

CALIFORNIA COASTAL COMMISSION

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 original staff report

F20a

Addendum

November 7, 2014

To: Commissioners and Interested Persons

From: California Coastal Commission San Diego Staff

Subject: Addendum to **Item F20a**, Coastal Commission Permit Application
#6-14-1589 (Caltrans), for the Commission Meeting of November 14, 2014

The purpose of this addendum is to make minor modifications to the staff report dated October 30, 2014. Underline indicates text added to the October 30, 2014 staff report and ~~striketrough~~ indicates text deleted from the October 30, 2014 staff report pursuant to this addendum, as shown below:

1. On Page 5 of the staff report, Special Condition #1d shall be modified as follows:
 - d. Salt marsh transition areas must have a predominance of wetland indicator species and shall not be used to mitigate impacts to tidally influenced salt marsh habitat or other wetlands meeting the federal, 3-parameter definition.
2. On the last paragraph of Page 12 of the staff report, the "Biological Resources" findings shall be modified as follows:

The proposed mitigation plan includes a detailed planting plan for the included habitat areas that describes the selected species compositions, distributions and densities. The proposed mitigation plan also includes maintenance and monitoring requirements for the site as well as specific performance standards that will need to be achieved prior to final sign-off of plan success. The proposed plan has been reviewed by the Commission's staff ecologist and has been found generally acceptable with the additional requirements described in [Special Condition #1](#). The primary changes to the HMMP include: removal of Menzies' goldenbush (*Isocoma Menziesii*) from the planting palette due to its nature as an aggressive colonizer; requirement that final performance monitoring for success shall take place no sooner than three years following the end of all remediation and other maintenance activities (other than weeding); salt marsh transition areas must have a predominance of wetland indicator species and shall not be used to mitigate impacts to tidally influenced salt marsh habitat or other wetlands meeting the federal, 3-parameter definition~~wetland mitigation credit shall only be given for tidal habitat~~; success criteria for coastal sage scrub shall include a diversity criterion; and all coastal sage scrub habitats shall be restored and enhanced with the intent of creating coastal sage scrub appropriate for coastal California gnatcatchers, which may require the removal of coyote brush in some areas...

CALIFORNIA COASTAL COMMISSION

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F20a

Filed: October 3, 2014
180th Day: March 2, 2015
Staff: K. Brown - SD
Staff Report: October 30, 2014
Hearing Date: November 14, 2014

STAFF REPORT: REGULAR CALENDAR

Application No.: 6-14-1589

Applicant: California Department of Transportation (Caltrans)

Agent: Kim Smith

Location: North shoreline of eastern basin of Agua Hedionda Lagoon along Park Drive, Carlsbad, San Diego County (APNs 207-101 3400, 207-101-3100)

Project Description: Re-establishment, restoration, enhancement and preservation of coastal habitats, including salt marsh, riparian, freshwater marsh, and coastal sage scrub at the 10.7 acre Hallmark West Mitigation Site. The project includes work on portions of the California Department of Fish and Wildlife property located to the immediate south in order to connect the restoration site to the lagoon. Grading (3,900 cu. yds. cut), temporary irrigation installation, and fencing are also components of the proposed project.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The applicant proposes to re-establish, restore, enhance and preserve coastal habitats, including salt marsh, riparian, freshwater marsh and coastal sage scrub, at the Hallmark West Mitigation Site to provide mitigation for impacts that are anticipated to occur from future transportation projects along the I-5 highway and the Los Angeles to San Diego (LOSSAN) rail corridor all located within the North Coast Corridor (NCC) of San Diego County ([Exhibit 1](#)). This program of transportation projects was approved by the Commission in August 2014 as part of the NCC Public Works Plan and Transportation and Resource Enhancement Program (PWP/TREP); however, each project will require future Commission review through the Notice of Impending Development (NOID), coastal development permit, and/or federal consistency review process.

The proposed project would retire the existing development potential on the site and restore degraded wetland and transitional habitat. The major issues associated with this project include adherence to the final mitigation plan, the accounting mechanics for the mitigation acreages, construction methods and timing, public access, and cultural resources. Potential adverse impacts to coastal resources are avoided and/or minimized through the attached special conditions. In addition, upon completion of the restoration project, the larger contiguous area of restored and enhanced salt marsh will become part of the Ecological Reserve that is owned and managed by the California Department of Fish and Wildlife (CDFW). The proposed project will provide higher functioning and more aquatic and upland habitat for salt marsh species, as well as higher quality adjacent upland habitat as a buffer to the development across Park Drive.

Commission staff recommends **approval** of coastal development permit application #6-14-1589 with **nine (9) special conditions** addressing potential adverse impacts. Impacts to biological resources are addressed through **Special Conditions 1** and **2** which require adherence to the Final Habitat Mitigation and Monitoring Plan (HMMP) and ensure that future mitigation acreages will be appropriately accounted and reported to the Commission. In addition, timing of construction is restricted to occur outside of the bird nesting season by **Special Condition 3**. **Special Condition 4** would protect water quality by requiring the applicant to adhere to the prescribed BMPs and construction methodologies. **Special Condition 5** would protect public access through a Public Access and Signage Plan with provisions for interpretive signage, future replacement of the fence with a more visually permeable design, and potential construction of future viewing area. The cultural resources located on the site would be protected by **Special Condition 6** which requires the applicant to comply with all recommendations and mitigation measures in the approved action plan prepared for the project in compliance with Section 106 of the National Historic Preservation Act of 1966. **Special Conditions 7** and **8** require compliance with the NCC PWP/TREP's Resource Enhancement and Mitigation Program (REMP) requirements and the submittal of all other state or federal discretionary permits necessary for the proposed project. Finally, **Special Condition 9** addresses the proper disposal of any fill excavated as a part of the project.

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EXHIBITS

[Exhibit 1 – NCC REMP Vicinity Map](#)

[Exhibit 2 – Site Location](#)

[Exhibit 3 – Wetland Mitigation](#)

[Exhibit 4 – Salt Marsh Mitigation](#)

[Exhibit 5 – Vegetation & Cultural ESA Map](#)

[Exhibit 6 – Sensitive Species Map](#)

[Exhibit 7 – Grading Plan](#)

[Exhibit 8 – Alternative Accessways](#)

[Exhibit 9 – Site Visit Photos](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit 6-14-1589 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves Coastal Development Permit 6-14-1589 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit 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

This permit is granted subject to the following special conditions:

1. **Final Habitat Mitigation and Monitoring Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a Final Habitat Mitigation and Monitoring Plan that is in substantial conformance with the Habitat Mitigation and Monitoring Plan for the Hallmark West Mitigation Site dated October 2014. Said plan shall be revised to include the following:
 - a. Removal of Menzies' goldenbush (*Isocoma menziesii*) from the planting palette due to its nature as an aggressive colonizer.
 - b. Consideration of whether adding saltwort (*Batis maritima*) to planting palette is feasible.
 - c. Add requirement that final performance monitoring for success shall take place no sooner than three (3) years following the end of all remediation and other maintenance activities, other than weeding.
 - d. Salt marsh transition areas shall not be used to mitigate impacts to tidally influenced salt marsh habitat.
 - e. All coastal sage scrub habitats shall be restored and/or enhanced with the intent of creating coastal sage scrub habitat appropriate for supporting coastal California gnatcatchers populations. This may require the removal of coyote brush in some areas.
 - f. Tidal monitoring shall be conducted during a month that includes extreme spring tides.
 - g. Require rectified vertical photographs for quantitative estimates of vegetative cover. Oblique aerial photos will not enable quantitative estimates of vegetative cover.
 - h. The number of replicate samples shall be the same in the restored area and the referenced site, or a rationale for using different sample sizes should be provided.
 - i. Identification of how “similarity” will be determined for comparing the re-established and rehabilitated habitat with the reference sites.
 - j. Success criteria for coastal sage scrub shall include a diversity criterion.

- k. Figures 10 and 11 showing proposed Grading Plan and cross sections of Grading Plan shall include the elevation datum.

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

2. **Mitigation Acreage Accounting.** In order to provide updated and accurate mitigation acreage amounts utilized as a part of the Hallmark West Mitigation site, the permittee shall provide written notification to the Executive Director describing final mitigation acreage amounts to be utilized on-site associated with the impacts from each individual transportation project identified within the North Coast Corridor Public Works Plan/Transportation and Resource Enhancement Program. This information shall be provided when final permits with required mitigation amounts are issued by the relevant state and federal agencies.
3. **Timing of Construction.** To avoid potential impacts to the nesting season of sensitive bird species, initial removal of vegetation and grading activities in the restoration area are not permitted between the dates of March 15th and September 15th of any year unless approved in writing by the Executive Director, in consultation with the California Department of Fish and Wildlife and/or the U.S. Fish and Wildlife Service.
4. **Construction Best Management Practices.** The permittee shall comply with the following construction-related requirements:
 - a. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-sets of such activity;
 - b. No construction materials, debris, or waste shall be placed or stored where it may enter the lagoon or storm drain;
 - c. All trash and debris shall be disposed in the proper trash or recycling receptacle at the end of every construction day;
 - d. Construction debris and sediment shall be properly contained and secured on site with BMPs to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
 - e. Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;

- f. The discharge of any hazardous materials into any receiving waters shall be prohibited;
 - g. A pre-construction meeting shall be held for all personnel to review procedural and BMP/GHP guidelines; and
 - h. All BMPs shall be maintained in a functional condition throughout the duration of the project.
5. **Public Access and Signage Plan.** PRIOR TO THE TRANSFER OF OWNERSHIP TO THE LONG TERM MANAGER OF THE MITIGATION SITE, the applicant shall submit to the Executive Director for review and written approval, a Public Access and Signage Plan that includes, at a minimum, the following:
- a. Interpretive signage to inform the public of the habitat restoration project, including acknowledgement of the Coastal Commission's involvement.
 - b. Replacement of existing chain link fence with a more visually permeable alternative that still restricts access (e.g., post and tightly spaced cable fence) if determined to be an acceptable deterrent to trespass across the site by the future long term manager of the site. The applicant shall consult with the long term manager and Commission staff to determine appropriate fencing. Replacement fencing shall be installed by the applicant prior to the transfer of ownership to the long term manager.
 - c. Potential viewing area located along Park Drive sited to maximize views of the lagoon across the site while not adversely impacting the sensitive coastal habitats restored on-site. Construction of the viewing area shall be completed by the applicant in coordination with the above fencing replacement, and shall be installed prior to the transfer of ownership to the long term manager.

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

6. **Compliance with Section 106 Requirements.** The applicant shall comply with all recommendations and mitigation measures contained in the approved action plan prepared for the project in compliance with Section 106 of the National Historic Preservation Act of 1966. The permittee shall undertake the development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
7. **Compliance with REMP Requirements.** By acceptance of this coastal development permit, the applicant agrees to comply with all requirements of the North Coast Corridor

Public Works Plan and Transportation and Resource Enhancement Program's (NCC PWP/TREP) Resource Enhancement and Mitigation Program (REMP), including, but not limited to: a Final Habitat Mitigation and Monitoring Plan (HMMP), a Final Long Term Management Plan (LTMP), and the establishment of an endowment to guarantee the successful implementation, maintenance, and monitoring of the proposed mitigation project.

8. **Other Agency Permits.** PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the applicant shall submit to the Executive Director all other required state or federal discretionary permits. The applicant shall inform the Executive Director of any changes to the project required by said permits. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
9. **Disposal of Excavated Material.** The applicant shall dispose of all excess excavated material and construction debris from the site either (1) at a licensed/designated disposal site located outside of the Coastal Zone, or (2) if the disposal site is located in the Coastal Zone, at a disposal site with a valid coastal development permit for the disposal of fill material and/or construction debris. If the disposal site in the Coastal Zone does not have a coastal development permit, such a permit will be required prior to the disposal of material.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION & HISTORY

The subject site is located along the shoreline of the northeastern portion of Agua Hedionda Lagoon in the City of Carlsbad ([Exhibit 1](#)). The Hallmark West Mitigation Site is approximately 10.7 acres in area and is bounded to the north by Park Drive, to the west by a residential development, and to the south and east by an Ecological Preserve owned by the California Department of Fish and Wildlife (CDFW) ([Exhibit 2](#)). The subject site consists of open space with coastal sage scrub on the upland portion and disturbed coastal sage scrub, some remnant salt marsh and salt marsh transitional habitat, and bare ground on the salt marsh fill portion. There is also a disturbed drainage, supporting disturbed freshwater marsh and riparian vegetation that flows from a storm drain from Park Drive to the marsh habitat ([Exhibit 5](#)).

The Hallmark West Mitigation Site originally supported salt marsh up to the base of the slope where the lower limits of coastal sage scrub habitat occurred in the 1960s. However, in the 1960s, development to the west began and in the late 1960s, fill was placed within the salt marsh wetland onsite in preparation for future development. Based on the certified Agua Hedionda Land Use Plan, residential development is permitted by the site's Residential Medium-High (RMH) designation. In addition, as part of the Kelly Ranch Project approved by the Commission (ref to CDPs #6-84-617 and #6-84-617-A), while open spaces adjacent to the subject site were reserved and approved for future restoration, the subject site, referred to as Planning Area A, allowed residential development. However, Caltrans' 2009 purchase and subsequent use of the property for the subject restoration project would extinguish the development potential of the site.

The proposed project's removal of fill and re-establishment of salt marsh would restore tidal hydrology and provide important habitat functions and services that were lost when the land was filled, as well as those of the adjacent salt marsh habitat on CDFW land.

The applicant proposes to restore native habitats on-site as a part of the Hallmark West HMMP in order to mitigate for unavoidable impacts that are anticipated to occur from several future transportation projects that Caltrans and SANDAG are planning within San Diego's NCC, an area within the Coastal Zone extending from La Jolla Village Drive in San Diego, 27 miles north to Harbor Drive in Oceanside. The Hallmark West Mitigation Site is identified within the NCC PWP/TREP as a mitigation site necessary to mitigate for future impacts associated with planned infrastructure projects along the I-5 highway and LOSSAN rail corridors that were approved by the Commission in August 2014 as part of the NCC PWP/TREP. REMP projects include the establishment, restoration, enhancement and preservation of coastal wetland and upland habitats. Lagoon inlet management endowments are also included as part of the REMP. Participating agencies in the REMP include the Coastal Commission, Coastal Conservancy, California wildlife Conservation Board, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, California Department of Fish and Wildlife, National Marine Fisheries Service and San Diego Regional Water Quality Control Board.

The proposed project includes restoration and enhancement work on both the Hallmark West property owned by Caltrans and on portions of the CDFW property immediately to the south. The proposed work on the CDFW site is necessary to connect the re-established salt marsh areas of the Caltrans site to the open water of the lagoon. The additional sub-tidal channels and low marsh/mudflat would increase tidal flushing and provide important foraging habitat for a number of sensitive bird species associated with the salt marsh. The additional mid and high marsh would form contiguous salt marsh with the adjacent salt marsh habitats. Re-established and rehabilitated tidal salt marsh (4.01 acres and 0.79 acres, respectively) would have similar species composition and structure as observed in representative salt marsh habitat found within Agua Hedionda Lagoon near this mitigation site. In addition, approximately 0.33 acres of disturbed freshwater marsh/riparian habitat would be enhanced and 5.7 acres of coastal sage scrub would be restored and/or enhanced adjacent to the salt marsh habitat.

The objective of the proposed project and associated HMMP is to remove nonnative exotic species, restore areas impacted by past human activities, and restore areas used for construction access during salt marsh re-establishment. While the existing fence has reduced human impacts and allowed for some plants to revegetate onsite, further removal of invasive exotic species will provide better habitat for coastal California gnatcatcher and other native wildlife species onsite, and provide a higher quality buffer to the adjacent wetlands.

The Hallmark West Mitigation Plan includes a five to ten year monitoring and maintenance program, with scheduled annual reporting requirements to all relevant resource agencies. Monitoring of the upland and riparian/freshwater marsh portions of the site would continue for five years and monitoring of the salt marsh habitat would continue for ten years. The proposed mitigation plan includes detailed monitoring protocols and performance standards that must be achieved before final sign-offs for plan success can be issued. After performance standards have been achieved and final sign-off provided, the property would be given to the CDFW to manage

and preserve the site as wildlife habitat in perpetuity as a part of its Ecological Reserve, and an endowment for land management would be finalized. Since the Hallmark West Mitigation Site will become part of the Ecological Reserve of Agua Hedionda protected under the same requirements as the remainder of the lagoon, no conservation easement will be recorded; however, a deed restriction or some other protection instrument determined appropriate by the Army Corps of Engineers on the parcel will be recorded.

The subject site is located in the City of Carlsbad; however, it is not part of the City's certified Local Coastal Program (LCP) because the northern portion of the site is located in an area of deferred certification and the southern portion of the site is located in an area of original permit jurisdiction. As such, the standard of review is the Chapter 3 policies of the Coastal Act with the certified Agua Hedionda Land Use Plan used as guidance.

B. BIOLOGICAL RESOURCES

Section 30230 of the Coastal Act states:

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

Section 30233 of the Coastal Act states, in part:

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

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

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

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

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

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

(6) Restoration purposes.

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

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

Section 30240 of the Coastal Act states:

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

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

The proposed project is anticipated to take four to six months to complete and would re-establish (4.01 acres) and rehabilitate (0.79 acres) salt marsh habitat on approximately 4.8 acres by the removal of existing fill ([Exhibit 7](#)). The new tidal channels would support additional low marsh and subtidal habitats that do not currently exist in this area. This would allow for regular tidal exchange throughout the re-established and re-habilitated habitat and the adjacent salt marsh habitats. The re-established/re-habilitated salt marsh would provide increased functions and services for sensitive species such as the light-footed clapper rail, Belding's savannah sparrow, and California gnatcatcher. Some of the existing wetland habitat on-site (0.79 acres Army Corps of Engineers, 1.62 acres State wetland) would be temporarily impacted during construction to

facilitate its rehabilitation and would be restored in less than one year, resulting in a higher functioning tidal salt marsh than the existing habitat.

In addition, upland mitigation would restore and enhance existing disturbed coyote brush scrub (0.65 acres), disturbed coastal sage scrub (2.82 acres), salt brush scrub (0.04 acres), and sparse coastal sage scrub (1.06 acres), and preserve extant occupied coastal sage scrub (0.87 acres). Existing bare ground (0.81 acres) and disturbed habitat (0.31 acres) would be re-established as coastal sage scrub. Finally, 0.33 acres of freshwater marsh/riparian habitat would be enhanced by removing non-native plants and planting native species. Enhancement of this freshwater marsh habitat would increase the functions and services of habitat buffering the salt marsh and would also reduce the influx of exotic species in the salt marsh where the drainage discharges.

Sensitive species, including the federally-listed coastal California gnatcatcher and the state-listed Belding's savannah sparrow, have been observed onsite ([Exhibit 6](#)) or adjacent to the site (light-footed clapper rail). Several south coast saltbushes (a California Native Plant Society species listed as a rare, threatened, or endangered plant species in California) have also been identified on site. Thus, portions of the subject site are considered an environmentally sensitive habitat area (ESHA) and only uses dependent on those resources are allowed. As such, the proposed mitigation project would involve restoration – a resource dependent use – and has been designed to avoid and/or minimize the significant disruption of habitat values, consistent with Section 30240. [Special Condition #3](#) restricts the timing of vegetation removal and grading activities so that they would only occur outside of the nesting season for sensitive bird species such as the California gnatcatcher, light-footed clapper rail, and Belding's savannah sparrow to avoid impacts to these species.

Although the proposed project does not involve any dredging, it does include the excavation and removal of 3,900 cu. yds. of previously placed fill ([Exhibit 7](#)), which is allowed consistent with Section 30233, as the subject project's purpose is restoration. Furthermore, the proposed restoration of both upland and wetland habitats on the Hallmark West Mitigation Site would result in a higher functioning tidal salt marsh than the existing habitat. In addition, this restoration project has been designed to minimize adverse environmental effects.

The proposed mitigation plan includes a detailed planting plan for the included habitat areas that describes the selected species compositions, distributions and densities. The proposed mitigation plan also includes maintenance and monitoring requirements for the site as well as specific performance standards that will need to be achieved prior to final sign-off of plan success. The proposed plan has been reviewed by the Commission's staff ecologist and has been found generally acceptable with the additional requirements described in [Special Condition #1](#). The primary changes to the HMMP include: removal of Menzies' goldenbush (*Isocoma Menziesii*) from the planting palette due to its nature as an aggressive colonizer; requirement that final performance monitoring for success shall take place no sooner than three years following the end of all remediation and other maintenance activities (other than weeding); wetland mitigation credit shall only be given for tidal habitat; success criteria for coastal sage scrub shall include a diversity criterion; and all coastal sage scrub habitats shall be restored and enhanced with the intent of creating coastal sage scrub appropriate for coastal California gnatcatchers, which may

require the removal of coyote brush in some areas. [Special Condition #1](#) requires adherence to the Final HMMP as altered by these additional requirements identified by the Commission.

As mentioned previously, the purpose of the Hallmark West Mitigation Site is to serve as mitigation for future impacts that are anticipated to result from planned transportation infrastructure improvement projects located along the I-5 highway and LOSSAN rail corridors within the North San Diego County Coastal Zone. These transportation projects are included in the approved NCC PWP/TREP prepared by Caltrans and SANDAG, and certified by the Commission in August 2014. No approvals for anticipated impacts associated with these future projects are considered as a part of the proposed mitigation plan, and these anticipated impacts will require future project-specific review by the Commission through the NOID, CDP, and/or federal consistency review process. In order to ensure that sufficient mitigation acreages are available to mitigate for the expected impacts associated with the NCC PWP/TREP projects, [Special Condition #2](#) requires that a final mitigation acreage allocation be submitted for review by the Executive Director each time that final permits have been issued in association with each individual project that would utilize mitigation acreages provided under the plan.

Therefore, the Commission finds that only as conditioned and described above, can the proposed project be found consistent with Sections 30230, 30233 and 30240 of the Coastal Act, which requires the protection, and where feasible, enhancement of biological resources. As conditioned, the project will not have an adverse impact on any sensitive habitats. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

C. WATER QUALITY

Section 30231 of the Coastal Act states:

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

Agua Hedionda Lagoon is located within the Carlsbad Watershed of the San Luis Rey/Escondido Hydrologic Unit. More specifically, the lagoon is within the Agua Hedionda Creek watershed. Agua Hedionda Creek discharges to the lagoon east of the subject site. The small drainage channel onsite carries flows in an unlined channel from a storm drain off Park Drive and discharges into the lagoon to the east of the site. The drainage channel is fed by stormwater flows and urban runoff; however, the channel is deep enough that is near the level of groundwater onsite.

The Hallmark West Mitigation Site originally supported salt marsh up to the base of the slope where the lower limits of coastal sage scrub habitat occurred in the 1960s. However, in the 1960s, development to the west began and in the late 1960s, fill was placed within the salt marsh wetland onsite in preparation for future development. The salt marsh that extends on CDFW land between the fill is tidal with small channels to the west and east of the mitigation site; however, there are no tidal channels in the medium high to high marsh between the fingers of fill. Most of these areas are only inundated at very high tides and do not drain well. Some areas are not vegetated, likely due to high salt concentrations.

A temporary irrigation line will be installed on grade to attach hoses for watering to facilitate vegetation establishment in transitional areas between the tidal limits of the salt marsh mitigation and upland areas. Container plants planted in the riparian area will also be watered with a hose. Upland areas lacking existing native cover and areas disturbed during construction will be temporarily irrigated to increase the certainty of recovery and mitigation performance and success. No irrigation is proposed in upland areas with existing disturbed or undisturbed coastal sage scrub vegetation; only areas receiving container plants will be irrigated. Areas with tidal influence will not be irrigated. Temporary irrigation will be used to establish the plants and will be used for no more than two years. All irrigation will be removed prior to final mitigation sign off.

During the construction phase, due to grading, the main potential pollutant of concern would be sediment. Other potential pollutant sources could include fuel and lubricants from construction equipment. Standard erosion control practices are proposed to minimize sedimentation prior to, during, and following construction activities. [Special Condition #4](#) requires the applicant to include erosion control/water quality management measures to avoid potential adverse impacts to the adjacent lagoon, including prohibiting any construction materials, debris, or excavated fill from entering the storm drain or lagoon. In addition, [Special Condition #9](#) requires the applicant to dispose of excess excavated material and construction debris at either a designated disposal site located outside the Coastal Zone or, if the disposal site is located in the Coastal Zone, at a disposal site with a valid coastal development permit.

Therefore, the Commission finds that only as conditioned as described above, can the proposed project be found consistent with Section 30231 of the Coastal Act which requires that the quality of coastal waters appropriate to maintain optimum populations of marine organisms be maintained and, where feasible, restored through controlling runoff. As conditioned, the project will not result in erosion or adverse impacts to coastal water quality.

D. PUBLIC ACCESS & RECREATION

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to

protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212(a) of the Coastal Act states:

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

Section 30214 of the Coastal Act states, in part:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

In addition, the certified Agua Hedionda Land Use Plan contains public access policies. Policy 7.6 states, in part:

Access to and along the north shore of the lagoon shall be made continuous, to the maximum extent feasible, and shall be provided as a condition of development for all shorefront properties. All accessways shall be designed in such a manner as to allow for reasonable use by any member of the general public, and shall be designed to accommodate bicycle as well as pedestrian use...

The subject site is presently fenced along the border with Park Drive, and the applicant proposes to maintain this existing chain-link fence. According to the applicant, when Caltrans purchased the site in 2009 there was an existing fence onsite that Caltrans later repaired and replaced, as well as extended onto the adjacent CDFW Ecological Reserve. The applicant has included this fence as a part of the proposed restoration project for an after-the-fact approval. The purpose of the fence is to prevent additional disturbance, degradation, and/or loss of ESHA that has resulted from illegal dumping, bonfires, off-road vehicle activity, and the construction of bicycle jumps on the site. In January 2012, Caltrans applied for a coastal development permit (ref. CDP Application #6-12-007) solely for the repair, replacement, and extension work done on the fence; however, at the direction of Commission staff, the applicant has included the fence instead as part of the larger proposed restoration project.

Caltrans intends to maintain the existing chain link fence to restrict public access through the site in order to protect the sensitive biological resources described previously. However, there is an existing unpaved trail on the southern portion of Park Drive and adjacent to the existing fence, that allows east-west pedestrian and bicycle access along the northern perimeter of the site ([Exhibit 9](#)). According to the City of Carlsbad's Park Planning Manager, the City does not have any plans for future trails through the site. Future trails planned by the City along the northern shore of Agua Hedionda Lagoon will connect at Bayshore Drive to the existing roadside trail within the right-of-way of Park Drive to ensure contiguous public access around the lagoon, consistent with Policy 7.6 of the certified Agua Hedionda Land Use Plan. A Public Access and Signage Plan is required by [Special Condition #5](#) that requires the installation of interpretive signage along the perimeter of the site to inform the public of the habitat restoration project.

There are several alternative ways for the public to access the lagoon, including three public accessways located directly west of the subject site ([Exhibit 8](#)). An OTD was recorded in 1975 for a public stairway to the lagoon at Cove Drive as part of the development of 22 condominium units and boat slips (ref. CDP #F-1012). An OTD was recorded in 1989 for a lagoon access pathway from Park Drive as part of the development of 42 condominium units (ref. CDP #6-88-477). A deed restriction was recorded in 2001 for lagoon access pathways from Bayshore Drive and Marina Drive as part of the development of 42 condominium units (CDP #6-00-72). These accessways are in close proximity to the subject site and provide adequate public access to Agua Hedionda Lagoon. Therefore, the Commission finds that the project, as conditioned, conforms to Sections 30210, 30212, and 30214 of the Coastal Act. Furthermore, the lagoon access pathway located directly west of the subject site offers significant visual access for users looking east across the Hallmark West site, and should be considered as a location for future interpretive signage in association with the Signage Plan required by Special Condition #5.

Therefore, the Commission finds that only as conditioned and described above, can the proposed development be found consistent with Sections 30210 through 30214 of the Coastal Act. The proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities.

E. VISUAL RESOURCES

Section 30251 of the Coastal Act states:

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

Partial views of Agua Hedionda Lagoon are available from Park Drive across the subject site ([Exhibit 9](#)). In addition, Park Drive is designated as a scenic roadway in the City's certified Agua Hedionda Land Use Plan and General Plan. The proposed project would not alter or distract from the existing views of coastal resources such as the lagoon. In fact, the preservation of the site as open space and transference of management to CDFW as part of their larger adjacent Ecological Preserve will maintain and enhance the existing open space and natural character of the scenic roadway in this area in perpetuity.

However, [Special Condition #5](#) requires the applicant to replace the existing chain link fence with a more visually permeable alternative that still restricts access (e.g., post with tightly spaced cable fence) if determined to be an acceptable deterrent to trespass across the site by the future long term manager of the site. The applicant shall consult with both the long term manager and Commission staff to determine appropriate fencing design alternatives. Any replacement fencing shall be installed by the applicant prior to the transfer of ownership to the long term manager (CDFW).

In addition, the Public Access and Signage Plan required by [Special Condition #5](#) requires the applicant to determine whether a viewing area or scenic overlook located along Park Drive could be included as part of any fencing replacement. As part of this evaluation, the applicant would need to identify the trade-offs of potential impacts to biological resources associated with a viewing area against the benefits that increased visual access to the site would provide. This potential viewing area would need to be sited in such a manner to maximize views of the lagoon across the site while avoiding and/or minimizing adverse impacts to sensitive coastal habitats restored onsite. Construction of a potential viewing area shall be completed by the applicant in coordination with the fence replacement, and shall be installed prior to the transfer of ownership to the long term manager.

Therefore, the Commission finds that the project, as conditioned, conforms to Section 30251 of the Coastal Act.

F. CULTURAL RESOURCES

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

A cultural resource location has been identified in the center of the site where the elevations rise above the salt marsh and the high tide line ([Exhibit 5](#)) and has been recognized as an environmentally sensitive area (ESA). As part of Caltrans' compliance with Section 106 of the National Historic Preservation Act of 1966, the cultural resource ESA will be fenced with orange plastic snow fencing and archaeological monitors will be onsite whenever ground-disturbing activities occur within 49 feet of the ESA. To avoid any impacts to cultural resources, no soil will be disturbed in this area and nonnative vegetation will be sprayed with herbicides. No container planting will occur in this area – only seeding. [Special Condition #7](#) requires the applicant to comply with all recommendations and mitigation measures contained in the approved action plan prepared for the project in compliance with Section 106. Therefore, the Commission finds that the project, as conditioned, conforms to Section 30244 of the Coastal Act.

G. LOCAL COASTAL PLANNING

The subject site is located in the City of Carlsbad; however, it is not part of the City's certified Local Coastal Program because the northern portion of the site is located in an area of deferred certification and the southern portion of the site is located in an area of original permit jurisdiction. Therefore, the Coastal Commission retains permit authority in this area and Chapter 3 of the Coastal Act remains the legal standard of review with the certified Agua Hedionda Land Use Plan used as guidance. As conditioned, the proposed development is consistent with all applicable Chapter 3 policies of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the City of Carlsbad to obtain a fully certified Local Coastal Program for the Agua Hedionda plan area.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

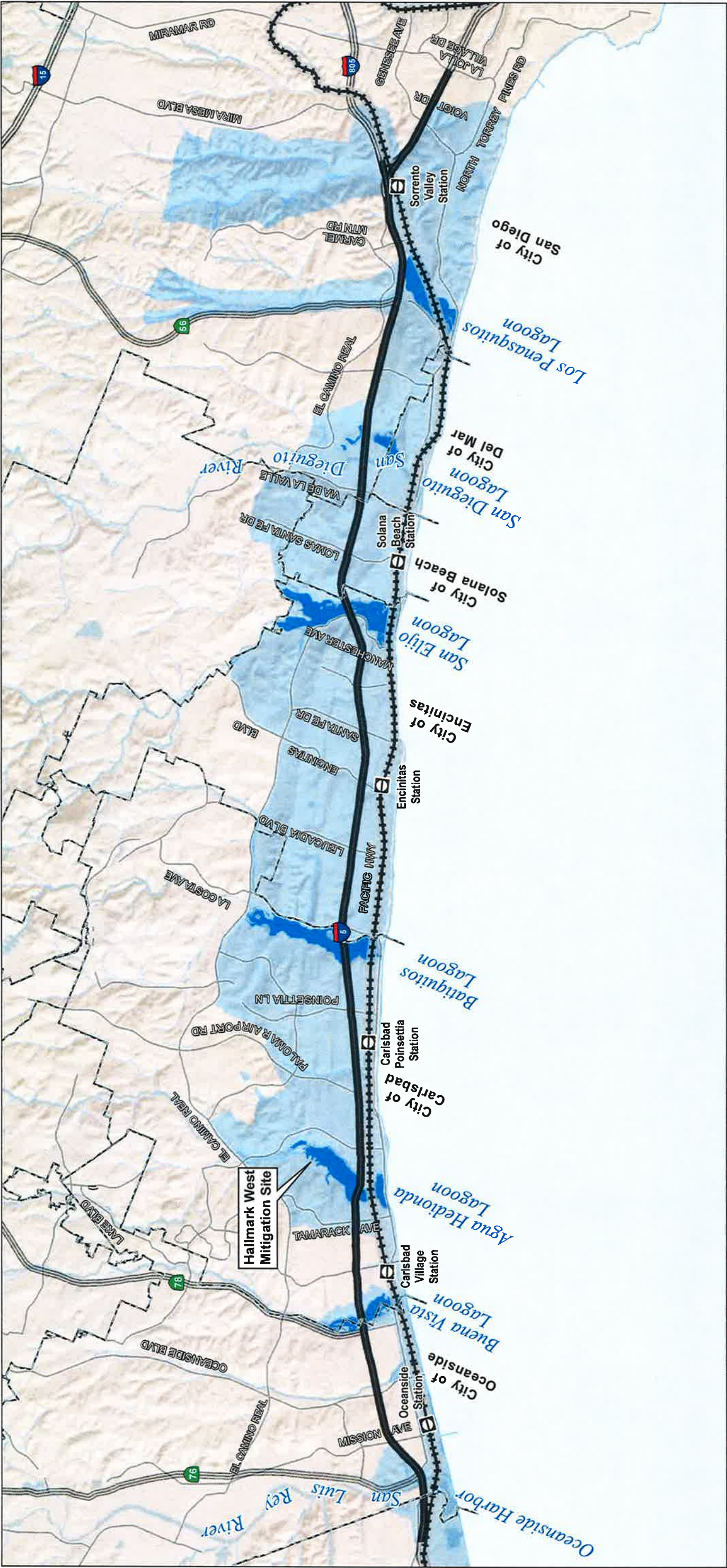
Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A)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

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

proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

Draft Final Habitat Mitigation and Monitoring Plan for the Hallmark West Mitigation Site, prepared by Sue Scatolini, dated October 2014; Coastal Development Permit #6-88-477; Coastal Development Permit #6-00-72; Coastal Development Permit Application #6-12-007; certified Agua Hedionda Land Use Plan, prepared by the City of Carlsbad; North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program



DRAFT

- Coastal Zone
- Lagoon
- City Boundary
- Interstate
- State Route
- Major Arterial
- I-5 NCC Project Area
- LOSSAN Project Area
- LOSSAN Station



EXHIBIT NO. 1

APPLICATION NO.
6-14-1589

Vicinity Map

California Coastal Commission

Figure 1
North Coast Corridor Covered in the Resource Enhancement Mitigation Program (REMP)



Figure 2. Hallmark West Mitigation Site Location



Figure 3. Hallmark West Mitigation Site

EXHIBIT NO. 3

APPLICATION NO.

6-14-1589

Wetland Mitigation


California Coastal Commission



Figure 4. Wetland Mitigation Areas at the Hallmark West Mitigation Site with State and Federal Jurisdictional Habitat

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|---|
| EXHIBIT NO. 4 |
| APPLICATION NO. |
| 6-14-1589 |
| Salt Marsh Mitigation |
|  California Coastal Commission |

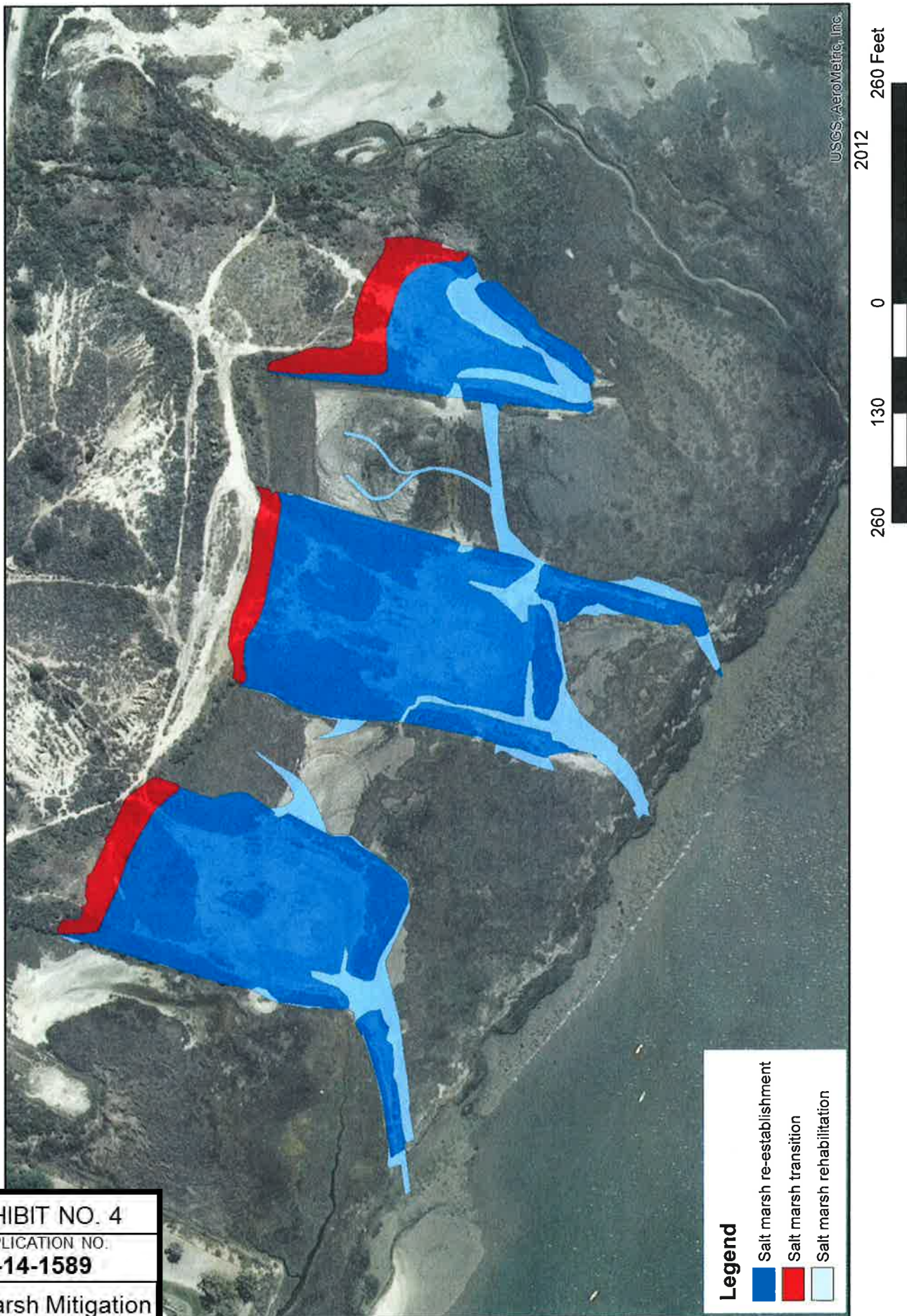


Figure 5. ACOE Compensatory Salt Marsh Mitigation at the Hallmark West Mitigation Site

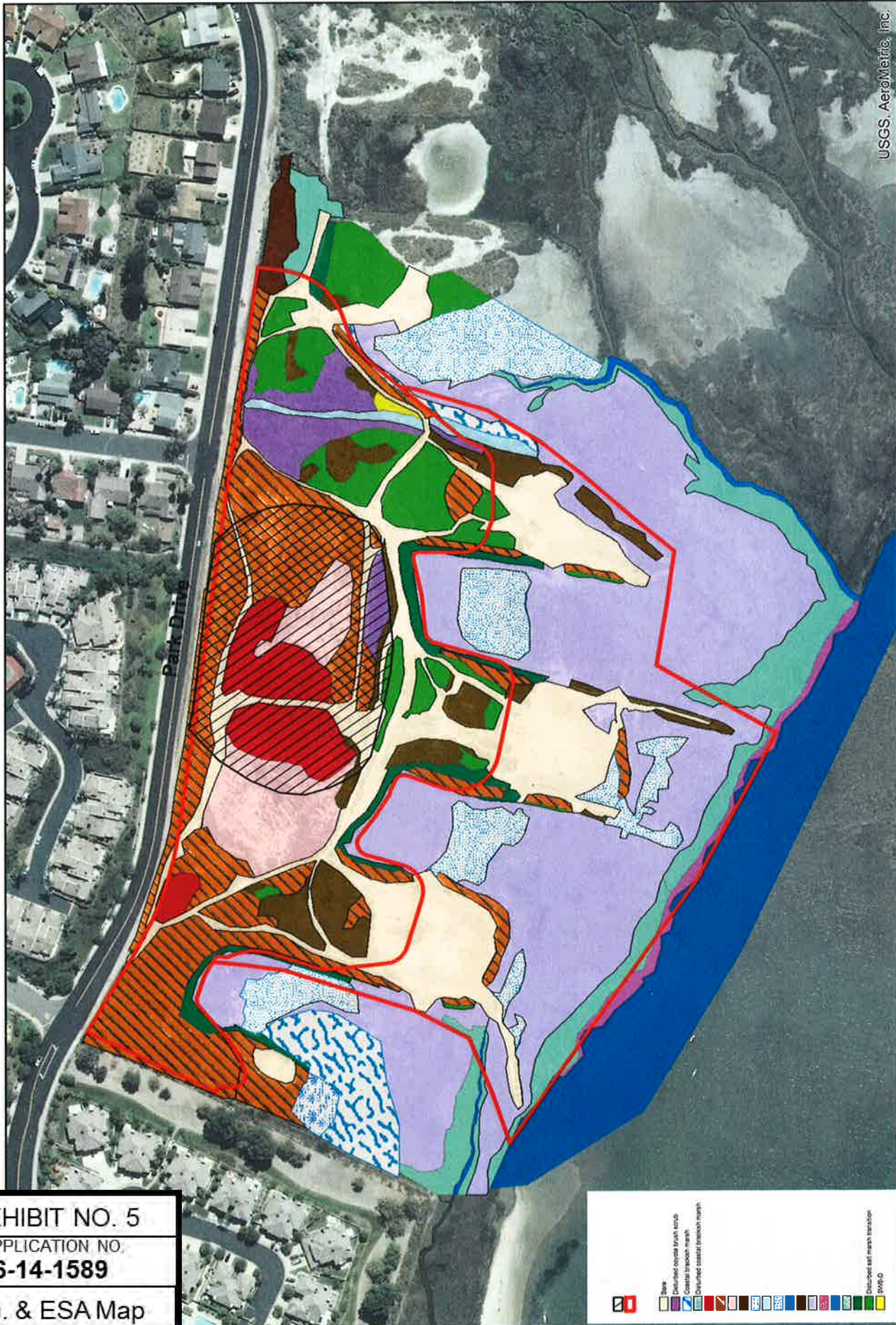


EXHIBIT NO. 5

APPLICATION NO.

6-14-1589

Veg. & ESA Map



California Coastal Commission



Figure 8. Sensitive Species Location at the Hallmark West Mitigation Site

EXHIBIT NO. 6

APPLICATION NO.

6-14-1589

Sensitive Species Map



California Coastal Commission

LEGEND

- PROPOSED CONTOURS



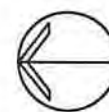
- EXISTING CONTOURS



FIGURE 10

EA 2E0029

HALLMARK MITIGATION SITE



NO SCALE

PROPOSED GRADING PLAN

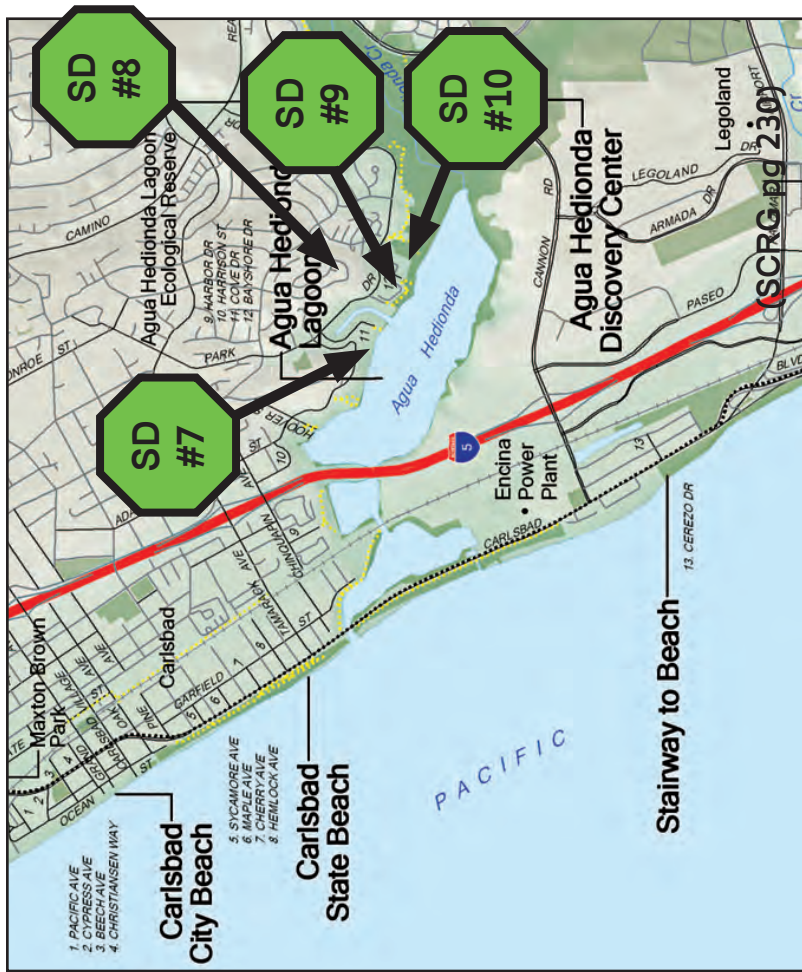
EXHIBIT NO. 7

APPLICATION NO.
6-14-1589

Grading Plan



California Coastal Commission



SD # 7 - Stairway to Lagoon, Cove Drive, City of Carlsbad. OTD recorded 1975. Permit # F-1012 for 22 condominium units and boat slips.

SD # 8 - Viewpoint and Trails, Hillside Drive, City of Carlsbad. DR recorded 1986. Permit # 6-85-647 for 140-unit subdivision.

SD # 9 - Lagoon Access Pathways, Bayshore and Marina Drives, City of Carlsbad. DR recorded 2001. Permit # 6-00-72 for 42 condominium units.

SD # 10 - Lagoon Access Pathway, Park Drive, City of Carlsbad. OTD recorded 1989. Permit # 6-88-477 for 26 SFDs.

Vertical Accessways Acquired by
California Coastal Commission Actions
1973 - 2011

City of Carlsbad
San Diego County

Pg 14



EXHIBIT NO. 8
APPLICATION NO.
6-14-1589
Alternative Access

October 20, 2014 Site Visit Photos



Existing fence & signage



Existing trail along south side of Park Drive



View of Agua Hedionda Lagoon from Park Drive looking south across site

EXHIBIT NO. 9

APPLICATION NO.

6-14-1589

Site Visit Photos



California Coastal Commission