

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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(562) 590-5071

F6b-F6g



[Click here to go to
original staff report](#)

ADDENDUM

October 8, 2015

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM F6b-F6g, CDP NO. 5-15-1026, 5-15-1028, 5-15-1029, 5-15-1046, 5-15-1064, 5-15-1065 (LACFCD) FOR THE COMMISSION MEETING OF FRIDAY, OCTOBER 9, 2015.**

1. CORRESPONDENCE RECEIVED; AND RESPONSE TO CORRESPONDENCE

On October 5, 2015, Commission Staff received a comment letter dated October 2, 2015 regarding the proposed projects under CDP Nos. 5-15-1026, 5-15-1028, 5-15-1029, 5-15-1046, 5-15-1064, and 5-15-1065 from James Alamillo on behalf of Heal the Bay, a non-profit environmental organization (**Exhibit A**, see attached). In the letter, the organization asserts that over the past 20 years, Los Angeles Regional Water Quality Control Board (LARWQCB) and Heal the Bay have monitored the Los Angeles County Flood Control District's (LACFCD) channel maintenance activities and have previously raised issues pertaining to the lack of monitoring data, lack of Best Management Practices implementation, insufficient habitat mitigation, and impairments to water quality and habitat. Therefore, Heal the Bay is recommending that the Coastal Commission limit the duration of the coastal development permits (CDP) to three (3) years; amend the Annual Routine Maintenance Activities Report Special Condition to ensure that the public has an opportunity each year to comment on any of LACFCD's Annual Routine Maintenance Activities Report submitted to the Executive Director; amend the Operations and Maintenance Special Condition to contain specific language associated with water quality and sediment monitoring, and language to impose compensatory habitat mitigation for the removal of non-native vegetation; and identify a numeric metric for evaluating short- and long-term impacts to habitat.

In the Staff Report, Commission Staff indicated that the applicant, LACFCD, has historically maintained the channels but has not previously applied for coastal development permits. However, on a recent correspondence (**Exhibit B**, see attached), the applicant has indicated that they have not historically applied for or attained permits necessary for the proposed maintenance work because they have not performed past maintenance practices at the flood control channel reaches subject to CDP Nos. 5-15-1026, 5-15-1028, 5-15-1029, 5-15-1046, 5-15-1064, and 5-15-1065.

In regards to the duration of the permit, the Coastal Commission has consistently issued CDPs with a five (5) year permit term authorizing channel maintenance (e.g. CDP No. 5-13-0851, 5-09-082, 6-13-0713, and 4-12-064). Moreover, the proposed minor maintenance work is not anticipated to result in significant impacts that would warrant a shorter permit term.

If there are issues raised by the public or as a result of changed circumstances that may affect the proposed project's consistency with the Chapter 3 policies of the Coastal Act on any given year within the permit term, the proposed project will be re-evaluated for consistency with the Coastal Act by the Executive Director and referred to the Commission at a public hearing. It is important to note that as with all projects, the public has the opportunity and is encouraged to provide input on pending and on-going projects.

The applicant is proposing to implement Best Management Practices prior to and during the maintenance activities associated with the project. In addition, the applicant has indicated that water quality and sediment monitoring is required at all project sites under the LARWQCB 401 certifications for consistency with Section 401 of the Clean Water Act. As mentioned in the Staff report, the Operations and Maintenance Special Condition is imposed to ensure the proposed BMPs and other responsibilities are implemented and that maintenance-related impacts upon marine resources are avoided.

As noted in the Staff Report, the type of proposed maintenance is not expected to cause significant impacts to environmentally sensitive habitat areas (ESHA). There is a considerable amount of non-native vegetation within the subject channel reaches. The applicant is proposing to remove non-native vegetation from the reaches, which are designed as storm channels, to meet the U.S. Army Corp of Engineer's Levee Safety Program's requirements and maintain the flood carrying capacity of the channels. Rustic Canyon is the only channel where the County will remove native vegetation. However, due to the limited area and minor amount of native vegetation, which is mixed with non-native vegetation, the impact to ESHA within the flood control channel is not considered to be significant. The applicant is required to mitigate for the initial vegetation clearing by the California Department of Fish and Wildlife (CDFW). However, the applicant is not required by CDFW to mitigate for the subsequent removal of "incidental vegetation" resulting from the continued maintenance of the subject channel reaches.

The extent of the proposed project is not expected to have an adverse impact to habitat given the parameters of the project and the environmental assessment provided by Los Angeles County.



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RECEIVED
South Coast Region

October 02, 2015

OCT 5 2015

CALIFORNIA
COASTAL COMMISSION

Dr. Charles Lester
California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

**RE: Agenda items F6b, F6c, F6d, F6e, F6f, and F6g;
Application Numbers: 5-15-1026, 5-15-1028, 5-15-1029, 5-15-1046, 5-15-1064,
and 5-15-1065**

Dear Coastal Commissioners:

Heal the Bay has reviewed the staff reports for the Los Angeles County Flood Control Districts (LACFCD) six proposed projects for the Ballona Creek (2), San Gabriel River (2), and Rustic Creek (2). Overall, the staff reports for each of the six projects are well crafted; however, we still have a few comments to strengthen areas of monitoring, habitat protection and habitat mitigation. Because the proposed projects are similar in there scope, we are submitting our comments as one letter, as such the comments apply to all applications. We appreciate the opportunity to provide these comments.

While this is the first time that the LACFCD has applied for a Coastal permit for such work, there is little explanation to the public on **why a permit is now required?** Given the historic maintenance practices by LACFCD in a number of these coastal estuarine/riparian zones, it is quite disturbing that there is no information provided to the public on past practices to effectively evaluate the Staff's proposed conditions. Heal the Bay has been monitoring LACFCD efforts on maintenance clearing of engineered earth-bottom creeks and rivers for the past 20 years through the Los Angeles Regional Water Quality Control Board's (LARWQCB) 401-certification program. Over that time-period, the LARWQCB and Heal the Bay have raised a number of issues associated with the lack of monitoring data, lack of Best Management Practices implementation, lack of sufficient habitat mitigation, and impairments to water quality and habitat. These have been major concerns that have made the LARWQCB reconsider the five-year permitting cycle. In 2015, the LARWQCB gave the LACFCD only a one-year permit. It remains to be seen what permitting cycle the LARWQCB will allow in future authorizations.

General Comments

- *Heal the Bay recommends that the duration for these permits be no more than three (3) years.* Given the Coastal Commission has no evidence on past practices or data, giving a 5-year permit is disconcerting, especially in light of the LARWQCB's recent one-year cycle. If after a two permit cycles, the Commission finds the LACFCD

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EXHIBIT # A
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continues to meet the permit conditions proposed, then the permitting timeframe should be reconsidered at the third iteration.

- ***Heal the Bay recommends that the public have an opportunity each year to comment on any Annual Routine Maintenance Activities Report.*** Special Conditions 2a(5), states that "the proposed maintenance activities will be deemed approved if staff does not respond within 60 days of submittal of the Annual Maintenance Activities Report." Heal the Bay is concerned that this 'pocket-approval' condition effectively eliminates any public input if commission staff choose not to or cannot respond within the 60-day timeframe. **We suggest eliminating that specific sentence**, or amending it to read: *"the proposed maintenance activities will be deemed approved if staff does not respond within 60 days of submittal of the Annual Maintenance Activities Report, so long as no public comments or concerns are raised. If the general public submits comments or raises questions regarding the Annual Maintenance Activities Report, then the commission staff is obligated to provide a review on the Annual Report."*

The Commission should specify a date certain for when Annual reports will be submitted for review. As part of this process, the Commission should make public the Annual Reports for review.

In addition, the Commission should require that the LACFCD make public their date for schedule maintenance activities.

- ***The Operations and Maintenance Responsibilities should contain specific language associated with monitoring.*** Specific language to include in the Special Conditions 7 are:
 - Any debris removed from maintenance activity shall be categorized by 1) sediment, 2) vegetation, and 3) trash, with corresponding metrics for weight;
 - At least one-sediment sample shall be analyzed per site per incidence of disturbance to determine TOC, metals, and toxicity;
 - Baseline monitoring for pH, temperature, dissolved oxygen, turbidity, and total suspended solids will occur for each day maintenance is conducted. Monitoring for all five indicators will occur upstream of the impacted site, within the disturbance site, and downstream of the impacted site. Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increase shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%.
 - Additional monitoring:
 - When turbidity levels exceed the stated thresholds in the Coastal Permit, then additional constituents shall be monitored and BMPs implemented to control downstream siltation.
 - Additional water quality constituents to be monitored will include: Nutrients, Hardness, and Metals.

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- ***The Operations and Maintenance Responsibilities should contain specific language associated with habitat mitigation.*** A one-time compensatory mitigation should not be allowed. The folly of the LARWQCB back in 1999 was granting the LACFCD a one-time compensatory mitigation for habitat impacts in perpetuity. Given that this maintenance project will likely take place every year for the next five-years—as currently proposed, the impacts to estuarine/riparian flora and fauna habitat is on-going and not a singular incidence. As such, compensatory mitigation should be required for every incidence of disturbance. Heal the Bay recommends compensatory mitigation ratios for non-native vegetation removal shall be 1:1, with native vegetation being replanted. All other compensatory mitigation ratios shall be 2:1.
- ***Commission Staff should develop a set of criteria for evaluating impacted habitats in order to assess the chronic impacts from such disturbances to the estuarine/riparian habitat.*** Whether using the California Rapid Assessment Method (CRAM) or Index of Biological Integrity (IBI) scores, the commission needs to identify a numeric metric for evaluating short- and long-term impacts to the impacted habitat. This assessment or scoring should be conducted each year maintenance is conducted, at a minimum once every other year.

Thank you for the opportunity to comment, and if you have any questions please feel free to contact us at (310) 451-1500 ext.115.

Sincerely,

James Alamillo
Heal the Bay

cc-Marlene Alvarado, South Coast Office

COASTAL COMMISSION

EXHIBIT # A
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Alvarado, Marlene@Coastal

Subject:

FW: SBC Reaches within the Coastal Zone - HtB Comments on Items F6b-F6g

Marlene, per email below, there are no additional comments from our field engineers. Thank you.

From: Daniel B. Sharp

Sent: Wednesday, October 07, 2015 8:09 AM

To: Jemellee Cruz; Ron Lacayo

Subject: SBC Reaches within the Coastal Zone - HtB Comments on Items F6b-F6g

I don't have additional comments.

From: Jemellee Cruz

Sent: Tuesday, October 06, 2015 11:29 AM

To: Alvarado, Marlene@Coastal

Cc: Padilla, Al@Coastal (Al.Padilla@coastal.ca.gov); Henry, Teresa@Coastal; Siyavash Araumi; Victor Pelayo; Katie Gallagher (katie.gallagher@psomas.com); Ron Lacayo; Daniel B. Sharp; Jared Deck; Ed Teran; 'marc.blain@psomas.com'

Subject: SBC Reaches within the Coastal Zone - HtB Comments on Items F6b-F6g

Importance: High

Marlene, these are LACFCD's initial responses to Heal the Bay's October 2, 2015 comment letter on six proposed projects for Reach 112, Ballona Creek (2), Reach 115, San Gabriel River (2), and Reach 118, Rustic Canyon (2). I'm waiting for our field staff to make additional comments or edits below, if any. <Ron, Dan – pls. respond>

These three reaches have not been previously permitted for maintenance by the U.S. Army Corps of Engineers (USACE), the Los Angeles Regional Water Quality Control Board (LARWQCB), or by the California Department of Fish and Wildlife (CDFW). Permits for these three agencies have either been recently acquired or have been applied for. Coastal Development Permits (CDP) from the California Coastal Commission (CCC) and a section of Reach 115 is also under the jurisdiction of the City of Long Beach's CDP office are also necessary LACFCD can perform any work.

We would like to state that there has been no "historic maintenance practices" performed at these three reaches. Because all four permits have not been acquired for any of these reaches, no work that falls under the jurisdiction of these agencies has been completed here. Those permits that have already been acquired include strict requirements for monitoring data, Best Management Practices, and habitat mitigation that provides no net loss of water quality and habitat.

In addition, vegetation removal, resolving encroachment issues, and conducting minor structural repairs at these SBC reaches are being required in order for LACFCD to satisfy the ACOE's Levee Safety Program's inspection requirements. LACFCD has strict deadlines to meet in order for these levees to remain in the Levee Safety Program.

General Comments

- *Heal the Bay recommends that the duration for these permits be no more than three (3) years. The Coastal Commission has no evidence of past practices or data because there have been no past practices. These are newly acquired reaches. The proposed work is regular annual*

maintenance for which the project description will not change year to year. The LACFCD will make every effort to meet the CDP conditions. The CCC can evaluate the work activities any time as well as when a permit is due for renewal. We feel it is a better use of the CCC's time to issue a five-year permit or even a longer term to minimize paperwork and both CCC and LACFCD staff resources.

- *Heal the Bay recommends that the public have an opportunity each year to comment on any Annual Routine Maintenance Activities Report.* The LACFCD already submits an Annual Work Activities Report to the LARWQCB every August. It is the county's goal to synchronize the deadlines and requirements for the CCC's reports with the LARWQCB's reports to maximize the county's paperwork productivity.

The LACFCD believes it is sufficient for the public to comment before the permit is issued and that it is unnecessary for an annual public comment period. Please also note that per our LARWQCB requirements, LACFCD has a Waste Discharge Requirements for Earth-Bottom Channel Clearing website that's being updated of all SBC clearing schedules and other documentation related to our SBC permitting requirements. The website has been available to all stakeholders, including the Heal the Bay. The address is:

<http://dpw.lacounty.gov/LACFCD/WDR/Default.aspx>. Once approved, SBC Reaches within the CCC's jurisdiction will also be incorporated and updated as part of this website.

- *The Operations and Maintenance Responsibilities should contain specific language associated with monitoring.*
 - It is already standard practice for the LACFCD to measure the volume or weight of sediment, vegetation, and trash removed from work areas. We agree with this comment.
 - The quality of accumulated sediment is determined by upstream sources and is not related to the work proposed. We question the necessity of sediment monitoring.
 - It is one of the main goals of the LARWQCB is to promote good water quality within the Los Angeles area. They require water quality monitoring at all project sites and have already incorporated Heal the Bay's suggested language into the approved 401 certifications for all three reaches. It is the decision of the CCC if they wish to repeat what the LARWQCB already requires.
 - The levels of nutrients, hardness, and metals in the water are determined by upstream sources and are not related to the work proposed. We question the necessity of this monitoring.
- *The Operations and Maintenance Responsibilities should contain specific language associated with habitat mitigation.* The LACFCD specifies in all permit applications the difference between temporary impacts and permanent impacts. Most impacts proposed in these three reaches are permanent and will be mitigated for as such. The CDFW has agreed that mitigation is required for the initial vegetation clearing, but that subsequent "incidental vegetation" may be removed without additional habitat loss and will not require mitigation. They define incidental vegetation as follows:
 - "Incidental Vegetation removal: Under the terms of this Amendment, incidental vegetation removal is defined as any sparsely vegetated non-native and/or woody native vegetation that:
 - Established in between annual maintenance events in soft-bottom channel invert, grouted and/or ungrouted riprap, weep holes, soil cement, concrete bank protection, invert access ramps, and concrete storm drain outlets of existing man-made structures; AND

- Does not include saltwater or freshwater marsh; AND
- Insignificant in nature and lacking a history that is adequate for maintaining ecological characteristics, site conditions, and disturbance regimes for native plant and wildlife species."

The concept of habitat mitigation was developed to prevent regional loss of habitat. The LACFCD agrees that mitigation is necessary for the initial vegetation clearing, but only incidental vegetation will be present in subsequent years, the removal of which is not considered to be habitat loss. The LACFCD will follow the mitigation requirements of all three agencies. It is the decision of the CCC if they wish to repeat what the other agencies already require.

- *Commission Staff should develop a set of criteria for evaluating impacted habitats in order to assess the chronic impacts from such disturbances to the estuarine/riparian habitat.* In all three reaches, all woody vegetation is proposed to be removed from the channel banks, leaving only weedy herbaceous plants and the saltwater and freshwater marshes. The LACFCD is unsure if Heal the Bay is suggesting a habitat evaluation of the marshland that is not to be impacted. We question the necessity of this monitoring.

Please let me know if you need any clarification. We will forward any additional comments once I receive it today. We presume the CCC will directly provide the appropriate response to the Heal the Bay.

Thank you.
jemellee

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**F6g**

Filed: 07/2/2015
180th Day: 12/29/2015
Staff: M. Alvarado-LB
Staff Report: 09/18/15
Hearing Date: 10/09/15

STAFF REPORT: CONSENT CALENDAR

Application No.: 5-15-1065

Applicant: Los Angeles County Flood Control District (LACFCD)

Agent: Siya Araumi

Location: Ballona Creek Soft-bottom Channel (SBC) Reach 112, Marina Freeway (CA-90) to Pacific Avenue, City of Los Angeles (Los Angeles County) (APN(s) 4116035900, 4211007012, 4211007030, 4211007036, 4211007916, 4211007917, 4211007918, 4211007919, 4211015903, 4211015904, 4211016902, 4211016903, 4211017900, 4211017901)

Project Description: Long-term routine, minimal impact maintenance plan for an existing concrete-sided, soft-bottom flood control channel within the Coastal Zone. The proposed project consists of trash, debris and non-native/invasive vegetation removal.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing to remove trash, debris and non-native/invasive vegetation from the concrete, riverside slopes on the northern and southern banks of the lower channel section of the Ballona Creek Soft-bottom Channel (SBC Reach 112). The proposed project involves trash, debris, and non-native/invasive vegetation removal using hand-held mechanical tools. Heavy equipment will not be used in the invert within proposed project site. The stated purpose of the proposed project is to maintain the existing flood water carrying capacity in the Ballona Creek Soft-bottom Channel for flood prevention purposes.

The northern banks of the channel are located within the Marina Del Rey area, County of Los Angeles; the southern banks of the channel are within the City of Los Angeles. The lower channel

section of SBC Reach 112 is located within the Coastal Zone and extends seaward of the Marina Freeway (CA-90) to Pacific Avenue.

The applicant is proposing to maintain the channel on a continuous, as-needed basis and as part of an overall, long-term channel maintenance program. Therefore, the applicant is requesting that the coastal development permit (CDP) be granted by the Commission in perpetuity. However, the Commission does not grant such an open-ended approval. Site conditions and practices must be periodically reviewed to ensure that maintenance activities are in compliance with the Chapter Three policies of the Coastal Act. Substantive changes must come back to the Commission for review as an amendment or a subsequent permit. Therefore, the Commission imposes a special condition limiting the CDP to a five (5) year duration period from the date of the permit is approved by the Commission. Any changes to the CDP would require approval by the Executive Director; for requests for extension of time, the applicant must also return to the Commission for review and approval.

The Los Angeles County Flood Control District (LACFCD) owns and operates the channel. The County has historically maintained the channel but has not previously applied for a coastal development permit.

This project is located within an area of Los Angeles County and the City of Los Angeles where the Commission has retained jurisdiction over the issuance of coastal development permits and the standard of review for this project is the Chapter 3 policies of the Coastal Act.

Staff is recommending **APPROVAL** of the proposed coastal development permit with **eight (8) Special Conditions**, which require 1) duration of permit; 2) annual routine maintenance activities report; 3) assumption of risk, waiver of liability, and indemnity; 4) herbicide use; 5) timing and operational constraints; 6) biological monitoring; 7) operations and maintenance responsibilities; 8) conformance with the requirements of the resource agencies, referencing all of the Special Conditions contained in this staff report.

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APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

- Exhibit 1 – Project Location
- Exhibit 2 – Project Site
- Exhibit 3 – Photos of Channel

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** the coastal development permit application included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all of the permits included on the consent calendar. 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 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. Duration of Permit

- A. This coastal development permit authorizes development on a temporary basis only. The development is authorized for a period of five (5) years, commencing upon the date of issuance of Coastal Development Permit No. 5-15-1065, after which time the authorization for continuation and/or retention of any development is approved as part of this permit shall cease. After the authorization for the development expires, any vegetation removal within the project area will require either the issuance of a new coastal development permit or an amendment to this coastal development permit.
- B. If the applicant does not obtain a coastal development permit or amendment from the California Coastal Commission to continue the creek channel maintenance program prior to the date of expiration of the authorization for the development, the applicant shall cease all vegetation removal activities.
- C. All development must occur in strict compliance with the proposal as set forth in the application for the permit, subject to any special conditions. Any deviation from the approved project plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is legally required.

2. Annual Routine Maintenance Activities Report.

- A. PRIOR TO COMMENCEMENT of any maintenance activity, the applicant shall submit to the Executive Director a detailed Annual Routine Maintenance Activities Report listing the proposed maintenance activities at facilities within the coastal zone for that year for concurrence that the proposed maintenance work meets the requirements of this coastal development permit (i.e., would result in no or less than minimal environmental impact). At minimum, the Annual Routine Maintenance Activities report shall include:
 - (1) Type of proposed maintenance, schedule of work, maintenance access and staging plans and equipment;
 - (2) site specific reconnaissance within each of the facilities proposed for maintenance and acreage of jurisdictional impacts, if any;
 - (3) habitat surveys if any habitat/vegetation has developed at the site over time if there is a risk of adverse impact by the specific type of maintenance proposed at that particular site;
 - (4) the Annual Routine Maintenance Activities Report and reconnaissance surveys shall be public documents available for review by the public or any interested parties;

- (5) the proposed maintenance activities will be deemed approved if staff does not respond within 60 days of submittal of the Annual Maintenance Activities Report;
 - (6) if the proposed routine maintenance activity is deemed to have a potential risk of adverse environmental impacts, then the applicant shall apply for that maintenance activity under a separate coastal development permit.
 - B. The applicant shall submit an annual post-maintenance assessment summarizing the maintenance practices, timing of implementation, and whether any sensitive species were observed and any measures taken to avoid or mitigate disturbance.
 - C. Proposed changes to the project may require a permit amendment or new permit. 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.
- 3. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant(s) acknowledges and agrees (i) that the site may be subject to hazards from waves, storm conditions, flooding, and sea level rise; (ii) to assume the risks to the applicant(s) 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.
- 4. **Herbicide Use and Native Vegetation Delineation.** Herbicide use within the flood control channel shall be restricted to the use of AquaMasterTM Herbicide for the elimination of non-native and invasive vegetation for purposes of habitat restoration and flood control. The environmental resource specialist shall conduct a survey of the project site each day prior to commencement of vegetation removal and eradication activity involving the use of herbicide to determine whether any native vegetation is present. Native vegetation shall be clearly delineated on the project site with fencing or survey flags and protected. In the event that non-native or invasive vegetation to be removed or eradicated is located in close proximity to native riparian vegetation or surface water, the applicant shall either: (a) remove non- native or invasive vegetation by hand, or (b) utilize a plastic sheet/barrier to shield native vegetation or surface water from any potential overspray that may occur during use of herbicide. In no instance shall herbicide application occur if wind speeds on site are greater than 5 mph or 48 hours prior to predicted rain. In the event that rain does occur, herbicide application shall not resume again until 72 hours after rain.
- 5. **Timing and Operational Constraints**
 - A. To avoid adverse impacts on sensitive bird species, maintenance activities shall not occur during the bird nesting season between March 1 and August 31 of any year.

A qualified biologist or environmental resources specialist shall conduct a survey of the project site, to determine presence and behavior of sensitive species, prior to commencement of any development, the applicant shall submit the contact information of all monitors with a description of their duties and their on-site schedule. Project activities, including vegetation removal, shall not occur until any sensitive species (e.g., species listed on state or federal endangered/threatened species lists) including but not limited to California least tern, western snowy plover, Belding's savannah sparrow (e.g., California least tern, western snowy plovers, Belding's savannah sparrows have left the project area or its vicinity. In the event that any sensitive wildlife species exhibit reproductive or nesting behavior, the environmental specialist shall require the applicant to cease work, and shall immediately notify the Executive Director and local resource agencies. Project activities shall resume only upon written approval of the Executive Director. The monitor(s) shall require the applicant to cease work should any breach in permit compliance occur or if any unforeseen sensitive habitat issues arise. The monitor(s) shall immediately notify the Executive Director if activities outside of the scope of this coastal development permit occur. If significant impacts or damage occur to sensitive 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 processed as an amendment to this coastal development permit.

- B. The permittee may undertake maintenance between March 1 and August 31 of any year upon obtaining a written statement of the Executive Director authorizing maintenance on specified dates. To obtain such a determination, the permittee must submit a declaration from the Department of Fish and Game stating that maintenance on the specific dates proposed will not cause adverse impacts to any sensitive or endangered species. The declaration must contain an assessment of the foraging, breeding, nesting activities of sensitive bird species found in the area and a statement that the maintenance activity on the specific dates proposed will not interfere with the foraging, breeding, nesting activities of the sensitive bird species.

- 6. **Biological Monitor.** An appropriately trained biologist shall monitor the proposed development for disturbance to sensitive species or habitat area. At minimum, monitoring shall occur once a week during any week in which maintenance occurs. Based on field observations, the biologist shall advise the applicant regarding methods to minimize or avoid significant impacts, which could occur upon sensitive species or habitat areas. The applicant shall not undertake any activity, which would disturb sensitive species or habitat area unless specifically authorized and mitigated under this coastal development permit or unless an amendment to this coastal development permit for such disturbance has been obtained from the Coastal Commission.

7. Operations and Maintenance Responsibilities

The permittee shall comply with the following maintenance-related requirements:

- (1) No maintenance materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
 - (2) Habitat areas shall not be used as staging or storage areas.
 - (3) Any and all debris resulting from maintenance activities shall be removed from the site within 24 hours of completion of maintenance;
 - (4) Debris shall be disposed at a debris disposal site outside the coastal zone.
 - (5) Machinery or maintenance materials not essential for project improvements shall not be allowed at any time in the intertidal zone or within the river or creek channel;
 - (6) Sand from the beach, cobbles, or shoreline rocks shall not be used for maintenance material;
 - (7) If turbid conditions are generated during maintenance; a silt curtain shall be utilized to control turbidity;
 - (8) Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day;
 - (9) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of maintenance related materials, and to contain sediment or contaminants associated with maintenance activity, shall be implemented prior to the on-set of such activity.
 - (10) All BMPs shall be maintained in a functional condition throughout the duration of the maintenance activity.
- 8. Conformance with the Requirements of the Resource Agencies.** The permittee shall comply with all permit requirements and mitigation measures of the California Department of Fish and Wildlife, California State Water Quality Control Board, Regional Water Quality Control Boards (Los Angeles), U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality, the marine environment, and sensitive species. Any change in the approved project, which is 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.

IV. FINDINGS AND DECLARATIONS:

A. PROJECT DESCRIPTION & LOCATION

The applicant is proposing to remove trash, debris and non-native/invasive vegetation from the concrete, riverside slopes within the lower channel section of the Ballona Creek Soft-bottom Channel (SBC Reach 112) (**Exhibit 3**). The proposed project involves trash, debris, and non-native/invasive vegetation removal using hand-held mechanical tools to clear the flood control channel. Heavy equipment will not be taken into the proposed project site. In addition, the project will not result in any fill or impacts to the soft bottom inverts of the channel. The stated purpose of the proposed project is to maintain the existing flood water carrying capacity in the Ballona Creek Soft-bottom Channel for flood prevention purposes. Vegetation clearance in the channel removes channel obstructions and ensures that water velocities and channel capacities are maintained. Clearing activities within the project site will be limited to trash, debris, and vegetation removal outside of the Ordinary High Water Mark (OHWM). Invasive and non-native vegetation will be removed using hand-held equipment within the OHWM limits. For avoidance of native species, a qualified biologist will flag the sensitive plant species identified by federal, state, or regional agencies (determined by the California Natural Diversity Database and/or California Native Plant Society) during pre-clearing and post-clearing biological monitoring.

The applicant is proposing to maintain the channel on a continuous, as-needed basis and as part of an overall, long-term channel maintenance program, which streamlines the resource agencies permitting process for routine maintenance of multiple existing flood control facilities. Therefore, the applicant is requesting that the coastal development permit (CDP) be granted by the Commission in perpetuity. However, the Commission does not grant such an open-ended approval. Site conditions and practices must be periodically reviewed to ensure that maintenance activities are in compliance with the Chapter Three policies of the Coastal Act. Substantive changes must come back to the Commission for review as an amendment or a subsequent permit. Therefore, the Commission imposes **Special Condition 1** limiting the CDP to a five (5) year duration period from the date of the permit is approved by the Commission. Any changes to the CDP would require approval by the Executive Director; for requests for extension of time, the applicant must also return to the Commission for review and approval.

The project site is the northern and southern banks of the approximately 2-mile (or 10,800 linear feet) lower portion of the Ballona Creek concrete-sided, Soft-bottom Channel (SBC Reach 112) within the coastal zone in Los Angeles County (**Exhibits 1 & 2**). The northern banks of the channel are located within the Marina Del Rey area, County of Los Angeles; the southern banks of the channel are within the City of Los Angeles. This lower portion of SBC Reach 112 (hereafter referred to as the “project site”) extends seaward of the Marina Freeway (CA-90) to Pacific Avenue (**Exhibits 1 & 2**). The channel discharges into Santa Monica Bay between Marina del Rey and the Playa del Rey, a City of Los Angeles district. Public access is available along the reach via an existing bicycle/pedestrian path located adjacent to and north of the top bank of Ballona Creek. The Los Angeles County Flood Control District (LACFCD) owns and operates the channel, which is within the Commission’s original permit jurisdiction.

The project site lies within the Ballona Wetlands Ecological Reserve and provides a native salt marsh habitat that is used as a breeding ground by many marine and terrestrial organisms. The saltwater marsh vegetation occurs along the banks, which are composed of riprap with small stones. BonTerra Psomas (2013), biological consultants, identified the salt marsh habitat as disturbed because the salt marsh vegetation is intermixed with non-native ruderal and invasive ornamental species. Therefore, the applicant is proposing to remove the non-native and invasive vegetation to improve the carrying capacity of the channel and to restore the existing native saltmarsh habitat.

A project proposed near sensitive habitat areas has the potential for adverse impacts. The applicant is proposing non-native/invasive vegetation and debris removal on the riverside of the concrete levees, or the area between the top of the levee and the outer right-of-way boundary. The type of routine maintenance activities proposed is not expected to cause substantial impacts to special status species or sensitive habitat areas. Less than significant impacts to coastal resources are expected due to the brief maintenance period and minimal heavy work proposed within the channel.

The proposed project, nonetheless, has the potential for adverse impacts without the proper minimization and protective measures. Therefore, according to the applicant, avoidance and minimization measures will be implemented at the project site prior to and during maintenance activities associated with the project. These measures include the previously mentioned pre-clearing and post-clearing biological monitoring by a Biologist to flag, identify, and avoid impacts to Special Status Listed Plan Species. In addition, all work is proposed to be scheduled to occur outside of bird nesting season. If it is absolutely necessary to conduct work activities during bird nesting season, the applicant has indicated that a qualified Biologist will conduct a nesting bird survey within 72 hours of the anticipated start date. If an active nest is found or nesting activities are observed, activities will be conducted as recommended by the Biologist to avoid any nests or minimize impact to the nesting activities. To ensure the proposed project incorporates and implements these measures, the Commission imposes **Special Conditions 4 & 5**, which implements the native vegetation delineation and flagging, as well as time and operation to avoid adverse impacts on sensitive species and bird nesting activities. **Special Condition 6** requires that an appropriately trained biologist monitor the development to minimize or avoid significant impacts to wildlife and habitat areas.

In addition, the work proposed includes treatment of grasses and weeds by mowing or herbicide application, and removal of non-native and invasive trees and shrubs by chainsaw and cut-stump herbicide application. The application of herbicide has the potential to negatively impact the existing native saltmarsh habitat that is proposed to remain untouched. Therefore, the Commission imposes **Special Condition 4** to ensure that herbicide use within the channel will strictly be for the elimination of non-native and invasive vegetation only and used in a way to avoid any negative impact to the existing native saltmarsh habitat.

In addition, storage or placement of maintenance materials, debris, or waste in a location subject to erosion and dispersion, or which may be discharged into the watercourse via rain or wind would result in adverse impacts upon the marine environment. For instance, maintenance debris entering the watercourse may cover and displace soft bottom habitat. Also, debris removal and sediment

discharged into the creek watercourse may cause turbidity, which can reduce foraging avian and marine species' ability to see food in the water column. Therefore, best management practices will be implemented at the project site prior to and during maintenance activities associated with the project. For instance, to prevent debris from entering the Ballona Creek watercourse as a result of the proposed non-native and invasive vegetation removal, the applicant will use a 500-foot floating boom. Floating debris will be removed once work is complete, before moving to another work section. In order to ensure that best management practices will be implemented and that the maintenance-related impacts upon marine resources will be avoided, the Commission imposes **Special Condition 7**, which outlines best management practices and requirements to provide for the safe storage of maintenance materials and the safe disposal of maintenance debris.

The applicant states that the access routes and staging areas will be located within pre-existing access roads. Equipment will be staged outside the streambed and within the designed staging areas. Heavy equipment will not be taken into the channel. The applicant is not proposing a single staging area because the equipment will continually shift as the work progresses downstream. The applicant has indicated that public access and public safety along the bicycle paths will be maintained by using signage and flaggers around all equipment and work areas to minimize impact to public access and path users.

Proposed maintenance activities will occur on an as-needed basis per annum. To ensure that the proposed maintenance work in a one year period meets the requirements of this coastal development permit (i.e., would result in no or less than minimal environmental impact), **Special Condition 2** requires that prior to the start of the maintenance season the applicant submit to the Executive Director a detailed Annual Routine Maintenance Activities Report listing the proposed maintenance activities at facilities within the coastal zone for that year. The Annual Routine Maintenance Activities report would provide site specific information such as type of proposed maintenance, schedule of work, maintenance access and staging plans and equipment; site specific reconnaissance within each of the facilities proposed for maintenance and acreage of jurisdictional impacts, if any, and habitat surveys if any habitat/vegetation has developed at the site over time and there is a risk of adverse impact by the specific type of maintenance proposed at that particular site. The Annual Routine Maintenance Activities Report and reconnaissance surveys would be public documents available for review by the public or any interested parties. The proposed maintenance activities will be deemed approved if staff does not respond within 60 days of submittal of the Annual Maintenance Activities Report. If the proposed routine maintenance activity is deemed to have a potential risk of adverse environmental impacts, then the applicant agrees to apply for that maintenance activity under a separate coastal development permit for full review.

Other Agency Approvals

The project site is subject to the U.S. Army Corps of Engineers (USACE), the Regional Water Quality Control Board (RWQCB), and the California Department of Fish and Wildlife (CDFW). Therefore, the applicant has applied for and has received the following regulatory agency approvals:

- Regional General Permit (RGP) from the U.S. Army Corps of Engineers for coverage under Section 404 of the Clean Water Act
- Certification from the State Water Resources Control Board and Los Angeles Regional Water Quality Control Boards for coverage under Section 401 of the Clean Water Act

- Long Term Streambed Alteration Agreement for Routine Maintenance from the CA Department of Fish and Wildlife for coverage under Section 1602 of the California Fish and Game Code

To ensure conformance with the requirements of these resources agencies, the Commission recommends **Special Condition 8**, which requires that the applicant comply with all permit requirements and mitigation measures of the California Department of Fish and Wildlife, California State Water Quality Control Board, Regional Water Quality Control Boards (Los Angeles), and U.S. Army Corps of Engineers with respect to preservation and protection of water quality, the marine environment, and sensitive species.

B. MARINE RESOURCES AND WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of maintenance and post-maintenance activities on the marine environment. These design features include, but are not limited to, one or more of the following: the appropriate management of equipment and maintenance materials, the reduction in impervious areas by planting non-invasive drought tolerant vegetation to reduce storm runoff, and for the use of post-maintenance best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

C. COASTAL HAZARDS

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to: limit the duration of the permit to five years, require an annual maintenance report, and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

D. PUBLIC ACCESS

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed the development, as conditioned, conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

E. RECREATION

The proposed development, as conditioned, does not interfere with public recreational use of coastal resources. The proposed development, as conditioned, protects coastal areas suited for recreational activities. Therefore, the Commission finds that the proposed development, as conditioned, is in conformity with Sections 30210 through 30214 and Sections 30220 through 30223 of the Coastal Act regarding the promotion of public recreational opportunities.

F. LOCAL COASTAL PROGRAM (LCP)

The southern banks of the lower section of SBC Reach 112 (proposed project site) are located within the City of Los Angeles. The City of Los Angeles has neither a certified Local Coastal Program (LCP) nor a certified Land Use Plan (LUP). Coastal Act section 30604(a) states that, prior to certification of a local coastal program, a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3.

The northern banks of the lower section of SBC Reach 112 (proposed project site) are located within Marina Del Rey area of the County of Los Angeles. An LCP for the portion of the Marina Del Rey/Ballona segment of the County of Los Angeles was effectively certified in 1990. Subsequent to a major amendment, the amended LCP was certified on May 1995. Coastal Act section 30519(b) states that, after a local coastal program has been certified, the commission shall continue to exercise development review authority for development proposed or undertaken on any tidelands, submerged lands, or on public trust lands lying within the coastal zone. The northern banks of the channel are located in an area below the mean high tide line and where the Commission has retained jurisdiction over the issuance of coastal development permits.

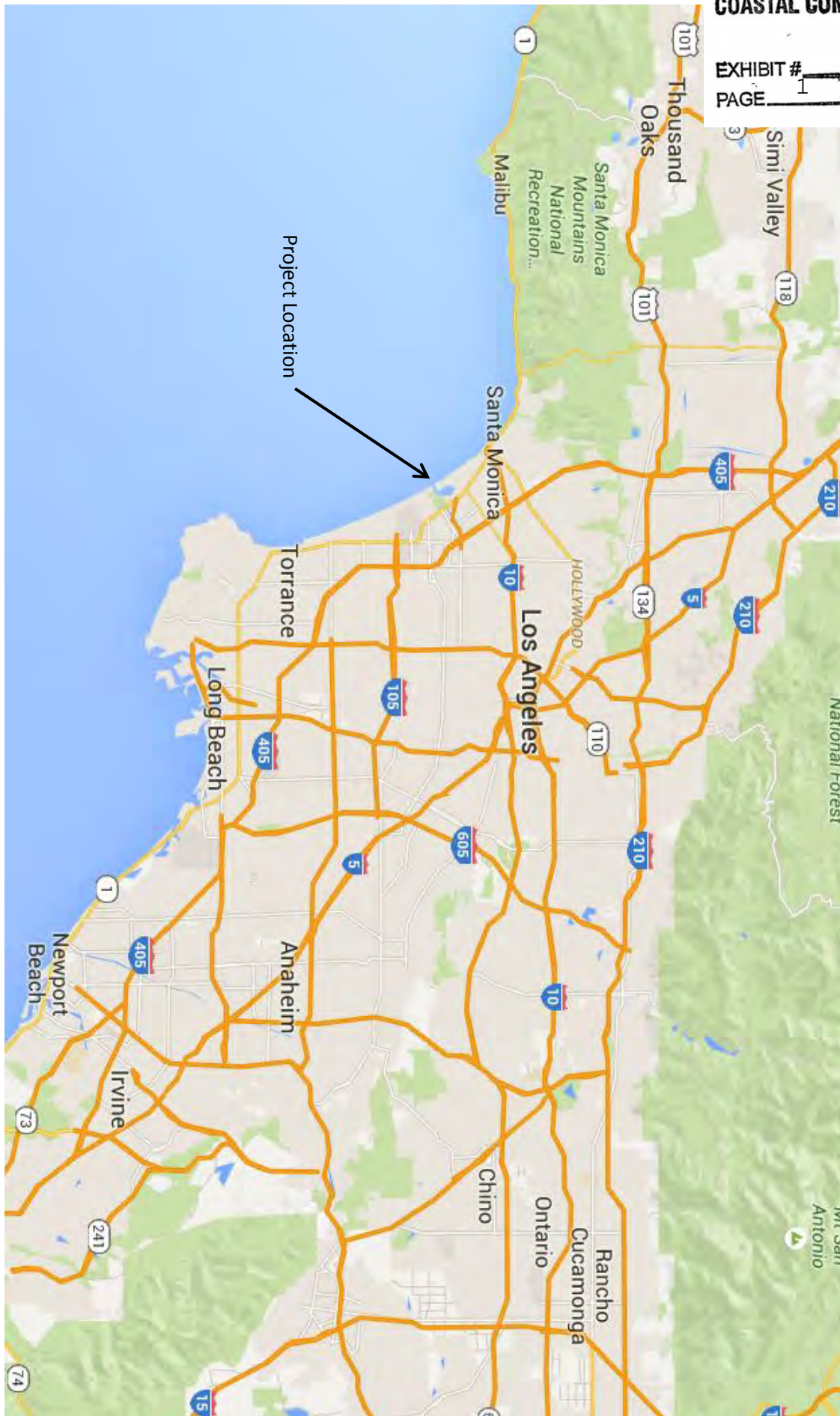
The standard of review is the Chapter 3 policies of the Coastal Act. As conditioned, the proposed development will be consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 of the Coastal Act.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

Appendix A - Substantive File Documents

- Coastal Development Permit Application No. 5-15-1065
- USACE Application for Department of the Army Permit
- Los Angeles RWQCB Water Quality Certification
- Amendment of Lake or Streambed Alteration Agreement



Project Site only consists of the Reach 112 alignment within the Coastal Zone (Seaward of the Coastal Zone Boundary)



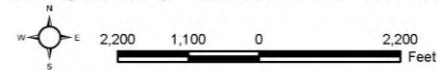
COASTAL COMMISSION

EXHIBIT # 2
PAGE 1 OF 2

Reaches 112 and 117

Exhibit 1

Los Angeles County Flood Control District – Soft-Bottom Channel Maintenance Program



Bonterra
PSOMAS

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Method of Vegetation Clearing – Reaches 112 and 117

Exhibit 1

Los Angeles County Flood Control District – Soft-Bottom Channel Maintenance Program



Bonterra
PSOMAS

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March 6, 2014. View Downstream from Centinela Ave.

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March 6, 2014. View Upstream of Lower Ballona Channel from Pacific Ave Bridge.

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Site Photographs

Exhibit 4a

Ballona Creek Soft-Bottom Channel - Reach 112

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March 6, 2014. View Downstream from North Bank of Lower Ballona Channel toward Ocean.



March 6, 2014. View Upstream of Lower Ballona Channel from North Bank.

Site Photographs

Ballona Creek Soft-Bottom Channel - Reach 112

Exhibit 4

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