

**CALIFORNIA COASTAL COMMISSION**

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# Th22b

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Staff Report: 8/21/14  
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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 6-14-0177

**Applicant:** Port of San Diego

**Agent:** Anna Buzaitis

**Location:** Palm Avenue (State Route 75), approximately between 15<sup>th</sup> St. and 300 feet east of 13<sup>th</sup> St., San Diego, San Diego County (APN 616-020-42-00)

**Project Description:** Removal of an existing 950-foot long chain-link fence, construction of a new 950-foot long, 4 to 6-foot tall waved chain-link fence and two ADA compliant 20 sq. ft. concrete passing areas, reconstruction of the dirt slope/embankment with erosion control, and replacement of two existing stormwater outlets in the adjacent sidewalk along the southern boundary of an existing salt marsh wetland (Pond 20).

**Staff Recommendation:** Approval with Conditions

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## SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval of the proposed developments with special conditions to minimize impacts to visual and water quality at the subject site.

The San Diego Unified Port District is proposing to replace an existing chain-link fence along the southern border of Pond 20, a former brine concentration pond now predominantly classified as saltpan/mudflats, with a more aesthetically pleasing chain-link fence with decorative features highlighting the natural resources of the area. The proposal also includes reconstruction of the eroding slope for approximately 70 linear feet east of the existing access road gate to restore the eroding slope to its pre-existing 3:1 gradation. To comply with ADA requirements, the Port is also proposing to construct two 20 sq. ft. concrete pads abutting the existing sidewalk where the fence would jut out to create two viewing areas. Finally, the Port is proposing to replace two existing Caltrans stormwater outlets that are separating from the back of the sidewalk adjacent to Pond 20.

The primary Coastal Act issues associated with this project include the proposed impacts to visual resources and the potential for water quality impacts to the adjacent sensitive wetland habitat area. As originally proposed, the fence replacement would have abandoned an approximately 200-linear-foot portion of the existing fence in place, which given the addition of a second fence, would have been unsightly and contributed to visual clutter in the scenic viewshed of Pond 20. In addition, while the proposed replacement stormwater outlets will improve the connectivity of the existing drainage system, the existing drainage flows directly into Pond 20, and there is the potential for urban debris and litter to adversely impact the water quality and thus the ecosystem functioning of the adjacent wetland habitat.

To address these potential adverse impacts, the Commission staff is recommending **Special Condition 1** that would require revised final plans to include the removal of the abandoned portion of existing fence within three months of completion of the subject developments, thus avoiding visual quality impacts. In addition, **Special Condition 2** would require the proposed installation of replacement drainage outlet to include trash catchments that shall be cleaned out periodically, thus reducing the potential for water quality impacts to the adjacent wetland habitat from floating debris.

As conditioned, the proposed developments will not have any adverse impacts on coastal resources. Commission staff recommends **approval** of coastal development permit application 6-14-1077 as conditioned.

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## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-14-0177 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 6-14-0177 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. **Revised Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and written approval by the Executive Director, final site and construction plans for the proposed fence. Said plans shall be in substantial conformance with the plans submitted with this application by the San Diego Unified Port District, dated August 1, 2014, except they shall be revised to reflect the following:

- a. The 200-foot long portion of the existing fence originally proposed to be abandoned in place shall be removed within three months of complete installation of the proposed new fence. Notes on the plans shall specifically require this portion of the fence to be removed by hand, and any vegetation that must be disturbed during removal of the fence shall be cut at ground level with non-mechanized equipment to ensure no ground disturbance of vegetation roots.

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

2. **Revised Final Drainage Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and written approval by the Executive Director, drainage plans for the proposed fence. Said plans shall be in substantial conformance with the plans submitted with this application by the San Diego Unified Port District, dated August 1, 2014, except they shall be revised to reflect the following:

- a. Maintenance work done to reattach street drainage down spout structures (down drains) shall include catchments or alternative structures that have been designed and installed, to the extent feasible, to intercept debris (litter) in the runoff and to prevent that debris from entering Pond 20. These catchments or alternative structures shall be cleaned out periodically, according to set criteria, to maintain their proper function.

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

3. **Construction Best Management Practices.** The applicant shall comply with and implement all of the conditions, recommendations, and project features included in the Water Pollution Control Program dated January 22, 2014 approved by Caltrans and submitted with this application by the San Diego Unified Port District.

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

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION**

The proposed project is replacement of the existing 950 linear feet of chain link fence spanning the southern boundary of Pond 20 adjacent to Palm Avenue, with new decorative fencing consisting of blue PVC chain link and wire mesh in a wave design that varies from four to six feet in height, embellished with alternating silhouettes of surfboards and marine wildlife that can be found in the bay at intervals of approximately 180 to 200 feet (Exhibit 4). Pond 20 is an irregularly shaped parcel located north of Palm Avenue, east of 13<sup>th</sup> Street, south of the Bayshore Bikeway in southern San Diego (Exhibits 1 & 2).

The proposed new fencing would attach to existing posts on the eastern and western borders of the site. The new fence would be located along the northern edge of the existing sidewalk next to Palm Avenue, except where it would jut out northward to border two proposed 20 sq. ft. concrete pads spaced 200 feet apart that would act as viewing and passing areas abutting the sidewalk. As originally proposed, the project would have left in place an approximately 200 linear feet portion of the fence located at the western end of the existing fence. The project has since been revised to include removal of this remaining portion of the fence within three months of complete installation of the proposed new fence.

The existing fence acts both as a barrier for wind-blown trash and debris from entering Pond 20, as well as a barrier for preventing people from entering Pond 20. While the existing fence is functional, the Port has indicated that the proposed replacement is intended to improve the appearance of the subject area and incorporate community

character into the new design, as well as maintain the function of a trash and human barrier.

The project also includes reconstruction of a portion of the slope adjacent to the proposed fence that is eroding, to restore the 3:1 slope gradient by filling all existing erosion gullies with a blanket of pea-gravel, no greater than 2 inches in depth, on the eroded slope gullies (Exhibit 3 Page 1, & Exhibit 5). The proposed reconstruction work would require three to five bags of gravel and would be completed manually.

As there are two existing Caltrans under-sidewalk stormwater outlets that are currently detaching from the back of the sidewalk, the Port is also proposing to replace these two outlets as part of the subject proposal.

Pond 20 was purchased by the San Diego Unified Port District in October 1998 as part of the 1,400 acre Western Salt land acquisition. Because the area has not been incorporated in the certified Port Master Plan, the project is within the Commission's permit jurisdiction, and Chapter 3 of the Coastal Act is the standard of review.

## **B. BIOLOGICAL RESOURCES/ WATER QUALITY**

The following Coastal Act Policies are most pertinent and state:

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

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 adverse environmental effects, and shall be limited to the following:*

- 1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities;*
- 2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basin, vessel berthing and mooring areas, ad boat launching ramps;*
- 3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities;*
- 4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- 5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas;*
- 6) Restoration purposes;*
- 7) Nature study, aquaculture, or similar resource dependent activities*

*(b) Dredging and spoils shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.*

*[...]*

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.*



Pond 20 was formerly utilized by the Western Salt Company and its predecessors for commercial salt harvesting, and consists of salt pans, associated dikes, excavated channels, and patches of salt marsh wetland and upland non-native and native vegetation, including Diegan Coastal Sage Scrub. Raptor and other bird use of the site is substantial and diverse. The site falls within the City of San Diego's Multi-Habitat Planning Area (MHPA).

Pond 20 is also mapped as within the 100-year floodplain designation, which is considered environmentally sensitive lands under the San Diego Municipal Code. Typically, the Commission does not permit new fill, any channelization, or structures in floodplains. Section 30233 of the Coastal Act strictly limits the type of development permitted in wetlands to such uses as incidental public service purposes, restoration, nature study, and other similar resource dependent activities. Section 30240 of the Act protects environmentally sensitive habitat areas against any significant disruption of habitat values, and limits uses to those dependent on the sensitive resources. Development in areas adjacent to environmentally sensitive habitat areas must be sited and designed to prevent impacts which would significantly degrade those areas, and must be compatible with the continuance of those habitat and recreation areas.

A wetland delineation and biological study performed for the proposed project determined that the project would not result in significant habitat impacts or direct impacts to wetlands or sensitive upland habitat. The study was conducted within 125 feet of the proposed fence replacement area to determine what vegetation communities and jurisdictional wetlands exist in the immediate vicinity of the proposed developments (Exhibit 5). The Coastal Commission uses the same three parameters of hydric soils, wetland hydrology, and hydrophytic vegetation for defining wetlands as the U.S. Army Corps of Engineers; however, unlike the Army Corps, only one of these three parameters need to be present for an area to be defined as a wetland under Coastal Commission regulations. With this standard, the biological study found that eastward of the access gate, Pond 20 is generally classified as saltpan/mudflats and two of the three wetland parameters are present. Westward of the access gate, the biological study identified freshwater marsh, coastal salt marsh, and southern willow scrub vegetation communities that range from containing one to three of the three wetland parameters. Upland vegetation habitat was identified within the non-native and urban/developed vegetation communities, mainly found on the upslope of the southern perimeter of Pond 20, adjacent to the sidewalk. Overall, a total of 1.7 acres of wetland was identified within the 5.08 acres of the study area.

In addition, the biological study describes the 5.08-acre study area generally as supporting low habitat value due to highly variable water supply, a high percentage of non-native plant species, and proximity to urban development. The study indicates that "low functioning ESHA" exists within the entire wetland areas of Pond 20, as a wetland delineation from 2008 observed nesting black-necked stilts in the western portion of the subject site. The subject wetland delineation/biological study did not observe any shorebird use within the 125-foot area, but noted that it would not be unexpected for shorebirds to make use of portions of Pond 20 as a nesting area.

Not only does Pond 20 contain wetland vegetation and other potential environmentally sensitive habitat, it is surrounded by wetlands and adjacent to the San Diego Bay National Wildlife Refuge. Thus, much of the site that may not actually contain sensitive vegetation is adjacent to environmentally sensitive habitat, and within the 100-foot area which is typically considered the minimum area necessary for a wetland buffer.

The proposed replacement fence will be located at the top of the slope abutting the sidewalk where there is no wetland habitat, generally in the same place as the existing fence (Exhibit 5). The two proposed 20 sq. ft. concrete passing areas will result in a minor increase in the amount of impervious surface in the subject area and will be supported on both the northern and southern sides by 14-inch diameter concrete-filled tubes that will be embedded approximately 3 feet into the slope on the northern side for stabilization. These two passing areas would be located approximately 200 feet apart, east of the access road gate to avoid the areas where the slope is eroding.

Reconstruction work is proposed to the eroding 70-linear-foot portion of the slope, which contains non-native vegetation, in the area immediately east of the access road gate. The erosion is caused by stormwater run-off from the sidewalk down the slope. Erosion control is needed along the levee and driveway that maintenance vehicles use while removing trash in Pond 20. The gullies created from the erosion would be filled with a blanket of pea gravel no greater than 2 inches in depth to restore the slope to its pre-existing 3:1 gradation. Planting native vegetation as an alternative means of slope stabilization was not proposed because there is no irrigation in the area and because the high salinity of the embankment discourages plant growth. The Commission's staff water quality analyst has reviewed the proposed slope reconstruction plans and has indicated that, while the pea gravel will provide a short-term solution to repairing the erosion gullies, eventually a long-term solution may be needed to address the issue of concentrated runoff in this specific location.

Surface drainage in the area upland of the fence currently flows from Palm Avenue into Pond 20 primarily via the main outfall located at the western end of the subject site, where the southern willow scrub is mapped on the biological resources map (Exhibit 5), and secondarily via two smaller Caltrans down drains located on either side of the access road gate. Currently these two down drains have separated from the sidewalk due to weathering, thus the applicant is proposing to replace them for Caltrans in order to prevent further slope erosion and potential undercutting of the sidewalk. The replacement outlets will be in the same location as the existing outlets, will be made of the same galvanized steel, and will not require any grading or alteration of the surrounding slope (Exhibit 3 Page 2).

As noted above, the proposed developments are primarily within the existing developed footprint and outside of the identified wetland habitat area, as consistent with Section 30233 of the Coastal Act. The biological study indicates that it is anticipated that the proposed developments will not result in any direct impacts to jurisdictional wetlands or ESHA. A total of 0.07 acres of non-native vegetation and 0.01 acres of urban/developed area are expected to be impacted by the proposed developments. As proposed, no material or equipment will be staged in Pond 20 or on Palm Avenue. The construction

contractor will store the replacement fence off-site until it is ready to be installed. The installation of the replacement fence will adhere to proposed construction BMPs. The project will implement a Water Pollution Control Program approved by Caltrans that includes installing a silt fence and temporary fiber rolls to ensure the adjacent wetlands are protected.

The Port had originally proposed to leave a 200-foot long portion of the existing fence on the western end of the site in place, as unlike the majority of the fence, this segment of the fence is immediately adjacent to wetland vegetation, and wetland vegetation has grown around and through the fence. However, removal of the entire fence will not only improve the visual quality of the area (as discussed below under Visual Resources), removal of development adjacent to sensitive habitat creates a new buffer area, removes a potential predator perch, and will allow the vegetation to grow unimpeded by a barrier.

**Special Condition #1** requires revised plans requiring that removal of this portion of the fence be done by hand, and any vegetation that must be disturbed during removal of the fence shall be cut at ground level with non-mechanized equipment to ensure no ground disturbance of the vegetation roots. Any minor impacts to existing vegetation will be temporary and self-mitigating once the fence is removed because the vegetation will maintain its root system to regenerate during the next growing season.

Thus, as conditioned, no substantial impacts to the adjacent wetland buffer, wetland productivity and values, or adjacent environmentally sensitive habitat are expected as a result of the implementation of this project, consistent with Sections 30230, 30231, 30233 and 30240 of the Coastal Act.

While the proposed fence will function as a barrier to prevent trash from entering Pond 20, there is the potential for debris to enter Pond 20 through the replaced drainage outlets and adversely impact water quality and the habitat functions and value of the adjacent wetland area. The existing drainage outlets collect litter such as paper cups and cigarette butts, which can result in the discharge of trash into the habitat area. To reduce these potential water quality and habitat impacts, **Special Condition #2** requires the installation of a trash catchment on each of the proposed drainage outlets on the downhill side of the sidewalk that would prevent that debris from entering Pond 20. The Commission's staff water quality analyst has reviewed this portion of the proposed project and determined that the addition of trash catchments on the replacement down drains would be an appropriate BMP, as these are small outlets that do not carry a large amount of water but do collect a significant amount of trash. The installation and periodic cleaning out of these trash catchments will prevent impacts to water quality and thus sustain and enhance the biological productivity of the adjacent wetland habitat, as consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

The Pond 20 property ranges in elevation from 8 to 12 feet above mean sea level. Palm Avenue and 13<sup>th</sup> Street have low points at 16 feet above mean sea level. The 2012 National Research Council report projected sea level rise for California areas south of Cape Mendocino is anticipated to be a maximum of 66 inches by 2100 and may result in a maximum tide fluctuation of 13.29 feet in 2100. Thus impacts from sea level rise are

not anticipated to significantly impact the proposed fence project, because the projected sea levels will not reach the subject site. In addition, the proposed fence would not be affected by periodic flooding and is an accessory structure easily removable or relocatable, such that it would not require the construction of protective devices to protect it from sea level rise.

Therefore, as conditioned, the proposed developments will not result in any impacts to coastal resources and can be found consistent with all applicable biological resource and water quality policies of the Coastal Act.

### **C. VISUAL RESOURCES**

Section 30251 of the Coastal Act addresses visual resources, and states, in part:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.*

In coordination with the Cities of San Diego and Imperial Beach, as well as with input from members of the surrounding community, the applicant considered several design options for the replacement chain-link fence and arrived at the subject proposal. The proposed wave fence design will range from four to six feet in height, not to exceed the height of the existing six foot fence. The proposed fence will be a custom blue color, embellished with alternating silhouettes of surfboards and marine wildlife that can be found in the bay at intervals of approximately 180 to 200 feet. The wave fence thus provides transparency and does not impede the panoramic views, but enhances the public view of San Diego Bay and the downtown skyline (Exhibit 4).

The new fence posts would vary in height between four and six feet but maintain 10 feet spacing. Four custom panels would be developed to create a wave pattern. Each panel would consist of 1 ½ inch round metal tubing from with top and middle custom bent to form a wave. The lower panel would have custom bent ¾ inch tubing in full spaced 6 inches apart to create additional wave elements. The lower panel would also have 2 inch welded wire mesh attached behind the wave infill to act as a debris barrier. Each fence panel would be fabricated and painted off-site.

The purpose of the new fence is to provide aesthetic improvements within the subject area and the beach community as a whole. The lower sections of the fence would provide unobstructed views to the bay and City of San Diego skyline. In addition, a new visual resource would be provided with the two proposed passing areas, where the public can accessibly move out of the sidewalk right of way onto the concrete pads and observe the adjacent habitat and views more closely.

As originally proposed, the project would have abandoned in place an approximately 200-linear-foot section of the existing fence. However, this would have created an unnecessary visual resource impact from a project that is otherwise focused on improving visual quality. The proposed fence will function properly in keeping trash and people out of Pond 20 and will improve the aesthetics of the subject area; thus, there is no reason to abandon a portion of the existing fence in place while the rest of it is removed. After discussion with Commission staff, the applicant revised the project to include removal of the abandoned portion of the existing fence within three months of completion of the new fence. **Special Condition #1** requires the submittal of revised final plans that include removal of the abandoned portion of the existing fence. With this condition there will be no adverse impacts to visual resources, and the proposed project can be found consistent with Section 30251 of the Coastal Act.

#### **D. PUBLIC ACCESS/RECREATION**

The following Coastal Act policies are relevant, and state in part:

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

Section 30604 of the Coastal Act states, in part:

[...]

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

The site of the proposed development is located between Palm Avenue and the wetland extensions of the San Diego Bay, which in this case equates to the first public roadway and the sea, respectively. While one of the functions of the proposed fence is to prevent

people from entering Pond 20, this is necessary for the conservation of the wetland habitat found in Pond 20 and the adjacent environmentally sensitive habitat. The existing as well as the proposed fence does not preclude public access to the existing nearby Bayshore Bikeway, also known as the Silver Strand Bikeway, which is a 24-mile biking and walking route that goes around the San Diego Bay. The trailhead to the bikeway is just north of Pond 20, at the terminus of 13<sup>th</sup> St. which borders Pond 20 to the west (Exhibit 2).

The proposed project will have no adverse impacts on public access and recreation in the area, and will provide a new form of passive recreation through the opportunity to view and scientifically observe the surrounding wetland habitat with the two proposed passing areas. Thus, the proposed developments are found consistent with all applicable public access and recreation policies of the Coastal Act.

## **E. LOCAL COASTAL PLANNING**

Section 30715 requires the Commission to permit development within ports as provided for in Chapter 7 (commencing with section 30600) in areas not yet covered by a certified port master plan. Thus, in applying the procedures for issuing a CDP to the port under chapter 7 of the Coastal Act, section 30604(a) requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP), or in this case, the port's ability to prepare a port master plan for the proposed project that is in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The subject site is owned by the Port District, but has not been incorporated into the Port of San Diego certified PMP at this time. Thus, the Coastal Commission retains permit jurisdiction on this site and Chapter 3 of the Coastal Act remains the legal standard of review. As proposed, the development is consistent with Chapter 3 of the Coastal Act. Approval of the project will not prejudice the ability of the local government to prepare a Port Master Plan that is in conformity with the provisions of Chapter 3.

## **F. 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. Mitigation measures, including conditions addressing the removal of the portion of fence proposed to be abandoned in place and the

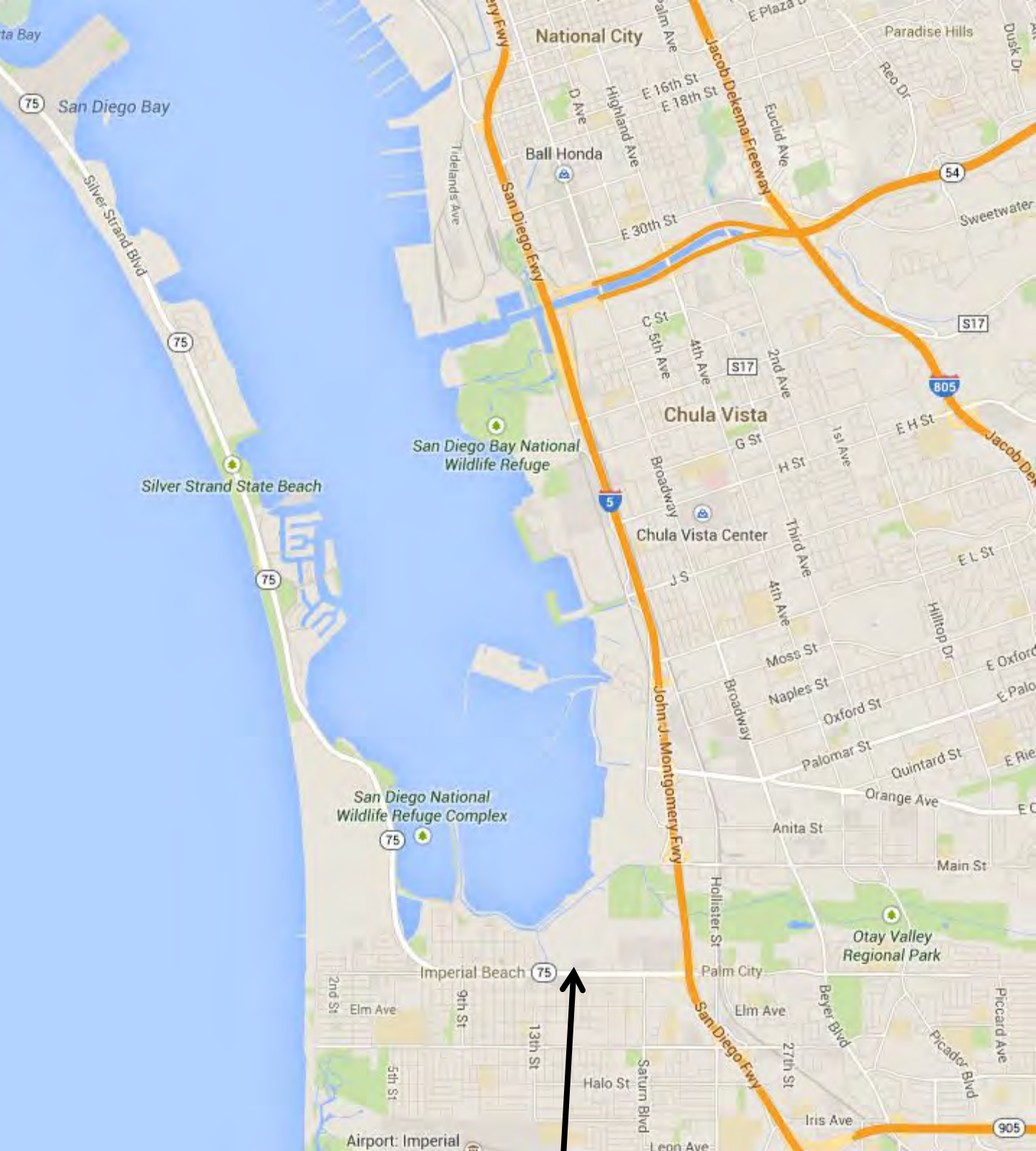
installation of trash catchments on the replacement stormwater outlets, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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**APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

City of San Diego certified Local Coastal Program; San Diego Unified Port District certified Port Master Plan; National Research Council's *Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future* (2012)





**Subject Site**



EXHIBIT NO. 1

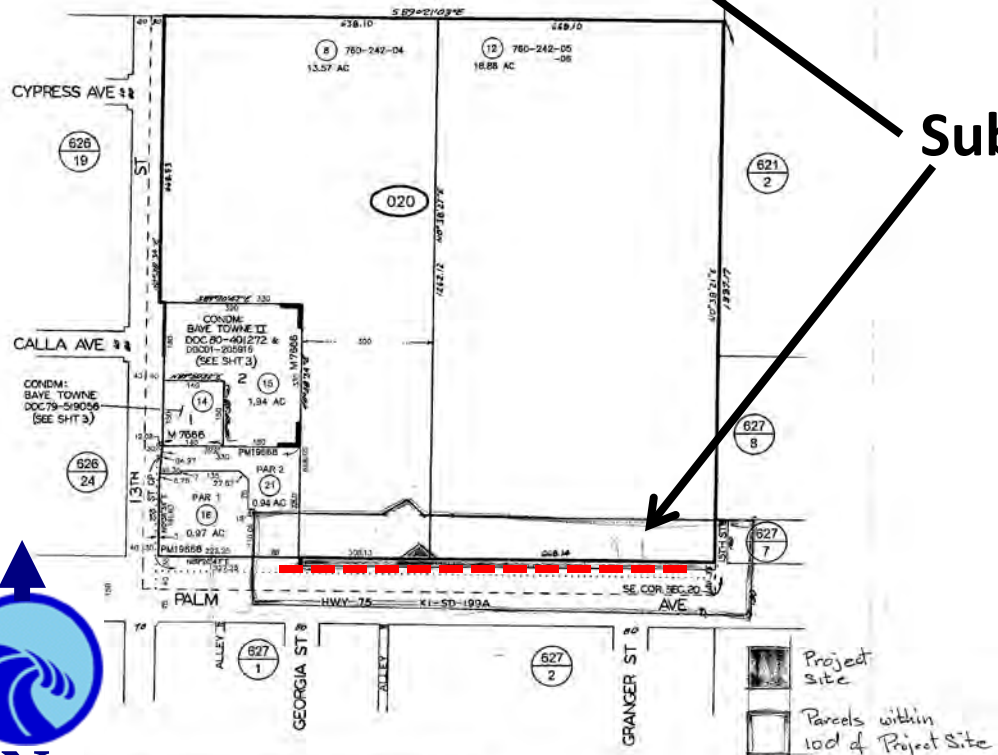
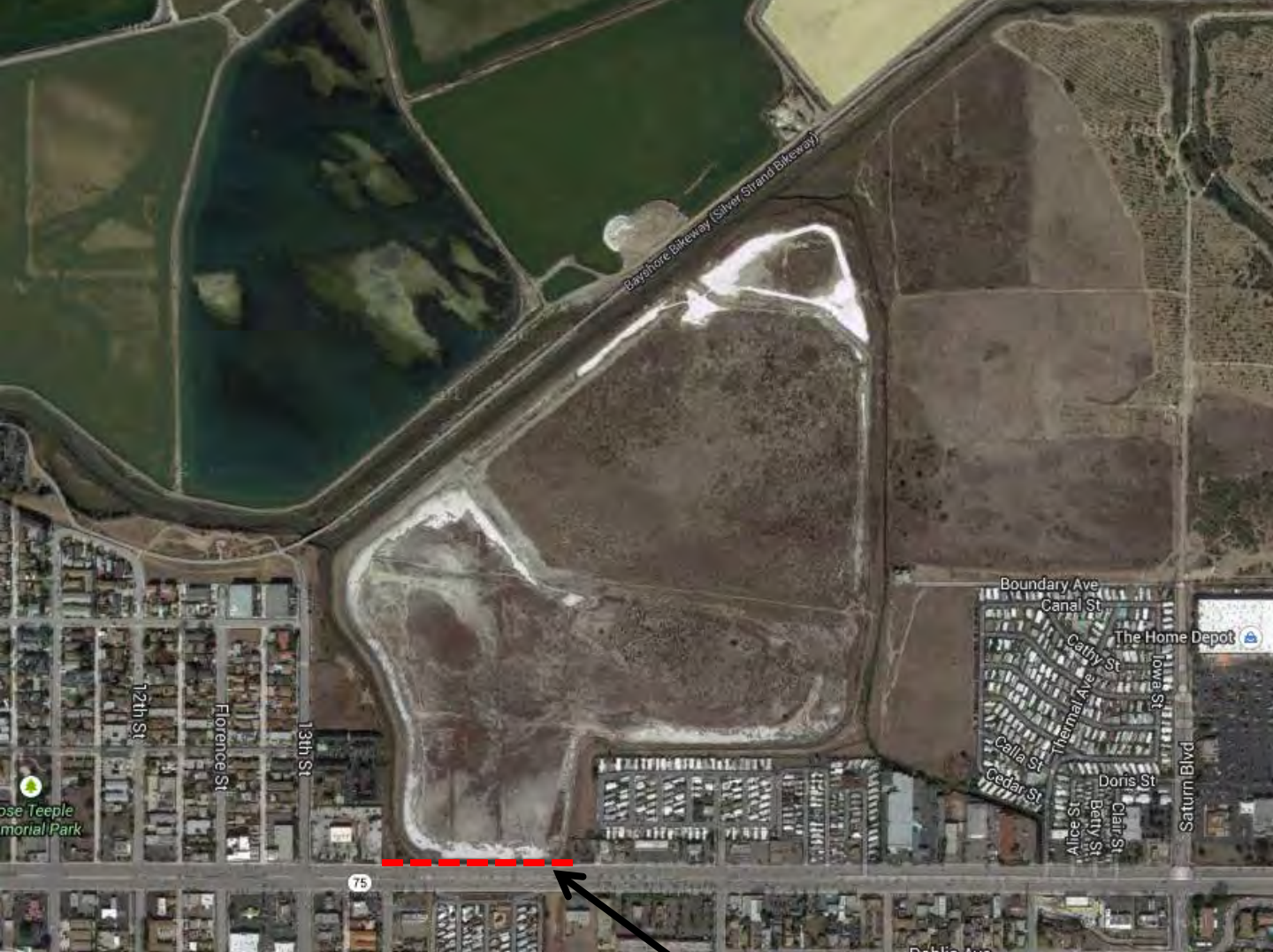
APPLICATION NO.

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Vicinity Map



California Coastal Commission



**Subject Site**

**EXHIBIT NO. 2**

APPLICATION NO.

**6-14-0177**

**Aerial View**

MAP PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCELS COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES

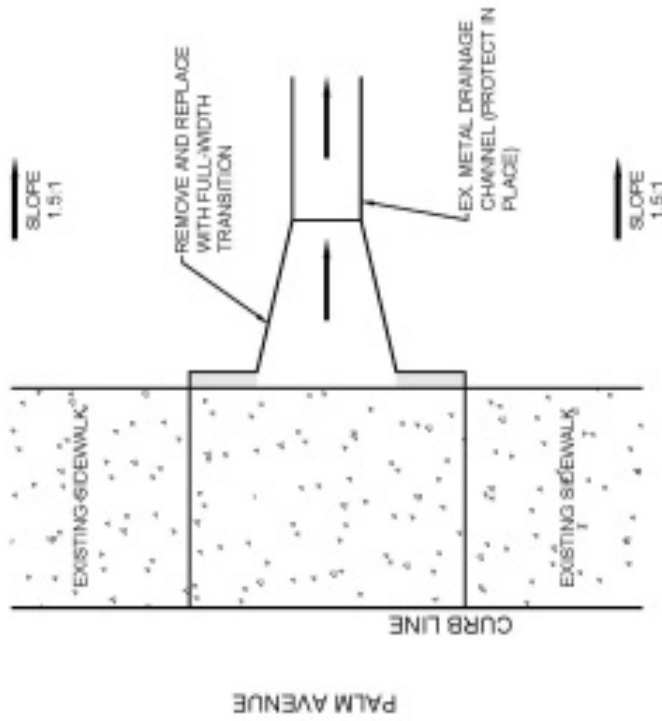
MAP 7866 - SOUTHLAND, MA  
SEC 20-T 1BS-R2W-SE 1/4  
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California Coastal Commission

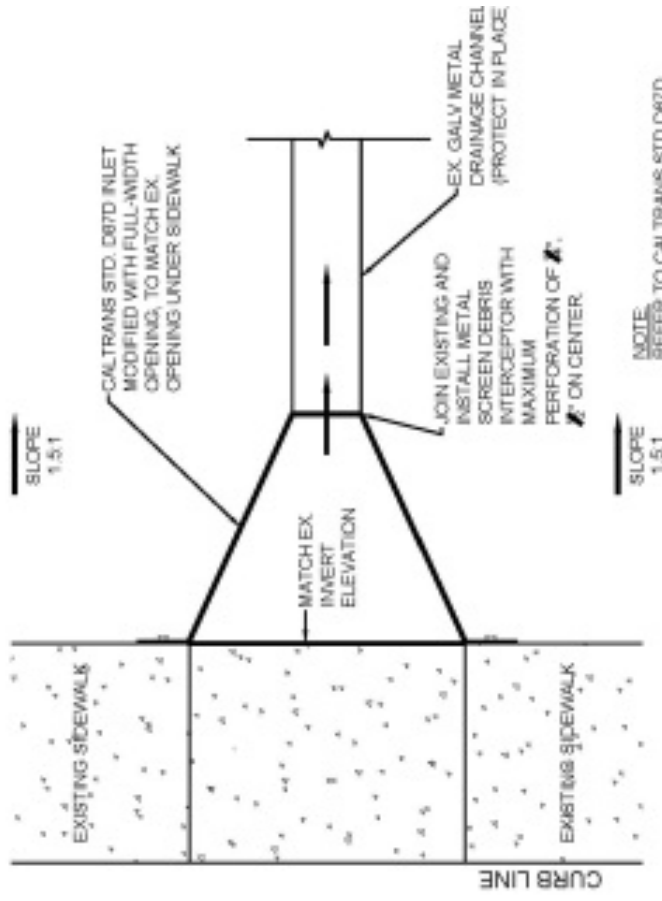






EXISTING CONDITION

NTS



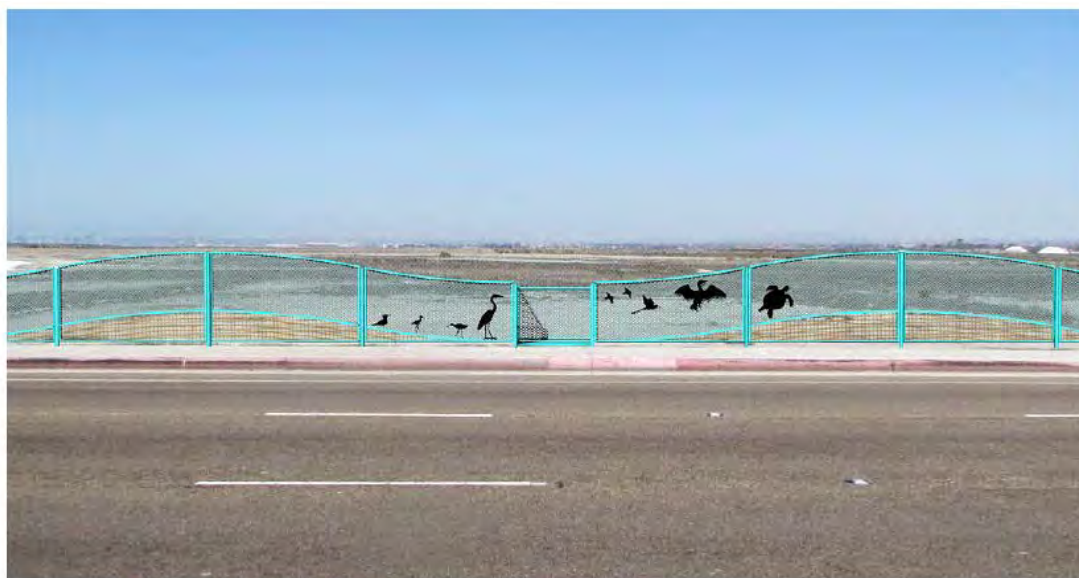
PROPOSED CONDITION

NTS

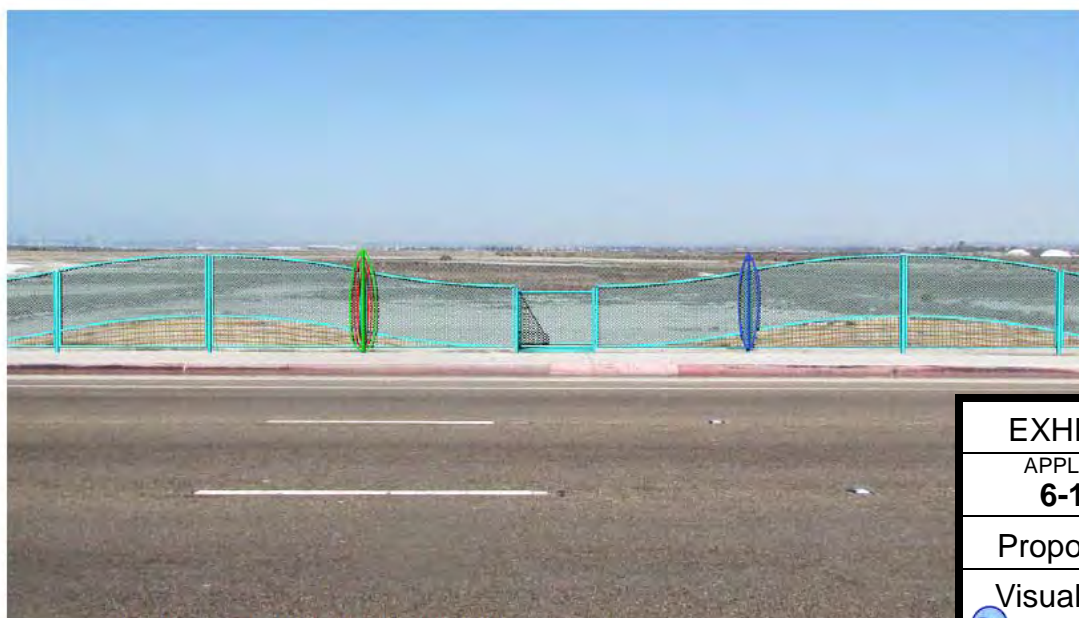
NOTE:  
REFER TO CALTRANS STD D87D  
FOR ADDITIONAL DETAILS



Existing Caltrans Fence



"Wave" Design



Wave Design with Surfboard Elements

EXHIBIT NO. 4

APPLICATION NO.

**6-14-0177**

Proposed Fence

Visual Simulation



California Coastal Commission



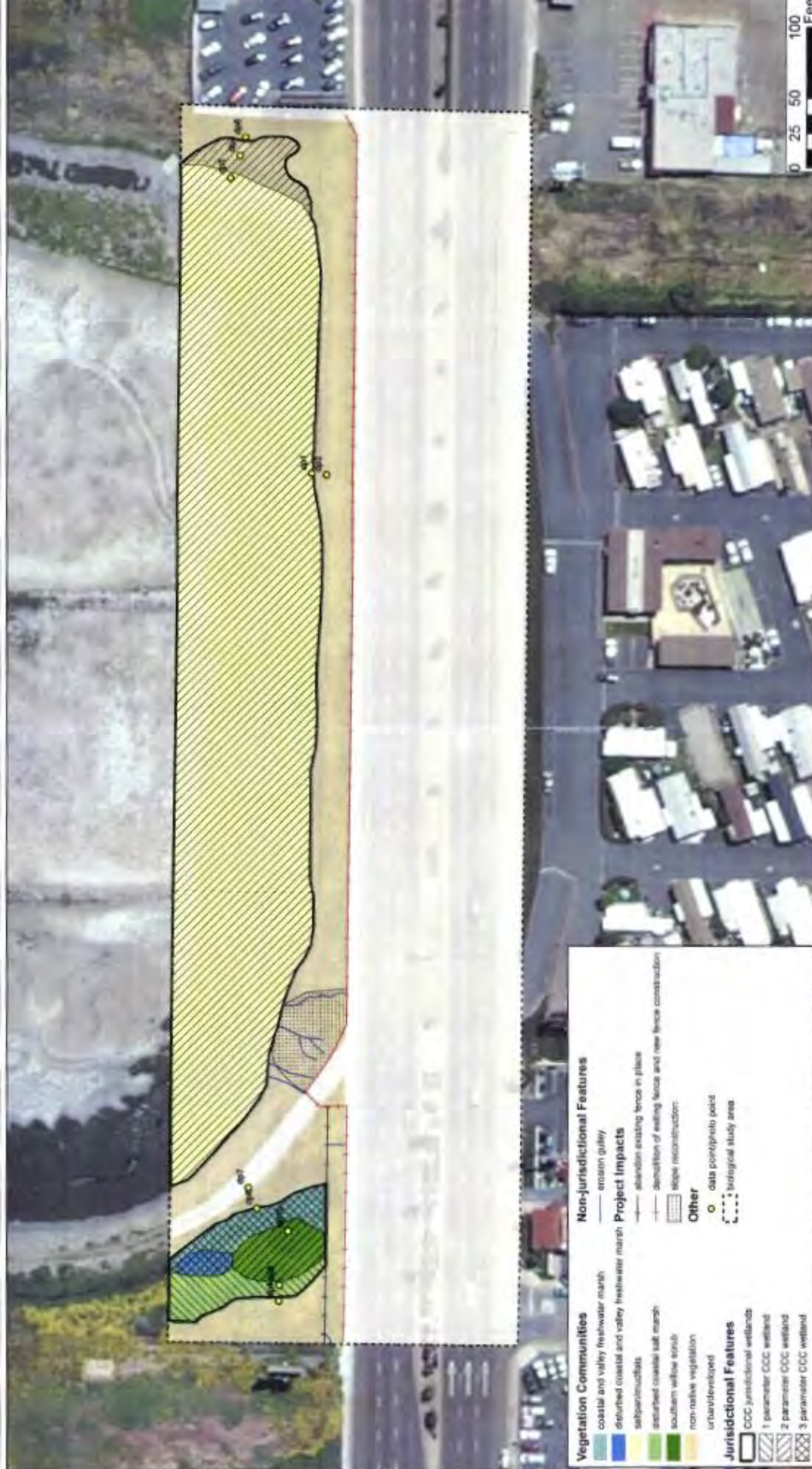


Figure 2

**Biological Resources Map**  
Pond 20 Palm Avenue Fence Replacement Project

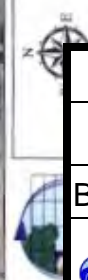


EXHIBIT NO. 5  
APPLICATION NO.  
**6-14-0177**

Biological Resources

Map