand Management Program to the Executive Director for review and written approval. Said program shall include, at a minimum, the following provisions:
- a. When calculating the maximum number of events to schedule for any given day, excepting the summer county fair and summer thoroughbred horse race meet, the applicant will not schedule any event or events whose projected parking demand exceeds the amount available on site at the time of the event, but not including the parking capacity contained in the lower-third of the EOL, "Area 3" as identified in Exhibit 7.
  - b. Annual monitoring reports of facility usage and parking, including parking demand for each scheduled event, shall be submitted to the Executive Director within 60 days of the end of each year.
  - c. When hosting events utilizing the EOL and GDR for parking during or within 48 hours after a storm event, the applicant shall first utilize all



available parking within the main Fairgrounds complex. If that is not sufficient, then only portions of the EOL and GDR that are sufficiently dry and solid may be utilized for parking. If parking demand is still not met, then the permittee shall utilize the Horse Park property for parking.

- d. The applicant shall provide incentives for employees of the applicant or on-site lessees to use public transportation, including the provision of subsidized public transit passes to employees, and/or walk or bike to the subject site;
- e. The applicant shall draft and implement a carpool plan for employees of the applicant or on-site lessees and will reasonably coordinate with lessees in scheduling work schedules and posting notices of the carpool program in employee work areas;
- f. Information regarding the carpool program or subsidized public transportation shall be part of any employment paperwork for employees of either the applicant or lessees and shall be a condition of the leases that the applicant require lessees to implement the TDM;
- g. The applicant shall undertake annual surveys of employees to document the frequency with which they are using alternate transportation to get to work and the success of the Transportation Demand Management Program. Surveys shall be submitted annually to the Executive Director for as long as this permit is in effect.

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

- 7. **Future Development.** This coastal development permit only authorizes the development proposed within it. Any other development not included in this permit, whether or not listed in the Cease and Desist Order CCC-12-CD-02 and Restoration Order CCC-12-RO-02 ("Consent Orders"), shall require an amendment to this permit or a separate coastal development permit.
- 8. **Related Commission Action.** PRIOR TO THE ISSUANCE OF THIS PERMIT, the applicant shall obtain approval and issuance of CDP No. 6-12-067, which covers use of and impacts to the EOL and GDR due to development being concurrently proposed by the applicant.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION/HISTORY.**

The proposed project is authorization of temporary events to be held within the main Del Mar Fairgrounds complex, with the exception of the summer county fair and summer thoroughbred horse race meet, and initiation of a new, approximately 5-week annual fall thoroughbred horse racing season starting in 2014. The project site is the Del Mar Fairgrounds, namely the main complex located north Jimmy Durante Boulevard.

The Del Mar Fairgrounds (“Fairgrounds”) is a state-owned and operated facility run by the 22<sup>nd</sup> District Agricultural Association (“Applicant”) and originally built to support agricultural activities and horse racing. It hosts an annual summer county fair and thoroughbred horse-racing meet, along with a variety of smaller events in the main Fairgrounds complex during the non-summer off-season. The main Fairgrounds complex includes exhibit halls, a Grandstand, barns, stables, a show arena, a satellite wagering building, maintenance areas, parking lots, and the horse racing track. On the southern and eastern sides of the fairgrounds property, across Jimmy Durante Boulevard and adjacent San Dieguito River and the I-5 freeway, the Del Mar Fairgrounds contains three unpaved lots – the SOL, EOL, and GDR. The GDR was permitted by the City of San Diego in a Conditional Use Permit in March 26, 1975. The San Diego Regional Commission subsequently approved an administrative permit for work related to the construction of the GDR on May 3, 1975 (CDP No. F2379). The GDR operates as an approved golf driving range for members of the public to use, and is part of a larger, approved “Surf & Turf” sports and recreation facility.

The Surf & Turf facility is a recreational sports complex located between Jimmy Durante Boulevard and I-5. In addition to the GDR on its southern end, Surf & Turf contains pool facilities, a volleyball tent, miniature golf, tennis courts, and equipment retail. To the north of the site, beyond a fence and a row of shrubbery, is the adjacent Del Mar Hilton hotel. The eastern border of the site consists of a vegetated concrete drainage channel within the fenced I-5 right-of-way, and the freeway itself.

The main Fairgrounds complex is located north of Jimmy Durante Boulevard is located near to the 150-acre San Dieguito Wetland Restoration Project, which the Commission granted a Coastal Development Permit (“CDP”) as mitigation for the San Onofre Nuclear Generating Station’s cooling system’s effects on fish populations (CDP No. 6-04-088). The Coast to Crest Trail is a multi-use trail system for hikers, bicyclists, and horseback riders that will eventually extend from the ocean at Del Mar to the San Dieguito River’s source on Volcan Mountain, just north of Julian, a distance of approximately 55 miles. Although the entirety of Coast to Crest trail has not been completed, numerous segments of trail are open to the public. The portions of the trail that cross through and are adjacent to the SOL, EOL, and GDR are completed and open to the public. The San Dieguito River Park Joint Powers Authority (“JPA”) is responsible for implementing and maintaining the Coast to Crest Trail.

In an enforcement action, the Commission issued Cease and Desist Order CCC-12-CD-02 and Restoration Order CCC-12-RO-02 (“Consent Orders”) on March 8, 2012 to address unpermitted activities at the Del Mar Fairgrounds, including landform alteration within a wetland. The Consent Orders approved by the Commission laid the ground work for the proposed permit application, among other actions, the most important being CDP No. 6-12-067, a concurrent application being put forward by the Applicant that is seeking authorization for year-round parking in the EOL and GDR and the hosting of temporary events within the EOL. The recommendation of approval for CDP No. 6-13-010 is contingent upon approval of CDP No. 6-12-067.

The Del Mar Fairgrounds is located both within the Cities of Del Mar and San Diego, both of which have effectively certified LCPs and issue their own coastal development permits. However, the Fairgrounds represent an area of deferred certification. Moreover, it was principally built on filled tidelands. Thus, the vast majority, if not the entirety, of the site is within the Coastal Commission’s area of original jurisdiction. Thus, Chapter 3 of the Coastal Act is the legal standard of review for the subject CDP application.

## **B. PUBLIC ACCESS/TRAFFIC/PARKING.**

The following Coastal Act policies are most pertinent to this issue, and state in part:

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

Section 30212 of the Coastal Act states, in part:

- (a) *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

[...]

- (c) *Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.*

Section 30213 of the Coastal Act states, in part:

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

[...]

Section 30252 of the Coastal Act states:

- (a) *The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

Section 30604 of the Coastal Act states, in part:

[...]

- (c) *Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).*

The Fairgrounds is located near the mouth of the San Dieguito River, west of the I-5 and east of Camino del Mar (Old Highway 101). It is between the river to the south and Via

de la Valle, which is the first public east-west road north of the river. El Camino Real (east of the I-5) is currently the first continuous north-south public road east of the site. Thus, the entire Fairgrounds complex, including the project site, is located between the sea and first public roadway, where maintaining shoreline public access to the river/lagoon and west to the municipal beaches is of greatest concern. As the applicant property owner is another state agency, the property is in public ownership, and, for the most part, the public can freely access various portions of the grounds, including the riverfront, particularly when no formal events are taking place.

Most Fairgrounds events provide a comparatively inexpensive recreational experience, falling under Section 30213 of the Coastal Act, for the public to enjoy within the Coastal Zone. The agricultural nature of many of the events further differentiates the property and its activities from many other recreational opportunities in the greater-San Diego coastal region. Thus, in addition to accommodating public access to nearby parks and beaches, the Fairgrounds is itself a public recreational destination.

The Fairgrounds was completed in 1936, and soon after began to host the county fair and thoroughbred racing, both of which continue to this day in what is referred to as the “summer fair and race season.” Currently, the annual San Diego County Fair (formerly known as the Del Mar Fair) attracts approximately 1.5 million visitors during its summer run of early June until the Fourth of July. The annual thoroughbred horse racing season subsequently begins two weeks later and runs until early September. The number of race attendees varies from day to day, with only a handful of special races drawing huge crowds. Racing attendance, even on peak days, never approaches the number of people attending the annual fair on a daily basis, and thus the entire race season attracts approximately 650,000 attendees. However, less parking is available during the racing season, as the practice track and backstretch areas, which are used for parking during the county fair, are not available for parking during race season.

With the summer fair and race season come substantially heavy traffic loads on the surrounding roads and communities. The off-ramps from the I-5 freeway onto Via de la Valle consistently back up and impact traffic flow on the remainder of the freeway. Surface streets, especially Via de la Valle, Camino del Mar, and Jimmy Durante Boulevard, experience high traffic volumes that bring traffic flow to a near standstill as parking attendants and local police resources attempt to channel the public into the few vehicle entrances located on the Fairgrounds. These traffic loads negatively impact the surrounding communities of Del Mar, Solana Beach, and parts of San Diego, and interfere with public access to surrounding coastal resources, such as the beach, visitor serving retail, and hiking trails.

Regarding the proposed temporary events to be held in the main Fairground complex, excepting the summer county fair and summer thoroughbred horse race meet, Linscott, Law, & Greenspan conducted an off-season peak-hour traffic analysis in April of 2011 for the Applicant in order to establish a baseline Level of Service (LOS) for surrounding roads and intersections. The study found that all but one of the surrounding 19 intersections operated at acceptable LOS D or better on both weekdays and weekends. Many of the temporary events that occurred at that time still occur, mainly within the

much larger main fairgrounds complex (Exhibit 3). Traffic volumes are lower for multiple reasons, including it no longer being a busy tourist season, the temporary events being smaller in scale and less popular than the summer events, and because inclement weather can dampen attendance numbers. Nevertheless, temporary events of substantial size and number could still have the cumulative traffic impact to interfere with public access to nearby coastal resources and communities. The Applicant's parking data states that during the non-summer off-season they have an approximately 10,350 space on-site parking capacity available for use throughout the main Fairgrounds complex, EOL, and GDR. In order to ensure that parking and traffic impacts do not spill out of the Fairgrounds property and into surrounding communities, this permit will limit any given day's projected parking demand – either from one event or many – to that maximum on-site capacity. This will help ensure that the scheduled slate of events will be able to be adequately serviced by existing onsite resources. Thus, because this will help ensure traffic volumes are more manageable, the conducting of temporary events is not foreseen to create the types of heavy traffic situations experienced during the fair and races. Instead, a coastal visitor serving resource – the Fairgrounds - will be able to be better utilized by the public through the conducting of a greater number of visitor serving events and activities in the coastal zone.

However, even with the above limitations, the second race meet, due to its approximately 5-week duration and national character - bringing in jockeys and horses from around the world – has the potential to create attendance and traffic demand much higher than traditional off-season events and closer to the summer events, namely the summer race season. While it is true that inclement weather could dampen attendance figures, many horse races are still run during or after storm events, and thus could still attract a significant number of attendees. The Applicant acknowledges as much when they state that they foresee usage of the EOL and GDR for parking during at least some of the second race season (Exhibit 4). To limit the potential for substantial traffic impacts to surrounding communities, the Applicant will not be able to host simultaneous temporary events during the second race meet unless it has been clearly demonstrated to the Executive Director that on-site parking demand will be sufficient to meet all foreseeable demands.

To ensure that the development is implemented in an approved manner and that potential impacts are mitigated, **Special Condition No. 1** will ensure that the Applicant completes any approved development pursuant to approved final plans. **Special Condition No. 6** will require the Applicant to implement an approved TDM so as to control and mitigate the traffic impacts from Fairgrounds events, focusing first on utilizing on-site parking in an efficient manner and developing off-site parking resources and alternate transit measures. Furthermore, **Special Condition No. 4** prohibits the Applicant from hosting other temporary events on the EOL during the second race season so as to maximize available parking and lessen impacts to public access to surrounding coastal resources and communities.

In summary, the Commission finds the proposed restoration and development will not result in adverse impacts to coastal access. Parking will remain adequate for approved uses, and the number of low-cost visitor serving activities in the coastal zone will

increase, public access to the Coast to Crest Trail will be greatly enhanced. Therefore, the Commission finds that all access and resource concerns associated solely with proposed development approved herein are adequately addressed, and that the proposed development, as conditioned, is consistent with the cited policies of the Coastal Act.

### C. WETLANDS

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 of the Coastal Act states in relevant part:

- (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 basin, vessel berthing and mooring areas, and boat launching ramps;*
  - 3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities;*
  - 4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
  - 5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas;*

6) *Restoration purposes;*

7) *Nature study, aquaculture, or similar resource dependent activities*

(b) *Dredging and spoils 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 these purposes to appropriate beaches or into suitable longshore current systems.*

[...]

Virtually the entire Fairgrounds property was created by filling tidelands back in the 1930's. Although most of the site is now developed, there are several areas which still contain seasonal wetland resources, including the SOL, EOL, and GDR. In addition, all of these areas are within the 100-year floodplain of the adjacent San Dieguito River and experience periodic inundation during average winter rainy seasons.

The main Fairgrounds complex north of Jimmy Durante Boulevard is almost completely developed, with numerous permanent structures including the Grandstands, show arenas, stables, race track, exhibit halls, etc. Most of the remaining surface area not occupied by structures is paved, with some unpaved areas in the northern stable and practice track areas. As such, the main Fairground complex contains almost no undeveloped areas, and what little vegetation is present is concentrated around Stevens Creek, which flows along the northern and western boundaries of the main Fairgrounds complex. Stevens Creek is a tributary of the San Dieguito River and San Dieguito Lagoon, and its waters occupy 1.57 acres of the main Fairground complex. Along the creek's length within the main Fairgrounds complex are approximately .29 acres of chenopod scrub, .13 acres of coastal and valley freshwater marsh, 11.11 acres of diegan coastal scrub, 1.34 acres of disturbed habitat, 9.42 acres of non-native vegetation, .04 acres of saltgrass, .86 acres of southern coastal salt marsh, and .23 acres of southern willow scrub. No permanent or temporary development is being proposed within Stevens Creek and the vegetated areas along its bank, and this permit will not affect its current state.

While the Applicant states that the vast majority of the temporary events can be accommodated completely within the main Fairgrounds complex, the Applicant does foresee certain events needing to utilize the EOL and GDR for parking. Historically, the EOL and GDR have been used by the Applicant as public parking during the annual summer county fair and races. The EOL is approximately 22 acres and the GDR is approximately 10 acres. Because use of the areas for parking for these two annual events predated the Coastal Act, the Commission has not challenged the continued use of these areas for overflow parking during these events, even though substantial portions of these two areas are wetlands. In addition, in past permit actions, the Commission authorized use of these areas for parking during the years the Del Mar Grand Prix was held at the Fairgrounds (CDP No. 6-88-077), and approved the installation of an at-grade paved tram



track in the EOL outside ACOE delineated wetlands (CDP No. 6-94-013). The tram is used during the annual fair and races to transport patrons to the entrance ticketing windows. With these two exceptions, the Commission has not reviewed or approved parking by patrons or employees or any other uses of these lots, except use of the GDR for its primary, approved golfing purposes.

According to historical photographs of the sites, when the EOL and GDR are not used for parking, sparse wetland vegetation returns, and the areas are used for resting and feeding by shorebirds and migratory species. Depending on the specific species, some nesting may also occur, although most species' nesting seasons continue into the summer months when the lots have historically been used for parking. Past delineations by the ACOE have found that EOL and the GDR are, in substantial part, defined as wetlands. In compliance with the Consent Orders approved by the Commission in March 2012, the Applicant commissioned AECOM to conduct a wetlands delineation study for the EOL and the GDR (the Applicant did not conduct a new delineation for the SOL, as it is planned to be fully restored to salt marsh habitat pursuant to the ACOE enforcement action and Commission Consent Orders). The resulting September 2012 report identified 5.81 acres of disturbed alkali marsh in the EOL and 2.92 acres of disturbed alkali playa in the GDR. Both the alkali marsh and the alkali playa meet the Commission's criteria for "wetland," and thus the AECOM delineation found a total of 8.73 acres of wetlands in the EOL and GDR.

While off-season parking in the EOL and GDR will constitute impacts to the wetlands delineated therein, the mitigation of wetland impacts associated with off-season parking and temporary event uses of the EOL and GDR will be addressed in CDP No. 6-12-067, a concurrent application by the Applicant for, among other development, year-round parking within the EOL and GDR. That permit and its related staff report address all the issues related to the wetland impacts arising from the use of the EOL and GDR, and this recommendation of approval is predicated upon the types of uses – if any – of the EOL and GDR that the Commission finally approves in CDP No. 6-12-067.

To ensure that the Applicant carries out the proposed restoration and development in conformance with approved methods, **Special Condition No. 1** requires the Applicant to submit and follow approved final plans for all development approved in this permit. **Special Condition No. 7** makes it clear that this permit only authorizes the development contained herein, and that any future development within the SOL, EOL, or GDR will require an amendment to this permit or a separate permit.

However, despite the above special conditions, the proposed development will still directly impact delineated wetlands in the EOL and the GDR. This is inconsistent with the above Coastal Act policies governing habitat impacts, as none of the proposed uses meet the criteria of permitted development within wetlands. However, as noted above, 22<sup>nd</sup> District Agricultural Association, the same applicant of this application, has submitted a CDP application, CDP Application No. 6-12-067 (to be heard at the November, 2013, hearing as well), which addresses the Section 30233 inconsistency through the application of the conflict resolution provision of the Coastal Act, Section 30007.5. The proposed development in CDP Application No. 6-12-067 necessarily

encompasses the proposed development of this subject application because the applicant, in CDP Application No. 6-12-067, is requesting authorization to use the EOL and GDR for year-round temporary events and parking. Thus, should the Commission approve CDP Application No. 6-12-067, that approval would generally approve the use of the EOL and GDR for temporary events and parking while still requiring the Applicant to receive Commission approval for any specific temporary events to address any Coastal Act impacts associated with those events, as the Applicant is doing in this application. There, as proposed, the development within the EOL and GDR must be denied unless the Commission approved CDP Application No. 6-12-067 through the application of conflict resolution procedures. Given this condition precedent, the Commission imposes conditional language in **Special Condition No. 8** that requires the Applicant to demonstrate that the Applicant has received approval of CDP No. 6-12-067 prior to commencement of the proposed development.

#### **D. HYDROLOGY/FLOOD HAZARDS**

Section 30236 of the Act addresses natural hazards, and states, in part:

*Channelization, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development.*

[...]

Section 30253 of the Act states, in part:

*New development shall do all of the following:*

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

[...]

The Del Mar Fairgrounds is located within the 100-year floodplain of the San Dieguito River, and is thus subject to flooding during storm events. However, a large number of permanent and temporary structures already exist in the main Fairgrounds complex west of Jimmy Durante Boulevard, many of them pre-dating the Coastal Act. In past actions,

the Commission has found that the placement of fill or permanent structures in a floodplain may substantially alter natural water flows and therefore be inconsistent with Coastal Act Section 30236 because such project wouldn't consist of an allowable project under Section 30236. Further, such placement of fill or permanent structures in a floodplain may not, also, be consistent with Section 30253 of the Coastal Act because the development may not sufficiently minimize the risks to life and property in areas of high flood hazard. On the other hand, structures that can accommodate periodic inundation without being damaged do not cause natural water flows to be redirected and therefore can be found consistent with Section 30236. The entire main Fairgrounds complex is comprised of structures which are, and will continue to be, able to withstand periodic inundation occasionally during severe rain events.

The Coastal Act requires new development to minimize risks to life and property of both the project site and the surrounding area. Any additional fill or creation of building footprints could result in changes in the hydrology of the San Dieguito River or Stevens Creek. Modifications to the current flooding patterns, in which a large portion of the 100-year flood waters are contained on the Fairgrounds property, could result in increased flood hazards to existing up- and downstream developments. This could, in turn, lead to proposals for further channelization of the river. In this particular case, the proposed development is not adding new permanent structures to the floodplain, but instead consists of holding temporary events utilizing existing buildings or the use of temporary structures such as trailers and tents. These should not substantially alter flood flows, as they can be relocated relatively quickly or, if not, would not be able to hold back substantial amounts of water. Therefore, the proposed development does not constitute a substantial alteration of a river and is thus consistent with Section 30236 and will minimize risks to life and property in the floodplain given the temporary and impermanent nature of the development.

Nevertheless, **Special Condition No. 3** requires the Applicant to waive any future flood protection to protect the development proposed in this permit, while **Special Condition No. 2** required the Applicant to assume all risks liabilities arising from approval of this permit. In summary, the Commission finds that the proposed development will not result in a significant change to current flood flows across the site. The amount of impermeable surfaces will not substantially increase, and existing storm drains, as always, will continue to allow the passage of flood waters. Therefore, the Commission finds the proposed development, as conditioned, is consistent with Chapter 3 of the Coastal Act.

## **E. WATER QUALITY/MARINE RESOURCES**

The following Coastal Act Policies are most pertinent and state:

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.*

The Del Mar Fairgrounds is located within the San Dieguito River valley and is bordered on the south by the San Dieguito River and on the north and west by Stevens Creek, a tributary. The Fairgrounds property, including the unpaved lots on the other side of Jimmy Durante Boulevard, is divided into 16 separate drainage basins, with existing storm drain systems conveying runoff from the various basins to four discharge points along the San Dieguito River and three discharge points along Stevens Creek (Exhibit 5). Most of the drainage basins in the northern part of the main Fairgrounds complex directs runoff into the existing infield ponds, which are not connected to the river valley hydrological system. Here the runoff is treated by either infiltration (percolation) or by evaporation. Additionally, in the backstretch and race track area, where most of the animal preparation activity related to races occurs, the low-flow and first-flush runoff is manually diverted to the Del Mar Fairgrounds sewage system. This includes horse wash station, runoff from recycling areas, car washes, and stables. However, during heavier storm events sheet flow carries runoff into Stevens Creek. In the basins in the southern portion of the main Fairgrounds complex, the storm drain system conveys runoff to treatment facilities (such as grease traps) and then on to the San Dieguito River.

Because the Applicant is applying to continue to host the type off-season temporary events it has traditionally hosted for decades, no substantial increase in water quality impacts is foreseen. Furthermore, the Applicant is not proposing to substantially increase the impervious surface area within the main Fairgrounds complex, so additional runoff is not foreseen. Finally, because the temporary events will be held within the main Fairgrounds complex, which is almost completely developed, runoff will be captured by the existing storm water systems.

While the existing race season occurs during the summer, when the chance of storm events is low, the proposed second race season would occur in the fall, during the traditional rainy season. Because the Applicant is proposing a second fall thoroughbred horse racing season during the traditional rainy season, there is the potential to introduce a higher pollutant load related to such use, such as fecal material and detritus from animal wash areas. Because much of the main Fairgrounds complex is paved, its permeability,

and thus ability to absorb runoff, is limited. In two past permit actions, the Commission has permitted the Applicant to conduct track upgrades and widening to the existing outer dirt (now PolyTrack synthetic material) and inner turf race tracks – CDP Nos. 6-06-054 and 6-13-004, respectively. Both of these permits authorized and required the upgrading and installation of improved BMPs systems to handle the runoff that may flow from the track surfaces during storm events. Those BMPs systems function by filtering runoff as it percolates through the race surface before either directing it to the existing infield ponds (which are not connected to the nearby river system) for infiltration and evaporation or into Stevens Creek. However, these systems only cover a portion of the Fairgrounds complex, while the majority of the property is utilized at one time or another for off-season temporary events.

As part of the development necessary to be eligible to hold the second fall race meet, the Applicant plans to install various phases of BMP improvements to minimize foreseeable water quality impacts arising from greater presence of racing animals and related equipment. The Applicant submitted a Backstretch and Polytrack Water Quality Improvements Report prepared by Fuscoe Engineering and dated March of 2013. This report recommends various BMP measures to treat the expected runoff and pollutants arising from increased usage of the Fairgrounds for horse racing, to be implemented in phases over the first couple of race seasons.

Additionally, the Applicant foresees need of the EOL and GDR for parking during the second race season and certain other off-season temporary events (whenever parking demand is projected to be above 3,000 parking spaces). Such use could coincide with or shortly after a storm event, when much of the EOL and GDR can become extremely muddy or even flooded. This creates the risk of introducing vehicular pollutants (oil, transmission fluid, brake dust, etc.) into the runoff flowing from the EOL and GDR into the San Dieguito River. The Applicant's parking management plans as reviewed by Commission staff indicate that during storm events substantial enough to impact use of the EOL and GDR, the Applicant will exhaust parking in the paved, main Fairgrounds complex, then proceed to utilize any dry or unimpacted portions of the EOL and then, if more parking is needed, utilize the Horse Park property. This will limit intrusion into substantially flooded, unpaved areas, limiting "churning" of soils and sedimentation and turbidity impacts in the nearby river. In addition, the Applicant will, as part of CDP No. 6-12-067 (if approved) install BMPs in the EOL and GDR including, but not limited to, bioretention basins so as to capture, contain, and filter runoff.

Furthermore, the Applicant, as part of CDP No. 6-12-067, will place the 10.37 acre lower-third of the EOL, which is the portion closest to the San Dieguito River, under a conservation easement that will phase out all use of that portion within 10 years of Commission approval of that permit, and in the interim will only allow off-season parking if all other on-site parking resources have been exhausted. Those measures will ensure that use of the lower-third of the EOL is minimized during the rainy season, further lessening water quality impacts stemming from temporary events within the main Fairgrounds complex.

To ensure that the Applicant constructs the proposed development in conformance with approved methods, **Special Condition No. 1** requires the Applicant to submit and adhere to revised final construction/BMP and site plans that are in substantial conformance with Commission-approved plans and reports.

The Phase II restoration will enhance the quality of the surface water that collects on the areas east and south of Jimmy Durante, that are not part of the existing storm drain system that operates on the developed portions of the Fairgrounds property. Therefore, the Commission finds the development, as conditioned, consistent with the cited policies of the Coastal Act with respect to water quality concerns.

## F. VISUAL RESOURCES

Section 30251 of the Coastal Act states, in relevant part:

*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 landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...*

The Del Mar Fairgrounds is located in the San Dieguito River Valley near the mouth of the San Dieguito River, west of the I-5 and east of Camino del Mar (Old Highway 101). It is between the river to the south and Via de la Valle, which is the first public east-west road north of the river. The entire fairgrounds complex, including the project site, is located between the sea and first public roadway.

The San Dieguito River Valley is a scenic view shed running westward to the Pacific Ocean and contains various trails, including the Coast to Crest Trail, a portion of which runs through the Fairgrounds, adjacent to and south of the SOL, EOL, and GDR south of Jimmy Durante Boulevard. In addition, the valley is bordered to the north and south by hills offering multiple scenic overlooks of the valley and the ocean, and drivers on the north-south I-5 can look west across the river valley as they are crossing it.

The main Fairgrounds complex contains multiple large structures, including exhibit halls, show arenas, and the main Grandstand facility, some of which approach or exceed 100 feet in height. This existing development located within the main Fairgrounds complex blocks westward views from parts of Jimmy Durante Boulevard and the I-5. Much of Via de la Valle along the north of the Fairgrounds is above grade from the Fairgrounds and would offer a view over the Fairgrounds complex and parts of the river valley, but such view is blocked by a long, tall hedge that runs along the south of Via de la Valle for its entire length.

Besides the surface roads within the river valley itself, the surrounding hills are home to multiple public vista points both west and east of the I-5. The height of these vista points, coupled with the fairly open nature of the river valley, permit expansive views of

the area westward, to where the river meets the ocean (Exhibit 6). The development contained within the Fairgrounds is clustered within the main Fairgrounds complex north of Jimmy Durante Boulevard, and does not substantially block ocean views from many of the hilltop vista points.

The proposed use of the main Fairgrounds complex will not erect any permanent development that will substantially rise above grade to block views. However, some of the events, such as circuses, require the erection of large temporary structures such as tents, usually in the main parking lot on the southeast corner of the main Fairgrounds complex next to Jimmy Durante Boulevard. These temporary structures can at times approach 100 feet in height and could potentially impact views. However, because views westward from Jimmy Durante and the I-5 are already blocked by existing structures within the main Fairgrounds complex, large temporary structures within the main parking lot or other parts of the main complex are not foreseen to substantially impact public views.

Besides the openness of views, other aspects of visual resources to consider are scenic quality and community character. Even when a structure does not impede views, it can be obtrusive enough in design or bulk to still adversely impact public vistas by being incongruent with the surrounding landscape and thus serve as a distraction. While the future schedule of temporary events is never completely certain, and their temporary nature mean various aspects of their physical nature can change from year to year, past events have utilized structures such as tall red tents almost 100 feet tall. Even being located within the main Fairgrounds complex does not completely mask the incongruent nature of such structures as seen from some of the valley floor or hilltop vista points. However, the design of such structures are usually out of the control of the Applicant and often dictated by the needs of the temporary tenant. As such, concentration such development in close to proximity to existing development is usually the best way to shield it from most views and mitigate its impacts. Fortunately, such visually obtrusive structures are the exception rather than the norm among the temporary events traditionally held within the main Fairgrounds complex, and their temporary nature means that their presence does not last for very long. Thus, the continuance of such intermittent temporary uses is not foreseen to engender substantial visual impacts.

To ensure that these development limits are formalized so as to protect visual resources, **Special Condition No. 1** requires the Applicant to implement development according to approved plans. **Special Condition No. 7** clearly states that this permit is only for the development contained herein – temporary events and the second race meet – and that any other development will require either an amendment to this permit or a new coastal development permit.

Thus, by not adding any new permanent structures and by concentrating temporary development within the already developed envelope of the main Fairgrounds complex impacts to visual resources along the San Dieguito River will be minimized, and the Commission can find the proposed development, as conditioned, in conformance with the visual resource policies of the Coastal Act.

## **G. LOCAL COASTAL PLANNING**

Although much of the project site is in an area of original jurisdiction and thus not subject to the policies and regulations of San Diego's and Del Mar's certified LCPs, it is nonetheless consistent with the Fairgrounds/Racetrack land use designation and zone of that plan. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the Cities of San Diego and Del Mar to continue to implement their certified LCPs.

## **H. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The 22<sup>nd</sup> District Agricultural Association is the lead agency for purposes of CEQA review for this project, and the Coastal Commission is a responsible agency. Section 13096 of the Commission's Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing public access, flood hazards, water quality, wetland impact, and visual resources will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.



## **APPENDIX A**

- 1) AECOM August, 2012 Wetland Delineation Report
- 2) Linscott, Law, and Greenspan August, 2012 Parking Assessment
- 3) Commission Ecologist Dr. John Dixon's September, 2013 Memo
- 4) Cease & Desist and Restoration Orders of March, 2012: CCC-12-CD-02 & CCC-12-RO-02 <http://documents.coastal.ca.gov/reports/2012/3/Th8-s-3-2012.pdf>

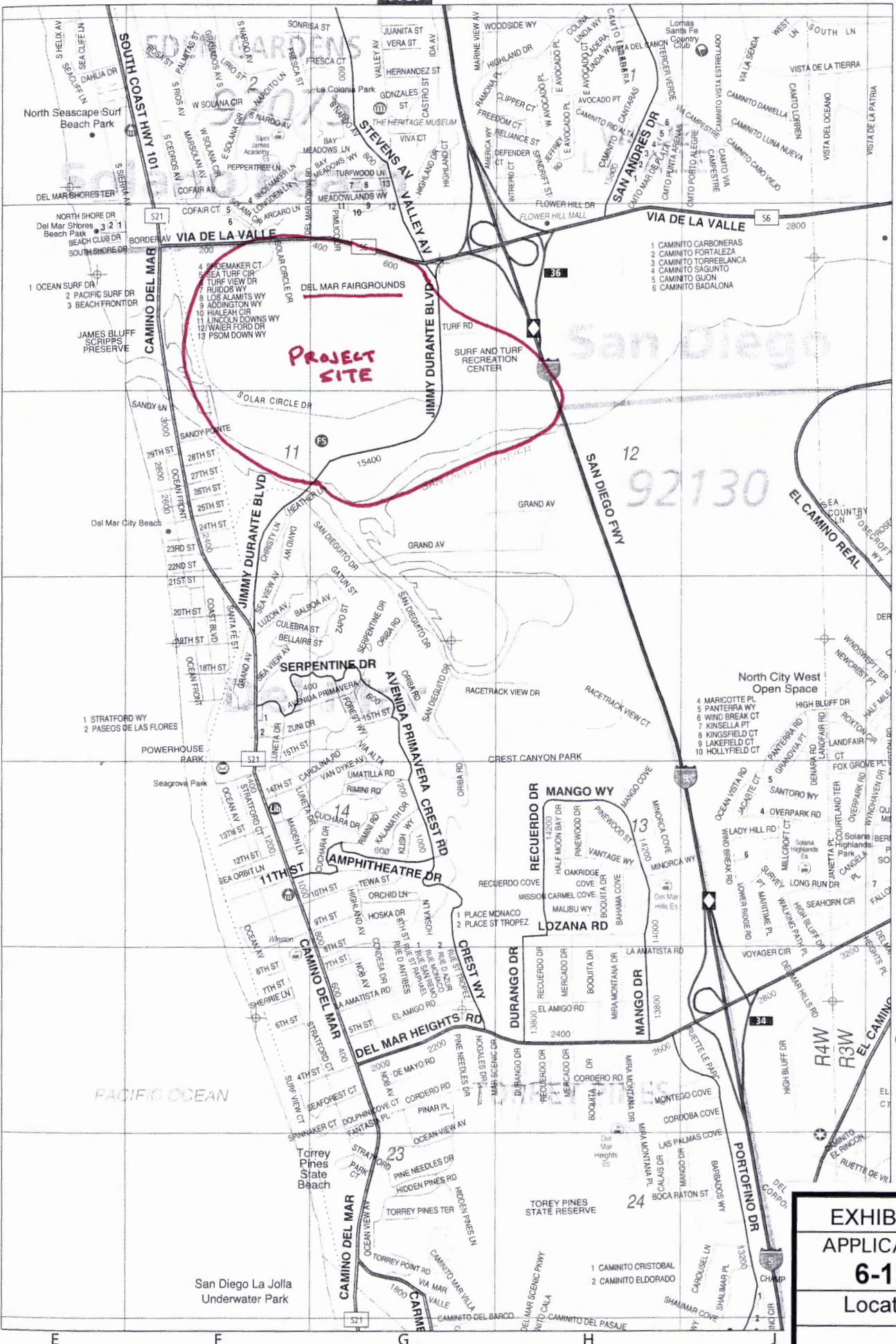


EXHIBIT NO. 1  
APPLICATION NO.  
**6-13-010**  
Location Map



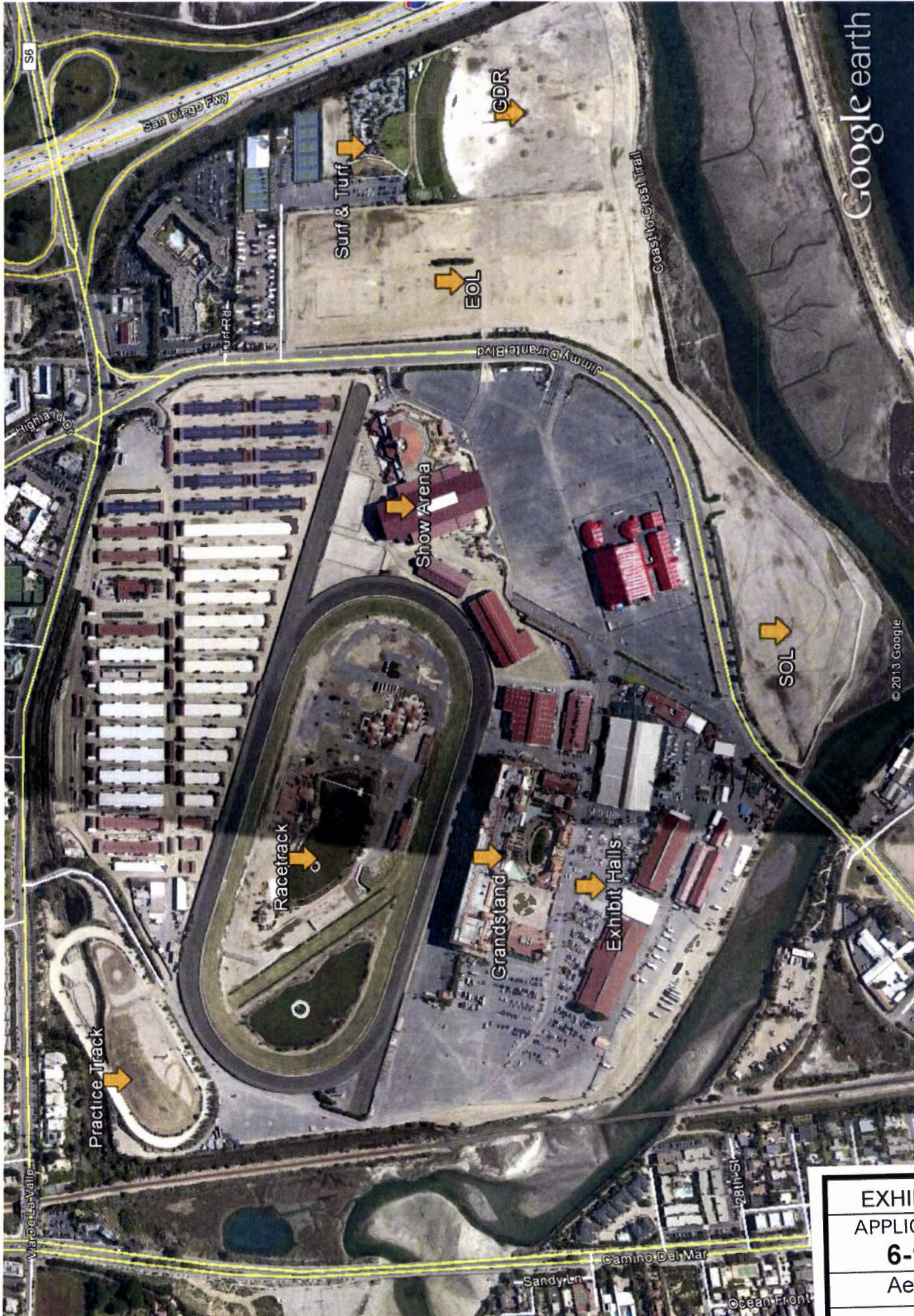
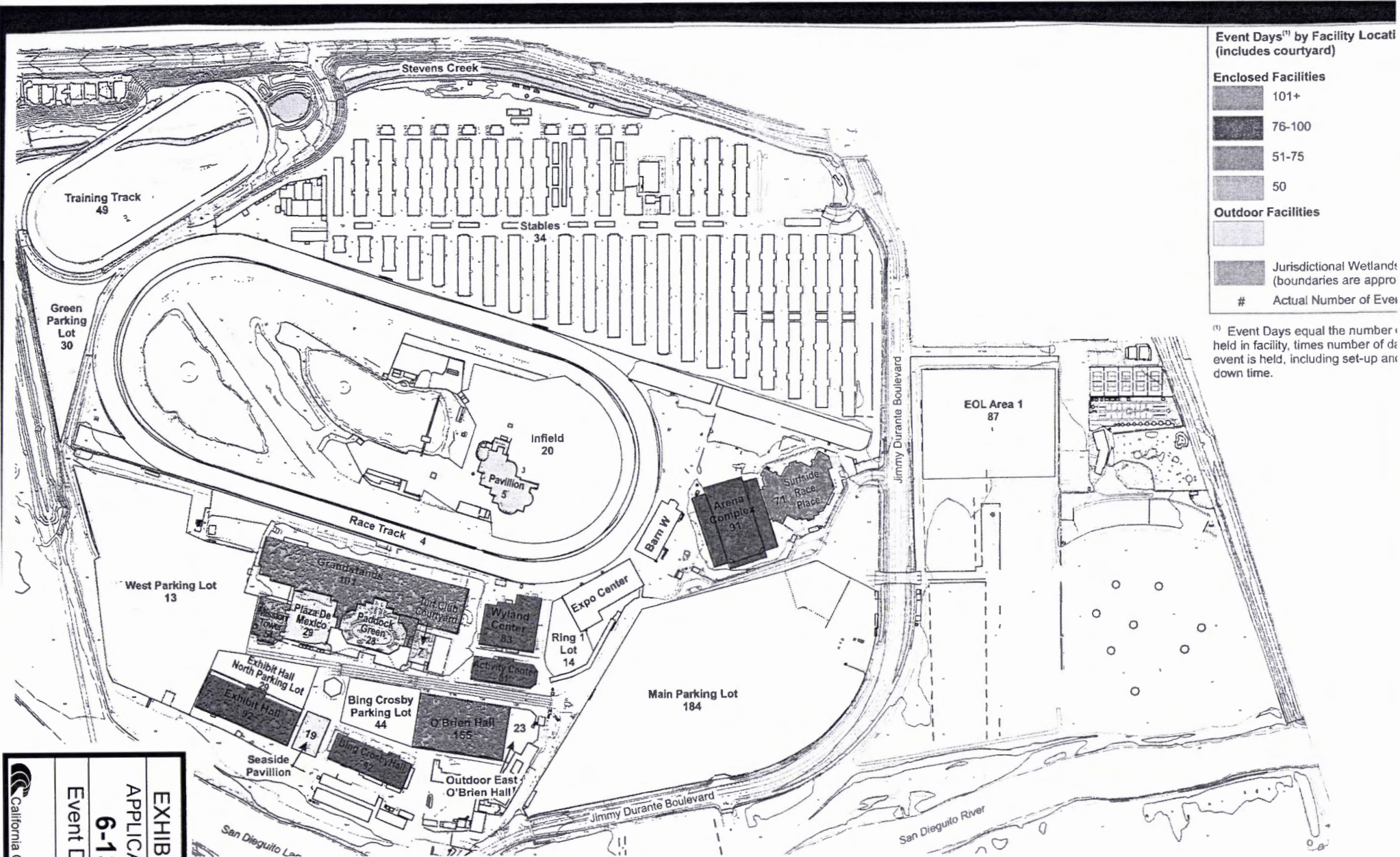


EXHIBIT NO. 2
APPLICATION NO.
<b>6-13-010</b>
Aerial View

California Coastal Commission







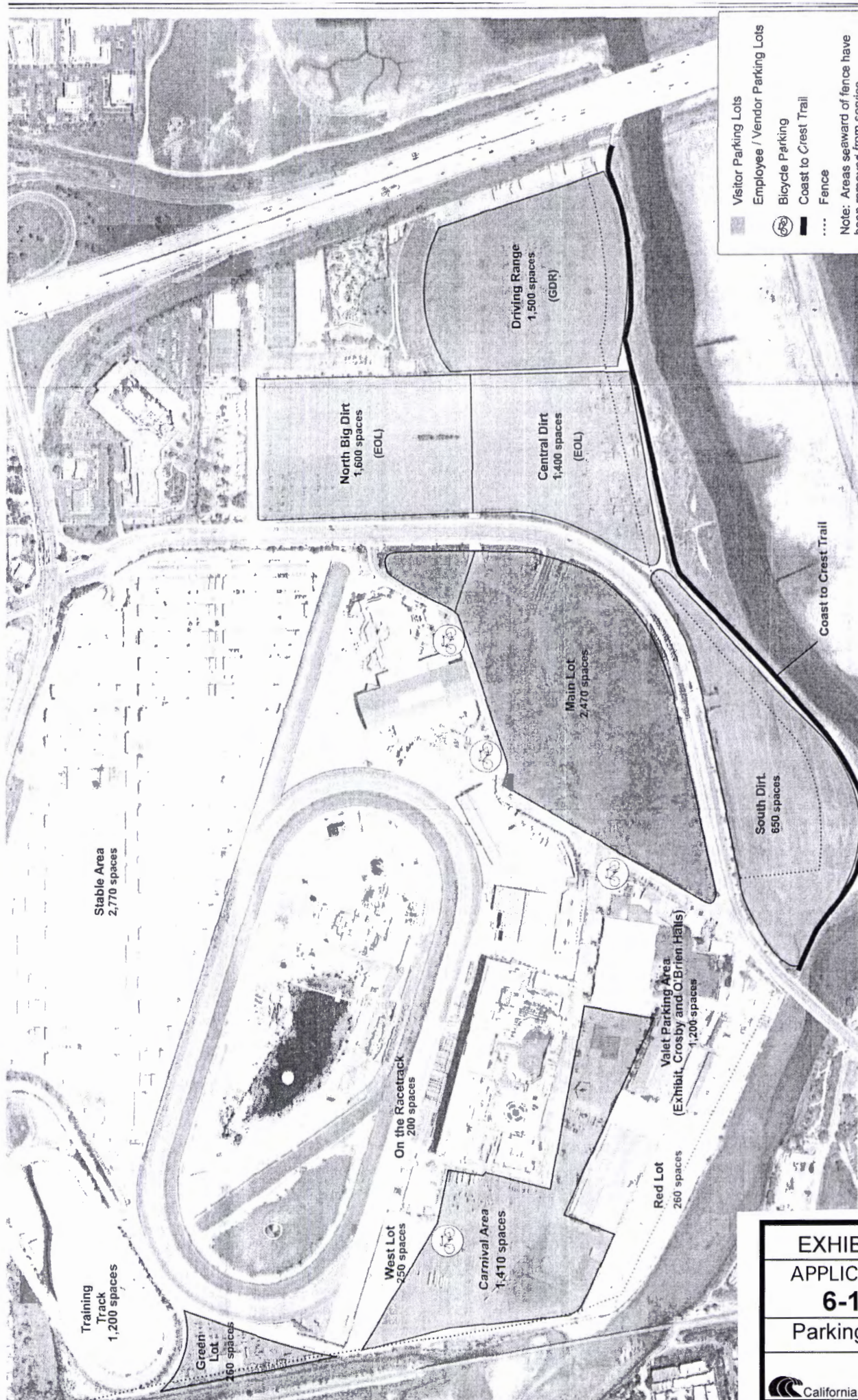


EXHIBIT NO. 4  
APPLICATION NO.  
**6-13-010**  
Parking Inventory



- |                  |       |  |
|------------------|-------|--|
| Fairgrounds Bo   | ---   |  |
| Existing Contour | ---   |  |
| Existing Storm I | 13    |  |
| Existing Storm I | 12.50 |  |
| Existing Storm I | 12.75 |  |
| Existing Storm I | 13    |  |
| Existing Sewer   | ---   |  |
| Existing Sewer   | 12.75 |  |
| Drainage Basin   | ---   |  |
| Fiber Roll       | 14    |  |
| Surface Ponding  |       |  |

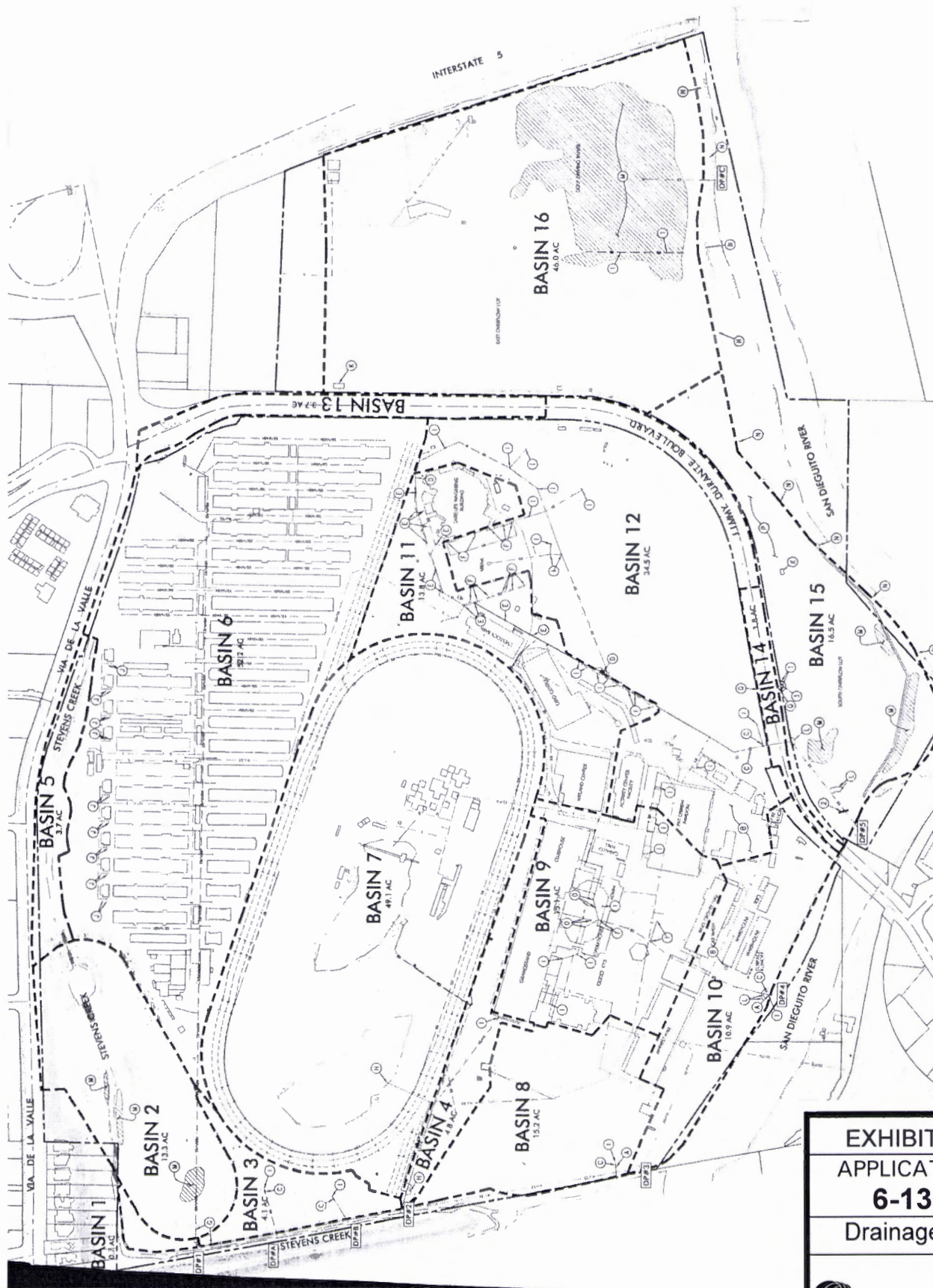
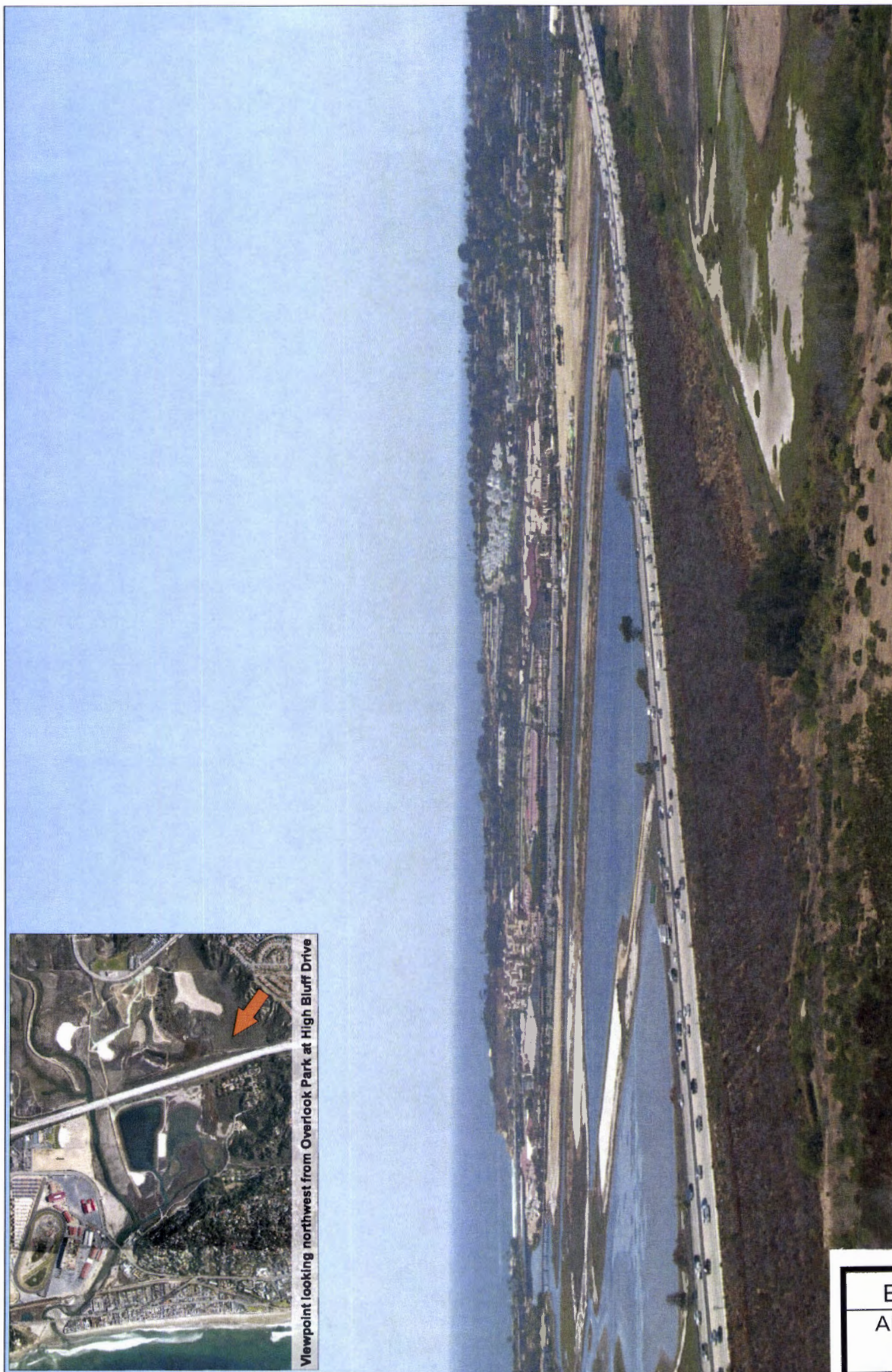
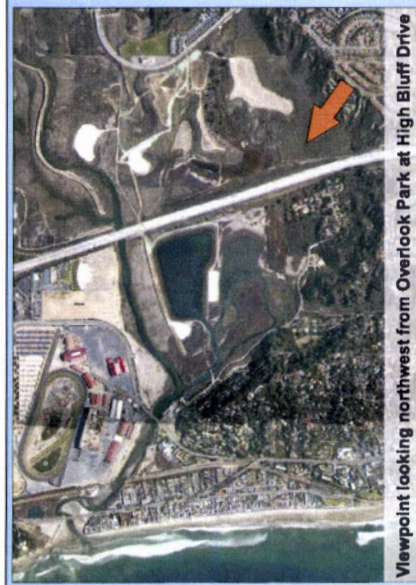


EXHIBIT NO. 5  
APPLICATION NO.  
**6-13-010**  
Drainage Basins





Google Map Pro 2010

EXISTING VIEW  
FIGURE 1

EXHIBIT NO. 6
APPLICATION NO.
<b>6-13-010</b>
Existing View
California Coastal Commission