

CALIFORNIA COASTAL COMMISSION

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Filed: 5/28/14
 180th Day: 11/24/14
 270th Day: 2/22/15
 Staff: J. Blaugrund-V
 Staff Report: 10/30/14
 Hearing Date: 11/13/14

STAFF REPORT: REGULAR CALENDAR

Application No.: 4-12-007

Applicant: City of Ventura Department of Public Works

Location: Sanjon Lagoon at the southernmost portion of the Sanjon drainage channel, south of Harbor Boulevard, San Buenaventura State Beach, Ventura County.

Project description: Implementation of a programmatic Beach Elevation Management Plan, for a period of five years, in order to prevent the flooding of development adjacent to the Sanjon drainage channel through the periodic grading of the sand located between the Sanjon lagoon and the Pacific Ocean.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed development with **eight (8) special conditions** regarding: (1) Beach Elevation Management Program responsibilities, (2) revised plans, (3) public access program, (4) construction timing and sensitive species surveys, (5) operations and maintenance responsibilities, (6) conformance with the requirements of other resource agencies, (7) term of permit approval, and (8) assumption of risk, waiver of liability and indemnity.

The City of Ventura Department of Public Works is proposing to implement a programmatic Beach Elevation Management Plan (BEMP) in order to prevent the flooding of adjacent upland development, including Sanjon Road, Harbor Boulevard, a public parking lot, and a multiuse public access pathway. The Sanjon drainage channel extends approximately 5,000 feet, beginning north of Main Street in the City of Ventura, and terminating at Sanjon Lagoon at San Buenaventura State Beach, as depicted on Exhibit Two.

Specifically, the BEMP program would involve lowering the sand elevation of the beach to approximately 8 feet above sea level within a designated area between Sanjon lagoon and the Pacific Ocean to allow Sanjon 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 sensitive species, Special Condition Four (4) has been required to ensure that an environmental resource specialist shall be present during all project activities.

Although the Commission has previously certified a Local Coastal Program (LCP) for the City of Ventura, 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 the City of Ventura and the Executive Director agreed to consolidate the permit action. Thus, the standard of review for this project is the Chapter Three policies of the Coastal Act, with the applicable policies of the City of Ventura 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	4
II. STANDARD CONDITIONS.....	4
III. SPECIAL CONDITIONS.....	5
1. Beach Elevation Management Program Responsibilities.	5
2. Revised Plans.....	5
3. Public Access Program.	6
4. Construction Timing and Sensitive Species Surveys.....	6
5. Operations and Maintenance Responsibilities.	8
6. Conformance with the Requirements of the Resource Agencies.....	8
7. Term of Permit Approval.....	9
8. Assumption of Risk, Waiver of Liability and Indemnity.	9
IV. FINDINGS AND DECLARATIONS	9
A. PROJECT DESCRIPTION AND BACKGROUND	9
B. ALTERATION OF COASTAL WATERS AND SENSITIVE HABITATS	11
C. WATER QUALITY	14
D. PUBLIC ACCESS	16
E. HAZARDS AND GEOLOGIC STABILITY.....	17
F. CALIFORNIA ENVIRONMENTAL QUALITY ACT	18

APPENDICES

Appendix 1 - Substantive File Documents

EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Aerial Photograph

Exhibit 3 – Representative Site Plan

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 4-12-007 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 3.
 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 11 ft. above sea level (NGVD) within the 100 ft. wide corridor between the lagoon and the ocean, as generally shown on Exhibit 3.
 4. The elevation of the sandy beach within the 100 ft. wide sand elevation management corridor may be lowered to no less than 8 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 3.
- 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 cause.

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 (i.e. site plan, elevations, cross-sections, etc.). The final revised project plans shall depict the access route and BEMP sand management area in the location identified on Exhibit 3.

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 the BEMP activity areas, shall be maintained during all project operations. 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 the 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 Beach Elevation Management Program (BEMP) 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 BEMP 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 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, silvery legless lizard, raptors, least tern, black-crowned night herons, great blue herons, snowy egrets, tidewater goby, or other sensitive species) no more than two weeks before any project 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 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 project 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 project 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 project 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. Operations and Maintenance Responsibilities.

BY ACCEPTANCE OF THIS PERMIT, THE APPLICANT AGREES to comply with the following construction-related requirements:

- A. The applicant shall not store or place any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be stored or placed in the intertidal zone at any time.
- B. Construction equipment shall not be cleaned on the beach or in the adjacent beach parking areas.
- C. Construction debris and sediment shall be properly contained and secured on site with best management practices to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking.
- D. 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. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours. Debris shall be disposed at a debris disposal site outside of the coastal zone or at a location within the coastal zone authorized to receive such material.
- E. During construction activities authorized pursuant to this permit, the applicant shall be responsible for removing all unsuitable material or debris within the area of placement should the material be found to be unsuitable for any reason, at any time, when the presence of such unsuitable material/debris can reasonably be attributed to the placement material. Debris shall be disposed at a debris disposal site outside of the coastal zone or at a location within the coastal zone authorized to receive such material.

6. Conformance with the Requirements of the Resource Agencies.

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). The applicants shall comply with all permit requirements, and mitigation measures of the California Department of Fish and Wildlife, State Water Quality Control Board, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project 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.

7. Term of Permit Approval.

This coastal development permit authorizes implementation of the approved Beach Elevation and Management Program (BEMP) activities on a temporary basis only for a period of five (5) years from the date that Coastal Development Permit 4-12-007 is approved by the Commission, after which time all activities shall cease unless a new coastal development permit authorizing additional future Beach Elevation Management Program activities is approved and issued by the California Coastal Commission.

8. 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 proposed project 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 development located adjacent to Sanjon drainage channel and lagoon. The program would involve lowering the level of the beach to approximately 8 feet above sea level within a designated area between Sanjon Lagoon and the Pacific Ocean, as show on Exhibit 3, to allow Sanjon 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. The applicant originally proposed to carry out significant grading to create a large channel to direct flow from the lagoon to the ocean. Staff

worked with the applicant to modify the project in order to minimize the potential for adverse impacts to coastal resources.

Throughout much of the year Sanjon Lagoon remains in a semi-closed 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 Sanjon drainage channel cause the lagoon water level to remain at approximately 4-6 feet in elevation above mean sea level (NGVD). However, during a storm event the water within Sanjon Lagoon can rise rapidly, as the Sanjon 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 11 feet NGVD or greater, the water within the lagoon will begin to backflow upchannel and flood adjacent upland development, including Sanjon Road, Harbor Boulevard, a public parking lot, and a multiuse public access pathway.

Access to the designated BEMP activity area would occur from Harbor Boulevard along designated routes, as depicted in Exhibit 3. 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. 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 8 feet 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.

The subject CDP was submitted to the Commission on February 2, 2012. The permit application was deemed incomplete and multiple letters outlining the additional information needed were sent to the applicant. The applicant provided all of the information items requested by staff and the permit application was deemed complete for filing on May 28, 2014.

The proposed project includes components that are located within the City of Ventura's Local Coastal Program (LCP) jurisdiction as well as components within the retained jurisdiction of the Coastal Commission. The City of Ventura would typically have jurisdiction over the portions of the project within its LCP jurisdiction. 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, the City of Ventura, acting as both applicant and local government agency, has submitted a letter to Commission staff dated September 16, 2013 requesting that the Commission assume jurisdiction over all activities associated with the proposed project. The

Executive Director agreed to process a consolidated CDP. 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 the City of Ventura Local Coastal Program (LCP) as guidance.

B. ALTERATION OF COASTAL WATERS AND SENSITIVE HABITATS

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states 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 30236 of the Coastal Act 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 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.*

Resources Goal Number 3 of the City of Ventura LUP states:

Assure that any development of the coastal zone preserves and maintains the natural assets of the shoreline.

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. 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. Resources Goal No. 3 of the Certified City of Ventura Local Coastal Program mandates that development preserve and maintain the natural assets of the shoreline, such as the quality of offshore waters and other marine resources.

The Sanjon drainage channel extends approximately 5,000 feet within the City of Ventura, and ultimately terminates at Sanjon Lagoon, at San Buenaventura State Beach, as depicted on Exhibit 2. The applicant has submitted biological surveys which indicate that sensitive habitats, which meet the definition of environmentally sensitive habitat areas pursuant to Coastal Act Section 30107.5, can be found within the project area. Although not observed during past biological surveys, the project area does have the potential to support several sensitive species including the western snowy plover (*Charadrius alexandrinus nivosus*), a federally threatened species, and the tidewater goby (*Eucyclobius newberryi*), a federally listed endangered species and a state species of special concern.

As mentioned above, throughout much of the year Sanjon Lagoon remains in a closed 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 Sanjon Drainage Channel cause the Sanjon Lagoon water level to remain at approximately 4-6 ft. above mean sea level (NGVD). During a storm event, the water within Sanjon Lagoon can rise rapidly, as the Sanjon 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 11 ft. NGVD or greater, the water within the lagoon will begin to backflow, and flood adjacent properties. As an example, past flooding has closed portions of Harbor Boulevard, Sanjon Road, a public beach parking lot, and a multiuse public access pathway.

The proposed BEMP is a programmatic response to prevent the flooding of development adjacent to Sanjon Lagoon through the periodic lowering of the sand elevation located on an approximately 100 ft. segment of the beach between Sanjon Lagoon and the Pacific Ocean, as depicted on Exhibit 3. The program would involve lowering the level of the beach to approximately 8 ft. above sea level within a 100 ft. wide area between Sanjon Lagoon and the

Pacific Ocean to allow the 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.

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. Similar BEMP activities which lower the sand elevation at lagoons near the subject project site have been adequate to both abate flood hazards and prevent an unnecessary breaching event. 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 BEMP 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 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 out in such a way as to avoid impacts to sensitive species and habitats. Pursuant to Special Condition One (1), lowering the sand elevation between Sanjon 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 and snowy plover 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 11 ft. above sea level (NGVD) within the 100 ft. wide corridor between the lagoon and the ocean, as generally shown on Exhibit 3. The elevation of the sandy beach within the 100 ft. wide sand elevation management corridor may be lowered to no less than 8 ft. in elevation above sea level (NGVD).

Although there is no dune habitat or native vegetation located within the 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 BEMP activities shall occur only within a 100 ft. wide corridor between the lagoon and the ocean, as generally shown on Exhibit 3. Additionally, the BEMP access route has 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 consistent with Section 30240 of the Coastal Act.

As previously described, the applicant originally proposed to carry out significant grading to create a large channel to direct flow from the lagoon to the ocean. Staff worked with the applicant to modify the project in order to minimize the potential for adverse impacts to coastal

resources. The applicant agrees to implement the BEMP project but final plans have not been provided. In order to ensure that the access to the BEMP activity area, and the location of the BEMP activity area avoid the sensitive habitats and species at the project site, **Special Condition Two (2)** requires the applicant to submit revised plans which depict the BEMP access and activity area in the locations identified on Exhibit 3. Although access to the BEMP activity area and the location of the BEMP activity area is designed to avoid sensitive species and habitats, 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 implemented 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 3. 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 4-12-007 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 Sanjon 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 Seven (7)** 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 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, 30236 and 30240 of the Coastal Act, and City of Ventura Resource Goal Number 3.

C. WATER QUALITY

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 that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

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

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.

The Sanjon drainage channel extends approximately 5,000 feet, and ultimately terminates at Sanjon Lagoon at San Buenaventura State Beach, as depicted on Exhibit 2. The applicant has proposed the subject BEMP in order to alleviate the flooding of surrounding upland development, including Harbor Boulevard and Sanjon Road.

The proposed BEMP activities would be located immediately adjacent to coastal waters. Construction of any kind, adjacent to coastal waters, has the potential to adversely impact marine resources and water quality through the introduction of pollutants associated with construction activities and machinery. Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain, surf, or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged into waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species by interfering with their ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources and water quality, **Special Condition Five (5)** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

Additionally, **Special Condition Six (6)** is required to ensure that the applicant complies with all permit requirements and mitigation measures of the U.S. Army Corps of Engineers, Regional Water Quality Control Board, and California Department of Fish and Game 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.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Sections 30230 and 30231.

D. PUBLIC ACCESS

Coastal Act Section 30210 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 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.

Policy 15.10 of the City of Ventura LUP states:

The City shall continue to ensure maximum public access consistent with public safety and fragile coastal resources. To carry out its intent, the City shall implement the policies of this Comprehensive Plan.

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. City of Ventura LUP Policy 15.10 protects maximum public access consistent with public safety and fragile coastal resources.

The proposed project will be located adjacent to and within public recreational areas including San Buenaventura State Beach, which includes a public parking lot for beach users. This area supports a variety of recreational uses, including the Ventura Fishing Pier, volleyball courts, restaurants, 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 Three, could also result in temporary impacts to public recreational areas.

As mentioned above, implementation of the proposed BEMP would require the temporary use of some public access and recreational areas 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 shall be used.

For these reasons, the Commission finds that the proposed project is consistent with Coastal Act Sections 30211 and 30212.

E. HAZARDS AND GEOLOGIC STABILITY

Section 30253 of the Coastal Act 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.*

Policy 15.3 of the City of Ventura LUP states:

New development shall be sited and designed to minimize risks to life and property in areas of high geologic, flood, and fire hazards. All new development will be evaluated in conjunction with the City's Safety Element of this Comprehensive Plan, and for its impacts to and from geologic hazards (including seismic safety, landslides, expansive soils, subsidence, etc.), flood hazards, and fire hazards. Feasible mitigation measures shall be required where necessary.

Section 30253 of the Coastal Act and Policy 15.3 of the City of Ventura LUP mandate that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The project site 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. The purpose of the proposed project is to minimize the potential flooding hazards by lowering the elevation of the sand and thereby facilitating a breach of the lagoon. However, 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 Eight (8)** 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, and Policy 15.3 of the City of Ventura LUP.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

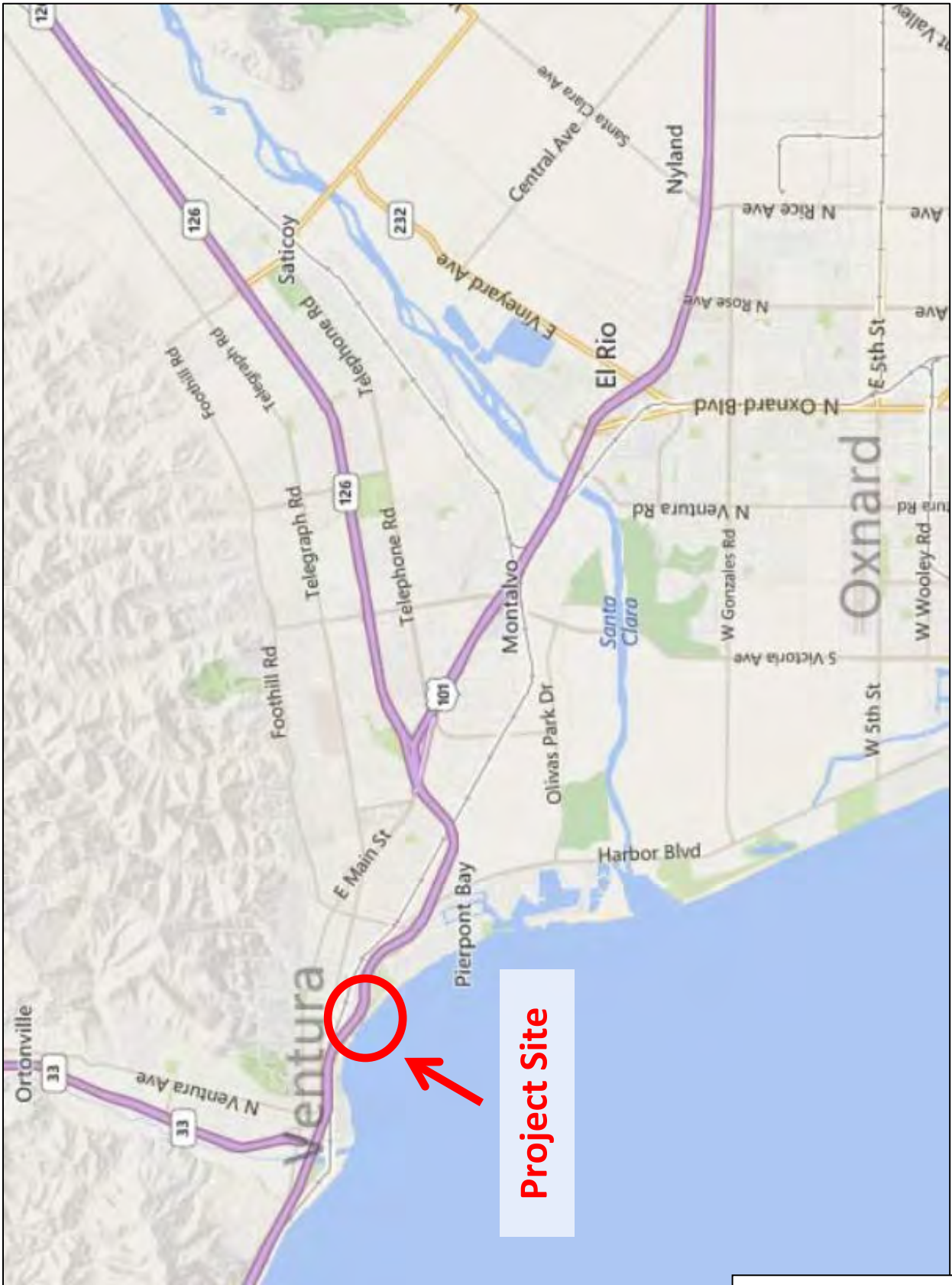
Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California 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:

Sanjon Biological Resources Report, dated October 23, 2013; Biological Surveys of Sanjon Estuary and Vicinity Summary of Field Notes, dated March 25, 2011 and June 19, 2012; Drainage Report for Sanjon Barranca, by Chris Dejarme, dated March 2012 and April 19, 2012; Water Quality Certification for Proposed Sanjon Maintenance Project, dated October 1, 2012; Sanjon Barranca Pre-Design Study/Final Report, dated February 2008.



Project Site

Exhibit 1
4-12-007
Vicinity Map



Sanjon Road

Sanjon Lagoon

Exhibit 2
4-12-007
Aerial Photograph



Sanjon Rd.

Highway 101

Harbor Blvd.

Approximate Location of
100' X 100' BEMP Activity
Area

Location of BEMP
Access Route

Exhibit 3
4-12-007
Representative Site Plan