

**CALIFORNIA COASTAL COMMISSION**

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Filed: 2/15/2019  
180th Day: 8/10/2019  
Staff: M.Vaughn-LB  
Staff Report: 5/23/2019  
Hearing Date: 6/14/2019

**STAFF REPORT: CONSENT CALENDAR**

**Application No.:** 5-18-1151

**Applicant:** Sunset Beach Sanitary District

**Agent:** Thomas Dawes, District Engineer

**Location:** Sunset Channel, 100 Feet East of Pacific Coast Highway at Broadway, City of Huntington Beach, Orange County

**Project Description:** Sunset Beach Sewer Siphon Replacement Project

**Staff Recommendation:** Approval with conditions

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**SUMMARY OF STAFF RECOMMENDATION**

The proposed sewer siphon pipeline replacement project is located within Sunset Channel, in Huntington Harbor in the City of Sunset Beach. Construction will also occur from the Broadway bridge (backhoe placement for excavation within the channel) and within the Broadway road right of way (construction staging and storage; and proposed jacking and receiving pits). One direction of vehicular traffic and one pedestrian sidewalk will remain open during construction. No adverse impacts to habitat are anticipated.

Staff recommends **approval** of Coastal Development Permit application 5-18-1151, with **six (6)** special conditions regarding: **(1) Resource Agencies; (2) Avoidance of Sensitive Species; (3) Pre- and Post-Construction Eelgrass Survey(s); (4) Pre-Construction *Caulerpa taxifolia* Survey; (5) Construction Responsibilities and Debris Removal; and (6) Assumption of Risk, Waiver of Liability and Indemnity Agreement Applicable to Applicant.** The special conditions are necessary to ensure that coastal resources are protected and that the applicant is aware of and assumes the risks associated with the proposed development.

5-18-1151 (Sunset Beach Sanitary Sewer District)

The subject site is located within the City of Huntington Beach, which has a certified Local Coastal Program (LCP). However, the Sunset Beach annexation area has not yet been incorporated into the City of Huntington Beach certified LCP. In addition, the proposed development is partially occurring within an area of the Commission's retained permit jurisdiction, Sunset Channel. In such cases, the standard of review is Chapter 3 of the Coastal Act with the City's certified Local Coastal Program used as guidance.

The applicant agrees with the staff recommendation.

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**EXHIBITS**

Exhibit 1 – Vicinity Map  
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## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** the coastal development permit applications 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. **Resource Agencies.** The permittee shall comply with all requirements, requests and mitigation measures from the U.S. Army Corps of Engineers and the Regional Water Quality Control Board with respect to preservation and protection of water quality and the marine and terrestrial environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.
2. **Avoidance of Sensitive Species.** By acceptance of this permit, the applicant agrees to the following:
  - A. **Nesting Birds.** Prior to commencement of any construction activities between February 15 through August 31, a qualified biologist shall conduct a breeding behavior and nesting survey for birds protected by the United States Fish and Wildlife Service, California Department of Fish and Wildlife, the Migratory Bird Treaty Act and California species of special concern, within 300' of the project site and within 500' for raptors and owls. If any occupied nests of any sensitive species are discovered, construction activities within 300' of the nest (500' for raptors and owls) shall be monitored to ensure that construction noise levels do not exceed 85 dB peak until the nest is vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting. The applicant shall implement a larger buffer if the biologist recommends a larger buffer from the nest.
  - B. **Sensitive Species Monitoring.** Prior to undertaking any development including, but not limited to, demolition, construction, grading or excavation, a qualified biologist shall survey the project site to determine whether sensitive bird species, including but not limited to Belding's savannah sparrow, western snowy plover, brown pelican, light-footed clapper rail, black skimmer or California least tern, are present within 100' of the project site, and whether sensitive plant species, including but not limited to woolly seablite, estuary seablite, Leopold's rush or southern tarplant are located within 25' of the project site. Excepting southern tarplant, addressed in **Special Condition 2D**, construction activities shall avoid any identified species.
  - C. An appropriately trained biologist shall monitor the approved development for disturbance to sensitive species or habitat area. At minimum, monitoring shall occur once a week during any week in which construction occurs. Daily monitoring shall occur during development that could significantly impact biological resources, such as construction that could result in disturbances to sensitive species. Based on field observations, the biologist shall advise the Permittee regarding methods to avoid significant impacts which could occur to sensitive species or habitat areas.
  - D. If, prior to construction, the biologist identifies impacts to southern tarplant which cannot feasibly be avoided, a final seeding and salvage plan shall be submitted for the review and approval of the Executive Director. The seeding and salvage plan shall include a plan identifying the location of southern tarplant, the required width necessary for construction access, and measures for reseeded or salvage.

### 3. Pre-and Post-Construction Eelgrass Survey(s)

- A. Pre-Construction Eelgrass Survey. A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre- construction survey shall be completed within 60 days before the start of construction. The survey shall be prepared in full compliance with the “California Eelgrass Mitigation Policy and Implementing Guidelines” dated October 2014 (see [http://www.westcoast.fisheries.noaa.gov/habitat/habitat\\_types/seagrass\\_info/california\\_eelgrass.html](http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/california_eelgrass.html) ) adopted by the National Marine Fisheries Service (except as modified by this special condition) and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.
- B. Post Construction Eelgrass Survey. If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within 30 days of completion of construction, or within the first 30 days of the next active growth period following completion of construction that occurs outside of the active growth period, the applicant shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the “California Eelgrass Mitigation Policy and Implementing Guidelines” dated October 2014 (see [http://www.westcoast.fisheries.noaa.gov/habitat/habitat\\_types/seagrass\\_info/california\\_eelgrass.html](http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/california_eelgrass.html) ) (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicant shall replace the impacted eelgrass at a minimum 1.2:1 (mitigation:impact) ratio on-site, or at another location, in accordance with the California Eelgrass Mitigation Policy and Implementing Guidelines. Based on past performance of eelgrass mitigation efforts in this area, in order to achieve this minimum, an initial planting ratio of 1.38:1 is recommended. All impacts to eelgrass habitat shall be mitigated at a final minimum ratio of 1.2:1 (mitigation: impact). Any exceptions to therequired 1.2:1 final mitigation ratio found within the California Eelgrass Mitigation Policy and Implementing Guidelines shall not apply. Implementation of mitigation shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is legally required.

### 4. Pre-Construction *Caulerpa taxifolia* Survey

- A. No earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the “project”), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.

- B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Wildlife, and the National Marine Fisheries Service (see [http://www.westcoast.fisheries.noaa.gov/habitat/habitat\\_types/seagrass\\_info/caulerpa\\_taxifolia.html](http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/caulerpa_taxifolia.html) ).
  - C. Within five (5) business days of completion of the survey, the applicant shall submit the survey:
    - 1. for the review and approval of the Executive Director; and
    - 2. to the Surveillance Subcommittee to the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Wildlife ([858-467-4218](tel:858-467-4218)/[William.Paznokas@wildlife.ca.gov](mailto:William.Paznokas@wildlife.ca.gov)) or Bryant Chesney, National Marine Fisheries Service ([562-980-4037](tel:562-980-4037)/[Bryant.Chesney@noaa.gov](mailto:Bryant.Chesney@noaa.gov)), or their successors.
  - D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and/or buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
- 5. Construction Responsibilities and Debris Removal.** The permittee shall comply with the following construction related requirements:
- A. No demolition or construction 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.
  - B. Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project.
  - C. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
  - D. Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone
  - E. If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity.
  - F. Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day.

- G. Non-buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss.
  - H. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
  - I. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
  - J. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place, unless the Executive Director determines that no amendment or new permit is legally required.
  - K. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
  - L. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
  - M. The discharge of any hazardous materials into any receiving waters shall be prohibited.
  - N. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
  - O. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity.
  - P. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- 6. Assumption of Risk, Waiver of Liability and Indemnity Agreement Applicable to Applicant.**  
By acceptance of this permit, the applicant, the City of Huntington Beach, acknowledges and agrees (i) that the site may be subject to hazards from wave and tidal action, flooding, erosion, sea level rise, geologic instability, or liquefaction; (ii) to assume the risks to the applicant, the City of Huntington Beach, 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; (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.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT LOCATION & DESCRIPTION**

The subject site is located in Sunset Channel, 100 feet east of Pacific Coast Highway at Broadway, and within the Broadway road right of way, in the Sunset Beach area of the City of Huntington Beach, Orange County. The project proposes to replace an existing sewer siphon pipeline that crosses beneath Sunset Channel. The existing sewer siphon was installed in 1936 and is believed to be susceptible to damage due to its age and/or should an earthquake occur. The existing siphon is a 6-inch cast iron pipe. The proposed replacement pipeline will be 6-inch plastic pipe. Plastic is proposed to allow some flex in the pipeline and because it is much stronger than the existing pipeline. The location of the proposed pipeline will be nearly identical to the existing pipeline. The applicant's (Sunset Beach Sanitary Sewer District) goal is to replace the pipeline before a problem occurs (such as due to the age and/or earth movement, etc.). The proposed project would involve two phases: 1) in-channel excavation work necessary to find the size and location of the opening in the Sunset Channel's steel sheetpile bulkhead walls through which the existing sewer siphon pipeline passes; and, 2) replacing the old, 6-inch siphon sewer pipeline with a new 6-inch siphon sewer pipeline. The new pipeline will be installed via the jack and bore method.

The first phase would involve installation of temporary bulkheads (barriers) in and across the channel on both the north and south side of the Broadway Bridge and excavation of approximately 50 cubic yards from each of two pits immediately adjacent to the channel's steel sheetpile bulkheads on either side of the channel. As the excavation continues, for every foot of depth the side slope will extend a foot and a half. The excavated area is expected to be a two square foot bottom with 1:½ slopes. So, for example, if the excavation extends 4-feet deep, the bottom of the excavation would be 2-foot square, while the top of the excavated area would be 2 feet long along and adjacent to the channel bulkhead, 14-feet long on the side parallel to and away from the bulkhead, with the two additional sides 6-feet long each. Water from the work area will be pumped back into the channel, outside the work area (the area outside the area between the two temporary bulkheads); the water level is intended to be maintained no lower than -5 MSL, if possible. The excavated material will be replaced back in the channel within the bulkheaded work area (between the existing side bulkheads and two temporary, in-channel bulkheads). Proposed in-channel excavation would occur at only one of the two channel-side locations at a time. Excavation will occur until the location and size of the existing opening in the channel bulkheads (that accommodates the existing sewer siphon pipeline) is discovered. It is believed that when the sheetpile bulkhead was installed by the County of Orange in 1959, the sheetpile depth was reduced in the area of the sewer siphon pipeline. Phase 1 is proposed to find that depth as well as the width (location) of this shortened sheetpile section in order to install the new sewer siphon pipeline. Excavation is proposed to occur via use of a backhoe located on the Broadway bridge. No barges are proposed.

The second phase of the project would involve installation of a new sewer siphon pipeline beneath Sunset Channel. The new sewer siphon pipeline would be installed via a jack and bore process.

This trenchless construction method will eliminate the need to cut a continuous open trench and thus will avoid trenching within the channel. Although open trenching will be eliminated, this method requires excavation of access pits (also called jacking pits). The access pits will be located on land within the Broadway road right-of-way on Broadway near (but outside of) Pacific Coast Highway, and within the Broadway road right-of-way on Broadway near (but outside of) Bayview Drive. The jacking pits will also be located outside the traffic lanes. During the second phase of the project no work will occur within the channel. The existing pipe will be completely disconnected from the collection system, remain in place, and filled with slurry.

One vehicular traffic lane and one sidewalk will remain open during construction activities. Excavation work in the channel is expected to take approximately one week. All construction staging activities will occur within the Broadway road right-of-way, including storage of supplies and equipment. BMPs to prevent all material, equipment, and debris from falling into the channel would be implemented during all maintenance activities as proposed by the applicant and required by **Special Condition 5**.

Work for the proposed project would occur within a navigable channel within Huntington Harbor. The site was inspected by California Department of Fish & Wildlife staff for potential sensitive habitats such as eelgrass, and concluded that “*none are likely located in the project area due to low circulation and poor water quality issues.*” In addition, a biological survey of the subject vicinity was conducted (*Biological Reconnaissance Survey Results for the Broadway Sewer Siphon Replacement Project*, GPA Consulting, January 2019) and found that no adverse impacts are anticipated from the proposed project. The biological survey surveyed the project vicinity for eelgrass and *Caulerpa taxifolia*. Although no eelgrass or *Caulerpa taxifolia* was found, in order to protect biological resources from potential negative impacts from construction activities within the channel, the Commission imposes **Special Conditions 3, 4 & 5**, which require the applicant to conduct Eelgrass and *Caulerpa taxifolia* surveys and possible Eelgrass mitigation, and to implement construction BMPs. The site is located approximately 5000 feet south of Seal Beach Wildlife Refuge and approximately 5000 feet northwest of Bolsa Chica Ecological Reserve. In an effort to avoid impacts to sensitive species, the Commission imposes **Special Conditions 1 & 2**, which require the applicant to comply with the requirements of other resource agencies and to take careful measures to avoid adversely affecting sensitive species.

At the end of each workday, all construction equipment, materials and other gear will be properly secured and stored in an approved staging area. **Special Condition 6** imposes an assumption of risk, waiver of liability and indemnity agreement on the applicant. By accepting a Coastal Development Permit, the applicant agrees to this and all associated conditions.

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

The proposed work will occur in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best

management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

### **C. BIOLOGICAL RESOURCES**

As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(b) of the Coastal Act.

### **D. VISUAL RESOURCES**

As proposed, the development is located within an existing developed area and is not visible to the public. The project will not disrupt public coastal views. Therefore, the Commission finds that the development conforms with Sections 30250, 30251, and 30252 of the Coastal Act.

### **E. MARINE RESOURCES**

The proposed development has been designed to minimize the fill of coastal waters and adequate mitigation has been provided. The proposed development has been conditioned to minimize adverse effects on the marine environment by avoiding or mitigating impacts upon sensitive marine resources, such as eelgrass and to avoid contributing to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. As conditioned, there are no feasible less environmentally damaging alternatives available. Therefore, the Commission finds that the proposed development conforms with Sections 30224, 30230, 30231, and 30233 of the Coastal Act.

### **F. HAZARDS**

Development adjacent to the ocean is inherently hazardous. To minimize risks to life and property, the development has been conditioned to: require that the applicant assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Section 30253 of the Coastal Act regarding the siting of development in hazardous locations.

### **G. PUBLIC ACCESS**

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

### **H. LOCAL COASTAL PROGRAM (LCP)**

Coastal Act section 30604(a) states that, prior to certification of a local coastal program (“LCP”), a coastal development permit must 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. Orange County’s LCP for Sunset Beach was effectively certified in 1982 and updated in 1992. However, Sunset Beach was annexed into the City of Huntington Beach effective August 2011. This annexation terminated the County’s LCP permitting jurisdiction for the area. The Sunset Beach annexation area has not yet been incorporated into the City of Huntington Beach certified LCP. In

addition, the proposed development is partially occurring within an area of the Commission's retained permit jurisdiction. Thus, there is not currently an effective certified LCP for Sunset Beach and, therefore, the Chapter 3 policies of the Coastal Act provide the standard of review for coastal development permits in the area. The previously certified Sunset Beach LCP may be used as guidance as appropriate. As conditioned, the proposed development is consistent with the Chapter 3 policies of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

#### **I. 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**

- 1) City of Huntington Beach Certified Local Coastal Program.
- 2) City of Huntington Beach Approval in Concept, 10/13/2018
- 3) Biological Reconnaissance Survey Results for the Broadway Sewer Siphon Replacement Project, GPA Consulting, January 2019