

CALIFORNIA COASTAL COMMISSION

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Staff: Liliana Roman – LB

Date: November 21, 2013

ADMINISTRATIVE PERMIT

Application No. **5-13-0851**

Applicant: **Orange County Public Works**

Project

Description: Five year Long-Term Maintenance Plan for routine, minimal impact maintenance of existing flood control facilities and bridges crossing waterways within the coastal zone.

Project

Location: Multiple existing flood control facilities within 11 watersheds and four bridges crossing waterways within the coastal zone in Orange County (Refer to Exhibit #2).

EXECUTIVE DIRECTOR'S DETERMINATION

The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

Thursday, December 12, 2013 8:30 am
Radisson Hotel Fisherman's Wharf
250 Beach Street
San Francisco, CA 94133

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have

received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

CHARLES LESTER

Executive Director

By: Liliana Roman

Title: Coastal Program Analyst

STANDARD CONDITIONS:

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

SPECIAL CONDITIONS: See pages six to seven.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development, which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an Administrative Permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976 and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:

A. PROJECT DESCRIPTION

The proposed project is a consolidated Long-Term Routine Maintenance Permitting Program to streamline the resource agencies permitting process for routine maintenance of multiple existing flood control facilities and beneath existing bridges crossing over waterways located in the coastal zone of Orange County. The permit shall be valid for a 5-year period and may be extended for subsequent 5-year periods by amendment to this coastal development permit, if approved. Exhibit #1 provides a vicinity map showing all of Orange County. Exhibit #2 provides charts of the coastal facilities (i.e., flood control facilities and bridges) included in this proposed maintenance program. Exhibit #3 provides a list of all proposed maintenance activities and Exhibit #4 includes the proposed Routine Maintenance Manual for facilities within the coastal zone in its entirety.

The proposed maintenance manual includes routine maintenance of flood control channels and basins/dams limited to: cleaning, silt removal, slope maintenance/repair, landscape maintenance and vegetation control/removal, insect/rodent control, rip-rap repair, structural inspection/cleaning, fence inspection/replacement, repair of storm drain pipes, underdrains, and headwalls, removal/replacement of concrete lining, and repair/backfill of washouts. Bridge maintenance activities would include maintenance of waterway side slope and invert cladding, repair of concrete bridge elements within the channel and cleaning and painting of steel bridge members. No new facilities or expansion of existing facilities is proposed under this Routine Maintenance Manual. Only facilities deemed not to have substantial vegetation/habitat and/or completely lack environmental resources are included in the Routine Maintenance Manual. Orange County flood facilities in watersheds within the coastal zone with documented habitat value such as the Santa Ana River, Santa Ana Delhi, San Juan Creek, and San Diego Creek are not included in this proposed routine maintenance manual.

Proposed maintenance activities would occur on an as-needed basis and are proposed to occur outside of the bird nesting season (maintenance to occur between September 15 and March 15). Routine maintenance activities proposed for the year will be identified during the spring and fall inspections and will be based on annual channel scour surveys. The maintenance criteria is generally based on the need to maintain a channel's designed flood carrying capacity and maintain bridges in good condition to maintain adequate access. As proposed, prior to the start of the maintenance season (July 1), OC Public Works will submit the proposed facilities and maintenance activities for that year to all of the resource regulatory agencies for concurrence that the proposed maintenance work meets the requirements of this coastal development permit if approved (i.e., would result in no or less than minimal environmental impact). Site reconnaissance will be conducted within each of the facilities that are proposed for maintenance and site specific information will be collected such as type of proposed maintenance, schedule of work, maintenance access and staging plans, equipment, acreage of jurisdictional impacts, habitat surveys (if any habitat/vegetation has developed at the site over time), etc.

Furthermore, after receiving Commission staff concurrence that the proposed maintenance activity falls within the parameters of this CDP approval, the applicant proposes to submit "as-built/maintenance drawings" within 60 days of completion of each maintenance activity. The

drawings would include color photographs that clearly show all components of the maintenance activity along with a site plan noting the location of each photographic viewpoint. If the submit "as-built/maintenance drawings" identify that the maintenance activity was in any way inconsistent with the project as originally positioned and/or resulted in an unanticipated temporary or permanent adverse impact, the applicant agrees to apply for a separate coastal development permit to mitigate the unanticipated adverse impact (i.e. a restoration and monitoring plan).

Water Quality

To address water quality during maintenance activities, the applicant proposes and Special Condition #3 requires, implementation of BMPs for temporary sediment control, temporary soil stabilization, scheduling, waste management, materials handling and other non-storm water BMPs.

Visual Resources

As proposed, should maintenance activities require fence replacement, the applicant will submit fence plans and consider when feasible, a post and cable fence design, or other similar, visually open design, consistent with the provisions of public safety and minimizing adverse impacts to public views.

Biological Resources

As the project areas are over or within creek and river channels there is always the possibility for special status species and habitats of concern to be found in the project(s) vicinity. The type of routine maintenance activities proposed are not expected to cause substantial impacts to special-status species or ESHA. Areas known to be ESHA and areas known to be inhabited by special-status species are included in this proposed manual. Less than significant impacts to coastal resources are expected due to the brief construction period and the minimal amount of heavy work proposed for the project area(s). However, due to the potential for some sites to be in proximity to sensitive habitat, there is a potential for indirect impacts during construction such as activities of equipment or personnel outside designated construction areas, erosion, water runoff, soil disturbances that enhance germination and proliferation of nonnative and invasive plants species.

To avoid adverse impacts to biological resources during construction, the applicant proposes general avoidance and minimization BMP measures. As proposed, the applicant plans to conduct work outside of the bird nesting season, erect temporary fencing to keep personnel and equipment outside of any areas identified as sensitive; to have a biologist approve all parking and staging areas; to clean and inspect all construction equipment of mud or other debris that may contain invasive plants/seeds prior to arrival at the site and before leaving the site. Furthermore, parking and staging is proposed to take place along existing paved service roads (outside drainage channel).

Other Agency Approvals

The applicant has applied for and is in the process of receiving the following regulatory agency approvals:

- Regional General Permit (RGP) from the U.S. Army Corps of Engineers for coverage under Section 404 of the Clean Water Act

- Long Term Streambed Alteration Agreement for Routine Maintenance from the CA Department of Fish and Wildlife for coverage under Section 1602 of the CA Fish and Game Code
- Certification from the State Water Resources Control Board and Santa Ana/San Diego Regional Water Quality Control Boards for coverage under Section 401 of the Clean Water Act

B. WATER QUALITY

The proposed development has a potential for discharge of polluted runoff from the project site into nearby coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

C. LOCAL COASTAL PROGRAM

The proposed development is occurring within areas that cross multiple jurisdictions with that of the Commission's original permit jurisdiction.

Section 30601.3 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission with the agreement of the applicant, the local government and the Commission through its executive director consent to consolidate the permit action, provided that public participation is not substantially impaired by that review consolidation. As the project site crosses jurisdictional boundaries, and the applicant submitted the coastal development permit application directly to the Commission, the applicant and the Cities of Huntington Beach, Dana Point, and Laguna Beach agree to a consolidated permit action by the Commission. Consequently, the standard of review is the Coastal Act and not the local jurisdiction LCPs, which may be used as guidance. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the areas under consideration.

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

This permit is granted subject to the following special conditions:

SPECIAL CONDITIONS:

1. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site(s) may be subject to hazards from slope instability, erosion, and 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.
2. **Future Improvements.** This permit is only for the development described in Coastal Development Permit No. 5-13-0851. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to this development governed by the Coastal Development Permit No. 5-13-0851. Accordingly, any future improvements to the structures authorized by this permit, including but not limited to, repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-13-0851 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
3. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.** The permittee shall comply with the following construction-related requirements and shall do so in a manner that complies with all relevant local, state and federal laws applicable to each requirement:
 - (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
 - (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
 - (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
 - (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
 - (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.

- (f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- (h) All stock piles and construction materials shall be covered with a sheeting material that will prevent dispersal of the stock pile and construction materials, enclosed on all sides, and shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (i) Construction equipment or activity shall not occur outside the staging or storage area.
- (j) Public parking areas shall not be used for staging or storage of equipment.
- (k) Habitat areas shall not be used as staging or storage areas.
- (l) Machinery and equipment shall be maintained and washed in confined areas. specifically designed to control runoff and contaminants. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (m) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- (n) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- (o) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
- (p) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing