

CALIFORNIA COASTAL COMMISSION

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



W27b

ADDENDUM

DATE: April 8, 2013
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Agenda Item 27b, Wednesday, April 10, 2013, Coastal Development Permit Application 4-12-051 (Ventura County Watershed Protection District)

The purpose of this addendum is to clarify the project description and make minor revisions to the text of Special Condition One (1), Beach Elevation Management Program responsibilities; Special Condition Two (2), revised plans; Special Condition Four (4), construction timing and sensitive species surveys; Special Condition Five (5), tidewater goby protection plan; and Special Condition Six (6), habitat revegetation and enhancement program in order to clarify the intent and terms of these conditions. Additionally, findings related to the above listed special conditions have been updated, and inadvertent errors relating to installation of the cofferdam(s) and composition of the debris collection device have been corrected.

Note: ~~Strikethrough~~ indicates text deleted from the April 23, 2012 staff report pursuant to this addendum and underline indicates text added to the April 23, 2012 staff report pursuant to this addendum.

1) Special Condition One (1), Part A, Subpart 4 on page 6 of the staff report and in all other references on pages 2, 18, 19, 29, 30 of the staff report is revised as follows:

...

4. The elevation of the sandy beach within the 100 ft. wide sand elevation management corridor may be lowered to no less than ~~6~~ 6.5 ft. in elevation above sea level (NGVD).

2) Special Condition Two (2), Part A on page 6 of the staff report is revised as follows:

2. Revised Plans.

Prior to issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, two sets of full sized revised project plans. The final revised project plans shall reflect the following:

- A. All references to the temporary staging and stockpile areas located west of the J Street drainage channel, within the City of Port Hueneme Resource Conservation Zone Overlay shall be deleted.

3) Special Condition Four (4), Part A, subpart 5 on page 9 of the staff report is revised as follows:

...

5. The environmental resources specialist shall be present during all ~~construction~~ tree removal and trimming, cofferdam installation(s) and removal, initial dewatering activities, dissipation device reconfiguration, and BEMP, and OMP, activities. The environmental resource specialist shall require the applicant to cease work within the area in question should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. If significant impacts or damage occur to sensitive habitats or to wildlife species, the applicant shall be required to submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be submitted to the Executive Director for review and approval.

4) Special Condition Five (5) on page 9 of the staff report shall be revised, in relevant part, as follows:

5. Tidewater Goby Protection Plan.

The applicant shall retain the services of a qualified biologist or environmental resource specialist with experience handling tidewater gobies or other sensitive aquatic species and with the requisite permit(s) and experience in the application of standard survey, capture, and handling methods for tidewater gobies and other sensitive aquatic species. At least 30 days prior to commencement of any onset of work, the applicant shall submit the name and qualifications of the qualified biologist or environmental resources specialist, for the review and approval of the Executive Director. The applicant will exclude tidewater gobies and other sensitive aquatic species from the construction area by following the actions required by US Fish and Wildlife Service (FWS) ~~approval dated Aug 26, 2009 and the National Marine Fisheries Service (NMFS) approval dated Aug 18, 2008,~~ including the following:

...

5) Special Condition Six (6), Part A, Subpart 2 on page 10 of the staff report shall be revised as follows:

6. Habitat Revegetation and Enhancement Program.

...

2. Onsite replacement for the 74 non-native and/or invasive trees that will be removed or significantly trimmed shall occur at a ratio of 1:1. Replacement trees and shrubs shall be planted immediately prior to completion of construction activities for the modifications to the J Street Drainage approved as part of this permit, and shall consist predominately of native species of

appropriate local genetic stock appropriate for riparian habitat areas. Replacement trees shall include a range of container-size plantings consisting of an approximately equal ratio of 36” sized containers, 24” sized containers, and 1-5 gallon sized containers.

...

6) The following modification is recommended to the fourth paragraph on page 2 (Summary of Staff Recommendation) of the staff report:

The project also includes the implementation of a channel Operations and Maintenance Program (OMP) and Beach Elevation Management Program (BEMP) for a period of five years. The OMP would consist of channel maintenance, including the removal of sediments, brush, and debris. The proposed BEMP is a programmatic response to prevent the flooding of the properties located adjacent to Ormond Lagoon which are developed with existing residential and industrial uses. The program would involve lowering the level of the beach to approximately 6 ft. above sea level within a 100 ft. wide area between Ormond Lagoon and the Pacific Ocean to allow Ormond Lagoon to overflow to the ocean in the event that elevated water levels occur that would otherwise result in flooding of the adjacent upland areas. Implementation of the these BEMP activities would be limited to no more than three times during each winter storm season between October 1st and March 1st each year. Because breaching the lagoon may result in potential adverse impacts to tide water goby, Special Condition Four (4) Special Condition Five (5) have been required to ensure that an environmental resource specialist shall be present during ~~and~~ OMP all tree removal and trimming, cofferdam installation(s) and removal, initial dewatering activities, dissipation device reconfiguration and BEMP project activities, and that monitoring both during and after project activities occurs.

7) The following modification is recommended to Section IV, part B on page 24 of the staff report:

The project includes the removal of 41 non-native and invasive trees and the substantial trimming of 33 non-native and invasive trees. The trees proposed to be removed for construction associated with expansion of the drainage channel are located within the applicant’s right-of-way. Additionally, on both the east and west sides of the drainage channel, the proposed construction activities would temporarily impact approximately 0.68 acres. Approximately 0.26 acres would be permanently impacted for improvements and expansion of the existing drainage channel access road and turnaround. The proposed access road formalization would include resurfacing of the existing dirt roadway with a decomposed granite surface. Therefore, in order to ensure that disturbed habitat on site is successfully revegetated and enhanced, **Special Condition Six (6)** requires the applicant to submit a Habitat Revegetation and Enhancement Program to ensure the successful management, monitoring, and completion of the aforementioned enhancement. The condition also requires planting of predominately native plant species of local genotype appropriate for riparian habitat areas on all disturbed areas. Special Condition Six (6) also requires monitoring of all restoration areas for five years.

8) The following revisions are made to Section IV, part B on page 25 of the staff report:

However, if construction of the cofferdam does not occurs between March 1st and May 1st then, as proposed, ~~then~~ the cofferdam would be constructed at the designated alternative location, approximately 600 ft. further upstream in order to avoid impacts to foraging least tern or tidewater goby. If the cofferdam is constructed at the alternative location, the cofferdam would be constructed utilizing wood and cinder blocks or of concrete k-rails covered with visqueen and sandbags.

CALIFORNIA COASTAL COMMISSION

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

**W27b**

Filed: 11/8/12
 180th Day: 5/7/13
 Staff: J. Blaugrund-V
 Staff Report: 3/21/13
 Hearing Date: 4/10/13

STAFF REPORT: REGULAR CALENDAR

Application No.: 4-12-051

Applicant: Ventura County Watershed Protection District

Location: Southernmost portion (lower reach) of the concrete-lined J Street Drainage Channel "J Street Drain" between Hueneme Road and Ormond Lagoon within both the City of Oxnard and City of Port Hueneme, Ventura County.

Project description: Modification of a 3,430 linear ft. section of the existing, 40-45 ft. wide, concrete-lined, J Street Drainage Channel by widening the channel by 4-11.25 ft. and lowering the existing concrete bottom of the channel by 2.5-4 ft. in depth; addition of approximately 378 cubic yards of new rip rap to an existing 4,000 sq. ft. rip rap streamflow velocity dissipation device. Replacement of an existing culvert crossing consisting of five 48-inch diameter pipe culverts with three new larger 10 ft. high, 18 ft. wide concrete box culverts. In addition, the project includes the implementation of a drainage channel Operations and Maintenance Program and a Beach Elevation Management Program.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed development with **twelve (12) special conditions** regarding: (1) Beach Elevation Management Program responsibilities, (2) revised plans, (3) public access program, (4) construction timing and sensitive species surveys, (5) tidewater goby

protection plan, (6) habitat revegetation and enhancement program, (7) construction best management practices, (8) groundwater monitoring plan, (9) removal of excavated material, (10) conformance with the requirements of other resource agencies, (11) duration of permit, and (12) assumption of risk, waiver of liability and indemnity.

The Ventura County Watershed Protection District is proposing to modify a 3,430 linear ft. section of the existing 40-45 ft. wide, 4 ft. deep, trapezoidal concrete J Street drainage channel by reconfiguring the existing rectangular concrete drainage channel, by deepening the bottom of the channel by 2.5-4 ft. in depth and widening the channel by 4-11.25 ft. in width, to increase the capacity of the channel to accommodate 100-year flood flows to prevent potential flooding of the surrounding upland areas, which are developed with existing residential and industrial uses.

The project also includes the replacement of an existing culvert crossing consisting of five 48-inch diameter pipe culverts with three new larger 10 ft. high, 18 ft. wide concrete box culverts and the installation of a trash boom (a debris collection device within the channel consisting of two, approximately 9 ft. high poles in the channel with a debris collection net between them). Further, approximately 378 cubic yards of new rip rap will be added to an existing 4,000 sq. ft. rip rap streamflow velocity dissipation device located immediately downstream of the terminus of the concrete-lined portion of the drainage channel where the channel transitions into the natural estuary of Ormond Lagoon. All new rip rap will be located within the footprint of the existing rock rip rap and will not result in the filling of any wetland or riparian habitat areas. The project also includes the removal or substantial trimming of 74 non-native and/or invasive trees (primarily consisting of myoporum and acacia). A Biological Survey completed by Rincon Consultants, completed on February 21, 2013, did not observe any active nests, or nesting behavior. However, because the subject trees have the potential to provide habitat for sensitive bird species, Special Condition Four (4) requires pre-construction surveys and Special Condition Six (6) requires the replacement of the trees with native trees on site.

The project also includes the implementation of a channel Operations and Maintenance Program (OMP) and Beach Elevation Management Program (BEMP) for a period of five years. The OMP would consist of channel maintenance, including the removal of sediments, brush, and debris. The proposed BEMP is a programmatic response to prevent the flooding of the properties located adjacent to Ormond Lagoon which are developed with existing residential and industrial uses. The program would involve lowering the level of the beach to approximately 6 ft. above sea level within a 100 ft. wide area between Ormond Lagoon and the Pacific Ocean to allow Ormond Lagoon to overflow to the ocean in the event that elevated water levels occur that would otherwise result in flooding of the adjacent upland areas. Implementation of these BEMP activities would be limited to no more than three times during each winter storm season between October 1st and March 1st each year. Because breaching the lagoon may result in potential adverse impacts to tide water goby, Special Condition Four (4) Special Condition Five (5) have been required to ensure that an environmental resource specialist shall be present during all project activities, and that monitoring both during and after project activities occurs.

The J Street drainage channel "J Street Drain" is a fully lined concrete channel that extends approximately 2.2 miles in length, beginning north of Redwood Street in the City of Oxnard, and terminating at Ormond Lagoon, in both the City of Oxnard and the City of Port Hueneme. The

southernmost 3430 linear ft. section of the channel, from Hueneme Road to Ormond Lagoon, is within the Coastal Zone, and is therefore the subject of the currently proposed project. Development adjacent to this section of the J Street drainage channel includes condominiums, Bubbling Springs Community Park, Hueneme Beach Park, the Oxnard Wastewater Treatment Plant, the International Paper Plant, and the Halaco Superfund Site.

Although the Commission has previously certified a Local Coastal Program for both the City of Oxnard and the City of Port Hueneme, a portion of the proposed project will be located within an area where the Commission has retained jurisdiction over the issuance of coastal development permits. In addition, pursuant to Section 30601.3 of the Coastal Act, a consolidated permit was requested by both the City of Oxnard and the City of Port Hueneme and was approved by the Executive Director. Thus, the standard of review for this project is the Chapter Three policies of the Coastal Act, with the applicable policies of both the City of Oxnard and the City of Port Hueneme Local Coastal Program (LCP) as guidance. As conditioned, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION	5
II. STANDARD CONDITIONS.....	5
III. SPECIAL CONDITIONS.....	6
1. Beach Elevation Management Program Responsibilities.	6
2. Revised Plans.....	6
3. Public Access Program.	7
4. Construction Timing and Sensitive Species Surveys.....	7
5. Tidewater Goby Protection Plan.....	9
6. Habitat Revegetation and Enhancement Program.	10
7. Construction Best Management Practices.	13
8. Groundwater Monitoring Plan	14
9. Removal of Excavated Material.....	14
10. Conformance with the Requirements of the Resource Agencies.....	15
11. Term of Permit Approval.....	15
12. Assumption of Risk, Waiver of Liability and Indemnity	15
IV. FINDINGS AND DECLARATIONS	16
A. PROJECT DESCRIPTION AND BACKGROUND.....	16
B. ALTERATION OF COASTAL WATERS AND SENSITIVE HABITATS	20
C. WATER QUALITY.....	31
D. PUBLIC ACCESS AND VISUAL RESOURCES.....	34
E. HAZARDS AND GEOLOGIC STABILITY.....	36
F. CALIFORNIA ENVIRONMENTAL QUALITY ACT	37

APPENDICES

Appendix 1 - Substantive File Documents

EXHIBITS

Exhibit 1 – Vicinity Map
Exhibit 2 – Aerial Photograph
Exhibit 3 – Representative Site Plan
Exhibit 4 – Representative Cross Sections
Exhibit 5 – BEMP Access Routes

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 4-12-051 pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. 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 Three of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter Three. 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 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 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 of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

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

III. SPECIAL CONDITIONS

1. Beach Elevation Management Program Responsibilities.

BY ACCEPTANCE OF THIS PERMIT THE APPLICANT AGREES THAT:

- A. Beach Elevation Management Program activities shall be implemented pursuant to the following criteria:
 1. Beach elevation management activities shall occur only between October 1st and March 1st and no more than a total of three times per year.
 2. Beach elevation management activities shall occur only within a 100 ft. wide corridor between the lagoon and the ocean, as generally shown on Exhibit 5.
 3. Beach elevation management activities shall occur only if the lagoon mouth is in a closed condition and the elevation of the sandy beach is higher than 6.5 ft. above sea level (NGVD) within the 100 ft. wide corridor between the lagoon and the ocean, as generally shown on Exhibit 5.
 4. The elevation of the sandy beach within the 100 ft. wide sand elevation management corridor may be lowered to no less than 6 ft. in elevation above sea level (NGVD).
 5. Access for construction vehicles/tractors to the area of the beach where sand elevation management activities will occur shall be limited to only the designated routes shown on Exhibit 5.
- B. The applicant shall undertake all Beach Elevation Management Program activities in accordance with Part A of Special Condition One (1). No beach elevation management activities shall occur if the above criteria have not been met, or if the applicant has already completed 3 previous management activities in a single year, unless the Executive Director authorizes additional management activities for good reason.

2. Revised Plans.

Prior to issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, two sets of full sized revised project plans. The final revised project plans shall reflect the following:

- A. All references to the temporary staging and stockpile areas located west of the J Street drainage channel, within the City of Port Hueneme Resource Conservation Zone Overlay.

- B. The plans for the additions to the 4,000 sq. ft. rip rap streamflow velocity dissipation device located immediately downstream of the terminus of the concrete-lined portion of the drainage channel where the channel transitions into natural estuary of Ormond Lagoon shall be revised to reflect the applicant's modified project description to utilize ¼ ton boulders rather than the originally proposed 4-ton boulders.

The Permittee shall undertake development in accordance with the final approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission approved amendment to the Coastal Development Permit, unless the Executive Director determines that no amendment is legally required.

3. Public Access Program.

- A. *Prior to the issuance of the coastal development permit*, the applicant shall submit, for the review and approval of the Executive Director, a Public Access Program and Plan that describes the methods (including signs, fencing, posting of security guards, etc.) by which safe public access to or around construction areas, staging areas, and BEMP activity areas, shall be maintained during all project operations. The plan shall also include signs directing the public to alternative parking areas for the duration of construction, staging, and BEMP activities. Where public paths or bikeways will be closed during active operations, a person(s) shall be on-site to detour traffic or adequate fencing and signage shall be used. The applicant shall maintain public access pursuant to the approved version of the report. Any proposed changes to the approved program shall be reported to the Executive Director. No change to the program shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.
- B. Where use of public parking spaces is unavoidable, the minimum number of public parking spaces that are required for the staging of equipment, machinery and employee parking shall be used. At each site, the number of public parking spaces utilized shall be the minimum necessary to implement the project.
- C. The applicant shall post each construction site with a notice indicating the expected dates of construction and/or public access or parking lot closures.

4. Construction Timing and Sensitive Species Surveys.

The applicant shall retain the services of a qualified biologist or environmental resource specialist (hereinafter, "environmental resources specialist") with appropriate qualifications acceptable to the Executive Director, to conduct sensitive species surveys (including birds and other terrestrial and marine species) and monitor project operations associated with all construction, Beach Elevation Management Program (BEMP), and Operations and Maintenance Program (OMP) activities. The applicant shall ensure that the Environmental Specialist shall perform all of the following duties, and the applicant shall observe the following requirements:

- A. At least 30 calendar days prior to commencement of any construction, BEMP, and OMP activities, the applicant shall submit the name and qualifications of the environmental resources specialist, for the review and approval of the Executive Director. The applicant shall have the environmental resources specialist ensure that all project construction, BEMP, and OMP activities are carried out consistent with the following:
1. The environmental resources specialist shall conduct sensitive species surveys (e.g. globose dune beetle, snowy plover, raptors, least tern, black-crowned night herons, great blue herons, snowy egrets, or other sensitive species) no more than two weeks before any project construction, BEMP, and OMP activities to detect any active sensitive species, reproductive behavior, and active nests within 500 feet of the project site. Follow-up surveys must be conducted 3 calendar days prior to the initiation of construction and nest surveys must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first. The environmental resource specialist shall be onsite to observe/identify any sensitive species/breeding behavior/nests active within 300 feet (500 feet for raptors/owls) of any project construction, BEMP, and OMP activities.
 2. In the event that any sensitive species are present in the project area but do not exhibit reproductive behavior and are not within the estimated breeding/reproductive cycle of the subject species, the environmental resource specialist shall either: (1) initiate a salvage and relocation program prior to any construction, BEMP and OMP activities to move sensitive species by hand to safe locations elsewhere along the project reach or (2) as appropriate, implement a resource avoidance program with sufficient buffer areas to ensure adverse impacts to such resources are avoided. The applicant shall also immediately notify the Executive Director of the presence of such species and which of the above actions are being taken. If the presence of any such sensitive species requires review by the United States Fish and Wildlife Service and/or the California Fish and Wildlife Service, then no development activities shall be allowed or continue until any such review and authorizations to proceed are received, subject to the approval of the Executive Director.
 3. If an active nest of a federally or state-listed threatened or endangered species, bird species of special concern, or any species of raptor or heron is found, the applicant shall notify the appropriate State and Federal agencies within 24 hours, and shall develop an appropriate action specific to each incident. The applicant shall notify the California Coastal Commission in writing by facsimile or e-mail within 24 hours and consult with the Commission regarding determinations of State and Federal agencies.
 4. If an active nest of any federally or state listed threatened or endangered species, species of special concern, or any species of snowy plover, raptor, least tern, black-crowned night heron, great blue heron, snowy egret, or other sensitive species is found within 300 feet of construction activities (500 feet for raptors), the applicant shall retain the services of an environmental resources specialist with experience conducting bird and noise surveys, to monitor bird behavior and construction noise levels. The environmental resources specialist shall be present at all relevant construction meetings and during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction

- related noise. The environmental resources specialist shall monitor birds and noise every day at the beginning of the project and during all periods of significant construction, BMEP, and OMP activities. Activities may occur only if construction noise levels are at or below a peak of 65 dB at the nest(s) site. If construction noise exceeds a peak level of 65 dB at the nest(s) site, sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction within 300 ft. (500 ft. for raptors) of the nesting trees/areas shall cease and shall not recommence until either new sound mitigation can be employed or nesting is complete.
5. The environmental resources specialist shall be present during all construction, BEMP, and OMP activities. The environmental resource specialist shall require the applicant to cease work within the area in question should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. If significant impacts or damage occur to sensitive habitats or to wildlife species, the applicant shall be required to submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be submitted to the Executive Director for review and approval.

5. Tidewater Goby Protection Plan.

The applicant shall retain the services of a qualified biologist or environmental resource specialist with experience handling tidewater gobies or other sensitive aquatic species and with the requisite permit(s) and experience in the application of standard survey, capture, and handling methods for tidewater gobies and other sensitive aquatic species. At least 30 days prior to commencement of any onset of work, the applicant shall submit the name and qualifications of the qualified biologist or environmental resources specialist, for the review and approval of the Executive Director. The applicant will exclude tidewater gobies and other sensitive aquatic species from the construction area by following the actions required by US Fish and Wildlife Service (FWS) approval dated Aug 26, 2009 and the National Marine Fisheries Service (NMFS) approval dated Aug 18, 2008, including the following:

- A. The qualified biologist or environmental resource specialist retained by the applicant shall conduct a training session for all construction personnel prior to the onset of work. The training shall include a description of the tidewater goby, southern steelhead, and other sensitive aquatic species, their habitats; the specific measures that are being implemented to protect sensitive aquatic species during construction; and the project limits.
- B. The qualified biologist or environmental resource specialist and a crew working under his/her direction shall clear all fish, including tidewater gobies from the area to be dewatered prior to construction. The capture, handling, exclusion, and relocation activities identified by the qualified biologist will be completed no earlier than 48 hours before construction begins to minimize the probability that listed species will recolonize the affected areas.

- C. The qualified biologist or environmental resource specialist and a crew working under his/her direction shall inspect the dewatered areas and construction site regularly to detect whether any tidewater gobies or other fish are passing through the cofferdam and investigate whether sensitive aquatic species protection measures are being implemented.
- D. The qualified biologist or environmental resource specialist and a crew working under his/her direction shall be present when the cofferdams are removed and the construction area refilled with water to relocate any fish present in the construction area before completion of removal operations and to ensure successful reintroduction of aquatic habitat in the construction area.
- E. Following construction, and annually for the duration of the permit, the qualified biologist or environmental resource specialist shall complete post-construction surveys, for the review of the Executive Director, for tidewater gobies and other sensitive aquatic species.
- F. The environmental resource specialist shall prepare, for the review of the Executive Director, a post-project monitoring report the fall following implementation of the proposed activities, documenting the efforts to protect the tidewater goby and other sensitive aquatic species and the results. In the event that monitoring shows a significant decrease in tidewater goby or other sensitive aquatic species that cannot be readily explained by natural factors or is clearly linked to the project activities, the environmental resource specialist, in consultation with the USFWS and other experts, shall develop a revised or supplemental mitigation plan to adequately mitigate such impacts. The applicant shall submit the revised or supplemental mitigation plan, for the review and approval of the Executive Director. Implementation of the plan shall require a Commission-approved amendment to this permit, unless the Executive Director determines that no such amendment is required.

6. Habitat Revegetation and Enhancement Program.

Prior to the issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, a Habitat Revegetation and Enhancement Program for the revegetation/enhancement for all areas of the project site either temporarily or permanently disturbed by construction activities, including but not limited to approximately .94 acres of upland habitat area on site that will be disturbed by construction activity.

Revegetation/enhancement of disturbed habitat as mitigation for all habitat areas permanently disturbed by construction activities shall occur at a ratio of 3:1 or greater.

Revegetation/enhancement of all areas where habitat has been temporarily disturbed by construction activities shall occur at a ratio of 1:1 or greater. Replacement for the 74 non-native and/or invasive trees that will be removed or significantly trimmed shall occur at a ratio of 1:1.

- A. This program shall be prepared by a qualified biologist or environmental resource specialist and shall include, but not be limited to, the following:
 - 1. Onsite habitat enhancement shall include, at a minimum, the removal of any and all invasive plant species on the site and revegetation of all disturbed areas with appropriate native species of local genetic stock, including areas where invasive and

non-native plants were removed. Plans must indicate that invasive plant species shall be removed from all development and restoration areas for the life of the project.

2. Onsite replacement for the 74 non-native and/or invasive trees that will be removed or significantly trimmed shall occur at a ratio of 1:1. Replacement trees and shrubs shall be planted immediately prior to completion of construction activities for the modifications to the J Street Drainage approved as part of this permit, and shall consist of native species of appropriate local genetic stock. Replacement trees shall include a range of container-size plantings consisting of an approximately equal ratio of 36" sized containers, 24" sized containers, and 1-5 gallon sized containers.
3. Indication as to the location, type, and height of any temporary fencing that will be used for revegetation. The plans shall also indicate when this fencing is to be removed.
4. Non-native or invasive species shall be removed by hand where feasible and an herbicide use shall be minimized. If the applicant's environmental specialist or habitat restoration consultant determined that herbicide use is necessary to ensure successful re-establishment of native plant species on site, then herbicide use shall be restricted to the use of Glyphosate Aquamaster (previously Rodeo) herbicide for the elimination of non-native and invasive vegetation only.
5. Indication on plans that rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
6. A baseline assessment, including photographs, of the current physical and ecological condition of the proposed enhancement site, including, a biological survey, a description and map showing the area and distribution of existing vegetation types, and a map showing the distribution and abundance of any sensitive species including Ventura marsh milk vetch (*Astragalus pycnostachys var. lanosissimus*) and salt marsh bird's beak (*Cordylanthus maritimus ssp.*)
7. A description of the goals of the restoration plan, including, as appropriate, topography, hydrology, vegetation types, sensitive species, and wildlife usage.
8. Documentation of performance standards, which provide a mechanism for making adjustments to the enhancement site when it is determined, through monitoring, or other means that the restoration techniques are not working.
9. Documentation of the necessary management and maintenance requirements, and provisions for timely remediation should the need arise.
10. A planting palette (seed mix and container plants), planting design, source of plant material, and plant installation. The planting palette shall be made up exclusively of native plants that are appropriate to the habitat and region and that are grown from seeds or vegetative materials obtained from local natural habitats so as to protect the genetic makeup of natural populations. Horticultural varieties shall not be used. Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the revegetation requirements. No plant species listed as

problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.

11. Sufficient technical detail on the restoration design including, at a minimum, a planting program including a description of planned site preparation, method and location of exotic species removal, timing of planting, plant locations and elevations on the baseline map, and maintenance timing and techniques.
 12. A plan for documenting and reporting the physical and biological "as built" condition of the site within 30 days of completion of the initial restoration activities. The report shall describe the field implementation of the approved enhancement program in narrative and photographs, and report any problems in the implementation and their resolution.
 13. Documentation that the project will continue to function as viable native habitats, as applicable, over the long term.
- B. Monitoring Program to monitor the enhancement. Said monitoring program shall set forth the guidelines, criteria and performance standards by which the success of the enhancement and restoration shall be determined. The monitoring program shall include but not be limited to the following:
1. Interim and Final Success Criteria. Interim and final success criteria shall include, as appropriate: species diversity, total ground cover of vegetation, vegetative cover of dominant species and definition of dominants, wildlife usage, hydrology, and presence and abundance of sensitive species or other individual "target" species.
 2. Interim Monitoring Reports. The applicant shall submit, for the review and approval of the Executive Director, on an annual basis, for a period of five (5) years, a written monitoring report, prepared by a monitoring resource specialist indicating the progress and relative success or failure of the enhancement on the site. This report shall also include further recommendations and requirements for additional enhancement activities in order for the project to meet the criteria and performance standards. This report shall also include photographs taken from pre-designated sites (annotated to a copy of the site plans) indicating the progress of recovery at each of the sites. Each report shall be cumulative and shall summarize all previous results. Each report shall also include a "Performance Evaluation" section where information and results from the monitoring program are used to evaluate the status of the revegetation/enhancement project in relation to the interim performance standards and final success criteria.
 3. Final Report. At the end of the five-year period, a final detailed report on the revegetation/enhancement shall be submitted for the review and approval of the Executive Director. If this report indicates that the revegetation/enhancement project has, in part, or in whole, been unsuccessful, based on the performance standards specified in the restoration plan, the applicant(s) shall submit within 90 days a revised or supplemental restoration program to compensate for those portions of the original

program which did not meet the approved success criteria. The revised or supplemental program shall be submitted to the Executive Director, for review and approval.

4. Monitoring Period and Mid-Course Corrections. During the five-year monitoring period, all artificial inputs (e.g., irrigation, soil amendments, plantings) shall be removed except for the purposes of providing mid-course corrections or maintenance to insure the survival of the revegetation/enhancement site. If these inputs are required beyond the first two years, then the monitoring program shall be extended for every additional year that such inputs are required, so that the success and sustainability of the revegetation/enhancement is insured. The revegetation/enhancement site shall not be considered successful until it is able to survive without artificial inputs.

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

7. Construction Best Management Practices.

It shall be the applicant's responsibility to ensure that the following occurs during all project operations:

- A. Prior to the commencement of construction, the limits of the work areas and staging areas shall be delineated in cooperation with a qualified biologist, limiting the potential area affected by construction and ensuring that all wetlands and other environmentally sensitive habitats adjacent to construction areas are avoided during construction. All vehicles and equipment shall be restricted to pre-established work areas and haul routes and to established or designated staging areas. Clearing and grading shall be limited to the minimal footprint necessary and for the shortest time necessary to avoid impact to ESHA and coastal waters.
- B. Best Management Practices (BMPs) shall be designed to control erosion from the disturbed area and prevent sediment and potential pollutants from entering coastal waters and/or native habitat plant communities during channel maintenance activities. The BMPs shall be implemented prior to or concurrent with construction and maintained throughout the project;
- C. Exposed slopes shall be stabilized to minimize erosion and sediment from runoff waters during maintenance activities using mulch, contouring grading and/or other established methods;
- D. Temporarily stockpiles of excavated sediment/vegetation should be protected with geofabric or other appropriate cover. Permanent stockpiling of excavated material on site shall not be allowed. Vegetation and sediment shall be removed from the site on a regular basis during construction to prevent the accumulation of sediment and debris on the worksite. Excavated sediment and vegetation shall be stockpiled at designated temporary areas on the project site and be removed to a permitted disposal site within three months;

- E. During construction, all trash shall be properly contained, removed from the worksite, and disposed of on a regular basis. Any debris inadvertently discharged into coastal waters shall be recovered immediately and disposed of consistent with the requirements of this coastal development permit;
- F. Equipment staging and materials stockpiling areas shall be limited to the locations and sizes specified in the approved final plans. Construction vehicles shall be restricted to designated haul routes. Construction equipment and materials shall be stored only in designated staging and stockpiling areas as depicted on the final plans approved pursuant to Special Condition One (1);
- G. Any fueling and maintenance of construction equipment shall occur within upland areas outside of environmentally sensitive habitat areas or within designated staging areas. Mechanized heavy equipment and other vehicles used during the construction process shall not be refueled or washed within 100 feet of coastal waters; and
- H. Fuels, lubricants, and solvents shall not be allowed to enter the coastal waters or wetlands. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site, and a registered first-response, professional hazardous materials clean-up/remediation service shall be locally available on call. Any accidental spill shall be rapidly contained and cleaned up.

8. Groundwater Monitoring Plan

BY ACCEPTANCE OF THIS PERMIT THE APPLICANT AGREES THAT:

Groundwater monitoring activities shall occur pursuant to the Groundwater Monitoring Plan for the J Street Drain Project, completed by Fugro Consultants, Inc., dated January 2013, and if it is determined that the migration of contaminated groundwater moves in a westerly direction the following measures shall be implemented:

- A. The construction segments subject to dewatering shall be reduced to limit the amount of dewatering and volume pumped, and/or
- B. The volume of water pumped from the dewatering wells located on the east side of the drainage channel shall be reduced, and the volume of water pumped from the west side of the drain shall be increased.

9. Removal of Excavated Material

Prior to commencement of development, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material and construction/demolition debris from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material.

10. Conformance with the Requirements of the Resource Agencies.

Prior to the issuance of the Coastal Development Permit, the applicant shall submit evidence that they have obtained all other necessary State permits that may be necessary for all aspects of the proposed project (including approvals from the California Department of Fish and Wildlife, State Water Quality Control Board, Regional Water Quality Control Board, State Lands Commission, unless evidence is submitted that such approval(s) are not required). In addition, by acceptance of this permit, the applicant agrees to obtain all necessary Federal permits that may be necessary for all aspects of the proposed project (including, but not limited to, the U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service). Any change in the approved project which may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

11. Term of Permit Approval

This coastal development permit authorizes implementation of the approved Beach Elevation and Management Program (BEMP) and Operations and Maintenance Program (OMP) activities on a temporary basis only for a period of five (5) years from the date that Coastal Development Permit 4-12-051 is approved by the Commission, after which time all activities shall cease unless either a new coastal development permit, or amendment to this permit, authorizing additional future Beach Elevation Management Program or Operations and Maintenance Program activities is approved and issued by the California Coastal Commission.

12. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wave action, flooding, erosion, and sea-level rise; (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.

Prior to commencement of development, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND BACKGROUND

The Ventura County Watershed Protection District is proposing to modify a 3,430 linear ft. section of the existing, 40-45 ft. wide, concrete-lined, J Street Drainage Channel by widening the channel by 4-11.25 ft. and lowering the existing concrete bottom of the channel by 2.5-4 ft. in depth. In addition, the project includes the implementation of a drainage channel Operations and Maintenance Program and a programmatic Beach Elevation Management Plan.

The Channel will be deepened and widened by reconfiguring the existing trapezoidal-shaped concrete J Street Drainage Channel and reconstructing the channel using a rectangular-shaped concrete channel. The bottom of the reconfigured channel will be 2.5- 4 ft. deeper and 4-11.25 ft. wider than the existing channel, in order to increase the capacity of the drainage channel to accommodate 100-year flood flows. Five existing 48-inch diameter pipe culverts would be replaced with three new larger 10 ft. high, 18 ft. wide concrete box culverts and a trash boom (a debris collection device within the channel consisting of two, approximately 9 ft. high poles in the channel with a debris collection net between them) would be installed.

In addition, an existing 4,000 sq. ft. rip rap streamflow velocity dissipation device was constructed immediately downstream of the terminus of the concrete-lined portion of the drainage channel where the channel transitions into natural estuary of Ormond Lagoon. The dissipation device was constructed prior to the effective date of the California Coastal Zone Conservation Act of 1972 and is necessary to ensure that stream flows from the concrete-lined portion of the channel do not result in increased erosion of downstream channel areas and the lagoon itself. The proposed project includes the addition of, approximately 378 cubic yards of new rip rap to the existing 4,000 sq. ft. rip rap streamflow velocity dissipation device in order to ensure that the reconfigured and enlarged drainage channel will not result in any increase or change in the erosion or accretion rates of downstream areas, including Ormond Lagoon. All rip rap will be installed completely within the footprint of the existing rip rap dissipation device and will not result in the filling of any wetland or riparian habitat areas.

The proposed project also includes the implementation of a channel Operations and Maintenance Program (OMP) and Beach Elevation Management Plan (BEMP) for a period of five years. The OMP would consist of channel maintenance, including the removal of sediments, brush, and debris. The proposed BEMP is a programmatic response to prevent the flooding of development adjacent to Ormond Lagoon through the periodic grading of the sand located between Ormond Lagoon and the Pacific Ocean, at the terminus of the J Street drainage channel.

Background

The J Street drainage channel “J Street Drain” was originally constructed as an earthen channel in 1956. In 1961, the bottom and sides of the earthen drainage channel were lined with concrete. As it currently exists, the J Street Drainage channel remains as a fully lined concrete channel that extends approximately 2.2 miles in length (to a point outside the Coastal Zone), beginning north of Redwood Street in the City of Oxnard, and terminating in Ormond Lagoon. Portions of the

channel are located in both the City of Oxnard and the City of Port Hueneme. The southernmost 3,430 linear ft. section of the drain, from Hueneme Road to Ormond Lagoon, is within the Coastal Zone, and is therefore the subject of the currently proposed project. Development adjacent to this section of the J Street drainage channel includes condominiums, Bubbling Springs Community Park, Hueneme Beach Park, the Oxnard Wastewater Treatment Plant, the International Paper Plant, and the Halaco Superfund Site. Ormond Lagoon, located at the terminus of the J Street drainage channel on Ormond Beach, is supplied by freshwater flows from the J Street drainage channel, Bubbling Springs, and the Oxnard Industrial Drain, as seen on Exhibit 2.

The subject CDP was submitted to the Commission on August 6, 2012. The permit application was deemed incomplete and a letter outlining the additional information needed was sent to the applicant on September 5, 2012. The applicant provided all of the information items requested by staff and the permit application was deemed complete for filing on November 8, 2012.

Detailed Description of Project Components

A. J Street Drainage Channel Expansion and Operations and Maintenance Program

Modification of the 3,430 linear ft. section of the existing, 40-45 ft. wide, concrete-lined, J Street Drainage Channel by widening the channel by 4-11.25 ft. and lowering the existing concrete bottom of the channel by 2.5-4 ft. in depth would occur in phases. The subject 3430 linear ft. portion of the channel, located within the Coastal Zone, has been designated as one of four independent construction phases, and will therefore be the first portion of the channel to be expanded.

Initial construction activities would include the installation of temporary fencing, a noise barrier, a temporary sheetpile cofferdam, a channel flow bypass, and groundwater dewatering and monitoring wells. In order to separate the construction area from Ormond Lagoon, a temporary sheetpile cofferdam would be installed across the channel at the downstream terminus of the designated construction area. In addition, a second temporary cofferdam composed of wood and cinder blocks or concrete k-rails covered with visqueen and sandbags may also be installed approximately 600 ft. further upstream within the drainage channel, if necessary. Block nets and silt fencing would be placed immediately up and down stream of the temporary cofferdam, and all species located within the work area, including tidewater goby, would be relocated by a qualified biologist to Ormond Lagoon. The applicant anticipates that installation of the temporary sheetpile cofferdam would occur prior to tidewater goby breeding season and California least tern foraging season, both of which occur in late spring. Water from temporary dewatering activities during construction would be directed downstream to Ormond Lagoon, to the immediately adjacent Perkins Drainage Channel which also flows to Ormond Lagoon, and the ocean consistent with all requirements of the Regional Water Quality Control Board.

As originally proposed, after the removal of surface water from the work area, construction of the expanded drainage channel would have included the placement of temporary vertical shoring walls along both the east and west sides of the drainage channel. However, the applicant has revised the proposed construction methodology to instead install “press-in” steel sheetpiles. This

revised methodology was proposed by the applicant because it produces less noise, would result in less groundwater extraction, and would reduce the amount of adjacent vegetation that would be required to be removed from the construction work area.

Expansion of the J Street drainage channel would include deepening the channel bottom as such, an elevation difference would exist between the proposed channel and Ormond Lagoon. In order to equalize the elevation difference between the channel and the lagoon and ensure that the expanded channel configuration does not result in any significant increase to downstream flow velocities or bank erosion, the proposed project includes the addition of, approximately 378 cubic yards of new rip rap to the existing 4,000 sq. ft. rip rap streamflow velocity dissipation device. All rip rap will be installed completely within the footprint of the existing rip rap dissipation device and will not result in the filling of any wetland or riparian habitat areas. The proposed widening of the drainage channel will require the removal of 74 non-native and/or invasive trees (primarily consisting of myoporum and acacia).

Construction would also include improvements to the existing 12 ft. wide maintenance dirt access road and turnaround located within the applicant's right-of-way on the east side of the drainage channel. Improvements to the road include resurfacing the roadway with decomposed granite. After construction related to the proposed expansion of the drainage channel is complete, permanent perimeter fencing would be reinstalled and removed vegetation would be replaced.

The proposed OMP activities would include the periodic removal of vegetation, sediment, and debris from the drainage channel by various machinery and hand crews. The drainage channel and adjacent access roads within the applicant's right-of-way would also be maintained through the implementation of the OMP.

B. Beach Elevation Management Program

The project also includes the implementation of a Beach Elevation Management Program (BEMP) for a period of five years. The proposed BEMP is a programmatic response to prevent the flooding of the properties located adjacent to Ormond Lagoon which are developed with existing residential and industrial uses. The program would involve lowering the level of the beach to approximately 6 ft. above sea level within a 100 ft. wide area between Ormond Lagoon and the Pacific Ocean to allow Ormond Lagoon to overflow to the ocean in the event that elevated water levels occur that would otherwise result in flooding of the adjacent upland areas. Implementation of these BEMP activities would be limited to no more than three times during each winter storm season between October 1st and March 1st each year.

Throughout much of the year Ormond Lagoon remains in a semi-close state due to sand accretion, and resultant high sand elevations, which occur between the lagoon and the ocean. Prior to a breaching event, continual freshwater inputs from the J Street drainage channel and adjacent waterways cause the Ormond Lagoon water level to remain at approximately 6 ft. in elevation above mean sea level (NGVD). However, during a storm event the water within Ormond Lagoon can rise rapidly, as the J Street Drainage Channel receives large quantities of storm water runoff. If the lagoon has not breached naturally prior to a storm event, and the sand level between the lagoon and the ocean is at an elevation of 6.5 ft. NGVD or greater, the water within the lagoon will begin to backflow into adjacent developed properties.

Access to the designated 100 ft. wide BEMP activity area would occur from Hueneme Beach Park parking lot A or B along designated routes, as depicted in Exhibit 5. As proposed, a qualified biologist or resource specialist would be present on site during all activities to ensure that impacts to sensitive species are avoided. Lowering of the beach sand elevation would occur where the width of the beach between the lagoon and the ocean is typically at its most narrow point within an approximately 100 ft. wide by 100 ft. long area. The project includes the installation of two permanent elevation measurement poles that would extend approximately 6 ft. in height above the normal level of beach sand. The measuring poles would demarcate both the upcoast and downcoast extent of the 100 ft. wide management area and would also allow for measurement of beach sand level elevations. Sand removed in the process of lowering the elevation would be placed on the beach immediately adjacent to the activity area. The sand elevation after the implementation of the BEMP activities would be no lower than 6 ft. in elevation above mean sea level (NGVD), to ensure that the proposed BEMP activities do not themselves cause a breaching event, but rather facilitate the occurrence of one prior to the flooding of adjacent development.

Permit History

The project site has been subject to previous permit action by the Commission. Several emergency coastal permits have been previously issued by the Commission to allow the applicant to prevent or abate the flooding of development adjacent to the Ormond Lagoon by allowing for one-time implementation of the same activities proposed as part of the BEMP; including Emergency Coastal Permits 4-10-095-G, issued on October 8, 2010; 4-11-056-G, issued on November 3, 2011; and 4-12-077-G, issued on November 27, 2012.

Project Jurisdiction and Consolidated Review

The proposed project includes components that are located within both the City of Port Hueneme and City of Oxnard's Local Coastal Program (LCP) jurisdictions as well as components within the retained jurisdiction of the Coastal Commission. Both the City of Port Hueneme and City of Oxnard would typically have jurisdiction over the portions of the project within their respective LCP jurisdictions. However, Section 30601.3 of the Coastal Act authorizes the Commission to process a consolidated coastal development permit application, when its criteria are satisfied, for both aspects of a proposed project that would otherwise require a coastal development permit from both a local government with a certified local coastal program and the Commission.

The standard of review for a consolidated coastal development permit application submitted pursuant to Section 30601.3(a) shall follow Chapter Three of the Coastal Act (commencing with Section 30200), with the appropriate local coastal program used as guidance.

Pursuant to Section 30601.3(a)(2), the applicant, appropriate local government, and the Commission may agree to consolidate a permit action for a project that spans local and state jurisdictions. In this case, both the City of Oxnard and City of Port Hueneme have submitted letters to Commission staff dated February 6, 2009 and March 5, 2009, respectively, that the

Commission assume jurisdiction over all activities associated with the proposed project. The applicant both consented to, and facilitated this consolidated jurisdictional process.

Thus, in this case, the standard of review for this project is the Chapter Three policies of the Coastal Act, with the applicable policies of both the City of Oxnard and the City of Port Hueneme Local Coastal Program (LCP) as guidance.

B. ALTERATION OF COASTAL WATERS AND SENSITIVE HABITATS

Section 30230 of the Coastal Act, as incorporated into the City of Oxnard and City of Port Hueneme LCP, 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, as incorporated into City of Oxnard and City of Port Hueneme LCP, states that:

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, as incorporated into City of Oxnard and City of Port Hueneme LCP, of the Coastal Act states:

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

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

- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
 - (1) 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.*
 - (2) 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.*
 - (3) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
 - (4) Restoration purposes.*
 - (5) Nature study, aquaculture, or similar resource dependent activities.*
- (b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.*
- (c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.*
- For the purposes of this section, "commercial fishing facilities in Bodega Bay" means that not less than 80 percent of all boating facilities proposed to be developed or improved, where the improvement would create additional berths in Bodega Bay, shall be designed and used for commercial fishing activities.*
- (d) Erosion control and flood control facilities constructed on watercourses can impede the movement of sediment and nutrients that would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be*

placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for these purposes are the method of placement, time of year of placement, and sensitivity of the placement area.

Section 30236 of the Coastal Act, as incorporated into City of Oxnard and City of Port Hueneme LCP, states:

Channelizations, 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, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

Section 30240 of the Coastal Act, as incorporated into City of Oxnard and City of Port Hueneme LCP, states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

City of Oxnard LUP Policy 6, Part C, states in part:

Disturbance or destruction of any dune vegetation shall be prohibited unless no feasible alternative exists and then only when revegetation with native California plants is a condition of approval.

City of Oxnard LUP Policy 6, Part D, states in part:

New development adjacent to wetlands or resource protection areas shall be sited and designed to mitigate any adverse impacts to the wetlands or resource.

City of Port Hueneme LUP Sand Dune Protection Policy states in part:

Due to statewide significance, Southern foredune and backdune habitats within the Resource Conservation Zone Overlay shall be preserved and protected.

Coastal Act Section 30230 requires that new development within the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-

term commercial, recreational, scientific, and educational purposes. Further, Coastal Act Section 30231 requires that the biological productivity and quality of coastal waters be maintained. Section 30233 of the Coastal Act limits the fill of open coastal waters to specific, enumerated uses and also requires that any project which results in fill of open coastal waters provide adequate mitigation, and that the project be the least environmentally damaging alternative. Coastal Act Section 30236 allows for alterations to streambeds when required for flood control projects where no other less damaging alternative is feasible and when necessary to protect public safety or existing development. Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas (ESHA) must be protected against disruption of habitat values and that only resource dependent uses may be allowed within ESHA. Additionally, development adjacent to ESHA must be sited and designed to prevent impacts to ESHA. City of Oxnard City of Oxnard LUP Policy 6, Part C, limits the disturbance or destruction of dune habitats and requires revegetation if disturbance or destruction occurs. City of Oxnard LUP Policy 6, Part D, requires that new development be sited and designed to minimize impacts to sensitive resources. City of Port Hueneme LUP Sand Dune Protection Policy requires the preservation and protection of sand dunes.

The J Street Drainage Channel, where the project is located, and Ormond Lagoon are hydrologically connected to the Bubbling Springs Channel, Perkins Drain, and the Oxnard Industrial Drain. Water from Bubbling Springs, located west of the J Street drainage channel, enters the J Street drainage channel and Ormond Lagoon through the Hueneme Drain Pump House. The Oxnard Industrial Drain is located east of the J street drainage channel, and like the J Street drainage channel, terminates at Ormond Lagoon. Perkins drain extends parallel between the J Street drainage channel and the Oxnard Industrial drain, as seen on Exhibit 2.

The convergence of the above mentioned waterways has formed Ormond Lagoon. As described within both the City of Oxnard and City of Port Hueneme LCP, this area supports a variety of sensitive species, including the California brown pelican (*pelecanus occidentalis californicus*), a CDFG species of special concern, California least tern (*Sterna antillarum browni*), a federal and state endangered species, and western snowy plover (*Charadrius alexandrinus nivosus*), a federal threatened species, and the tidewater goby (*Eucyclobius newberryi*), a federally listed endangered species and a state species of special concern. Steelhead trout (*onchorhynchus mykiss irideus*), have not been documented within the project site. Sensitive habitats, which meet the definition of environmentally sensitive habitat areas pursuant to Coastal Act Section 30107.5, can also be found within the project area.

Both the expansion of the J Street Drainage Channel and implementation of the BEMP have been proposed by the applicant to prevent the flooding of development surrounding the project area. Therefore, although Coastal Act Section 30240 provides that new development may not be allowed within an environmentally sensitive habitat area unless the use is dependent on the sensitive resource, the proposed project will revegetate areas impacted by construction activities and enhance surrounding habitat onsite. Expansion of the J Street drainage channel and implementation of the BEMP are not “dependent” on the sensitive resource, however, Section 30236 of the Coastal Act specifically allows for stream alteration, such as the proposed drainage channel expansion and BEMP, for the purpose of necessary flood control project. Thus, the

proposed development is considered an allowable use within ESHA areas consistent with the provisions of both Sections 30236 and 30240.

J Street Drainage Channel Expansion

As originally proposed, the project included three separate construction staging areas. However, one of the proposed staging areas (located adjacent to a public access parking lot west of the J Street Drainage Channel, was located within an area of the site containing sensitive backdune habitat and vegetation, as shown on Exhibit 2. Although disturbed, the proposed staging area constitutes an environmentally sensitive habitat area (ESHA and is designated in the City of Port Hueneme LUP as a Resource Conservation Zone Area) and would have resulted in significant adverse impacts to dune habitat. Thus, in consultation with Commission staff, the applicant has since the revised the proposed project to eliminate the use of this sensitive dune area for staging and instead utilize an alternative staging area, located on a developed lot/construction equipment yard at the Intersection of Hueneme Road and Perkins Road, outside of the Coastal Commission's jurisdiction. However, although the applicant has revised the proposed project description, staff has not yet received revised project plans to implement this change. Therefore **Special Condition Two (2)**, Part A, requires that the applicant submit revised project plans which delete the above referenced staging area from the final revised project plans.

The project includes the removal of 41 non-native and invasive trees and the substantial trimming of 33 non-native and invasive trees. The trees proposed to be removed for construction associated with expansion of the drainage channel are located within the applicant's right-of-way. Additionally, on both the east and west sides of the drainage channel, the proposed construction activities would temporarily impact approximately 0.68 acres. Approximately 0.26 acres would be permanently impacted for improvements and expansion of the existing drainage channel access road and turnaround. The proposed access road formalization would include resurfacing of the existing dirt roadway with a decomposed granite surface. Therefore, in order to ensure that disturbed habitat on site is successfully revegetated and enhanced, **Special Condition Six (6)** requires the applicant to submit a Habitat Revegetation and Enhancement Program to ensure the successful management, monitoring, and completion of the aforementioned enhancement. The condition also requires planting of native plant species of local genotype on all disturbed areas. Special Condition Six (6) also requires monitoring of all restoration areas for five years.

The trees that are proposed to be removed or trimmed consist of non-native/invasive species, however, the trees are located along the banks of the drainage and Ormond Lagoon and may be potentially used for nesting, roosting, and feeding by various species of migratory and coastal birds. Although bird use of the lagoon varies from month to month, a Biological Survey completed by Rincon Consultatns, completed on February 21, 2013, did not observe any active nests, or nesting behavior. California brown pelican (*pelecanus occidentalis californicus*), a CDFG species of special concern, California least tern (*Sterna antillarum browni*), a federal and state endangered species, the western snowy plover (*Charadrius alexandrinus nivosus*), a federal threatened species, and various raptor and heron species all frequent the California coastline.

However, in past permit actions, the Commission has found that even non-native/invasive trees in disturbed urban areas, such as the project site, have the potential to provide habitat for nesting,

roosting, and foraging for raptors and other sensitive bird species. Further, the 41 non-native and invasive trees to be removed and the 33 non-native and invasive trees that will be subject to substantial trimming have the potential to serve as nesting or roosting habitat for raptors, shorebirds, or migratory birds. Thus, the trees proposed for removal and trimming have the potential to provide habitat for sensitive bird species, it is necessary to ensure that nesting bird species are protected during construction activities. Further, the proposed project has the potential to disturb sensitive bird species in and around the project area due to the removal of trees adjacent to the lagoon and drainage channel, as well as noise, vibration, dust, and disturbance associated with construction. Therefore, to ensure that potential adverse impacts to sensitive bird species are avoided, **Special Condition Four (4)** requires that the applicant retain the services of a qualified biologist(s) or environmental resource specialist(s) to conduct surveys for sensitive wildlife species and to monitor project operations. At least thirty calendar days prior to commencement of any project operations, the applicant shall submit the name and qualifications of the biologist or specialist, for the review and approval of the Executive Director. The environmental resource specialist shall conduct a survey of all areas within and near the project site to determine presence and behavior of sensitive wildlife species 30 days prior to any project operations including construction, grading, excavation, vegetation eradication and removal, hauling, and maintenance activities. In the event that any sensitive wildlife species exhibit reproductive or nesting behavior, the environmental specialist shall immediately notify the Executive Director and local resource agencies in writing.

In addition, in order to minimize potential adverse impacts to sensitive bird species resulting from the removal of the 41 non-native and invasive trees and the trimming of 33 non-native and invasive trees, **Special Condition Six (6)** requires the applicant replace all 74 trees to be removed and/or significantly trimmed prior to the completion of improvements and modification of the drainage channel. Replacement trees shall include a range of container-size plantings consisting of an approximately equal ratio of 36" sized containers, 24" sized containers, and 1-5 gallon sized containers in order to more quickly reestablish nesting habitat on site.

The project includes installation of a temporary sheetpile cofferdam is anticipated to occur near the channel at the downstream terminus of the designated construction area. Block nets and silt fencing would be placed immediately up and down stream of the temporary cofferdam, and all species located within the work area, including tidewater goby, would be relocated by a qualified biologist to Ormond Lagoon. As proposed, installation of the sheetpile temporary cofferdam at this location would occur prior to tidewater goby breeding season and California least tern foraging season, both of which occur in late spring. However, this portion of the project site is located in an area in an area that has been identified as a potential least tern foraging area. Therefore, the applicant is proposing, as part of this project, that the cofferdam would be constructed in this location only if construction of the cofferdam commences after March 1st is completed prior to May 1st.

However, if construction of the cofferdam occurs between March 1st and May 1st then, as proposed, then the cofferdam would be constructed at the designated alternative location, approximately 600 ft. further upstream in order to avoid impacts to foraging least tern or tidewater goby. If the cofferdam is constructed at the alternative location, the cofferdam would be

constructed utilizing wood and cinder blocks or of concrete k-rails covered with visqueen and sandbags.

As noted above, the tidewater goby is a federally listed endangered species and a state species of special concern. Tidewater gobies are typically found in the upper ends of lagoons in brackish water, such as those within Ormond Lagoon. Although the J Street Drainage Channel is not suitable for spawning, gobies have been observed using the lower reaches of the drainage channel for foraging. Gobies have been found in waters with salinity that ranges from 0 to 40 parts per thousand. They are bottom dwellers and are typically found at depths of less than 3 ft. Ormond Lagoon has been identified by the USFWS as critical habitat for tidewater goby and the USFWS recovery plan for tidewater goby identifies that the species has occupied the project area as recently as 2004. Gobies typically exhibit an extreme seasonal variation in population size that reflects the variation in salinity, temperature, and hydrologic conditions in a coastal lagoon. Tidewater gobies spawn throughout the year, but spawning typically peaks from May to July.

Installation of the proposed temporary cofferdam and reconstruction of the J Street drainage channel have the potential to adversely impact tidewater goby populations. Safe relocation of the goby outside of the construction area requires a qualified biologist or environmental resource specialist with experience handling goby, therefore **Special Condition Five (5)** requires the applicant to submit the name of the qualified biologist or natural resource specialist 30 days prior to any onset of construction work. Special Condition Five (5) also requires monitoring throughout construction to ensure that protective measures are being implemented. The proposed expansion of the J Street drainage channel would alter the “fall” of the channel. As it currently exists, the drainage channel has a fall of 6 to 8 inches, meaning that the center of the drain is 6 to 8 inches lower in elevation than the elevation of the drain at the channel walls. The proposed drainage channel would have a fall of 3 inches. Although the fall of the proposed drainage channel would be slightly less than that which currently exists, the applicant, upon consultation with the USFWS, has determined that it will not adversely impact tidewater goby. However, to ensure that tidewater goby populations are not adversely impacted following the proposed construction, Special Condition Five (5) also requires that the qualified biologist or environmental resource specialist prepare a post-project monitoring report documenting the measures that were implemented to protect the goby, and the affects that those measures had on the goby population.

As described above, water from temporary dewatering activities during construction would be directed downstream to Ormond Lagoon, to the immediately adjacent Perkins Drainage Channel which also flows to Ormond Lagoon, and to the ocean. The applicant has received approval from the RWQCB to discharge at the above listed locations. Because Perkins Drain and Ormond Lagoon are hydrologically connected, in order to avoid an artificial breach of Ormond Lagoon outside of the rainy season (when naturally breaching events typically occur), and to therefore avoid adverse impacts to tidewater goby populations, the applicant has proposed to monitor the lagoon water levels, and if the elevation rises to high, they would divert more water into the ocean, and avoid diversion into the lagoon. Prior to the discharge of water to any of the above mentioned locations, the project, as proposed, includes implementation of testing of discharge water in accordance with the requirements of the Regional Water Quality Control Board. Therefore, **Special Condition Ten (10)** is required to ensure that the applicant complies with all

permit requirements of the RWQCB. Additionally, to ensure that the applicant avoids adverse impacts to all sensitive species, including those to tidewater goby, Special Condition Ten (10) also requires that the applicant complies with all permit requirements and mitigation measures of the California Department of Fish and Wildlife, State Lands Commission, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project which may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

Alteration of Coastal Waters

Pursuant to Section 30236 of the Coastal Act, certain types of channelization projects and other developments resulting in the alterations of rivers and streams may be allowed when necessary for a required flood control project, such as the proposed project, 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, and only if such development incorporates the best mitigation measures feasible. In this case, the proposed project for reconfiguration of the drainage channel constitutes a required flood control project and is necessary in order to prevent future flooding. Thus, the proposed project is considered an allowable type of development within a stream consistent with the provisions of Section 30236 of the Coastal Act.

In addition, although the majority of the proposed modifications to the drainage channel will occur entirely within the portion of the channel that has been previously channelized with concrete, the project also includes the reconstruction of an existing 4,000 sq. ft. rip rap streamflow velocity dissipation device located immediately downstream of the terminus of the concrete-lined portion of the drainage channel where the channel transitions into natural estuary of Ormond Lagoon. The existing dissipation device is necessary to ensure that stream flows from the concrete-lined portion of the channel do not result in increased erosion of downstream channel areas and the lagoon itself. The proposed project includes the addition of, approximately 378 cubic yards of new rip rap to the existing 4,000 sq. ft. rip rap streamflow velocity dissipation device in order to ensure that the reconfigured and enlarged drainage channel will not result in any increase or change in the erosion or accretion rates of downstream areas, including Ormond Lagoon. All rip rap will be installed completely within the footprint of the existing rip rap dissipation device and will not result in the filling of any wetland or riparian habitat areas.

Ormond Beach and Ormond Lagoon are sensitive habitat areas that support a variety of sensitive species. The proposed drainage channel expansion could have the potential to alter the velocity and erosion rates experienced in the drainage channel and cause downstream impacts to the lagoon. Altering downstream sensitive habitats through an increase in breaching events, or causing a breaching event in an alternate location, would alter the functionality of Ormond Beach and Ormond Lagoon. However, the applicant has submitted an Engineering Analysis by Kirk Norman, Project Engineer, dated March 7, 2013, which finds that the proposed reconfiguration/expansion of the drainage channel and the reconstruction of the rip rap streamflow velocity dissipation would only result in a relatively minor increase in streamflow

velocity rates by approximately 1 ft. per second compared to existing conditions. The analysis further finds that this minor change in velocity is not expected to substantively increase the amount of sand, or duration or frequency of the presence of surrounding sand, during all storms up to a 100-year storm event, thereby maintaining the functional capacity of both Ormond Beach and Ormond Lagoon.

Further, the reconstruction/modification of the existing drainage channel would include reconstruction of the existing rip rap streamflow velocity dissipation device that is located at the terminus of the drainage channel and would involve the addition of approximately 378 cubic yards of rip rap. As it was originally constructed, the existing dissipation device extended over a 4,000 sq. ft. area, approximately 50 ft. wide. However, as proposed to be reconstructed, the rip rap streamflow velocity dissipation device will be reduced in size and approximately 25 ft. wide. Thus, all new rip rap will be installed within the footprint of the existing rip rap streamflow velocity dissipation device. Section 30233 of the Coastal Act identifies seven allowable uses for the dredging diking and filling of coastal waters. Expansion of the proposed dissipation device outside of its original footprint, or the placement of the proposed dissipation device in a new location would have resulted in the fill of coastal waters in conflict with the policies of Section 30233. However, in this case, because the applicant has proposed to reconstruct the existing dissipation device with a new smaller device within the footprint of the existing dissipation device, the project will not result in any fill of coastal waters as defined by Section 30233.

In addition, the applicant has corrected a discrepancy to the project plans to utilize smaller ¼ ton rock, instead of the originally proposed 4 ton rock. The applicant's engineer has determined that the smaller size rock is appropriate for the design of the dissipation device and that the smaller size rock will remain stable. However, although the applicant has revised the proposed project description, staff has not yet received revised project plans to implement this change. Thus, to ensure that the that the final project plans accurately reflect the approved project, **Special Condition Two (2)**, Part B requires that the applicant provide final revised project plans, for the review and approval of the Executive Director, which correct and replace all references to the use of 4-ton rock with the use 1/4-ton rock.

Beach Elevation Management Plan

Throughout much of the year Ormond Lagoon remains in a close state due to sand accretion, and resultant high sand elevations, which occur between the lagoon and the ocean. Prior to a breaching event, continual freshwater inputs from the J Street Drainage Channel and adjacent waterways cause the Ormond Lagoon water level to remain at approximately 6 ft. above mean sea level (NGVD). During a storm event, the water within Ormond Lagoon can rise rapidly, as the J Street Drainage Channel receives large quantities of storm water runoff. If the lagoon has not breached naturally prior to a storm event, and the sand level between the lagoon and the ocean is at an elevation of 6.5 ft. NGVD or greater, the water within the lagoon will begin to backflow, and flood adjacent properties which are developed with residential and industrial uses. This occurs due to the topographic difference between Ormond Lagoon and surrounding development. As an example, past flooding has placed the Oxnard Wastewater Treatment at risk of releasing untreated sewage effluent into the surrounding waterways, roads, and residential properties due to the inundation of electrical equipment.

The proposed BEMP is a programmatic response to prevent the flooding of development adjacent to Ormond Lagoon through the periodic lowering of the sand elevation located between an approximately 100 ft. segment of the beach between Ormond Lagoon and the Pacific Ocean, near the terminus of the J Street drainage channel. The program would involve lowering the level of the beach to approximately 6 ft. above sea level within a 100 ft. wide area between Ormond Lagoon and the Pacific Ocean to allow Ormond Lagoon to overflow to the ocean in the event that elevated water levels occur that would otherwise result in flooding of the adjacent upland areas. Implementation of these BEMP activities would be limited to no more than three times during each winter storm season between October 1st and March 1st each year. Moreover, the applicant's engineers have indicated that if water levels in the lagoon exceed 6.5 ft. NGVD, then imminent flooding of the surrounding developed properties is expected. Therefore, the applicant is proposing to implement BEMP activities only if the elevation of the beach seaward of the lagoon is higher than 6.5 ft. NGVD in elevation.

The applicant has proposed to lower the sand elevation adjacent to the lagoon to facilitate a breaching event rather than to create an overflow channel (which would cause an immediate breaching event) to minimize adverse impacts to sensitive species, such as the tidewater goby. Similar activities to lower the sand elevation adjacent to the lagoon have previously occurred on site pursuant to emergency coastal permits referenced in Part A of Section IV above. These previous actions have been successful in lowering the sand elevation is adequate to both abate flood hazards and prevent an unnecessary breaching event. As an example, the applicant lowered the sand elevation adjacent to the lagoon on October 18, 2010, however the lagoon did not breach until October 30, 2010. Additionally, on November 10, 2011 the sand elevation was lowered, and a breaching event occurred on November 12, 2012, and on November 28, 2012 the sand elevation was lowered, and a breaching event occurred on November 30, 2012.

The project also includes installation of two proposed BEMP marker poles, approximately 6 ft. in height above the average level of beach sand under normal conditions. The two markers are necessary to allow monitors to measure the levels of sand on the beach and also serve to designate the boundaries of the 100 ft. by 100 ft. activity area where the sand levels adjacent to Ormond lagoon would be reduced in elevation. The proposed poles would designate the activity area to ensure that impacts to adjacent sensitive areas are minimized during implementation of the BEMP activities. Additionally, as proposed by the applicant, on top of the poles "bird spiders" would be placed to deter raptors from roosting and potentially foraging where they could predate on sensitive species such as the snowy plover. Sand removed in the process of lowering the elevation would be placed on the beach adjacent to the activity area.

In order to ensure that implementation of the proposed BEMP activities avoid adverse impacts to both sensitive species and habitats, **Special Condition One (1)** outlines the criteria that will be utilized to determine when implementation of the BEMP activities is necessary and responsibilities of the applicant to ensure that they are carried in such a way as to avoid impacts to sensitive species and habitats. Pursuant to Special Condition One (1), lowering the sand elevation between Ormond Lagoon and the ocean would occur no more than three times per year between October 1st and March 1st, which would avoid the peak breeding seasons of tidewater

goby, grunion, snowy plover, and least tern in order to minimize adverse impacts to these sensitive species. Additionally, in order to ensure that unnecessary breaching events do not occur, Special Condition One (1), provides that beach elevation management activities shall occur only if the lagoon mouth is in a closed condition and the elevation of the sandy beach is higher than 6.5 ft. above sea level (NGVD) within the 100 ft. wide corridor between the lagoon and the ocean, as generally shown on Exhibit 5. The elevation of the sandy beach within the 100 ft. wide sand elevation management corridor may be lowered to no less than 6 ft. in elevation above sea level (NGVD).

In addition, although there is no dune habitat or native vegetation located within the proposed 100 ft. wide BEMP activity area, in order to ensure that adverse impacts to adjacent dune habitat areas are avoided, Special Condition One (1) also requires that all Beach Elevation Management Activities shall occur only within a 100 ft. wide corridor between the lagoon and the ocean, as generally shown on Exhibit 5.

As proposed, access to the designated 100 ft. by 100 ft. activity area would occur from Hueneme Beach Park parking lot A or B on designated paths, as depicted in Exhibit 5. Although the BEMP access routes have been specifically designed to avoid sensitive dune habitat located along the back portions of the beach and known nesting or foraging areas of sensitive species including snowy plover, brown pelican, California least tern, and grunion consistent with Section 30240 of the Coastal Act, City of Oxnard LUP Policy 6, Part C, and City of Port Hueneme LUP Sand Dune Protection Policy. However, it is still possible that a species may be located within the approved access route or the BEMP activity area. Therefore, to ensure that adverse impacts to adjacent sensitive habitats and species are avoided, **Special Condition One (1)** has been required to ensure that the applicant's proposal is adequately implement to restrict access for construction vehicles/tractors to the area of the beach where sand elevation management activities will occur shall be limited to only the designated routes shown on Exhibit 5. Further, to ensure that unintended adverse impacts to adjacent sensitive habitats and species are avoided, **Special Condition Four (4)** requires that an environmental resource specialist shall be present during all BEMP activities. The environmental resource specialist shall require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. The environmental resource specialist(s) shall immediately notify the Executive Director if activities outside of the scope of notice of coastal development permit 4-12-051 occur. If significant impacts or damage occur to sensitive habitats or to wildlife species, the applicant shall be required to submit a revised or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be submitted to the Executive Director, for review and approval.

The proposed BEMP is intended to ensure that adverse impacts related to facilitating breaches of Ormond Lagoon will not result in adverse impacts to sensitive species. However, in order to ensure that any potential changed circumstances which may be discovered at some future point in time, such as new information regarding sensitive habitat and wildlife resources on site or new impacts from the dredging project, are considered, **Special Condition Eleven (11)** specifically limits the duration of all BEMP activities approved by this permit (to a period of no more than five (5) years from the date of Commission action, unless a new coastal development permit, or

amendment to this permit, authorizing future BEMP activities is approved by the California Coastal Commission.

Due to the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, 30233, 30236 and 30240 of the Coastal Act, City of Oxnard LUP Policy 6, Part C and D, and City of Port Hueneme LUP Sand Dune Protection Policy.

C. WATER QUALITY

Section 30230 of the Coastal Act, as incorporated into City of Oxnard and City of Port Hueneme LCP, 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 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, as incorporated into City of Oxnard and City of Port Hueneme LCP, 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.

City of Oxnard LUP Policy 10, Part A, states in part:

The effects of wastewater discharges which release toxic substances into coastal waters, streams, wetlands, estuaries, and lakes shall be minimized, and where feasible toxic substances should be removed.

Coastal Act Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. Further, Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters be maintained. City of Oxnard LUP Policy 10, Part A requires the minimization of toxic substances into coastal waters.

The J Street drainage channel and Ormond Lagoon are hydrologically connected to Bubbling Springs, Perkins Drain, and the Oxnard Industrial Drain. Bubbling Springs, located west of the J Street drainage channel, is a perennial earthen channel that is supplied by natural springs. Water from Bubbling Springs enters the J Street drainage channel and Ormond Lagoon through the Hueneme Drain Pump House. Water from the J Street drainage channel, Bubbling Springs, and the Oxnard Industrial Drain enter Perkins drain, also an earthen channel, which extends parallel between the J Street drainage channel and the Oxnard Industrial Drain. The Oxnard Industrial Drain is both an earthen and concrete channel, which flows adjacent to the nearby polluted Halaco Facility Superfund Site, and ultimately terminates in Ormond Lagoon, as seen on Exhibit 2.

Expansion of the J Street drainage channel has been proposed by the applicant in order to increase its capacity to accommodate flows that would result from a 100-year storm event. Large volumes of water enter the J Street drainage channel as stormwater runoff during both large and small storm events, and often transport pollutants and debris. In order to reduce the amount of debris transport within the drainage channel, and therefore improve downstream water quality, the applicants have proposed the installation of a trash boom (a debris collection device within the channel consisting of two, approximately 9 ft. high metal in the channel with a debris collection net between them) as a component of the drainage channel expansion. Additionally, the proposed Operations and Maintenance Program (OMP) would consist of channel maintenance including the removal of sediments, brush, and debris. The proposed OMP would remove approximately 9 tons of sediment, brush, debris from the drainage channel annually. However, the removal of sediments, brush, and debris from the drainage channel has the potential to adversely impact sensitive species, such as the tidewater goby or least tern, which has been observed foraging within the lower reaches of the drainage channel. Therefore, **Special Condition Four (4)** requires that the applicant retain the services of a qualified biologist(s) or environmental resource specialist(s) to conduct surveys for sensitive wildlife species and to monitor project operations. Further, the environmental resource specialist shall require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise.

Construction of the proposed higher capacity drainage channel would also include the installation of press-in sheetpiles, dewatering wells, and a channel flow bypass. Prior to initiation of the proposed dewatering activities, the applicant originally proposed to place vertical shoring. However, upon further geotechnical investigation, it was realized that placing press-in sheet piles to a depth of approximately 30 ft. would significantly reduce the amount of groundwater that would have to be extracted from the construction area; therefore the applicant revised the project description to include installation of press-in sheetpiles.

Water from temporary dewatering activities during construction would be directed downstream to Ormond Lagoon, to the immediately adjacent Perkins Drainage Channel which also flows to Ormond Lagoon, and to the ocean consistent with all requirements of the Regional Water Quality Control Board. The discharge of contaminated water could result in negative impacts to water quality; therefore, in accordance with the applicant's proposal **Special Condition Ten (10)**

requires that the applicant act in conformance with the requirements of other agencies, including those required by the RWQCB for the testing and treatment of water prior to discharge.

The Halaco Facility Superfund Site is located approximately 1,200 feet east of the J Street Drainage Channel. From 1965 to 2004, the Halaco site, which consisted of a smelter area and a waste management area, operated as a metal smelter that recovered aluminum and magnesium from scrap metal. From 1965 to 2002, Halaco discharged and managed wastewater from its smelter site onto its waste management area, as seen on Exhibit 2. After a remedial investigation by the EPA, it was determined that the wastewater discharged from Halaco contaminated the shallow groundwater in the underlying semi-perched aquifer. The applicant has proposed the installation of groundwater monitoring wells that will be utilized to track the movement of groundwater. Currently, the groundwater located beneath the Halaco site moves in a northward direction, and although the proposed construction activities are not anticipated to cause in a change in direction of the groundwater flow, dewatering activities on site could potentially result in the migration of contaminated groundwater from the Halaco site towards the J Street Drainage Channel and Ormond Lagoon. Therefore, **Special Condition Eight (8)** requires the applicant to follow the monitoring and mitigation requirements described within the Groundwater Monitoring Plan for the J Street Drain Project (completed by Fugro Consultants, Inc., dated January 2013), which would include reducing the construction area that was subject to dewatering to limit the amount of dewatering and volume pumped located on the east side of the drainage channel, and increase the volume of water pumped from the west side of the drain if groundwater migration began to occur.

In addition, the stream and estuarine environment surrounding the J Street drainage channel and Ormond Lagoon could be adversely impacted as a result of the implementation of project activities by unintentional introduction of sediment, debris, or chemicals with hazardous properties. To ensure that construction material, debris, or other waste associated with project activities does not enter the water, **Special Condition Seven (7)** outlines construction-related requirements to provide for the safe storage of construction materials. As provided under Special Condition Seven (7), it is the applicant's responsibility to ensure that no construction materials, debris or other waste is placed or stored where it could be introduced to coastal waters. Special Condition Seven (7) also requires that all construction debris, sediment, or trash shall be properly contained and removed from construction areas on a regular basis. Further, construction equipment shall not be cleaned on the beach or in the beach parking lots.

Further, stockpiling of excavated material and construction debris at the project site could result in transport of sediments into adjacent waterways. Therefore, in order to reduce the potential for sedimentation, **Special Condition Nine (9)** requires the applicant to provide evidence to the Executive Director of the location of the disposal site for all excess excavated material and debris. Should the disposal site be located in the Coastal Zone, a Coastal Development Permit shall be required.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Sections 30230 and 30231, and City of Oxnard LUP Policy 10, Part A.

D. PUBLIC ACCESS AND VISUAL RESOURCES

Coastal Act Section 30210, as incorporated into City of Oxnard and City of Port Hueneme LCP, 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.

Coastal Act Section 30211, as incorporated into City of Oxnard and City of Port Hueneme LCP, 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.

Coastal Act section 30251, as incorporated into City of Oxnard and City of Port Hueneme LCP, states that:

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

City of Oxnard LUP Policy 37 states, in part, that:

All new development in the Coastal Zone shall be designed to minimize impacts on the visual resources of the area.

City of Port Hueneme LUP Hueneme Beach Park Coastal Visual Resources Policy states:

Because the viewshed at Hueneme Beach Park is an important public resource, improvements to the park shall not interfere with public enjoyment of views of the beach and ocean.

Coastal Act Section 30210 and Coastal Act Section 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. In addition, Coastal Act Section 30251 requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored. City of Oxnard Policy 37 requires that new development minimize impacts to visual resources. City of Port Hueneme Beach Park Coastal Visual Resources Policy requires that improvements do not interfere with views of the beach and ocean.

The proposed project will be located adjacent to and within public recreational areas including Hueneme Beach Park and Ormond Beach, which includes a large public parking lot for beach users. This area supports a variety of recreational uses, including the Port Hueneme Fishing Pier, volleyball courts, a snack bar, picnic tables, as well as several trails for nature walks, bird watching and other coastal activities.

Public paths to the beach surrounding the project site would remain open during construction; however roads adjacent to the project site could be temporarily impacted. Access to the proposed BEMP access routes, as seen on Exhibit 5, would also result in temporary impacts to public parking areas within Hueneme Beach Park; however, only one parking lot out of three would be impacted.

Implementation of the proposed construction activities and BEMP would require the temporary use of some public access and recreational areas, including a small area of the parking lot, and a portion of the sandy beach. To ensure the safety of recreational users of the project site and to ensure that the interruption to public access of the project site is minimized, the Commission requires the applicant to submit a public access plan, pursuant to **Special Condition Three (3)**, to the Executive Director for review and approval. Special Condition Three (3) requires a description of the methods (including signs, fencing, posting or security guards, etc.) by which safe public access to and around the BEMP activity areas shall be maintained during all project operations. Where use of public parking spaces is unavoidable, the minimum number of public parking spaces that are occupied for the staging of equipment, machinery and employee parking shall be used.

As described above, the J Street drainage channel and Ormond Lagoon are visible from both surrounding development and beach areas. During construction and implementation of BEMP activities, impacts to visual resources associated with construction work and equipment would occur; however, these impacts would be temporary in nature and would not result in significant adverse impacts to visual resources. The project also includes installation of two proposed BEMP marker poles, approximately 6 ft. in height above the average level of beach sand under normal conditions. The markers are necessary to allow monitors to measure the levels of sand on the beach and also serve to designate the boundaries of the 100 ft. by 100 ft. activity area where the sand levels adjacent to Ormond lagoon would be reduced in elevation. Given the relatively small size of the marker poles, the poles will not result in any significant impact to public views.

For these reasons, the Commission finds that the proposed project is consistent with Coastal Act Sections 30211, 30212, and 30251, City of Oxnard Policy 37, and City of Port Hueneme Beach Park Coastal Visual Resources Policy.

E. HAZARDS AND GEOLOGIC STABILITY

Section 30253 of the Coastal Act, as incorporated into City of Oxnard and City of Port Hueneme LCP, states, in pertinent part, that new development shall:

- (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 or contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction or protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Section 30253 of the Coastal Act mandates that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The project site and surrounding area has been subject to periodic flooding. The purpose of the proposed project is to increase the capacity of the channel to accommodate 100-year flood flows. By increasing the capacity of the drain through construction of the proposed project, the potential for flooding of adjacent development during large storm events is reduced. Further, by lowering of the sand elevation and thereby facilitating a breach of the lagoon, the proposed BEMP is also necessary to minimize the potential flooding hazards.

The proposed drainage channel expansion could have the potential to alter the velocity and erosion rates experienced in the drainage channel and cause downstream impacts to the lagoon. Altering downstream sensitive habitats through an increase in breaching events, or causing a breaching event in an alternate location, would alter the functionality of Ormond Beach and Ormond Lagoon. However, the applicant has submitted an Engineering Analysis by Kirk Norman, Project Engineer, dated March 7, 2013, which finds that the proposed reconfiguration/expansion of the drainage channel and the reconstruction of the rip rap streamflow velocity dissipation would only result in a relatively minor increase in streamflow velocity rates by approximately 1 ft. per second compared to existing conditions. The analysis further finds that this minor change in velocity is not expected to substantively increase the amount of sand, or duration or frequency of the presence of surrounding sand, during all storms up to a 100-year storm event, thereby maintaining the functional capacity of both Ormond Beach and Ormond Lagoon.

As described above, the Commission notes that the proposed project is located in an area of the Coastal Zone that has been identified as subject to potential hazards from flooding, tidal action,

high surf conditions, and storm surge. Although the proposed development is intended as a flood control project that will serve to reduce the potential for flooding of developed areas, there remains some inherent risk. The Coastal Act recognizes that certain types of development, such as the proposed project, may involve some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. As such, the Commission finds that due to the unforeseen possibility of storm waves, surges, and flooding, the applicant shall assume these risks as a condition of approval. Therefore, **Special Condition Twelve (12)** requires the applicant to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30253.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, the proposed project, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures which will minimize all adverse environmental impacts have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A

Substantive File Documents:

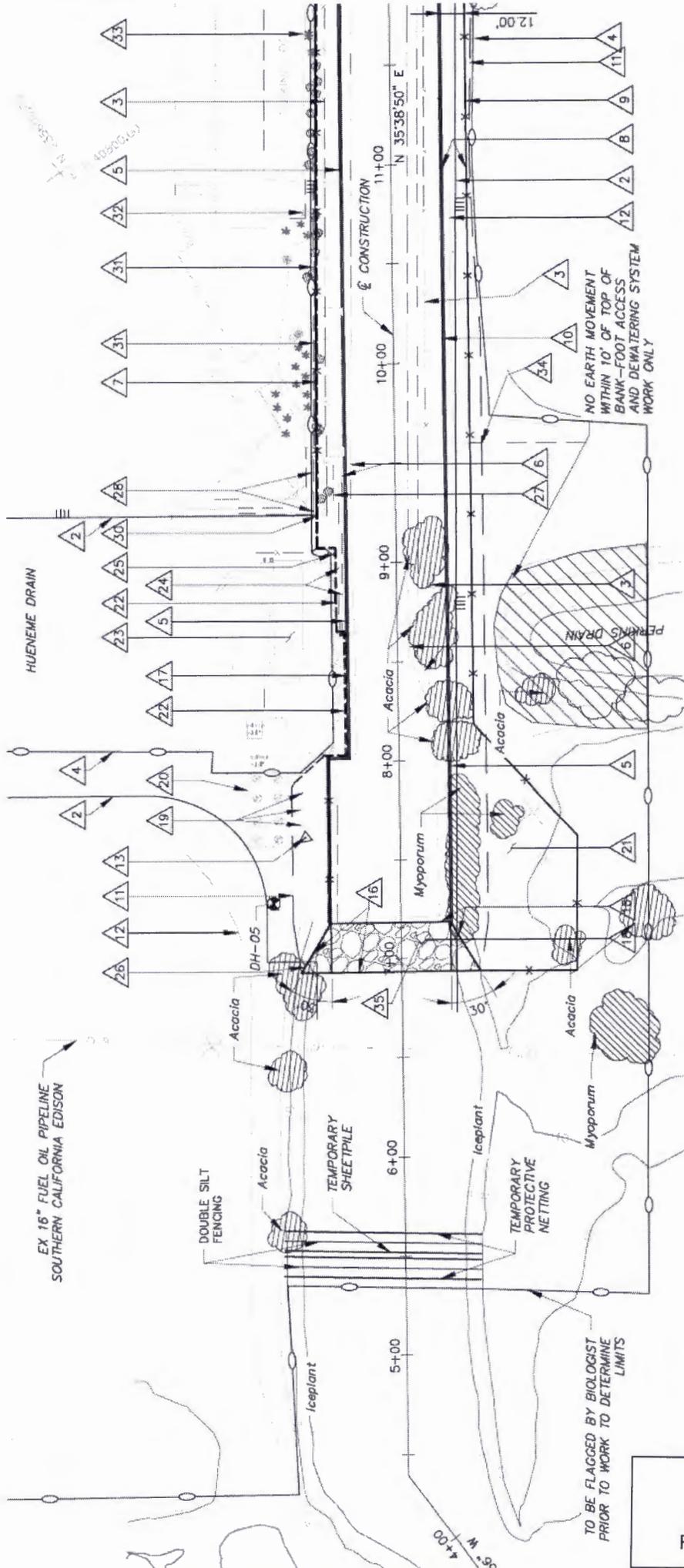
Final Environmental Impact Report J Street Drain Project Ventura County, California SCH# 2008041057, dated January 2012; Tree Report, dated March 1, 2010; Ormond Lagoon Watershed J Street Drain Hydrology Summary, dated November 2011; Geotechnical Study J Street Drain Improvements, dated September 2012; J Street Drain Channel Improvement Study and Preliminary Design, dated November 17, 2005; Ormond Beach Lagoon Sand Berm Management Technical Memo, dated August 8, 2011; January 18, 2010 Ormond Beach Lagoon Emergency Breach Incident Report, dated February 17, 2010; Groundwater Monitoring Plan for the J Street Drain Project Ventura County, California, dated September 2012 (2nd revision January 2013); Addendum 1 to Tree Report, dated February 20, 2013; Biological Survey Report J Street Drain Improvement – Phase One, dated February 12, 2013; Supplemental Biological Survey Report, J Street Drain Improvement – Phase One, dated March 7, 2013, Engineering Analysis, dated March 7, 2013; Final Streambed Alteration Agreement Notification Number 1600-2012-0149-R5 Revision 3, dated March 7, 2013; Final Programmatic Biological and Conference Opinion for Ventura County Watershed Protection District's Routine Operation and Maintenance Program, Ventura County, California (8-8-11-F/C-12), dated December 12, 2012; Water Quality Certification for Proposed Project (Corps' Project No. 2012-598-AJS), J Street Drain, City of Oxnard and Port Hueneme, Ventura County (File No. 12-087), dated January 29, 2013; General Waste Discharge Requirements for Specified Discharges to Groundwater in Santa Clara and Los Angeles River Basins- J Street Drain Project, Ventura California (File No. 12-099, ORD No. 93-010, Series No. 044, CI-9869, Global ID WDR100007795), dated November 9, 2012; Coverage Under the National Pollutant Discharge Elimination System and Waste Discharge Requirements- Ventura county Watershed Protection District, J Street Storm Drain Expansion Project, Oxnard, California (NPDES NO. CAG994004, CI-9921, dated February 26, 2013; Coverage Under the National Pollutant Discharge Elimination System and Waste Discharge Requirements- Ventura county Watershed Protection District, J Street Storm Drain Expansion Project, Oxnard, California (NPDES NO. CAG994004, CI-9867; dated September 21, 2012.



Exhibit 1
4-12-051
Vicinity Map



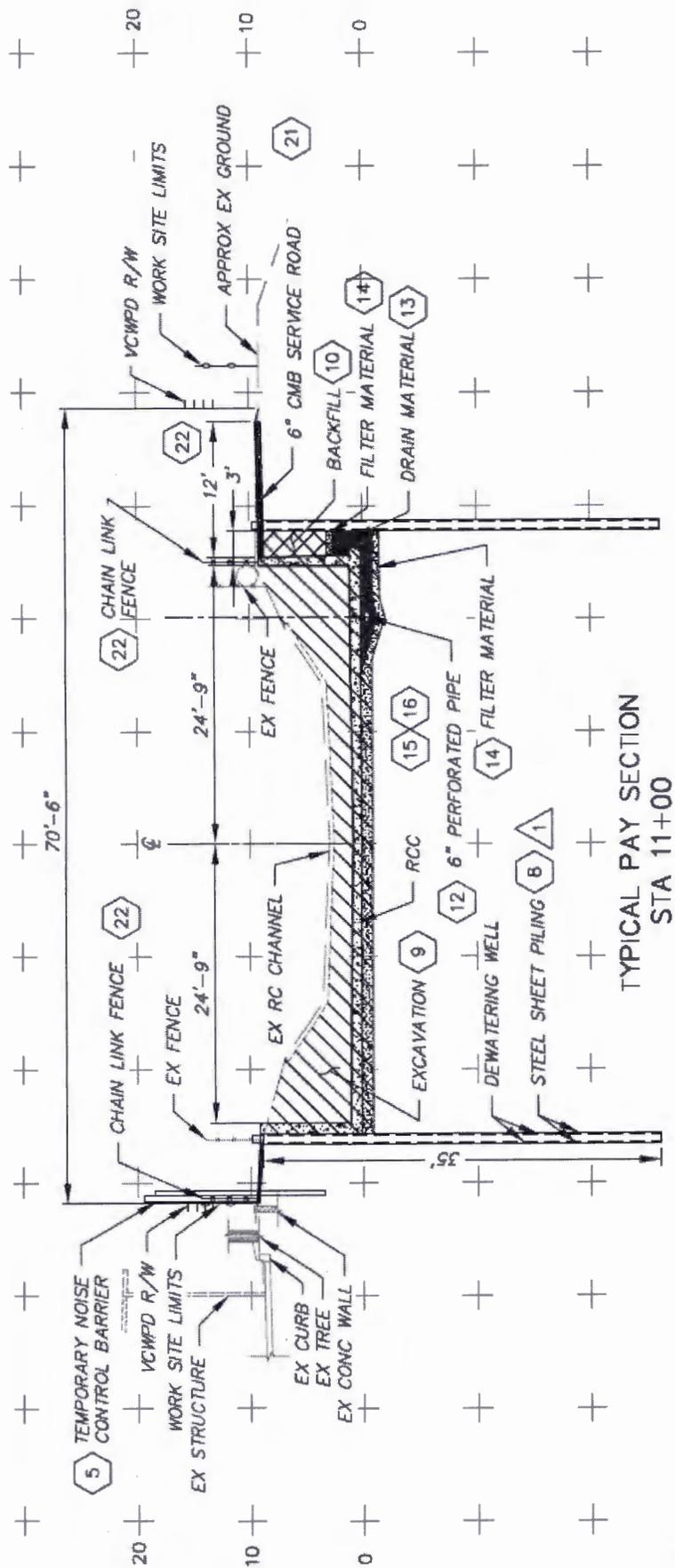
Exhibit 2
4-12-051
Aerial Photograph



EX 16" FUEL OIL PIPELINE
SOUTHERN CALIFORNIA EDISON

TO BE FLAGGED BY BIOLOGIST
PRIOR TO WORK TO DETERMINE
LIMITS

Exhibit 3
4-12-051
Representative Site Plan



TYPICAL PAY SECTION
STA 11+00

Exhibit 4
4-12-051
Representative Cross Section



Exhibit 5
4-12-051
BEMP Access Routes

J street Drain Phase I
Project 82322
Aerial December 2012