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STAFF REPORT: REGULAR CALENDAR

Application Number: 6-20-0160

Applicants: California Department of Transportation (Caltrans) and San Diego Association of Governments (SANDAG)

Project Location: San Dieguito Lagoon, Cities of Del Mar and San Diego, San Diego County

Project Description: Implementation of habitat restoration project within San Dieguito Lagoon, including approximately 140 acres of habitat restoration within the W-19 site and 14 acres within the W-6 site, construction of a one-mile trail segment, relocation of existing utility poles, beach nourishment using a total of 30,000 cubic yards of beach-compatible material deposited over a fifty-year period, maintenance dredging with placement of up to 20,000 cubic yards of beach-compatible material per dredging event, and deepening of an existing sand trap with placement of up to 4,200 cubic yards of beach-compatible material.

Staff Recommendation: Approval with Conditions.

SUMMARY OF STAFF RECOMMENDATION

The W-19 San Dieguito Lagoon Restoration Project consists of the restoration of two former wetland sites within San Dieguito Lagoon, the 140-acre W-19 site and the 14-acre W-6 site. The proposed project is intended to supplement other adjacent

restoration efforts as part of the overall restoration of San Dieguito Lagoon. Successful restoration of the W-19 site is intended to provide wetland mitigation for future infrastructure projects, including highway, rail, bike, and pedestrian projects identified in the North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program (NCC PWP/TREP), approved by the Commission in June 2014. The NCC PWP/TREP is a single, integrated document for comprehensively planning, reviewing, and permitting the transportation, community, and resource enhancement projects within the North Coast Corridor extending from La Jolla to Oceanside along the North San Diego County coastline. In addition, a portion of the restoration project is intended to provide wetland mitigation for a future bridge replacement and road widening project along El Camino Real.

The larger San Dieguito Lagoon historically supported a range of habitats, including vegetated salt and brackish marsh, associated tidal embayments, sloughs, and mudflats. Beginning in the early 20th century, large portions of the San Dieguito Lagoon marsh plain were filled for construction of roads, farmland, an airfield, the Del Mar Fairgrounds, and a shopping center. Today, less than half of the historical wetlands remain intact and the estuary's area is greatly reduced from its historical extent, although restoration efforts in recent years have compensated for this loss to some degree.

The W-19 restoration will establish 60 acres of tidal salt marsh habitat west of an existing utility corridor, 15 acres of brackish marsh east of the utility corridor, and 4.4 acres of riparian habitat along with 4.9 acres of riparian enhancement. The project also includes 28 acres of coastal sage scrub restoration and 20 acres of transitional habitat between the wetlands and uplands. Restoration will occur pursuant to the Habitat Mitigation and Monitoring Plan (HMMP) developed by the applicants in collaboration with Commission staff and other state and federal regulatory agencies. The HMMP includes detailed requirements regarding construction scheduling, grading, planting, irrigation, maintenance, monitoring, and success criteria, among other topics, and generally facilitates implementation of the project and assessment of its success. As of the date of this staff report, the HMMP is nearly but not yet finalized, so **Special Condition 3** requires the applicants to submit the final HMMP to the Executive Director for review and approval prior to issuance of the permit.

Restoration of the smaller W-6 site will re-establish approximately 10 acres of wetland habitat and 4 acres of transitional upland habitat, and is intended to offset the ecological impacts of the W-19 restoration to adjacent sites restored by Southern California Edison (SCE) pursuant to Coastal Development Permit (CDP) 6-04-088 and subsequent amendments. SANDAG is currently finalizing a Memorandum of Understanding (MOU) with SCE and the San Dieguito River Park Joint Powers Authority (JPA) that will govern the monitoring, transfer, and long-term maintenance of the W-6 site as compensation for these impacts. **Special Condition 4** requires the applicants to submit the final MOU to the Executive Director for review and written approval prior to issuance of this permit.

The overall habitat restoration will require approximately 1.2 million cubic yards of excavation and removal of approximately 150,000 cubic yards of non-native vegetation. Borings conducted for the project determined that the sediment to be removed is not considered compatible for placement on adjacent beaches. A portion of this excavated material may be used to recontour the elevations of W-19 as part of the restoration; however, any material that is unsuitable for use in the habitat restoration will be trucked to an existing 31.5-acre disposal area previously used by SCE in the upland southeastern area of the lagoon. Additionally, the project includes construction of a new one-mile recreational trail south of W-19 that will connect to existing trails, and relocation of existing utility poles currently aligned through the lagoon.

To address the anticipated tidal prism effects of the restoration project and disruption of sand supply to local beaches, the project includes deepening of an existing sand trap, and dredging of the inlets of W-19 and W-6 and the interior of W-19 on a periodic basis following significant storm events in order to prevent the buildup of sediment within W-19. Removal of this sediment will avoid potential large-scale habitat conversion and/or water quality issues within the established wetland areas, and will also provide beach-compatible sand for replenishment of nearby beaches. To further mitigate disruption of sand supply, the applicants also propose periodic deposition of beach-compatible sand along adjacent beaches consisting of a total of 30,000 cubic yards of material over a 50-year period (an initial 5,000 cubic yard deposition followed by subsequent 5,000 cubic yard depositions every ten years for a total of six deposition events). However, given the uncertainty of future beach conditions in the project area, particularly due to sea level rise, **Special Condition 10** authorizes beach nourishment in 5-year increments for a maximum of 20 years. The permittees are required to submit a dredging and disposal operations plan for Executive Director review and approval prior to each dredging event, including a map of the proposed dredging and receiver sites, a schedule, a description of equipment to be used, and a plan designating staging, access routes, and stockpile areas consistent with standards to avoid sensitive areas and species and to control debris. At the end of each 5-year dredging and disposal period, **Special Condition 10** requires the permittees to submit an updated dredging plan that accounts for current beach conditions for Executive Director review and approval in order to receive an additional 5-year extension. After 20 years, the permittees will have the option to apply for a CDP amendment authorizing continued beach nourishment into the future.

Section 30233 of the Coastal Act imposes a three-part test on dredging and filling projects: (1) the allowable use test; (2) an alternatives test; and (3) a mitigation test. Regarding the first test, the relevant category of use for the proposed project is identified under Section 30233(a)(6): restoration purposes. For the second test, the project was analyzed in an Environmental Impact Report (EIR) which included an analysis of three other alternatives, including the No Project Alternative. All three other alternatives were found to result in significantly more impacts to environmental resources with fewer environmental benefits when compared to the proposed project. Finally, the project, as conditioned, includes measures to minimize adverse environmental impacts and to mitigate for unavoidable impacts. Thus, the proposed dredging and filling of wetlands is allowable under Section 30233.

Other elements of the project, including the trail construction, utility relocation, and disposal operations, are located within areas that are not considered environmentally sensitive habitat areas (ESHA) and thus are not expected to have direct impacts to ESHA. However, while direct impacts are not anticipated, it is possible that construction of those elements could result in unintended impacts to ESHA and sensitive species given the sensitive nature of the lagoon system. To ensure that development of these elements will avoid impacts to ESHA and sensitive species, **Special Condition 8** requires a qualified biologist or environmental resource specialist to conduct surveys prior to the commencement of project operations, and to stop work if there is any breach in permit compliance or if unforeseen habitat or species issues arise, and requires mitigation for any impacts. **Special Condition 9** requires submittal of a Grunion Monitoring and Avoidance Plan to ensure that sand placement activities do not negatively impact California Grunion. To avoid potential impacts to sensitive bird species, **Special Condition 7** prohibits vegetation removal during bird nesting season (i.e., February 15 through August 31) unless approved by the Executive Director in coordination with state and federal wildlife agencies. **Special Condition 12** further requires the applicants to submit a Construction and Pollution Prevention Plan detailing the construction best management practices (BMPs) and avoidance measures that will be implemented to prevent pollution and water quality impacts. Additionally, the proposed dredging has the potential to directly impact eelgrass which may be present in the areas proposed to be dredged. Therefore, **Special Condition 13** requires the applicants to conduct two surveys of the project area for eelgrass prior to commencement of dredging operations, and to mitigate any impacts to eelgrass habitat in consultation with the National Marine Fisheries Service. Lastly, while the material proposed to be dredged periodically is expected to be suitable for beach nourishment, **Special Condition 11** requires dredge material to be analyzed prior to nourishment to ensure that the material is physically and chemically compatible for beach placement.

The proposed project will provide two long-term public access enhancements in the form of the new one-mile trail and the beach nourishment north and south of the lagoon inlet. However, restoration, disposal, and beach nourishment activities also have the potential to temporarily impact access to trails around San Dieguito Lagoon and to nearby beaches during nourishment. To minimize these impacts, **Special Condition 7** restricts project activities to Monday through Friday, with narrow exceptions, to minimize impacts to public access. **Special Condition 14** requires the applicants to submit for Executive Director review and approval a Public Access Plan describing measures for maintaining safe public access to and around San Dieguito Lagoon and nearby beaches and parking areas. **Special Condition 15** further requires submittal of a Trail Signage Plan detailing the content and location of all new trail signs and interpretive elements.

The proposed project would have no impact to known cultural resources within the project area. However, the potential remains for unknown cultural resources to be buried below the level of previous disturbance. Therefore, in consultation with the tribes, the applicants have agreed to implement measures for mitigating any potential inadvertent impacts to previously undiscovered cultural resources. Specifically, as required in **Special Condition 19**, a qualified archaeological monitor will be present

during all soil-disturbing and grading, excavation, and trenching activities into stable, undisturbed sediments. Prior to the start of any work that requires monitoring, a Native American monitor will attend preconstruction meetings, will review and approve an archaeological monitoring exhibit for the project, and will determine the extent of their presence during earth-moving activities based on the approved exhibit. If cultural materials are discovered, all earth-moving activities within and around the immediate discovery area would be diverted until a qualified archaeologist can assess the nature and significance of the find.

The proposed restoration will occur on non-prime former agricultural land on the periphery of an urban area. The Coastal Act allows such land to be converted if the conversion satisfies standards in Section 30241 as well as other applicable provisions of the Coastal Act. The project area, along with the rest of the lagoon, was taken out of agricultural production years ago as an initial step toward restoration of the lagoon system. The W-19 and W-6 sites are now open space surrounded by restored wetlands and public natural recreation areas, and thus are no longer suitable for agricultural production. Long-term agricultural production is also infeasible as the site is projected to experience increasingly more frequent and complete seawater inundation due to sea level rise. Restoration of these sites will provide a significant component toward the overall restoration of the lagoon, and would better reinforce the current boundary between the urban areas north and south of the river valley and the low-intensity, natural setting of the lagoon.

In short, the W-19 San Dieguito Lagoon Restoration Project will provide a significant component of the long-envisioned restoration of San Dieguito Lagoon. The applicants have designed the proposed project in coordination with Southern California Edison and other lagoon restoration partners, including Commission staff, to ensure that the project will harmonize with other existing restoration efforts in the vicinity and, thus, will result in a cohesive coastal wetland system. The project will also provide public access benefits through the construction of the one-mile trail segment, and will enhance access and coastal resiliency through beach nourishment and restoration of the natural floodplain.

Therefore, staff recommends that the Commission **APPROVE** Coastal Development Permit application 6-20-0160, as conditioned. The motion and resolution are on page 7. The standard of review is Chapter 3 of the Coastal Act.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

- Exhibit 1 – Project Location Map
- Exhibit 2 – Project Site Map
- Exhibit 3 – W-19 Proposed Habitat Distribution
- Exhibit 4 – W-6 Proposed Habitat Distribution
- Exhibit 5 – Draft Memorandum of Understanding
- Exhibit 6 – Proposed Utility Relocation
- Exhibit 7 – Projected Tidal Muting
- Exhibit 8 – Walker Scale Figure

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit Number 6-20-0160 subject to conditions set forth in the staff recommendation specified below.

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

Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project 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. 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 Permittees 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 an extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or 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 Permittees to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Final Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval two full-size sets of the final project plans, including construction plans, grading and grubbing plans, polluted runoff control plans, erosion control plans, planting plans, and irrigation plans. The Permittees shall undertake development in accordance with the approved final project plans. Any proposed changes to the approved final project plans shall be reported to the Executive Director. No changes to the final project plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required for any proposed minor deviations.
2. **Amendment to CDP 6-04-088 for Implementation of the San Dieguito Wetland Restoration Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees Southern California Edison and San Dieguito River Park Joint Powers Authority shall receive approval for an amendment to CDP 6-04-088 for implementation of the San Dieguito Wetland Restoration Plan to credit the restoration of the W-6 site toward the mitigation requirements of that permit. The restoration of the W-6 site shall serve as mitigation for the subject project's impacts on the adjacent mitigation sites restored by Southern California Edison and the San Dieguito River Park Joint Powers Authority.
3. **Final Habitat Mitigation and Monitoring Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval a Final Habitat Mitigation and Monitoring Plan that is in substantial conformance with the draft Habitat Mitigation and Monitoring Plan submitted August 17, 2020. The Permittees shall undertake development in accordance with the approved final Plan. Any proposed changes to the approved final Plan shall be reported to the Executive Director. No changes to the final Plan shall occur without a Commission approved amendment to the permit unless the Executive Director determines that no such amendment is legally required for any proposed minor deviations.
4. **Final Memorandum of Understanding.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval a Final Memorandum of Understanding (MOU) between the San Diego Association of Governments (SANDAG), the San Dieguito River Park Joint Powers Authority (JPA), and Southern California Edison (SCE). The Final MOU shall be substantially similar in form and content to the draft submitted on September 29, 2020 and as shown in **Exhibit 5**. All development shall be undertaken in

accordance with the approved final MOU. Any proposed changes to the approved final MOU shall be reported to the Executive Director. No changes to the final MOU shall occur without a Commission approved amendment to the permit unless the Executive Director determines that no such amendment is legally required for any proposed minor deviations.

5. Final Right of Entry, Construction Easements, and Landowner Agreements.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval evidence of all necessary landowner approvals for right of entry and other agreements, or evidence that no such approvals are required. Any changes to the project required by such approvals shall be reported to the Executive Director. No changes to the project shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required for any proposed minor deviations.

6. Other Agency Approvals. PRIOR TO ISSUANCE OF THE COASTAL

DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval a copy of a valid permit, letter of permission, or evidence that no permit is necessary from all other entities with review authority over the proposed project, including at a minimum the Regional Water Quality Control Board (RWQCB) and the U.S. Army Corps of Engineers (USACE). The Permittees shall inform the Executive Director of any changes to the project required by any other such authorizations. Any such changes shall not be incorporated into the project until the Permittees obtain an amendment to this CDP, or until the Executive Director determines that no amendment is legally required for any proposed minor deviations.

7. Timing and Implementation of Project Operations. It shall be the Permittees' responsibility to ensure that the following occurs concurrent with, and after completion of, all project operations:

- A. To avoid potential impacts to sensitive bird species, removal of existing vegetation (i.e., clearing and grubbing activities) shall not be permitted during the nesting season from February 15 through August 31 of any year, unless approved by the Executive Director in writing after coordination with the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service.
- B. All project activities, with the exception of minimal activities (e.g., monitoring, equipment maintenance, some grading on site with no hauling), shall occur Monday through Friday, excluding state holidays.
- C. Beach material placement is prohibited during the high-usage summer period from Memorial Day weekend through Labor Day.

8. Sensitive Species Surveys and Monitoring. The applicants shall retain the services of a qualified biologist(s) or environmental resource specialist(s) to conduct

sensitive species surveys and monitor project operations. At least two (2) weeks prior to commencement of each project operation, including future dredging events, the applicants shall submit the name and qualifications of the biologist or specialist, for the review and written approval of the Executive Director. The biologist or specialist shall ensure that all project construction and operations shall be carried out consistent with the following requirements:

- A. The biologist or environmental resource specialist shall: (1) conduct a survey of the project site, to determine presence and behavior of sensitive species, no more than three days prior to the commencement of any project operations including dredging activities; (2) immediately report the results of the survey to the Executive Director; and (3) monitor the site during all project operations:
 - i. In the event that any sensitive wildlife species (including but not limited to tidewater goby, Belding's savannah sparrow, California least tern, western snowy plover, Ridgway's rail) exhibit reproductive or nesting behavior, the environmental resource specialist shall require the applicants 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.
 - ii. In the event that any sensitive wildlife species are present in the project area, that do not exhibit reproductive behavior and are not within the estimated breeding/reproductive cycle of the subject species, and unauthorized take of the species would occur, the environmental resource specialist shall either: (1) reinitiate consultation with the appropriate agency, either the California Department of Fish and Wildlife (CDFW) or the United States Fish and Wildlife Service (USFWS), to seek guidance and approval for a salvage and relocation program prior to any excavation/maintenance activities to move sensitive species by hand to safe locations elsewhere along the project reach or (2) as appropriate, implement a resource avoidance program with sufficient buffer areas to ensure adverse effects to such resources are avoided. The applicants shall also immediately notify the Executive Director of the presence of such species and which of the above actions are being taken. If the presence of any such sensitive species requires review by USFWS or CDFW, no development activities are allowed within the established buffer until any such review and authorizations to proceed are received and approved by the Executive Director.
- B. The environmental resource specialist shall be present during all project activities. The environmental resource specialist shall require the Permittees to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. The environmental resource specialist(s) shall immediately notify the Executive Director if activities outside of the scope of Coastal Development Permit No. 6-20-0160 occur. If significant impacts or damage occur to sensitive habitats or to wildlife species, the Permittees shall

submit a revised or supplemental Habitat Mitigation and Monitoring Plan to adequately mitigate such impacts. The revised or supplemental Plan shall be processed as an amendment to this Coastal Development Permit.

- 9. Grunion Monitoring and Avoidance Plan.** PRIOR TO CONDUCTING BEACH NOURISHMENT ACTIVITIES at any time from March 1–August 31, the applicant shall submit to the Executive Director for review and written approval, a Grunion Monitoring and Avoidance Plan, written by a qualified biologist, that, at a minimum, provides for the following:
- A. Should sand placement activities be necessary at or below the high tide line between March 1 and August 31, the applicants shall avoid impacts to mature and/or spawning grunion and to grunion eggs. The applicants shall retain the services of a biologist with appropriate qualifications. The annually published California Department of Fish and Wildlife (CDFW) expected grunion runs shall be used to determine possible grunion spawning periods.
 - B. Sand placement sites shall be monitored for grunion runs beginning at least two weeks prior to commencement of sand placement activities, and throughout the period of planned sand placement work from March 1 through August 31. Monitoring is not necessary in areas where there is no sand, such as areas supporting 100% cobble or bluff backed beaches with no sand exposed during high tide.
 - C. Grunion monitoring shall be conducted by a qualified biologist for 30 minutes prior to, and two hours following, the predicted start of each daily spawning event. Sufficient qualified biologists shall be employed to ensure that the entire proposed sand placement site is monitored during the predicted grunion run. The magnitude and extent of a spawning event shall be defined in 300-foot segments of beach using the Walker Scale (**Exhibit 8**). Every individual fish (males and females) shall be counted to determine the Walker Scale value (e.g. 0, 1, 2, 3, 4, or 5) of each 300-foot segment within the proposed work area. Sand placement activities shall be modified according to the following plan:
 - i. If a grunion run consisting of 0-100 individual fish per 300-foot segment (Walker Scale 0 or 1) is reported within two weeks prior to, or during, sand placement work, the applicant does not need to take any avoidance action for grunion eggs. No mature grunion may be buried or harmed as a result of sand placement.
 - ii. Within two weeks prior to proposed work, if a grunion run consisting of 100 or more individual fish per 300-foot segment (Walker Scale 2, 3, 4, or 5) is reported, the applicant shall avoid work on the respective beach segment(s) and truck route and additionally, shall avoid a 100-foot buffer on either side of the segment(s) and route, for a minimum of two weeks, to ensure that no grunion eggs are buried or disturbed. These areas shall be memorialized through multiple GPS coordinates, and marked with irrigation flags for a

minimum of two weeks when the next scheduled grunion run will be monitored. The applicant shall adapt the sand placement schedule to avoid operations on such beach segments and their associated buffers. No mature grunion may be harmed as a result of sand placement.

- iii. If sand placement has already commenced, and a grunion run consisting of 100 to 500 individual fish, in one or more 300-foot segment (Walker Scale 2) in the work area is reported, the applicant shall avoid impacts to grunion eggs to the greatest extent feasible and then shall minimize impacts to grunion eggs through such measures as alteration of the truck route, sand discharge points, sand spreading areas, and sand placement locations.
- iv. If sand placement has already commenced, and a grunion run consisting of 500 or more individual fish per segment (Walker Scale 3, 4, or 5) is reported, the applicant shall avoid work on the respective beach segment(s) and truck route and additionally, shall avoid a 100-foot buffer on either side of the segment(s) and route, for a minimum of two weeks, to ensure that no grunion eggs are buried or disturbed. These areas shall be memorialized through multiple GPS coordinates, and marked with irrigation flags for a minimum of two weeks when the next scheduled grunion run will be monitored. The applicant shall adapt the sand placement schedule to avoid operations on such beach segments and their associated buffers. No mature grunion may be harmed as a result of sand placement.

10. Dredging and Disposal Operations. The dredging and disposal operations proposed in this Coastal Development Permit are authorized for a period of 5 years from the date that this permit is approved by the Commission. After such time, continuation of dredging and disposal operations may be extended for an additional period of 5 years from the date of expiration subject to submittal of an updated dredging and disposal operations plan to the Executive Director for review and approval. The dredging and disposal operations plan shall be submitted within 180 days before expiration of the current 5-year period unless the 180-day acceptance period is extended by the Executive Director for good cause. If the Executive Director determines that there are changed circumstances and re-review is warranted, the permittee shall be required to submit an amendment application to authorize future dredging and disposal operations. Dredging and disposal operations may be extended for additional 5-year period increments; however, in no instance shall dredging and disposal operations exceed a cumulative period of 20 years from the date that the permit is approved by the Commission. After 20 years, the permittees shall be required to apply for an amendment to authorize continued dredging and disposal operations. The Permittees shall submit a dredging and disposal operation plan at least sixty (60) days prior to each dredging operation for the review and written approval of the Executive Director. The plan shall include at a minimum:

- A. Site map showing the area to be dredged, the locations of any stockpile sites, and the locations of the receiver site(s). All maps shall be drawn to scale.
- B. Detailed description of the dredging and disposal operation, including the method of dredging, stockpiling, and disposal; and the volume of dredged sediment to be removed, stockpiled, and deposited at the receiver site(s).
- C. Description (e.g., size, type, capacity) of equipment to be used, including bin capacity when hopper and/or clamshell dredging is utilized, and equipment to be used to transport sand to and from the stockpile site(s) and to the receiver beach site(s).
- D. Begin and end dates of the dredging and placement activities.
- E. Results of a grain size and chemical analysis, pursuant to Special Condition 11 of this permit.
- F. Evidence that local agencies were apprised of the availability of sand resources that meet beach replenishment standards, the proposed receiver site(s), and the estimated volumes of sand to be placed at each site.
- G. Explanation of receiver site(s) priority.
- H. All relevant monitoring reports required pursuant to this permit.
- I. Non-sediment debris management plan to prevent disposal of solid debris at receiver site(s). The debris management plan shall include sources and expected types of debris, debris separation and retrieval methods, and debris disposal methods.
- J. Provisions that indicate how public access to and along the beach will be maintained during beach replenishment activities.
- K. Analysis that dredging and deposition will not have significant adverse impacts, either individually or cumulatively, on coastal resources or public access to and along the shoreline.

11. Sediment Analysis. At least 60 days prior to deposition of material at the designated receiver sites, the applicants shall provide evidence to the Executive Director of the location and method of disposal. An engineer(s) or environmental professional(s), with appropriate qualifications acceptable to the Executive Director, shall: (1) prepare a Sediment Sampling and Analysis Plan and conduct testing at the source and receiver site for the review and approval of the Executive Director and (2) monitor the site during all beach nourishment activities. The Sampling and Analysis Plan shall be consistent with the following:

- A. Sampling Frequency. Samples shall be collected from both the receiver sites and the source sites. For the receiver site, samples shall be collected along transects

that are approximately perpendicular to the shoreline, with one (1) transect per each 0.5 miles of receiver beach length, or at least two (2) transects for receive beach sections less than 0.5 miles. For the source sites, samples shall be collected throughout the source area, with one (1) sample per 0.5 acres, and a minimum of five (5) samples per source site for contaminant testing and a minimum of three (3) samples per source site for all other sediment testing. For the source site samples, the boring depth shall extend approximately one foot (1 ft.) below the anticipated excavation depth.

- B. Grain Size. Grain size analysis shall be conducted on the representative source site samples, using a single composite sample prepared with equal volumes from each sample from a continuous source site area. Samples shall be sieved, consistent with the American Society for Testing and Materials (ASTM) D 422-63 (Standard Test Method of Particle Size Analysis of Soils, ASTM, 2007 or as updated). Gradation curves shall be generated for each composite representative source site area to develop the d84, d50 and d16 for visual and quantitative comparison with the established receiver site grain size envelope and the grain size limitations identified below.

Source material meeting all applicable federal and state beach nourishment requirements, and for which an average of 90% or more of the material is coarse grained (retained on a Standard U.S. Sieve Size No. 200), and for which the material is demonstrated to be compatible with the receiver site, may be stockpiled for future beach deposition or directly deposited above the mean high tide line for the purpose of beach nourishment. In addition, the source material must meet the following specifications:

- i. The source material to be used for beach nourishment can contain no more than 25% coarse material greater than the d84 for the receiver site, and no more than 1% of material that is 4.76mm and larger.
- ii. The d50 for the source material to be used for beach nourishment must be within the range of +/- 0.3mm of the d50 of the receiver site provided it is consistent with the joint EPA/ACOE *Inland Testing Manual*.
- iii. All grain size limits shall be based upon weekly averages of multiple daily samples from the delivery trucks or stockpile area.
- iv. Dredge site source material that does not meet the applicable physical, chemical, color, debris, and compactability standards for beach replenishment shall not be stockpiled or used for beach nourishment.
- v. Sediment stockpiled for over one (1) year shall be retested for applicable physical and chemical compatibility prior to placement.

- vi. Any quarry source sites shall be sampled and tested until site(s) are identified that meet the applicable physical, chemical, color, debris, and compactability standards for beach replenishment.
- C. Contaminants. Based on U.S. EPA Tier I analyses results, Tier II bulk chemical analysis shall be conducted on representative composite samples of each source material proposed for placement at the deposition site. The material shall be analyzed for consistency with EPA, ACOE, State Water Resources Control Board and RWQCB requirements for beach replenishment. At a minimum, the chemical analysis shall be conducted consistent with the joint EPA/ACOE *Inland Testing Manual*. If the ACOE, U.S. EPA, State Water Resources Board, or RWQCB determine that the sediment exceeds Effects Range Medium (ER-M) contaminant threshold levels according to the National Oceanic and Atmospheric Administration (NOAA) Screening Quick Reference Tables (SQUIRTs), the materials shall not be placed at the site.
- D. Color. Color classification shall be conducted on representative samples of upland sediment material proposed for placement at the receiver sites. The color shall reasonably match the color of the receiving beach after reworking by wave action.
- E. Debris Content. A visual inspection of the source location shall be conducted to determine the presence and types of debris such as trash, wood, or vegetation. The amount of debris within the material shall be estimated, as a percentage of the total amount of source material. Prior to placement of opportunistic sand at any beach or shoreline receiver site, all such debris material shall be separated from the sand material (by mechanical screening, manual removal or other means) and taken to a proper disposal site authorized to receive such material.
- F. Compactability. Chemical and visual inspections of the source location shall be conducted to determine the presence of elements such as iron oxides or other material that can compact to form a hardpan surface. Source material with compactable material shall be considered for placement below the mean high tide only.
- G. Turbidity. The specialist shall observe and document the turbidity of coastal waters during all construction activities related to beach nourishment. The extent of turbidity plumes shall be recorded and mapped by the specialist. Monitoring of turbidity shall occur during and immediately after beach fill placement. In regard to beach nourishment activities, if the monitoring indicates that turbidity attributed to the project is not completely diminished immediately following construction (1-2 days), then the rate of placement of sand will be modified so that large, long lasting turbidity plumes are no longer created. In such cases, construction methods shall be modified to reduce levels, by such means as: use of coarser beach nourishment material, avoidance of periods of high surf and high tides, and monitoring.

12. Construction and Pollution Prevention Plan. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicants shall submit, for the review and written approval of the Executive Director, a Construction and Pollution Prevention Plan prepared and certified by a qualified licensed professional. The final Plan shall demonstrate that all construction, including, but not limited to, clearing, grading, staging, storage of equipment and materials, or other activities that involve ground disturbance; building, reconstructing, or demolishing a structure; and creation or replacement of impervious surfaces, complies with the following requirements:

- A. Minimize Erosion and Sediment Discharge. During construction, erosion and the discharge of sediment off-site or to coastal waters shall be minimized through the use of appropriate Best Management Practices (BMPs), including, at a minimum:
 - i. Land disturbance during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, and grading activities shall be phased, to avoid increased erosion and sedimentation.
 - ii. Erosion control BMPs (such as mulch, soil binders, geotextile blankets or mats, or temporary seeding) shall be installed as needed to prevent soil from being transported by water or wind. Temporary BMPs shall be implemented to stabilize soil on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters.
 - iii. Sediment control BMPs (such as silt fences, fiber rolls, sediment basins, inlet protection, sandbag barriers, or straw bale barriers) shall be installed as needed to trap and remove eroded sediment from runoff, to prevent sedimentation of coastal waters.
 - iv. Tracking control BMPs (such as a stabilized construction entrance/exit, and street sweeping) shall be installed or implemented as needed to prevent tracking sediment off-site by vehicles leaving the construction area.
 - v. Runoff control BMPs (such as a concrete washout facility, dewatering tank, or dedicated vehicle wash area) shall be implemented during construction to retain, infiltrate, or treat stormwater and non-stormwater runoff.
- B. Minimize Discharge of Construction Pollutants. The discharge of other pollutants resulting from construction activities (such as chemicals, paints, vehicle fluids, petroleum products, asphalt and cement compounds, debris, and trash) into runoff or coastal waters shall be minimized through the use of appropriate BMPs, including:
 - i. Materials management and waste management BMPs (such as stockpile management, spill prevention, and good housekeeping practices) shall be installed or implemented as needed to minimize pollutant discharge and polluted runoff resulting from staging, storage, and disposal of construction

chemicals and materials. BMPs shall include, at a minimum:

- a. Covering stockpiled construction materials, soil (except topsoil), and other excavated materials to prevent contact with rain, and protecting all stockpiles from stormwater runoff using temporary perimeter barriers. Permanent stockpiling of materials is prohibited.
 - b. Cleaning up all leaks, drips, and spills immediately; having a written plan for the clean-up of spills and leaks; and maintaining an inventory of products and chemicals used on site.
 - c. Proper disposal of all wastes; providing trash receptacles on site; and covering open trash receptacles during wet weather.
 - d. Prompt removal of all construction debris from the lagoon and beach.
 - e. Detaining, infiltrating, or treating runoff, if needed, prior to conveyance off-site during construction.
- ii. Fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of mobile equipment conducted on site may not take place on the beach, and shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless those inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.
- C. Minimize Other Impacts of Construction Activities. Other impacts of construction activities shall be minimized through the use of appropriate BMPs, including:
- i. Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil.
 - ii. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers) shall be avoided, to minimize wildlife entanglement and plastic debris pollution.
- D. Construction In, Over, or Adjacent to Coastal Waters and Habitat. Construction taking place in, over, or adjacent to coastal waters and habitat shall protect the coastal waters and habitat by implementing additional BMPs, including:
- i. The majority of work shall take place during daylight hours, to the greatest extent feasible.

- ii. All construction equipment and materials shall be stored beyond the reach of tidal waters. All construction equipment and materials shall be removed in their entirety from the beach area by sunset each day that work occurs. The only exceptions may be for erosion and sediment controls or construction area boundary fencing, where such controls or fencing are placed as close to the base of the seawall, bluff, or back of the beach as feasible, and are minimized in their extent.
 - iii. Tarps or other devices shall be used to capture debris, dust, oil, grease, rust, dirt, fine particles, and spills to protect the quality of coastal waters.
 - iv. All erosion and sediment controls shall be in place prior to the commencement of construction, as well as at the end of each workday. At a minimum, if grading is taking place, sediment control BMPs shall be installed at the perimeter of the construction site to prevent construction-related sediment and debris from entering the ocean, waterways, natural drainage swales, and the storm drain system, or being deposited on the beach.
 - v. All debris resulting from construction activities shall be removed within 30 days of completion of construction.
- E. Manage Construction-Phase BMPs. Appropriate protocols shall be implemented to manage all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training), to protect coastal water quality.
- F. Construction Site Map and Narrative Description. The Construction and Pollution Prevention Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:
- i. A map delineating the construction site and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins).
 - ii. A description of the BMPs that shall be implemented to minimize land disturbance activities, minimize the project footprint, minimize soil compaction, and minimize damage or removal of non-invasive vegetation. Include a construction phasing schedule, with a description and timeline of significant land disturbance activities.
 - iii. A description of the BMPs that shall be implemented to minimize erosion and sedimentation, control runoff and minimize the discharge of other pollutants resulting from construction activities. Include calculations that demonstrate proper sizing of BMPs.
 - iv. A description and schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training). Identify any temporary BMPs that shall be

converted to permanent post-development BMPs.

- G. Construction Site Documents. The Construction and Pollution Prevention Plan shall specify that copies of the signed CDP and the approved Construction and Pollution Prevention Plan be maintained in a conspicuous location at the construction job site at all times, and be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction and Pollution Prevention Plan, and the public review requirements applicable to them, prior to commencement of construction.
- H. Construction Coordinator. The Construction and Pollution Prevention Plan shall specify that a construction coordinator be designated who may be contacted during construction should questions or emergencies arise regarding the construction. The coordinator's contact information (including, at a minimum, an e-mail address and a telephone number available 24 hours a day for the duration of construction) shall be conspicuously posted at the job site and readily visible from public viewing areas, indicating that the coordinator should be contacted in the case of questions or emergencies. The coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 72 hours of receipt of the complaint or inquiry.
- I. Notification. The Permittees shall notify planning staff of the Coastal Commission's San Diego District Office at least three working days in advance of commencement of construction activities and promptly upon completion of construction activities, and shall promptly notify staff of any anticipated changes in the schedule based on site conditions, weather or other unavoidable factors.
- J. Progress Reports. The Permittees shall submit annual reports reflecting progress and status of the project, including an identification of any outstanding issues that may have arisen since the last progress report, or are anticipated to arise in the foreseeable future.

The Permittees shall undertake development in accordance with the approved Construction and Pollution Prevention Plan, unless the Commission amends this permit or the Executive Director provides written determination that no amendment is legally required for any proposed minor deviations.

13. Eelgrass Survey.

- A. Pre-Construction Eelgrass Surveys:
 - i. A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed within one (1) year prior to commencement of development authorized under this Coastal Development Permit. The applicants shall undertake a survey of

- the project area and a buffer area 200 feet upstream and downstream of the W-19 and W-6 salt marsh tidal inlets to determine the presence of eelgrass.
- ii. A second pre-construction survey of the same area shall be completed between March and October (preferably between August and October) prior to grading of the inlets to the salt marsh.
 - iii. The surveys shall be prepared in full compliance with the “California Eelgrass Mitigation Policy” (CEMP) adopted by the National Marine Fisheries Service October 2014 (except as modified by this special condition) and shall be prepared in consultation with the National Marine Fisheries Service.
 - iv. The applicants shall submit the eelgrass surveys for the review and written approval of the Executive Director no later than fifteen (15) business days prior to commencement of construction.
 - v. If the pre-construction eelgrass surveys identify any eelgrass within the survey area which would be impacted by the proposed project, impacts to eelgrass shall be mitigated consistent with subsection B, below.

B. Post-Construction Eelgrass Surveys:

- i. If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within 30 days after the conclusion of restoration, the applicants shall survey the project site to document impacts to and recovery of eelgrass. If the proposed project did not impact eelgrass, or the eelgrass was impacted but has recovered, then no further post-construction surveys are necessary.
- ii. If the post-construction survey determines that the proposed project impacted eelgrass and that the eelgrass has not fully recovered, the applicants shall conduct up to two additional post-construction surveys, one year and two years after completion of restoration, respectively, as necessary to ensure that eelgrass in the survey area has recovered.
- iii. The survey(s) shall be prepared in full compliance with the CEMP in consultation with the National Marine Fisheries Service.
- iv. The applicants shall submit the post-construction eelgrass survey(s) for the review and written approval of the Executive Director within thirty (30) days after completion of the survey.
- v. If any eelgrass has been impacted, the applicants shall mitigate the impacts in consultation with the National Marine Fisheries Service (NMFS), and shall replace eelgrass at ratios determined through this consultation.

14. Public Access Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for review and written approval of the Executive Director, a Public Access Plan that includes, at a minimum, the following:

- A. A plan by which safe public access to or around the San Dieguito Lagoon, beach deposition sites and staging areas is maintained during all project operations, including restoration, dredging and deposition. Temporary closures at the project site shall be limited to the minimum necessary to conduct construction, hauling, disposal, and nourishment operations only, and signage shall be installed indicating alternative available public access points.
- B. The applicants shall be in frequent communication with local jurisdictions and safety agencies, including beach lifeguards, to ensure notification and safety measures are implemented; and provide notifications in the local media to help ensure public awareness of the project and potential construction activities.
- C. The program shall include all necessary temporary access provisions, including any necessary traffic control, crosswalk improvements, and fencing or equivalent measures, to keep construction areas separated from public recreational areas and to maintain public pedestrian access around construction areas, beach deposition sites, and/or staging areas.
- D. A Traffic Management Plan designed to minimize traffic impacts along local roadways as a result of project construction and material disposal activities.
- E. Public parking areas may only be used for staging or storage of equipment and materials where there is no feasible alternative. Where public parking areas are used for construction staging or storage, the number of public parking spaces utilized shall be the minimum necessary to implement the project.
- F. The applicants shall post each construction site with a notice indicating the expected dates of construction.
- G. Lateral access along the back beach shall be maintained throughout construction, with the exception of temporary closures to complete sand placement to the back edge of the beach as necessary, with highest priority for maintenance of access where no alternative lateral access exists (e.g., where a wet beach abuts bluffs).
- H. All beaches, beach access points, public trails, and other recreational use areas impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any beach sand impacted shall be filtered as necessary to remove all construction debris from the beach.

The Permittees shall undertake development in accordance with the approved Plan unless the Commission amends this permit, or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

15. Trail Signage Plan. WITHIN ONE (1) YEAR AFTER COMMENCEMENT OF CONSTRUCTION, the applicant shall submit, for the review and written approval of the Executive Director, a Trail Signage Plan indicating the content and location of all signs and any other project elements that will be used to educate, facilitate, and manage public access to and along lagoon trails. The Trail Signage Plan shall include, at a minimum, the following:

- A. Signs shall be sited and designed to provide clear information without impacting public views and site character;
- B. Site plan indicating the location of all signs;
- C. Plans indicating the type of sign, size of the sign face, size of the letters on the sign, overall height of the sign, and the method of posting (e.g., attached to free standing post, gate, fence); and
- D. Signage shall acknowledge the California Coastal Commission's role in providing public access at this location by including the agency name and logo.

16. Assumption of Risk, Waiver of Liability & Indemnity. By acceptance of this permit, the applicants acknowledge and agree, on behalf of themselves and all successors and assigns, to all of the following: (a) that the site may be subject to coastal hazards, including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tsunamis, tidal scour, coastal flooding, landslides, bluff and geologic instability, bluff retreat, liquefaction and the interaction of some, many of which may worsen with future sea level rise; (b) to assume the risks to the Permittees and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (c) 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 (d) 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.

17. As-Built Plans. WITHIN 90 DAYS OF COMPLETION OF CONSTRUCTION, the Permittees shall submit two copies of as-built plans for all development completed pursuant to this permit. The as-built plans shall be in substantial conformance with the approved final project plans in Special Condition 1 above. The as-built plans shall include a graphic scale and all elevations shall be described in relation to North American Vertical Datum of 1988 (NAVD88). The as-built plans shall be submitted with certification by a licensed civil engineer with experience in coastal processes, acceptable to the Executive Director, verifying that the project has been constructed in conformance with the approved final plans.

18. Compliance with REMP Requirements. By acceptance of this permit, the applicants agree to comply with all requirements of the North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program's (NCC PWP/TREP) Resource Enhancement and Mitigation Program (REMP), including, but not limited to: a Final Habitat Mitigation and Monitoring Plan as required by Special Condition 3 of this permit, a Final Long-Term Management Plan, and the establishment of an endowment to guarantee the successful implementation, maintenance, and monitoring of the subject mitigation project.

19. Archaeological Monitoring and Mitigation Plan

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees shall submit for the review and written approval of the Executive Director an Archaeological Monitoring and Mitigation Plan for the protection of archaeological and cultural resources during project grading and construction activities, prepared by an appropriately qualified professional, consistent with Subsections E and F of this condition, which shall incorporate the following measures and procedures:
- i. During all digging, ground disturbance, and subsurface activity within intact stable sediment on the site, archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards and the Native American most likely descendants (MLDs) from each tribe when State Law mandates identification of MLDs, shall be present on the site.
 - ii. Also present during all digging, ground disturbance, and subsurface activity within intact stable sediment on the site shall be a minimum of one (1) Native American monitor for every location of ground disturbance.
 - iii. More than one (1) monitor on the site may be necessary during times with multiple grading and soil disturbance locations.
 - iv. The Permittees shall provide sufficient archaeological and Native American monitors to assure that all project grading or other development that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times. All archaeological monitors, Native American monitors and Native American most likely descendants (MLD) shall be provided with a copy of the approved archaeological monitoring and mitigation plan required by this permit. Prior to commencement of grading, the applicants shall convene an on-site pre-grading meeting with the all archaeological monitors, Native American monitors and Native American most likely descendants (MLD) along with the grading contractor, the applicants, and the applicants' archaeological consultant in order to ensure that all parties understand the procedures to be followed pursuant to the subject permit condition and the approved archaeological monitoring and mitigation plan, including the procedures for dispute resolution. At the conclusion of the meeting all attendees shall be required to sign a declaration, which has been prepared by the applicant, subject to the review and approval of the Executive Director,

stating that they have received, read, discussed and fully understand the procedures and requirements of the approved archaeological monitoring and mitigation plan and agree to abide by the terms thereof. The declaration shall include contact phone numbers for all parties and shall also contain the following procedures to be followed if disputes arise in the field regarding the procedures or terms and conditions of the approved archaeological monitoring and mitigation plan. Prior to commencement of grading a copy of the signed declaration shall be given to each signatory and to the Executive Director.

- a. Any disputes in the field arising among the archaeologist, archaeological monitors, Native American monitors, Native American MLD, the grading and construction contractors, or the applicants regarding compliance with the procedures and requirements of the approved archaeological monitoring and mitigation plan shall be promptly reported to the Executive Director via e-mail and telephone.
- b. All work shall be halted in the area(s) of dispute. Work may continue in area(s) not subject to dispute, in accordance with all provisions of this special condition.
- c. Disputes shall be resolved by the Executive Director, in consultation with the archaeological peer reviewers, Native American monitors, Native American MLD, the archaeologist and the applicants.
- d. If the dispute cannot be resolved by the Executive Director in a timely fashion, said dispute shall be reported to the Commission for resolution at the next regularly scheduled Commission meeting.
- v. If any cultural deposits are discovered during project grading or construction, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts, the Permittees shall carry out significance testing of said deposits and, if cultural deposits are found by the Executive Director to be significant pursuant to Subsection C of this condition and any other relevant provisions, additional investigation and mitigation in accordance with all subsections of this special condition;
- vi. If any cultural deposits are discovered, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts, all development shall cease in accordance with Subsection B of this special condition;
- vii. In-situ preservation and avoidance of cultural deposits shall be considered as the preferred mitigation option, to be determined in accordance with the process outlined in this condition, including all subsections. A setback shall be established between the boundary of cultural deposits preserved in-situ or reburied on-site and any proposed development; the setback shall be no less than 50 feet and should be larger if necessary to protect the cultural deposits;

- viii. If human remains are encountered, the Permittees shall comply with applicable State and Federal laws. Procedures outlined in the monitoring and mitigation plan shall not prejudice the ability to comply with applicable State and Federal laws. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Where appropriate and consistent with State and Federal laws, the treatment of remains shall be decided as a component of the process outlined in the other subsections of this condition.
- B. Discovery of Cultural Deposits. If an area of cultural deposits, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts, is discovered during the course of the project, all grading and construction activities in the area of the discovery that have any potential to uncover or otherwise disturb cultural deposits in the area of the discovery and all construction that may foreclose mitigation options or the ability to implement the requirements of this condition shall cease and shall not recommence except as consistent with this special condition.
- C. Significance Testing Plan Required Following the Discovery of Cultural Deposits. Permittees seeking to recommence construction following discovery of the cultural deposits shall submit a Significance Testing Plan for the review and approval of the Executive Director. The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), and the Most Likely Descendent (MLD) when State Law mandates identification of an MLD. Once a plan is deemed adequate, the Executive Director will make a determination regarding the significance of the cultural deposits discovered.
 - i. If the Executive Director approves the Significance Testing Plan and determines that the Significance Testing Plan's recommended testing measures are de minimis in nature and scope, the significance testing may commence after the Executive Director informs the Permittees of that determination.
 - ii. If the Executive Director approves the Significance Testing Plan but determines that the changes therein are not de minimis, significance testing may not commence until after the Commission approves an amendment to this permit.
 - iii. Once the measures identified in the significance testing plan are undertaken, the Permittees shall submit the results of the testing to the Executive Director for review and approval. The results shall be accompanied by the project archeologist's recommendation as to whether the findings should be considered significant. The project archeologist's recommendation shall be made in consultation with the Native American monitors and the MLD when State Law mandates identification of an MLD. If there is disagreement

- between the project archeologist and the Native American monitors or the MLD, both perspectives shall be presented to the Executive Director. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director. If the deposits are found to be significant, the Permittees shall prepare and submit to the Executive Director a supplementary Archeological Plan in accordance with Subsection D of this condition and all other relevant subsections. If the deposits are found to be not significant by the Executive Director, then the Permittees may recommence grading in accordance with any measures outlined in the significance testing program.
- D. Supplementary Archaeological Plan Required Following an Executive Director Determination that Cultural Deposits are Significant. Applicants seeking to recommence construction following a determination by the Executive Director that the cultural deposits discovered are significant shall submit a Supplementary Archaeological Plan for the review and approval of the Executive Director. The Supplementary Archeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the Most Likely Descendent (MLD) when State Law mandates identification of an MLD. The supplementary Archeological Plan shall identify proposed investigation and mitigation measures. If there is disagreement between the project archeologist and the Native American monitors or the MLD, both perspectives shall be presented to the Executive Director. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Mitigation measures considered shall range from in-situ preservation to recovery or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and creating an open space area around the cultural resource areas. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the final, approved, Supplementary Archaeological Plan.
- i. If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director informs the Permittees of that determination.
 - ii. If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after the Commission approves an amendment to this permit.
- E. At the completion of implementation of the archaeological grading monitoring and mitigation plan, the applicants shall prepare a report, subject to the review and approval of the Executive Director, which shall include but not be limited to, detailed information concerning the quantity, types, location, and detailed

description of any cultural resources discovered on the project site, analysis performed and results and the treatment and disposition of any cultural resources that were excavated. The report shall be prepared consistent with the State of California Office of Historic Preservation Planning Bulletin #4, "Archaeological Resource Management Reports (ARMR): Recommended Contents and Format" or equivalent. The final report shall be sent to the Executive Director.

- F. The Permittees shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

IV. FINDINGS AND DECLARATIONS

A. Project Location, Description, and History

San Dieguito Lagoon is located in San Diego County at the mouth of the San Dieguito River where the river flows into the Pacific Ocean (see **Exhibit 1**). The eastern portion of the lagoon is located within the northern boundary of the City of San Diego, and the western portion is located within the City of Del Mar. The W-19 San Dieguito Lagoon Restoration Project consists primarily of the restoration of two former wetland sites within San Dieguito Lagoon, W-19 and W-6 (see **Exhibit 2**). W-19 is a 140-acre site east of Interstate 5 (I-5) immediately south of the San Dieguito River channel and north-northwest of El Camino Real. W-6 is a 13.5-acre site located to the southwest of W-19 and immediately east of I-5.

Applicants Caltrans and SANDAG propose the W-19 San Dieguito Lagoon Restoration Project to supplement SCE's existing restoration efforts on adjacent sites developed pursuant to the San Dieguito Wetland Restoration Plan (Plan). Successful implementation of the proposed project will provide wetland mitigation credit for future infrastructure projects planned by the applicants, including highway, rail, bike, and pedestrian projects identified in the North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program (NCC PWP/TREP), approved by the Commission in June 2014. In addition, a portion of the restoration project is intended to provide mitigation for a planned bridge and road widening project along El Camino Real. An application for that project has yet to be submitted by the City of San Diego, the project proponent, to the Commission for review and approval. While the subject wetlands restoration is intended to provide mitigation for such future transportation infrastructure projects, those projects and their associated impacts are not included within the project description for this project and thus are not analyzed in this report.

Wetlands Restoration

As part of the restoration of W-19, the applicants propose to establish 60 acres of tidal salt marsh within the W-19 site west of an existing utility corridor, 15 acres of brackish marsh east of the utility corridor, and 4.4 acres of riparian habitat along with 4.9 acres of riparian enhancement (see **Exhibit 3**). The project also includes 28 acres of coastal sage scrub restoration and 20 acres of transitional habitat between the wetlands and uplands. The project will result in the excavation of approximately 1.2 million cubic yards of soil and 150,000 cubic yards of non-native vegetation from within the site in order to create the required elevations for wetlands restoration. Some of this excavated material may be used as part of the recontouring of the site, but the majority of it will be trucked to an existing disposal site used previously by SCE that is located in an upland area of the lagoon complex approximately 0.4 mile south of the W-19 site. After construction is complete, the disposal site would be capped with salvaged topsoil and revegetated with coastal sage scrub.

Equipment will be brought to the W-19 site via El Camino Real, and staging and access areas will generally be located in previously disturbed upland areas with minimal vegetation. After completion of the project, staging and access areas will be de-

compacted, revegetated, and restored to pre-construction conditions. Sensitive areas will be fenced or flagged to prevent equipment or vehicles within these areas and avoid disturbance. The project is anticipated to require 30 months to complete, and construction will predominantly take place from 7 a.m. to 7 p.m., Monday through Friday (except state holidays), with very limited work such as monitoring, equipment maintenance, and minor grading without hauling occurring during some weekends.

Hydrological modeling for the proposed project determined that implementation of the wetland restoration within the W-19 site is anticipated to have tidal muting effects¹ within the larger lagoon area. Specifically, the modeling projected that the proposed restoration of W-19 will negatively impact between 1.74 and 2.66 acres of vegetated marsh habitat within W-4 and W-16, two nearby lagoon restoration sites which SCE is responsible for restoring pursuant to CDP 6-04-088 and subsequent amendments (see **Exhibit 7**). To offset these impacts to SCE's restoration sites, the applicants propose to also restore 13.5 acres of wetlands and transitional/upland habitat at another lagoon site, W-6, which is located just to the southwest between W-19 and the I-5 freeway (see **Exhibit 4**). After completion of construction of W-6 and a two-year monitoring period to assure proper wetland function and vegetation survival, the applicants would transfer responsibility for the W-6 site to SCE, at which point SCE would assume full responsibility for all monitoring, management, and maintenance of the W-6 wetlands. The restoration of W-6 would also have its own ecological impacts on the lagoon system, and those will be subtracted from the overall mitigation that will be made available through the restoration of W-6. The long-term restoration responsibilities for W-6 and the details of the transfer of responsibility from SANDAG to SCE will be governed by a Memorandum of Understanding (MOU) between the parties, which **Special Condition 4** requires the Executive Director to approve prior to issuance of this permit (see **Exhibit 5**).

Furthermore, incorporation of the W-6 site into SCE's restoration portfolio and crediting of that mitigation toward SCE's permit requirements will require an amendment to the underlying permit, CDP 6-04-088. SCE has submitted an amendment application (CDP 6-04-088-A16) to incorporate W-6 into the set of wetlands that it is responsible for restoring, which is also scheduled for the November 2020 Commission meeting. **Special Condition 2** requires SCE and San Dieguito River Park Joint Powers Authority to receive approval for CDP 6-04-088-A16 prior to issuance of the subject permit.

Utilities Relocation

In addition to the utilities contained within the existing utility corridor that traverses the W-19 restoration site, a single set of utility poles also crosses the project site in a north-south direction. Relocation of these utility poles is necessary to implement the proposed

¹ In this context, tidal muting refers to the reduction in tidal elevation that is expected to occur as a result of the additional W-19 and W-6 wetlands to be created. The result of lower tidal elevations is a reduction in tidal inundation frequency for areas of marsh that are dependent on tidal inputs as the environmental conditions that support this habitat. Therefore, the tidal muting is expected to result in a loss of marsh habitat.

habitat restoration. The City of San Diego has indicated its intent to underground these lines in the future; however, because the date of the undergrounding project is uncertain, the applicants propose to relocate the utility poles as part of the subject restoration project instead.

The project would first try to incorporate the utilities currently affixed to the poles with existing electrical facilities within the existing utility corridor to the west (see **Exhibit 6**). If this is infeasible, then a 20-foot-wide expansion of the utility corridor would be required in order to install new utility poles. In either scenario the utilities will connect with existing electrical infrastructure located to the north of the site. Once the utilities have been relocated, the existing poles will be removed and discarded at a location outside of the coastal zone.

Removal of the existing poles and installation of any new necessary poles will require minor ground disturbance (approximately 5-8 square feet) and corresponding new impervious areas for concrete foundations. The area of the relocated utilities consists of primarily bare, disturbed ground with scattered invasive species and intermittent bushes of coastal sage scrub. Because the pole relocation sites are within the larger W-19 restoration area, the coastal sage scrub habitat in the vicinity will be enhanced after project completion. Additionally, relocation of the poles will remove the existing poles from within existing, functional saltmarsh, riparian, and coyote bush habitat and consolidate them within an existing utility corridor.

Trail Construction

The proposed project includes the construction of a new, one-mile public access trail near and adjacent to El Camino Real along the eastern project boundary, extending north from the northern loop of the existing Dust Devil Nature Trail along an existing maintenance access road before turning east toward El Camino Real (see **Exhibit 2**). The trail would then travel northeast adjacent to El Camino Real. The trail would terminate immediately south of the San Dieguito River, and no access across the river would be provided. A future replacement of the El Camino Real Bridge is envisioned by the City of San Diego that would connect to the proposed trail; however, that future El Camino Real Bridge project is not included in the project description for this project. The new trail will consist of a main 6-foot-wide multi-use trail comprised of decomposed granite, an additional 4-foot-wide soft dirt section for equestrian users, and one-foot-wide dirt shoulders. Split-rail fencing will extend along portions of the trail adjacent to slopes and sensitive vegetation.

Dredging and Beach Nourishment

Hydraulic modeling for the project determined that large storm events have the potential to carry significant sediment loads down the San Dieguito River, some of which will eventually settle into the W-19 and W-6 inlets and interior areas. If this sediment is not removed in a timely manner, continued or subsequent storm flows may result in a reduced tidal prism and overtopping of berms that are proposed be constructed as part of the restoration, and overtopping of these berms will result in significant sediment

accumulating within the restored wetland habitats. Together, these impacts would result in water quality issues and large-scale conversion of that habitat over time.

To avoid these impacts, the applicants are proposing maintenance dredging of accumulated sediments from the W-19 and W-6 inlets and the interior of the W-19 site following large storm events (25-year or larger storm). Because the majority of fine-grained silts and clays should remain suspended in the San Dieguito River following a storm event and eventually flow into the ocean, the majority of material that is expected to settle within the inlets and within W-19 requiring dredging should consist of larger-grained material that is suitable for placement in the littoral cell at nearby beaches. Due to the unpredictability of future storm events, the project does not propose a set limit of dredging episodes and dredged material within a given time period; rather, the project anticipates that as-needed dredging following significant storm events could generate as much as 20,000 cubic yards of beach-compatible material per dredging event. Dredged material will be temporarily stockpiled within existing placement sites that are currently used by SCE for maintenance dredging of the San Dieguito River inlet, before being loaded into trucks by an excavator or backhoe and deposited at nearby beaches, including North Beach (also known as Dog Beach) in Del Mar, for nourishment.

Finally, hydrologic modeling for the project determined that restoration of the W-19 site will increase the tidal prism within the lagoon as a whole, which will increase flushing of sediment from the inlet, but will also increase the amount of sand entrained in the inlet, instead of conveying some of that sand to the adjacent beaches. To mitigate for this loss of sand to adjacent beaches, the applicants propose to deepen an existing sand trap located near the lagoon inlet by dredging approximately 4,200 cubic yards of beach-compatible material and placing it along adjacent beaches.

The applicants also propose periodic deposition of beach-compatible material consisting of a total of 30,000 cubic yards of material over 50 years (an initial 5,000-cubic-yard deposition followed by a subsequent 5,000-cubic-yard deposition once every ten years, for a total of six deposition events). Beach-compatible material for this placement will be sourced either from quarries located outside of the coastal zone or from suitable material generated as part of the larger San Dieguito Lagoon Wetland Restoration Plan area. However, given the uncertainty of future beach conditions in the project area, particularly due to sea level rise, the recommended CDP as conditioned would instead authorize beach nourishment in 5-year increments, subject to Executive Director extension, for a maximum of 20 years. After 20 years, the permittees would have the option to apply for a CDP amendment authorizing continued beach nourishment for an extended period.

Materials Disposal

Recontouring of the W-19 site for the proposed habitat restoration is expected to generate approximately 1.2 million cubic yards of excavated soil and approximately 150,000 cubic yards of non-native vegetation. Borings conducted for the project determined that the sediment to be removed is generally classified as “silty sand” which is suitable fill material for berms, roadway embankments, wetlands, and other

nonstructural fill, but it is not considered compatible for placement on adjacent beaches. As such, a portion of the sediment will be reused for the project, but the majority of the excavated material will be disposed of at an existing disposal site located 0.4 miles to the southwest. The 31.5-acre disposal site is located on public, City-owned land in the coastal zone in the uplands south of San Dieguito Lagoon, and has served as the disposal site for materials from other restoration projects within the lagoon.

The excavated material is expected to raise the elevation of the disposal site by approximately 55 feet. Placement of material will vary in height in order to blend with the surrounding natural landforms. After disposal is complete, the site will be capped with clean, imported soil and revegetated as coastal sage scrub. Access to the disposal site will use existing disturbed haul routes established from the other San Dieguito Lagoon restoration projects.

San Dieguito Lagoon Restoration History

San Dieguito Lagoon was once the largest of the six San Diego coastal lagoons, and historically supported a range of habitats including vegetated salt and brackish marsh, associated tidal embayments, sloughs, and mudflats. Beginning in the early twentieth century, large portions of the San Dieguito Lagoon marsh plain were filled for construction of roads, farmland, an airfield, the Del Mar Fairgrounds, and a shopping center. During the same period that the lagoon and marshland were being filled, the surrounding area was developed for a variety of commercial and residential uses. Today, less than half of the historical wetlands remain intact, and the estuary's area is greatly reduced from its historical extent.

Restoration of San Dieguito Lagoon has been a goal of the Cities of Del Mar and San Diego, local citizens, landowners, and organizations for several decades. In the late 1970s, the City of Del Mar and the State Coastal Conservancy prepared a plan for revitalizing and managing what remained of the lagoon and surrounding areas west of I-5 near the mouth of the river, and in 1979 the City of Del Mar adopted the San Dieguito Lagoon Resource Enhancement Program as part of its General Plan. In 1983, using a grant from the Coastal Conservancy, a new tidal basin was dredged on 70 acres of land acquired by the California Department of Fish and Game located in the southern corner of the historical wetlands just west of I-5 to serve as an Ecological Reserve. The river mouth was also opened, thus restoring tidal influences, at least temporarily, to the entire coastal wetland.

Since this initial restoration effort, the restoration goal was expanded to address lagoon areas both west and east of I-5, with the goal of restoring what remains of the historically significant San Dieguito Lagoon system. In the early 1990s, efforts began to direct coastal wetland mitigation proposals to San Dieguito. One possible mitigation project was identified in 1991 when the Coastal Commission adopted new conditions for the San Onofre Nuclear Generating Station (SONGS) Units 2 and 3 requiring Southern California Edison (SCE) to create or substantially restore 150 acres of coastal wetlands. In June 1992 the Commission approved San Dieguito as the site for the mitigation, and

in October 2005 the Commission approved CDP 6-04-088 for SCE and the San Dieguito River Park JPA to implement the San Dieguito Wetland Restoration Plan.

The San Dieguito Wetland Restoration Plan (Plan) area encompasses approximately 440 acres at the western end of the San Dieguito River Valley, and generally includes the public lands located between El Camino Real to the east, the Pacific Ocean to the west, Via de la Valle to the north, and the northern edge of the Carmel Valley planning area to the south. SCE, the principal owner of SONGS, is required to provide approximately 150 acres of new, or significantly restored, wetland habitat. Maintenance of the lagoon tidal inlet is considered a key component of the restoration plan, and SCE was therefore granted 35 acres of wetland mitigation credit for agreeing to maintain the inlet in an open condition in perpetuity. CDP 6-04-088 for the construction of the wetland restoration project includes these requirements. Additional components of that restoration project include the construction of three berms adjacent to the San Dieguito River to confine existing flows and maintain sediment transport to the ocean; bank protection for portions of the berms; culverts in the berms to help balance water levels and a weir to eliminate any backwater effect on the upstream river channel; the creation of four new nesting sites and rehabilitation of an existing site for the California Least Tern and Western Snowy Plover; the creation of treatment ponds to filter freshwater runoff and reduce freshwater flows into the restored tidal wetlands; the construction of a public trail, including interpretive signage and improvements to beach access; upland and beach disposal of excavated material; and maintenance and monitoring programs.

While the restoration proposed by the Plan is significant, it does not cover the entirety of San Dieguito Lagoon. The 140-acre W-19 site in particular has remained another significant opportunity for further restoration in San Dieguito. Restoration of W-19 was identified as a mitigation opportunity for the North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program (NCC PWP/TREP), which includes transportation improvements along both I-5 and the LOSSAN railroad corridor in North San Diego County. In June 2014, the NCC PWP/TREP was certified by the Commission, including a Resource Enhancement and Mitigation Program (REMP) that identified the restoration of W-19 as a mitigation project. The REMP was developed through a collaborative process with representatives from various resource agencies, including the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the California Department of Fish and Wildlife, the Regional Water Quality Control Board, NOAA National Marine Fisheries Service, the U.S. Environmental Protection Agency, the California Coastal Conservancy, and the Commission. The development of the REMP was initiated by members of this group as early as 2010 in order to identify regionally significant restoration and enhancement opportunities within the North Coast Corridor, including the subject restoration project. Through the NCC PWP/TREP, this group has been formalized as the REMP Working Group, which meets quarterly to track and guide progress through the planned implementation phases of the NCC PWP/TREP. The REMP played a significant role in developing the concept of restoring the W-19 site into the proposed project, which is intended to mitigate for projects included in the NCC PWP/TREP and also to supplement SCE's existing restoration efforts as part of the overall restoration of San Dieguito Lagoon.

B. Jurisdiction and Standard of Review

The proposed beach nourishment sites and the sand trap are located within the City of Del Mar. The W-19 and W-6 sites and their inlets, the proposed upland disposal site, and the proposed trail alignment are within the City of San Diego. The Cities of Del Mar and San Diego have fully certified Local Coastal Programs (LCPs) and issue their own Coastal Development Permits (CDPs) throughout most of their coastal zone areas. However, all subject sites are within an area of filled tidelands within wetlands as well as within the South Slopes Area of Deferred Certification (ADC) for the City of San Diego, all of which remain under the Coastal Commission's jurisdiction. Therefore, Chapter 3 of the Coastal Act is the standard of review.

C. Wetlands

Section 30233 of the Coastal Act states, in relevant 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, and boat launching ramps;
- 3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities;
- 4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines;
- 5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas;
- 6) Restoration purposes;
- 7) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge

spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.

(c) In addition to the other provision of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary...

Section 30233 sets standards for filling and dredging of wetlands and open coastal waters. Coastal Act Section 30108.2 defines “fill” as “earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.” The Commission has long considered grading, excavating, and other ground-disturbing activities in coastal wetlands and estuaries to be a form of dredging.²

The primary purpose of the project is to restore 140 acres of habitat within the W-19 site to provide mitigation for future infrastructure projects within the North Coast Corridor. This will be accomplished by lowering elevations within the site to create two separate wetlands systems: a salt marsh system west of the utility corridor, and a brackish marsh system east of the utility corridor. Additionally, upland and transitional habitats will be created adjacent to the wetland habitat to support the ecological function of the wetland restoration and account for future sea level rise. Lastly a berm with a maximum elevation of 20 feet National Geodetic Vertical Datum (NGVD) will be constructed between the site and the San Dieguito River channel and planted with transitional and upland habitat to protect the newly established wetlands from damage due to flood and sedimentation. The project will result in the excavation of approximately 1.2 million cubic yards of soil and 150,000 cubic yards of non-native vegetation from within the site in order to create the required elevations for wetlands restoration. Some of this material may be used as part of the recontouring of the site, but the majority of it will be trucked to an existing disposal site located 0.4 miles to the south. Table 1 below summarizes the assemblages and acreages of the existing habitat types within the W-19 site as well as the acreages and assemblages of habitat types following restoration of the site. The proposed habitats are shown in **Exhibit 3**.

² E.g., CDPs 1-06-036 (McDaniel Slough Wetland Enhancement Project), 1-08-020 (Miller), 1-09-020 (Fickle Hill Creek Restoration), 1-09-030 (Lower Jacoby Creek Estuary Enhancement), 1-10-032 (Humboldt County RCD).

Table 1 – Vegetation Communities and Cover Types within the W-19 Site (Acres³)

Vegetation Community/ Cover Type	Existing within W-19 Site	Post-Restoration	Net Change in Acres
<i>Wetlands and Riparian Communities</i>			
Alkali Marsh	2.4	0	-2.4
Brackish Marsh	0.2	16.3	16.2
Disturbed Wetland	0.4	0	-0.4
Salt Marsh	8.5 ⁴	44.0	35.5
<i>Low Marsh</i>	-	17.5	-
<i>Mid-Marsh</i>	-	10.9	-
<i>High Marsh</i>	-	15.6	-
Mudflat	0.5	5.6	5.1
Open Water	0.5	9.7	9.2
Riparian ⁵	8.0	7.3	-0.7
<i>Native Riparian</i>	5.4	7.3	1.9
<i>Non-native Riparian</i>	2.6	0	-2.6
<i>Wetlands Subtotal</i>	20.3	83.3	62.9
<i>Uplands Communities</i>			
Coastal Sage Scrub	1.9	28.6	26.7
Coyote Bush Scrub	41.2	0	-41.2
Non-native Grassland	11.1	0	-11.1
Saltbush Scrub	9.5	0	-9.5
Tree Tobacco	0.4	0	-0.4
Transitional	4.3	18.8	14.5
Transitional (Utility Corridor) ⁶	0	7.7	7.7
<i>Uplands Subtotal</i>	68.3	55.1	-13.2
<i>Cover Types</i>			
Disturbed/ Ornamental ⁷	52.2	1.0	-51.1
Developed ⁸	0.2	1.5	1.3
<i>Cover Types Subtotal</i>	52.3	2.5	-49.8
Grand Total	141.0	141.0	0

³ Totals may not sum exactly due to rounding.

⁴ Existing salt marsh includes mid- and high marsh only; low marsh does not exist currently.

⁵ Includes 4.0 acres of riparian restoration and 3.3 acres of riparian enhancement.

⁶ Includes area along the utility corridor, which will be planted consistent with SDG&E requirements but not monitored for habitat success.

⁷ Includes 1 acre of proposed trail.

⁸ Includes maintenance road proposed at the top of the berm.

The W-6 site is currently dominated by disturbed habitat and non-native vegetation. The majority of the site is disturbed habitat dominated by mustard, five-hook, or ice plants, with some non-native grasses. The remainder of the site is either bare ground where there is an access road or non-native grassland dominated by ripgut, red brome, and wild oat with some mustard, five hook, ice plants, and wooly seablite. Nominal areas of salt marsh and open water are present at the northern edge of the W-6 site where the inlet and river connect.

The proposed restoration of W-6 will establish a total of 13.5 acres of habitat, including 7.7 acres of vegetated wetlands, 1.7 acres of mudflat and subtidal habitat, and 4.1 acres of transitional upland habitat. Of the 7.7 acres of vegetated wetlands, 3.9 to 4.9 acres will be devoted to compensating for tidal muting effects within W-4 and W-16 (see **Exhibit 7**), depending on the actual extent of muting impacts assessed as a result of the proposed restoration, based on measurements of tidal elevation. The remaining restoration acreage, including 4.5 to 5.5 acres of various wetland habitat types and 4.1 acres of transitional/upland habitat, will be accepted by SCE as compensation for any future restoration rights it may have within the W-19 site based on previous land agreements with the applicants. The proposed habitats are shown in **Exhibit 4**.

With respect to wetlands and development within coastal waters, in addition to habitat restoration the project also includes deepening of an existing sand trap, dredging of the inlets for W-19 and W-6, and dredging of the interior of W-19, if necessary, following significant storm events with opportunities for placement of beach-compatible material at adjacent beaches.

Section 30233 limits the diking, dredging, and filling of coastal wetlands to seven specific enumerated uses and also requires that any project that results in excavation, dredging, or filling in coastal wetlands be the least environmentally damaging feasible alternative and to provide feasible mitigation to minimize adverse environmental impacts. Specific to the subject project, the habitat restoration within W-19 and W-6 and the proposed dredging must be analyzed against the policy tests of Section 30233.

Allowable Use in Wetlands

The first test set forth above is that any proposed diking, dredging, or filling in wetlands must be for an allowable purpose as specified under Section 30233. In this case, the relevant category of use is listed under Section 30233(a)(6): restoration purposes.

Restoration entails returning something to a prior state.⁹ Freshwater and estuarine wetlands are extremely dynamic systems in which specific functions such as nutrient cycles, watershed processes, and fluvial and tidal dynamics directly affect biological composition and productivity. Consequently, restoration encompasses not only reestablishing certain prior conditions but also reestablishing the processes that create those conditions. In addition, the reestablished conditions must persist within dynamic boundaries in order for a project to result in restoration. Moreover, finding that proposed

⁹ Here, "restoration" encompasses both habitat restoration to historical conditions and habitat creation.

diking, dredging, or filling constitutes “restoration purposes” must be based, in part, on evidence that the proposed project will be successful in improving habitat values.

In sum, to ensure that a proposed restoration project achieves its stated habitat objectives, and therefore can be recognized as being for “restoration purposes,” the project must demonstrate that: (1) it either entails a return to or re-establishment of former habitat conditions or it entails actions taken that will result in the reestablishment of ecological processes and abiotic/biotic linkages associated with the freshwater and estuarine habitats; (2) there is a reasonable likelihood that the identified improvements in habitat value and diversity will result; and, (3) once reestablished, the restoration project has been designed to provide the desired habitat characteristics in a self-sustaining, persistent fashion independent of the need for repeated maintenance or manipulation to uphold the habitat function.

The larger San Dieguito Lagoon historically supported a range of habitats including vegetated salt and brackish marsh, associated tidal embayments, sloughs, and mudflats. Beginning in the early 20th century, large portions of the San Dieguito Lagoon marsh plain were filled for construction of roads, farmland, an airfield, the Del Mar Fairgrounds, and a shopping center. During the same period the lagoon and marshland were being filled, the surrounding area was developed for a variety of commercial and residential uses. Today, less than half of the historical wetlands remain intact and the estuary’s area is greatly reduced from its historical extent, although restoration efforts in recent years have compensated for this loss to some degree. The proposed W-19 restoration site was historically within the freshwater/brackish wetland area of the lagoon, and more recently was used for tomato farming. Since the San Dieguito River Park Joint Powers Authority (JPA) purchased the site in 2004, agricultural uses have been halted and habitat transition has occurred. Currently, the site primarily consists of non-native grasslands, dense coyote bush scrub, and non-native riparian areas.

As described above, the proposed project will establish 60 acres of tidal salt marsh, 15 acres of brackish marsh, and 4.4 acres of riparian habitat along with 4.9 acres of riparian enhancement. The project also includes establishment of 28 acres of coastal sage scrub within upland areas and 20 acres of transitional habitat between the wetlands and the uplands. The proposed project would also restore approximately 10 acres of wetland habitat and 4 acres of upland/transitional habitat on the W-6 site. To address the tidal prism effects of the restoration project and disruption of sand supply to local beaches, the project includes deepening an existing sand trap, and dredging of the inlets of W-19 and W-6 and the interior of W-19 on a periodic basis following significant storm events in order to prevent the buildup of sediment within W-19. Removal of this sediment will avoid potential large-scale habitat conversion and/or water quality issues within the established wetland areas and also provide beach-compatible sand for replenishment of nearby beaches. To further mitigate disruption of sand supply, the applicants also propose an initial 5,000-cubic-yard deposition of beach-compatible material along adjacent beaches, followed by subsequent 5,000-cubic-yard depositions every ten years over a 50-year period. This CDP, as conditioned, would authorize up to 20 years of periodic deposition, with the option to apply for a CDP amendment

authorizing further continued deposition into the future. Thus, because the intent of the project is to return degraded lands to a state consistent with historic conditions of the San Dieguito Lagoon, specifically wetland, riparian and transitional habitat; prevent significant build-up of sediment which would negatively impact these restored habitats; and provide beach-compatible sand to nearby beaches as mitigation for the tidal prism effects of the project, the Commission finds that the proposed restoration and maintenance dredging is consistent with the definition of “restoration” and constitutes filling and dredging for restoration purposes consistent with Section 30233(a)(6).

The finding that the proposed project constitutes “restoration purposes” is based, in part, on the assumption that the proposed project will be successful in restoring the various historic habitats and ecological processes and, thus, increasing habitat values. To assure the success of the restoration project, the applicants have worked collaboratively with Commission staff as well as other state and federal regulatory agencies on the development of a Habitat Mitigation and Monitoring Plan (HMMP) to facilitate implementation of the project and assessment of the success of the project. The HMMP includes detailed information on: construction scheduling and implementation including access and best management practices (BMPs); grading; planting; irrigation; maintenance; construction monitoring; implementation of the restoration including monitoring protocols and performance standards for each of the habitat types and reference sites to measure success of the restoration; reporting; adaptive management; a program to release mitigation credits from the mitigation bank once restoration has been deemed successful; and a long term management plan to ensure continued success of the restoration following release of the mitigation credits. Available mitigation credits will be based on the number of acres available for each established or restored habitat type on the proposed compensatory mitigation sites.

As of the date of this staff report, the HMMP is not yet finalized; however, Commission technical staff, other state and federal resource agencies, and the applicants are continuing to work on the plan to ensure the success of the project. Because the final HMMP is the critical component to ensure success of the project, **Special Condition 3** requires that the final HMMP is approved by the Executive Director prior to issuance of the permit. With the imposition of this special condition, the project will result in the successful restoration of the habitats within W-19. Additionally, as discussed previously, the project is intended to provide mitigation for future transportation infrastructure projects that were previously approved as part of the NCC PWP/TREP Resource Enhancement and Mitigation Program (REMP). To ensure that the project is implemented consistent with the standards and intent of that program, **Special Condition 18** requires the applicants to comply with all REMP requirements, including the establishment of an endowment to guarantee the successful implementation, maintenance, and monitoring of the project, as well as a 10-year monitoring requirement for restored tidal wetlands. Therefore, the Commission finds that the proposed diking, dredging, and filling activities described above, as conditioned, are permissible under Section 30233(a)(6) for restoration purposes.

Alternatives

For projects involving diking, dredging, and filling, the Commission must ensure that the proposed project is the least environmentally damaging feasible alternative consistent with Section 30233. Coastal Act Section 30108 defines “feasible” as “...capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.” The proposed project described above is Alternative A. The other project alternatives that were reviewed by the project proponents are discussed below.

1. Alternative B

Under Alternative B, the habitat distribution would be similar to that of the proposed project, but the elevation of the upland would be lower than that identified for the proposed project. Specifically, the upland habitats in this alternative would have an elevation of approximately 10 feet, which would make these areas vulnerable to overtopping during large storm events. This alternative would be one in which both tidal exchange and upstream fluvial processes would influence wetland dynamics. This stands in contrast to the chosen alternative, Alternative A, which would result in a system primarily influenced by tidal exchange and relatively protected from fluvial processes. The lower elevation for the upland habitats for Alternative B, with greater fluvial influence, would result in an additional 100,000 cubic yards of excavation compared to the proposed project, and correspondingly an additional 100,000 cubic yards of material deposited at the disposal site compared to the proposed project. Due to the lower upland elevations and reduced height of protecting berms, river flows would enter the restored wetland areas more frequently than the proposed project and result in larger volumes of sediment deposited within the site. This larger accumulation of sediment would require more frequent and more intense maintenance dredging in order to maintain wetland areas. Because of the necessity of increased maintenance and maintenance dredging, Alternative B would result in additional wetland disturbance and greater expense associated with site maintenance. Therefore, it is not a feasible less environmentally damaging alternative than the proposed project as conditioned.

2. Alternative C

Under Alternative C, the habitat distribution would consist of two separate tidal channel systems, one directly adjacent to the San Dieguito River and one separated from the river by a vegetated berm. A deliberate design feature of Alternative C would also include the restoration of salt marsh habitat adjacent to the active low flow river channel, allowing greater direct river influence on salt marsh dynamics and an alternative evolution trajectory over time. As a result of this design feature, Alternative C would result in a significant amount of sand entrainment in the lagoon inlet and substantial decreases in fluvial sediment delivery to the coastline. Because of the increased sand entrainment and decreased fluvial sediment delivery, Alternative C is not a feasible less environmentally damaging alternative than the proposed project as conditioned.

3. No Project Alternative

The No Project Alternative would maintain the status quo of the site and would not restore and enhance approximately 154 acres of habitat as proposed. Vegetation on the site would continue to be dominated by disturbed scrub and non-native grasslands, and invasive species within existing riparian areas would continue to encroach along the river. It is assumed that San Diego Gas and Electric (SDG&E) would continue to maintain vegetation along the existing utility corridor to facilitate operations and maintenance of the various utilities traversing the site. Since no excavation of material would occur under the No Project Alternative, no material would require disposal. While a trail connection would not be constructed along El Camino Real between the Dust Devil Nature Trail and Coast to Crest Trail, the addition of trails in the site would not be precluded. Similarly, relocation of the electrical line traversing the W-19 site would not be required if the proposed project is not implemented. The City of San Diego has plans for relocation of the electrical line as part of an undergrounding program that would move the line into existing and proposed street segments, although specific timing for implementation of that program has not been set. Either the City or SDG&E could therefore pursue relocation in the future if desired. Taking into consideration the economic, environmental, and social factors, the No Project Alternative is not a feasible less environmentally damaging alternative than the proposed project as conditioned because it would not realize the significant environmental benefits of the restoration.

For the reasons discussed above, the Commission finds that the proposed project (i.e., Alternative A), as conditioned to include feasible mitigation measures discussed below, is the least environmentally damaging alternative as required by Section 30233(a).

Avoidance of Impacts and Mitigation

In addition to requiring that diking, dredging, and filling in coastal wetlands and waters only be permitted if found to be an allowable use and the least environmentally damaging feasible alternative, Section 30233 further requires that feasible mitigation measures be provided as a means to minimize identified, mitigable adverse environmental impacts and as compensation for unmitigable environmental impacts. Pursuant to the California Environmental Quality Act (CEQA), the project was analyzed in an Environmental Impact Report (EIR) and Addendum, which determined that the project is expected to have impacts to coastal processes and sediment delivery, biological resources, traffic/access/circulation, air quality, and cultural resources. Out of those identified impact areas, coastal processes and sediment delivery, air quality, and cultural resources were found to be minimized to less than significant levels, while impacts to biological resources and noise were found to be significant and unavoidable. Regarding impacts to biological resources, the impacts identified for the project would be temporary and would result from the disturbance that must occur to alter elevations to achieve appropriate wetland conditions and enhance the overall habitat value of the site. The temporary impacts would cease either at the end of construction activities or as the new wetland and upland habitats establish. One significant impact, noise, is the result of the fact that construction equipment would be moving throughout the project site during construction; thus, sound walls would need to be mobile or exceedingly long

in order to be implemented. Because sound walls were determined to be infeasible, the project has been designed to occur as quickly as possible and consistent with local noise ordinances.

Another unavoidable impact of the project is the anticipated effects on other established restoration sites in the vicinity. Hydrological modeling for the proposed project determined that implementation of the wetland restoration within the W-19 site is anticipated to have tidal muting effects on restoration sites within the larger lagoon area, including sites restored by SCE to the west of the I-5 freeway, which will result in the loss of salt marsh habitat (see **Exhibit 7**). To compensate for this habitat loss, the applicants propose to create additional vegetated marsh habitat within another mitigation site, W-6, located to the southwest of W-19 and east of I-5. Restoration within W-6 is also anticipated to have tidal muting effects on the existing restoration sites, and those impacts will also need to be mitigated. Approximately 0.07 acres of subtidal habitat and 0.03 acres of mid-marsh habitat would be temporarily impacted to establish the hydraulic connection between the W-6 site and the San Dieguito River. This 0.1 acres of wetland impacts will be mitigated at a 1:1 ratio by the restoration of W-6, and thus would be subtracted from the overall mitigation credit that will be made available through the restoration of W-6.

Specifically, tidal muting effects as a result of the restoration of W-19 and W-6 were modeled based on model runs of an average two week spring-neap tidal cycle to quantify wetland hydrology, including resultant tidal elevations, tidal range, and inundation frequency, under three alternative wetland configuration alternatives, including a no-project alternative. This information was then used to quantify the projected acreages of mudflat, tidal marsh and upland habitat resulting from the W-19 restoration, and to project tidal muting, and acreage of marsh loss of the extant SCE restoration. Further, two sea level rise alternatives, elevations of 1.5 ft and 5.5 ft above current sea level, were examined in the context of the model. Water quality impacts were also examined for each wetland basin as a function of residence time¹⁰ of tidal inputs. The analysis found that restoring the W-19 site has the potential to adversely impact between 1.74 and 2.66 acres of vegetated marsh habitat within two existing restoration areas, W-4 and W-16, and that restoring the W-6 site has the potential to adversely impact another 0.27 to 1.19 acres of existing habitat in the vicinity. The potential impacts are identified as a range because the tidal muting effects are not known precisely and may need to be adjusted depending on how the final W-19 project and W-6 project impacts other restoration sites. In addition, these estimates of acreage loss are directly related to the model inputs used, and exclude the highest tidal elevations regularly observed in the W-4 and W-16 marsh areas. Direct measurements of tidal elevation in the field will be used to determine the precise habitat loss impacts resulting from the project.

¹⁰ "Residence time" in this context means the time that it takes for the water in the tidal basin to be fully exchanged.

As described above, these impacts will be offset by the restoration and subsequent transfer of responsibility of the W-6 site to SCE. The proposed restoration of W-6 will establish 7.7 acres of vegetated wetlands, 1.7 acres of mudflat and subtidal habitat, and 4.1 acres of transitional upland habitat. Of the 7.7 acres of vegetated wetlands, 3.9 to 4.9 acres will be devoted to compensating for tidal muting effects within W-4 and W-16, depending on the actual extent of muting impacts assessed as a result of the proposed restoration. The remaining restoration acreage, including 4.5 to 5.5 acres of various wetland habitat types and 4.1 acres of transitional/upland habitat, will be accepted by SCE as compensation for any future restoration rights it may have within the W-19 site based on previous land agreements with the applicants.

While an amendment to CDP 6-04-088 is necessary to incorporate the W-6 site, there are still uncertainties regarding the degree of tidal muting and required mitigation. To address the uncertainties of tidal muting and restoration, SANDAG, SCE, and the San Dieguito River Park Joint Powers Authority (JPA) will enter into a Memorandum of Understanding (MOU) that includes, among other things, a requirement that tidal muting impacts be monitored for five years following completion of the project. After the extent of tidal muting is confirmed, the required acreage of mitigation for marsh habitat will be credited from the total acreage of restored wetlands within W-6. To ensure that the requirements of the MOU regarding tidal muting monitoring and required mitigation are fully carried out as part of the subject CDP, **Special Condition 4** requires the applicants to submit the final MOU to the Executive Director for review and approval prior to issuance of the permit. Furthermore, while the JPA already holds an open space conservation easement over the majority of the W-6 site, the 22nd District Agricultural Association intends to record a new open space conservation easement to the JPA over the entire W-6 site prior to the JPA taking long-term management responsibility of the site, to ensure that the restored site is protected in the long term.¹¹

Section 30233 requires that feasible mitigation measures be provided as a means to minimize adverse environmental. As discussed above, the project was analyzed in an EIR and Addendum and found to result in multiple significant impacts to resources. Regarding significant and unavoidable impacts, the applicants have incorporated the restoration of W-6 into the project in order to mitigate for anticipated tidal muting.

Biological Productivity and Functional Capacity

The final policy test required under Section 30233 of the Coastal Act for projects involving diking, dredging, or filling of coastal wetlands and waters is that they must maintain, enhance, and where feasible restore the biological productivity and functional capacity of the wetland. Additionally, Section 30230 states that marine resources shall be maintained, enhanced, and where feasible, restored. Section 30231 further states that the biological productivity of coastal waters, streams, wetlands, estuaries, and lakes

¹¹ The open space conservation easement currently recorded over the portion of the W-6 site known as "W-6b" was recorded in 2007 in fulfillment of Special Condition 3 of CDP 6-84-525 and subsequent amendments.

appropriate to maintain optimum populations of species of marine organisms and protect human health shall be maintained and, where feasible, restored.

As discussed above, the mitigation measures incorporated into the project will ensure that the project will not have significant adverse impacts on the water quality of any of the coastal waters around the project area and will ensure that project construction will not adversely affect the biological productivity and functional capacity of coastal waters or wetlands. As an additional measure of protection to ensure that restoration activities will avoid impacts to water quality and the marine environment, **Special Condition 12** requires the submittal of a construction and pollution prevention plan including the implementation of construction Best Management Practices (BMPs) to properly control construction pollution and debris and prevent it from entering coastal waters. Furthermore, the project's stated purpose is to restore and enhance the biological productivity of coastal wetlands, and mitigation measures incorporated into the project will ensure that the site is monitored for achievement of these goals. Therefore, the Commission finds that the proposed development, as designed, is a permissible instance of diking, filling, and dredging for restoration purposes under Section 30233(a)(6).

D. ESHA, Water Quality, and Marine Resources

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the maritime environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy population 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 effect of waste water discharges and entrainments, 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 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 recreation areas.

Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters be maintained. Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas (ESHA) be protected and that development within or adjacent to such areas must be designed to prevent impacts which could degrade those resources.

ESHA

Pursuant to Section 30107.5 of the Coastal Act, an environmentally sensitive area is defined as “any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.” The locations for project components, including construction of the new one-mile public access trail, dredging and beach nourishment, utility relocation, and the disposal site, were surveyed during preparation of the EIR and were determined to be located within disturbed areas consisting of scattered native and non-native vegetation. These habitats may be intermittently used by sensitive species, but because of the fragmented native and non-native vegetation and disturbed area, the Commission’s staff ecologist has determined that these areas do not qualify as ESHA. Therefore, the development of these components within these disturbed areas will not result in any direct impacts to ESHA. However, while development of these components is not anticipated to result in significant impacts to ESHA, there is still a possibility that this development could result in unintended impacts to ESHA in the vicinity or to sensitive species.

To ensure that development of these components will avoid impacts to ESHA and sensitive species, **Special Condition 7** prohibits removal of existing vegetation (i.e., clearing and grubbing activities) during the bird nesting season (i.e., from February 15 through August 31), unless approved by the Executive Director in consultation with the California Department of Fish and Wildlife (CDFW) and U.S. Fish and Wildlife Service (USFWS). **Special Condition 8** requires a qualified biologist to conduct surveys prior to the commencement of project operations, including future dredging events, to determine the presence of sensitive species. If the sensitive species are exhibiting reproductive or nesting behavior, the Permittees shall cease work and notify the Executive Director and resource agencies. Work may not commence until written approval from the Executive Director is granted. If sensitive species in the area are not exhibiting reproductive or nesting behavior, the biologist must notify the Executive Director and either implement buffers or relocate the species to a safer location in consultation with CDFW and USFWS. Lastly, **Special Condition 8** requires the biologist to be present during all

project activities and to stop work if unforeseen habitat or species issues arise. Work may not resume until the issues are resolved. In addition, **Special Condition 12** requires the submittal of a construction and pollution prevention plan that includes the implementation of construction best management practices (BMPs) to properly control construction debris and runoff and prevent it from entering adjacent sensitive habitats. As such, by prohibiting clearing and grubbing during the bird nesting season, requiring a biological monitor onsite, and incorporating necessary BMPs, the project will avoid potential impacts to ESHA and sensitive species consistent with Section 30240.

Beach Nourishment and Marine Resources

Based on tidal modeling, lowering elevations within W-19 for the proposed wetlands restoration will increase the tidal prism within the lagoon as a whole by approximately 30 percent. This increased tidal prism will increase flushing of sediment from the inlet, but will also increase the amount of sand entrained at the ocean inlet by approximately 25 percent, which is anticipated to result in an additional 2,100 cubic yards of sand annually trapped near the inlet instead of being conveyed to adjacent beaches. In addition, modeling of sediment transport through the San Dieguito River within the study area predicted that less sediment will be transported through the system and to the coast as a result of the proposed wetlands restoration.

To offset the impacts to sediment delivery, the applicants propose three mitigation strategies: 1) deepening the existing sand trap created and maintained by SCE in the San Dieguito River to increase its capacity to capture up to 4,200 cubic yards of additional beach-compatible sand for dredging and subsequent deposit along adjacent beaches, 2) periodic beach nourishment every ten years for a total of 30,000 cubic yards over 50 years, and 3) beach nourishment with beach-compatible material following periodic maintenance dredging of the W-19 and W-6 inlets and the interior of the W-19 site.

The existing sand trap was initially constructed by, and is maintained by, SCE as part of the overall San Dieguito Wetland Restoration Plan. The sand trap helps collect entrained sand in a single location where it can be more easily removed instead of allowing it to flow upstream into the lagoon. As the trap fills with sand, maintenance is conducted to remove the accumulated sand and place it on adjacent beaches. To date, a total of 16,000 cubic yards of sand has been removed from the trap and deposited on adjacent beaches. The proposed project will deepen the sand trap by approximately two feet to create a deeper trap to effectively capture more sand. This deepening of the trap by two feet is expected to generate approximately 4,200 cubic yards of beach-compatible sand, which will be transported to adjacent beaches for nourishment. Because the entrainment of sand within the deepened sand trap will not be a constant process, it is impossible to predict the amount or frequency of future dredging and deposition events as a result of the deepened sand trap. However, by deepening the sand trap the project will provide an initial 4,200 cubic yards of beach-compatible material, and each subsequent maintenance dredging of the trap will generate more beach-compatible material than if the trap were not deepened.

The second sand mitigation strategy proposed as part of the project involves periodic deposition of beach-compatible material along adjacent beaches sourced either from quarries located outside of the coastal zone or using suitable material generated from within the larger San Dieguito Lagoon Wetland Restoration Plan area. An initial 5,000 cubic yards (cy) of material would be deposited within one year of completion of the construction of W-19, followed by an additional 5,000 cubic yards every 10 years, for a total of 30,000 cubic yards over 50 years. While the Commission recognizes the potential benefits of this proposed nourishment, the proposed nourishment period must be curtailed given the uncertainty of future beach conditions in the project area, particularly due to sea level rise. Thus, pursuant to **Special Condition 10**, this CDP would authorize beach nourishment in 5-year increments for a maximum of 20 years. At the end of each 5-year dredging and disposal period, **Special Condition 10** requires the permittees to submit an updated dredging plan for Executive Director review and approval in order to receive an additional 5-year extension. After 20 years, the permittees will have the option to apply for a CDP amendment authorizing continued beach nourishment activities for an extended period. This arrangement will provide a pathway for the applicants to gradually implement their intended nourishment program, but with necessary checks built into the regulatory process to ensure that nourishment continually accounts for and is designed to suit future beach conditions

Finally, the proposed project includes deposition of beach-compatible material along adjacent beaches following maintenance dredging of the W-6 and W-19 river inlets as well as maintenance dredging of the interior of W-19. Hydraulic modeling for the project determined that during large storm events (25-year storm events or larger) water flows may deposit significant amounts of sediment within the inlets for W-6 and W-19 and may also flow into the interior restored wetland areas. If this material is not removed, it may result in large-scale conversion of habitat or water quality issues within the wetland areas. Because the accumulated material will be from within the larger San Dieguito river system, it is anticipated that a majority of the dredged material will be beach-compatible. Similar to the first sand mitigation strategy described above, it is impossible to predict how much dredge material future significant storm events will generate, or how often. However, hydraulic modeling projected that after a large storm event a total of 20,000 cubic yards of beach-compatible material is likely to be available within the wetland main and tributary channels.

Dredging-related activities, including human presence, lighting, and noise have the potential to adversely impact wildlife movement, foraging, and nesting. Additionally, equipment mobilization, staging, and dredging operations have the potential to impact sensitive habitat and water quality. Considering that the dredging operations will be taking place within the W-19 restoration site also have the potential to impact the larger San Dieguito Lagoon area, it is important to ensure that dredging activities are properly conditioned. **Special Condition 10** requires the permittees to submit a dredging and disposal operations plan prior to each dredging event that describes the proposed dredging and receiver sites, access routes, equipment to be used, and methods for dredging and disposal consistent with standards to avoid sensitive areas and species and to control debris. **Special Condition 10** also requires the applicants to submit an

updated plan to the Executive Director for each five-year extension of nourishment activities to ensure that nourishment suits current beach conditions. Moreover, **Special Condition 6** requires the applicants to submit an approved water quality certification from the RWQCB for the project pursuant to Section 401 of the Clean Water Act. As conditioned, the dredging operations will avoid disruption of sensitive habitats and species consistent with Sections 30231 and 30240.

Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. Eelgrass (*Zostera marina*) is an aquatic plant consisting of tough cellulose leaves which grows in dense beds in shallow subtidal or intertidal unconsolidated sediments. Eelgrass is considered worthy of protection because it functions as important habitat and foraging area for a variety of fish and other wildlife, according to the California Eelgrass Mitigation Policy (CEMP) adopted by the National Marine Fisheries Service (NMFS), USFWS, and CDFW. For instance, eelgrass beds provide areas for fish egg laying, juvenile fish rearing, and waterfowl foraging. Sensitive species, such as the California least tern, a federally listed endangered species, utilize eelgrass beds as foraging grounds.

The proposed dredging project has the potential to directly impact eelgrass that may be present in the project area. Dredging activities have the potential to remove and disturb eelgrass. In addition, the temporary turbid conditions created when dredging can reduce the light available to eelgrass by shading portions of the river floor.

Eelgrass is known to occur in the San Dieguito River west of the I-5 Bridge and has recently been observed east of the bridge as well. While specific locations of eelgrass can vary depending on storm event and river flow, it is possible that eelgrass has established in portions of the project site since the last survey was conducted. Staff notes that the Commission has routinely required surveys for eelgrass to be carried out just prior to development activities in harbors and marinas as a condition of CPD approval in order to ensure that, if eelgrass is present, mitigation measures are incorporated into the project. Therefore, **Special Condition 13** requires the applicants to conduct two surveys of the project area for eelgrass prior to commencement of development. If any eelgrass is identified in the project area before development, the applicants shall conduct up to three post-construction surveys over two years after the conclusion of construction to determine if any eelgrass was adversely impacted, and if so, that it recovered. If any eelgrass has been impacted, the applicants shall mitigate the impacts in consultation with the National Marine Fisheries Service, and shall replace eelgrass at ratios determined through that consultation.

Based on modeling, the EIR anticipates that a majority of the material proposed to be dredged as part of the proposed project will be physically and chemically suitable for deposition on adjacent beaches; however, it is possible that conditions could change leading up to the first dredging event proposed under this permit, or it is possible that conditions could change between dredging events. Possible contaminants entering the San Dieguito River system or changes in the anticipated sediment flow could result in

dredged material that is chemically and/or physically unsuitable for placement on adjacent beaches. As a result of wind and wave action, the sand placed on the beach will eventually migrate to the ocean where it will mix with the marine environment, so any potential contaminants or unsuitable material in the dredged material has the potential to impact the marine environment as well as the sandy beach environment. To prevent contaminants or unsuitable material from impacting the marine environment, **Special Condition 11** requires testing of the physical and chemical properties of the material to be dredged prior to operations to ensure that it is suitable for placement at nearby beaches. Any material that does not meet the applicable physical, chemical, color, and/or compatibility standards for beach placement shall not be used.

While tested material may be found compatible for placement along adjacent beaches, the process of placing the sand may impact species that frequent the area, particularly California Grunion. The movement of heavy equipment along the beach could crush incubating grunion eggs, or placement of sand could smother the eggs, thus affecting hatching. The applicants propose to avoid beach nourishment activities during grunion spawning and hatching season. However, if nourishment activities must occur during this time (March 1-August 31), which may be necessary after a large storm event, **Special Condition 9** requires a Grunion Monitoring and Avoidance Plan to be submitted to the Executive Director for review and approval. In these instances, the applicants shall survey the areas proposed for beach deposition daily at least two weeks prior to and during sand placement activities. If a grunion run consisting of 100 or more individual fish per 300-foot segment, as measured using the Walker Scale (see **Exhibit 8**), is reported, the applicants must avoid work on the respective beach segment(s) and truck route, plus a 100-foot buffer on either side, for a minimum of two weeks to ensure that no grunion eggs are buried or disturbed. No mature grunion may be harmed as a result of sand placement. By incorporating **Special Condition 9**, the project will effectively avoid impacts to grunion as a result of beach deposition activities.

As such, the dredging and deposition portions of the project, as conditioned, will avoid impacts to the marine environment consistent with Sections 30240, 30230, and 30231 of the Coastal Act.

E. Coastal Hazards

Section 30253 of the Coastal Act states, in applicable part:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...

Section 30253 of the Coastal Act mandates that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The proposed project includes extensive earthwork and vegetation removal in order to recontour the W-19 site and create appropriate channels and elevations for the purpose of wetland restoration. In total approximately 1.2 million cubic yards of soil and 150,000 cubic yards of vegetation will be excavated from the site, temporarily stockpiled in an area adjacent to the site, and later disposed of at an upland disposal area. The Commission notes that excavated materials that are placed in stockpiles are subject to increased erosion and potential adverse effects to adjacent streams and wetland areas from sedimentation and increased turbidity. To prevent these impacts, **Special Condition 12** requires the submittal of a construction and pollution prevention plan that includes the implementation of construction best management practices (BMPs) to properly control construction debris and stockpiled material, and to prevent it from entering adjacent sensitive habitats. Temporary erosion control measures (such as sandbag barriers, silt fencing; swales, etc.) shall be implemented in the event that temporary stockpiling of material is required. These temporary erosion control measures shall be monitored and maintained until all stockpiled fill has been removed from the project site. Permanent stockpiling of material on site is prohibited. Additionally, the applicants are required to submit final erosion control plans as part of **Special Condition 1**.

In addition, the proposed development is located in a tidally influenced lagoon habitat subject to potential hazards from erosion and flooding. The impact of floodplain encroachment (i.e., filling in land that is used to flooding) is an important consideration related to the location of the Del Mar Fairgrounds' property, the Horse Park, commercial and industrial development along Via de la Valle in the lower northern portion of the floodplain, and residential and other light commercial development along the lower southern margin of the floodplain. The fairgrounds and other floodplain encroachments are subject to flooding during large storm events (35-year event or greater) as they are not elevated enough to be completely removed from flood inundation limits. The existing berms along the bank of the river effectively channelize flows from storm events less than a 35-year event and the natural fluvial processes through this section of the river. Flooding affects most of the low-lying development downstream of El Camino Real, creating potential problems for many low-lying areas, both in terms of flood inundation and riverine scour.

The EIR analyzed the potential for the project to affect the existing floodplain with respect to impervious surfaces, groundwater aquifer recharge, drainage and surface water runoff, flooding and seiche hazards such as tsunamis. Regarding impervious surfaces and groundwater aquifer recharge the EIR found that the project would have no effect on existing conditions. The project is expected to increase drainage and surface water runoff flows as a result of changes to the river channels and tidal prism, but determined that those changes would not result in new substantial scour or erosion and thus impacts were determined to be less than significant. Flooding of adjacent infrastructure and/or roadways and the potential for exposure of people or property to

flooding hazards would not be increased over existing conditions, as the proposed project would reduce flooding elevations in comparison to the existing flood levels. Lastly, the project would result in no increased risks to coastal structures as a result of seiche hazards.

While the EIR analysis described above addresses flood risk as a result of the project, the Commission must also consider whether the project has been designed and built to minimize risks to coastal resources, including the habitat that will be created as a result of the restoration. The Ocean Protection Council's 2018 State of California Sea-Level Rise Guidance, which provides sea level rise (SLR) projections for 12 tide gauges along the coast, serves as the best available science for projecting future sea level rise.¹² In this case, the La Jolla tide gauge is the applicable gauge. The amount of SLR projected at the La Jolla tide gauge for the year 2070 (i.e., 50 years into the future) ranges from 2.0 feet (under the "low-risk aversion" scenario) to 3.6 feet (under the "medium-high risk aversion" scenario) to 5.2 feet (under the "extreme risk aversion" scenario). Appendix D of the EIR includes an analysis of the expected SLR impacts on the W-19 restoration site and the analysis considered two scenarios of 1.5 feet and 5.5 feet of SLR, which encompasses the range of scenarios projected by the OPC Guidance for 2070. Based on the OPC guidance as well as the Commission's own 2018 Sea Level Rise Policy Guidance,¹³ consideration of the low-risk scenario (+2 feet) is appropriate in this case because, as a wetland restoration project, the project as designed has a relatively high capacity to adapt to risks associated with tidal flooding, and the consequences of the development being subject to tidal flooding in the future would not be significant from the standpoint of impacts to coastal resources. This is because the project includes the creation of upland and transitional habitats adjacent to the wetland habitat, which if affected by SLR will effectively become new wetland habitat once the established wetland habitat is inundated and converts to subtidal and mudflat areas. With 1.5 feet of SLR, the intertidal habitat zone will shift upward by 1.3 feet, and with 5.5 feet of SLR the intertidal habitat will shift upward by 4.2 feet. Most intertidal area would convert to subtidal habitat and wetlands would shift to subtidal and mudflat habitats. While the acreages of individual habitats may shift in response to future SLR, the overall acreage of restored habitat (154 acres) will remain relatively constant. Overall, restoring the natural floodplain will increase the adaptive capacity, and in turn, the resiliency of the surrounding region.

Despite the fact that the project as designed can adapt to future SLR, the Coastal Act recognizes that certain types of development, such as the proposed project, may involve some risk. As such, the Commission finds that due to the unforeseen possibility of erosion and flooding, the applicants shall assume the risks of developing in a

¹² The OPC 2018 Sea-Level Rise Guidance is available online at https://opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180314/Item3_Exhibit-A_OPC_SLR_Guidance-rd3.pdf.

¹³ The Coastal Commission's 2018 Sea Level Rise Policy Guidance is available online at <https://www.coastal.ca.gov/climate/slrguidance.html>.

hazardous location as a condition of approval. Therefore, **Special Condition 16** requires the applicants to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30253.

F. Public Access and Recreation

Coastal Act Section 30604(c) requires that every Coastal Development Permit issued for any development between the nearest public road and the sea “shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3.” Coastal Act Sections 30210 through 30213, 30221, and 30223 protect public access and recreation. Specifically:

30210. 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.

30211. 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.

30212(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected...

30213. Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...

30221. Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

30223. Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Taken together, these overlapping policies protect public access and recreation opportunities for the public, including lower-cost, visitor-serving uses.

San Dieguito Lagoon

Various recreational opportunities exist within and immediately surrounding San Dieguito Lagoon and the San Dieguito River Valley. The majority of recreational opportunities within the lagoon system include the trail network with observation platforms and are available for a wide variety of uses including hiking, biking, nature observation, and horseback riding (as permitted in various locations). The trail network is comprised in part by the Dust Devil Trail, which is a 1.7-mile-long, pedestrian-only trail located in the southeastern portion of the lagoon south of the river. Another component, the San Dieguito River Park Coast to Crest Trail (CTC) Trail, is a regional trail planned to extend 71 miles from the ocean to the San Dieguito River's source on Volcan Mountain. Within San Dieguito Lagoon, the CTC Trail is 2.4 miles long and currently begins on the west side of I-5 and continues from Jimmy Durante Boulevard to the east, then under the freeway and along the north side of the San Dieguito River. In the project area, the CTC Trail currently has an eastern terminus at El Camino Real.

Two trailhead parking lots currently provide parking for the lagoon trails. One parking lot is located off of El Camino Real on the east side of the lagoon and provides access to the Dust Devil Nature Trail. This gravel lot is permitted for 25 vehicles and generally experiences light use. A second parking area and street parking are located off of San Andres Drive along the north side of the lagoon and provide access to the CTC Trail. Approximately 60 vehicular spaces are accommodated in the parking lot.

The project will construct approximately one mile of new trail adjacent to El Camino Real along the eastern project site boundary to expand recreational opportunities. This new trail will extend north from the northern loop of the existing Dust Devil Nature Trail along an existing maintenance access road before turning east toward El Camino Real (see **Exhibit 2**). The trail will then travel northeast adjacent to El Camino Real. The trail will terminate immediately south of the San Dieguito River and no access across the river will be provided at this time. However, the termination will be designed to connect to new pedestrian facilities associated with the future replacement of the El Camino Real Bridge/Road Widening Project as is currently being planned by the City of San Diego. Once the new El Camino Real Bridge is constructed, trail users could access El Camino Real from the trail, cross the river via the new pedestrian lanes on the bridge, and then connect on the north side of the river to the CTC Trail.

Starting from the Dust Devil Nature Trail, the proposed trail will generally be 6 feet wide and surfaced with decomposed granite with 1-foot-wide dirt shoulders. This initial section will be designated for hikers only (no bicycles or equestrian use), similar to the Dust Devil Nature Trail. The trail will widen at the approach to the El Camino Real Bridge from San Dieguito Road. The widened trail section will be multi-use, with a 6-foot-wide decomposed granite surfaced section for hikers and bicycles, a 4-foot-wide soft dirt section for equestrian users, and 1-foot-wide dirt shoulders. Fencing will extend along portions of the trail, particularly adjacent to slopes, to enhance public safety and deter trail users from entering adjacent areas of sensitive vegetation. Fencing will be constructed of split rail to maintain a rustic character consistent with that of the River

Park and other existing trails. Interpretive signage will be designed and sited pursuant to a Trail Signage Plan required by **Special Condition 15**.

The W-19 and W-6 sites are not currently open to the public and no formal trails traverse the area. As a result, use of the lagoon's existing recreational amenities will generally be able to continue during restoration activities. Recreational enjoyment of the area may be slightly disturbed during the restoration activities as recreationists in the immediate vicinity will be able to view and hear construction activities. This visual and audible disruption of the area will be temporary and will cease at the end of lagoon restoration activities.

During materials disposal, there will be temporary disruptions to the Dust Devil Nature Trail due to the haul routes proposed to transport material from the W-19 and W-6 sites to the disposal site, and recreationists in the surrounding area will be able to view and hear construction activities. Specifically, the Dust Devil Trail will be closed through the duration of construction (i.e., 30 months) during weekday work hours. The trail will be open on weekends, when it is most heavily used, to minimize recreational impacts. Other trails in the area, including the Coast to Crest Trail, will remain open through construction. For public safety, the disposal site perimeter will be temporarily fenced to restrict public access, and **Special Condition 14** requires signage to be placed to inform the public of alternative public access points.

Overall, the proposed trail will expand recreational opportunities within the lagoon area for a variety of users and will provide significant linkages for existing and planned future trails. While restoration and construction activities will present a minor, temporary impact to trail users in the immediate project area, these are outweighed by the permanent access enhancements provided by the project.

Beach Nourishment Sites

As provided in **Special Condition 10**, this permit would authorize periodic beach nourishment in 5-year increments for a maximum of 20 years, at which point the permittees will have the option to apply for a CDP amendment authorizing further beach nourishment extending into the future. Beach nourishment activities present another potential impact to public access at the beach placement locations around the lagoon inlet, which are commonly used by the public for beach recreation. Particularly, the North Beach area north of the inlet, commonly known as Dog Beach, is a popular location for dogs and their owners. Metered public parking is provided along Camino Del Mar for access to North Beach.

Sand placement events would last approximately two weeks, including equipment mobilization and demobilization. Assuming a truck capacity of 10 cubic yards, every 1000 cubic yards of sand delivered for nourishment will require 100 truck trips, potentially causing some traffic impacts to local roadways. Trucks will deliver sand using local roads to access the beach and may also drive along the beach to specific placement sites as necessary. Beach access by construction equipment will occur either north of the river for access to Dog Beach or south of the river at the ends of 20th

and/or 18th Streets. Material placement will require temporary beach closures in the immediate vicinity of the construction activities for safety purposes. Depending on the beach site, up to 500 feet of beach may be closed per day in a specific location. As sand placement activities shift along the beach, those areas in which sand placement has been completed will be reopened to public use. Horizontal access along the back beach will be maintained, with temporary closures occurring as necessary to complete sand placement to the back edge of the beach, particularly where no alternative horizontal access exists (e.g., where the site abuts bluffs or houses). The quantity of placed sand will be relatively minor and not be sufficient to negatively affect surf conditions.

The primary public access concern associated with placement of material on a beach is ensuring public safety during construction while also maintaining access to the beach. The applicants have committed to multiple measures in order to strike this balance properly. Per **Special Condition 7**, beach material placement is prohibited during the high-usage summer period from Memorial Day weekend through Labor Day. Sand placement activities will occur consistent with the City of Del Mar's noise ordinance, which on Monday through Friday allows construction noise only from 7am to 7pm. During placement of beach sand, SANDAG will work with the City of Del Mar to coordinate the proposed haul routes with other projects. Advance notification will be sent to local residents and motorists notifying them of the potential delays and traffic congestion and encouraging roadway users to consider other transportation modes or alternative routes during peak hours. As required by **Special Condition 14**, a Traffic Management Plan will be implemented to minimize traffic impacts along local roadways as a result of construction and beach nourishment activities. No parking lots will be closed, although temporary access to individual parking spots along the roadway may be temporarily disrupted to allow for truck access to the beach. The number and location of spots needed will depend on the beach condition and placement location identified at the time of placement. If placement occurs on the north side of the inlet, existing emergency vehicle access could potentially be utilized, eliminating the need to use parking spots. If placement occurs south of the inlet, spots at the specific beach access point may be temporarily occupied. Fewer than 10 spots would be required for the placement period. Parking along Camino Del Mar will not be affected by beach nourishment activities.

SANDAG will coordinate closely with the City of Del Mar, including beach lifeguards, to ensure notification and safety measures on the beach are implemented. While material placement will require temporary closure of limited stretches of beach in the immediate vicinity of the construction activities for safety purposes, public access points to the local beaches outside of the active construction area will not be restricted, and sufficient surrounding beach area will remain open for public use. To minimize access impacts during nourishment, **Special Condition 14** requires the applicants to submit for Executive Director review and approval a Public Access Plan describing measures for maintaining safe public access to beaches and parking areas prior to issuance of this permit. Once nourishment is completed, the affected beach area will be reopened to the public and have an increased sand volume for recreational beach enjoyment.

In conclusion, the proposed project will provide two long-term public access enhancements in the form of the new one-mile trail and the beach nourishment around the inlet to San Dieguito Lagoon. While minor, temporary impacts are involved in bringing about these enhancements, these impacts are ultimately outweighed by the long-term public access benefits provided by the project. Therefore, the project is consistent with the public access provisions of the Coastal Act.

G. Archaeological Resources and Tribal Consultation

Section 30244 of the Coastal Act states:

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

Section 30244 of the Coastal Act requires development projects to implement reasonable mitigation measures to protect identified archaeological or paleontological resources. Construction activities that disturb soils (e.g., grinding, tilling, disking, and digging/excavating) can damage historical or archaeological resources. These activities can also inadvertently damage human remains.

A consultant for the applicants performed a cultural resources records search for the W-19 site in 2011 and updated it in 2015. The records search provides background information about the number and types of archaeological studies previously performed within the proposed restoration site and vicinity. This search revealed 36 previous archaeological investigations that intersected the project area. Of these, the entirety of the W-19 site has been previously surveyed two times (USFWS and San Dieguito River Park JPA 2000; Hector and Brewster 2002), and 90 percent of the site a total of three times. Based on the investigations revealed by the records search, five archaeological sites are located within the W-19 portion of the project area; however, none were found to contain tribal cultural resources eligible for the California Register of Historic Resources (California Register). Records searches performed by the applicant's consultant in 2015 and 2020 revealed no recorded cultural resources within the W-6 project area. Also, no previously recorded archaeological sites have been identified within the proposed disposal site.

The applicants' consultant conducted a pedestrian cultural resources survey of the W-19 site in September 2015 to further identify cultural resources in the project area. The survey resulted in the relocation of one previously recorded isolated mano (P-37-14761) and two previously recorded prehistoric shell scatter sites (CA-SDI-20032 and CA-SDI-7291).¹⁴ One newly identified prehistoric shell scatter site was found during the survey (SDL-S-1). Due to the presence of shell at two of the sites, a subsurface survey was conducted on October 8 and 9, 2015, utilizing hand-held augers to determine whether

¹⁴ A "mano" (Spanish for "hand") is a hand-held stone that was used prehistorically to grind or pound food.

sites P-37-31581 and SDL-S-1 contained a subsurface deposit. No subsurface presence was identified for either site. Due to the lack of artifacts or other items that would yield information about the activities at these two sites, both sites were found not eligible for the California Register. The applicants' consultant conducted a pedestrian cultural resources survey of the W-6 site in February 2020. No cultural resources were identified within the survey area.

A Sacred Lands File Search was requested from the Native American Heritage Commission (NAHC) on June 10, 2015 for the W-19 restoration site and a 1-mile radius. On September 25, 2015, all 13 groups identified by the NAHC were contacted by mail. Two responses, from the Inaja Cosmit Band of Mission Indians and the Kwaaymii Laguna Band of Mission Indians, were received and neither had comments.

In January 2020, the applicant's consultant requested from the NAHC a list of tribal groups or individuals that may have information or concerns about the W-6 restoration site. On March 11, 2020 the NAHC identified that a search conducted of their Sacred Lands File for the W-6 restoration site was negative and provided a list of tribes and individuals who may have additional knowledge of cultural resources in the W-6 site. On March 13, an information letter, project map, and response form were sent to each of the tribal contacts or individuals identified by the NAHC, requesting information regarding known resources within or adjacent to the W-6 project area. A representative of the San Pasqual Band of Mission Indians responded requesting to be kept informed of project updates and any subsequent archaeological investigations. Also, a representative of the Viejas Band of Kumeyaay Indians requested to receive materials via electronic mail.

Despite the findings that the proposed project would have no impact to known cultural resources within the project area, the potential remains for unknown cultural resources to be buried below the level of previous disturbance. Therefore, in consultation with the tribes, the applicants have agreed to implement measures for mitigating any potential inadvertent impacts to previously undiscovered cultural resources. Specifically, as required in **Special Condition 19**, a qualified archaeological monitor will be present during all soil-disturbing and grading, excavation, and trenching activities into stable, undisturbed sediments. Prior to the start of any work that requires monitoring, a Native American monitor will attend preconstruction meetings, will review and approve an archaeological monitoring exhibit for the project, and will determine the extent of their presence during earth-moving activities based on the approved exhibit. If cultural materials are discovered, all earth-moving activities within and around the immediate discovery area would be diverted until a qualified archaeologist can assess the nature and significance of the find.

If human remains are discovered, California Health and Safety Code Section 7050.5 states that further disturbances and activities shall stop in any area or nearby area suspected to overlie remains, and the medical examiner shall be contacted. If the remains are thought by the coroner to be Native American, the medical examiner will notify the NAHC, who, pursuant to Public Resources Code Section 5097.98, will then

notify the Most Likely Descendent (MLD). At that time, the MLD would make recommendations for the respectful treatment and disposition of the remains and any associated items. Further provisions of Public Resources Code Section 5097.98 will be followed as applicable.

Consistent with the Commission's tribal consultation policy adopted in 2018, Commission staff reviewed the tribal consultation undertaken by the applicants, and the cultural resource measures incorporated into the project. On August 13, 2020, Commission staff also wrote to the tribal representatives identified by the NAHC for the W-19 and W-6 sites to inform them of the project's CDP application and the Commission's upcoming hearing on the project, and to advise them of the opportunity to provide comments for the CDP hearing.

In conclusion, based on the findings of the cultural resources records searches and pedestrian surveys, the tribal consultation performed by the applicants and Commission staff, as well as the cultural resource mitigation measures and monitoring, evaluation, and protection protocols that will be implemented by the applicants as part of the project, the Commission finds that the development is consistent with Coastal Act Section 30244.

H. Agricultural Resources

Section 30241 of the Coastal Act states (emphasis added):

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

- (a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.
- (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.
- (c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.¹⁵

¹⁵ Section 30250, which establishes requirements for locating new residential, commercial, or industrial development, is not applicable to this project because it does not include new residential, commercial, or industrial development.

- (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.
- (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.
- (f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

Section 30242 of the Coastal Act states (emphasis added):

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Section 30241 requires that the maximum amount of prime agricultural land be maintained in agricultural production, and that the conversion of agricultural land along the urban periphery be limited to instances where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development or would concentrate development in urban areas. In comparison to Section 30241 and its focus on conversions of agricultural lands around the urban periphery, Section 30242 addresses conversions of “all other lands” (i.e., rural locations without conflicts “between agricultural and urban land uses”) suitable for agricultural use. In summary, the Coastal Act provisions on the conversion of agricultural land are as follows:

- Prime agricultural lands are to be maintained in production.
- Prime and non-prime agricultural lands either on the urban periphery or surrounded by urban uses may be converted if they satisfy standards in Section 30241 as well as other applicable provisions of the Coastal Act.
- All other lands (i.e., rural locations without conflicts “between agricultural and urban land uses”) suitable for agricultural use may be converted if they satisfy standards in Section 30242 as well as other applicable provisions of the Coastal Act.

The larger San Dieguito Lagoon historically supported a range of habitats, including vegetated salt and brackish marsh, associated tidal embayments, sloughs, and mudflats. In the early 20th century, large portions of the San Dieguito Lagoon marsh plain were filled for construction of roads, an airfield, the Del Mar Fairgrounds, a

shopping center, and farmland. Today, less than half of the historical wetlands remain intact and the estuary's area is greatly reduced from its historical extent, although restoration efforts in recent years have compensated for this loss to some degree. The proposed restoration site is within the area of the lagoon that was historically freshwater/brackish habitat. However, after this area was filled, it was used for tomato farming until it was purchased by the JPA in 2004, at which point it became open space. The proposed project will permanently restore coastal wetlands and upland habitat on the site, and in doing so will convert this former agricultural land from transitional open space into wetland open space. The project site does not contain land covered by a Williamson Act contract.

As discussed above, Section 30241 applies to conversion of prime agricultural land and all non-prime agricultural lands on the periphery of an urban area or surrounded by urban uses. The Coastal Act defines "prime agricultural land" through incorporation-by-reference of California Government Code Section 51201(c), which states that prime agricultural land includes any of the following: (1) all land that qualifies for a rating as class I or class II in the Natural Resource Conservation Service land use capability classifications; (2) land which qualifies for a rating 80 through 100 in the Storie Index Rating; (3) land which supports livestock used for the production of food and fiber with an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture; or (4) land planted with fruit or nut-bearing trees, vines, bushes, or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre. The proposed project area does not contain prime agricultural soils, but this portion of the lagoon is on the periphery of an urban area given that it is flanked to the north, east, and south by developed, urban areas within the City of San Diego. Therefore, the Commission must review the proposed conversion of the former agricultural land to open space and wetland habitat for consistency with the requirements of Section 30241.

No Effect on Maintaining Prime Agricultural Land in Agricultural Production

As cited above, Section 30241 sets forth policies that protect agricultural production on prime agricultural lands. Based on soil maps produced by the U.S. Department of Agricultural Natural Resources Conservation Service (USDA NRCS), the agricultural land in the project area is mapped as varying classes of sandy, somewhat loamy soil rating in the class III and class IV land capability classifications.¹⁶ Many of the soils are also tagged as having capability sub-class limitations including erosion, rooting zone limitations, and excess water, as well as being saline in places. Given these classifications, soils within the project area do not meet the definition of "prime" under Government Code Section 51201(c)(1).

In 2015, the U.S. Department of Agriculture Natural Resources Conservation Service (USDA NRCS) and the U.S. Army Corps of Engineers (USACE) completed a farmland

¹⁶ <https://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>

conversion impact rating assessment for the proposed project site. This assessment evaluated soil productivity in the project site using the Storie Index and concluded that the project area had an overall Storie Index Rating of 47, well below the threshold required to be considered prime under Government Code Section 51201(c)(2). This finding is consistent with the NRCS's 2016 Important Farmland Map, which shows no prime farmland within San Dieguito Lagoon.¹⁷ The assessment also concluded that the overall value of the former farmland proposed for conversion is moderate, and thus the proposed conversion of the land was consistent with the federal Farmland Protection Policy Act (FPPA).¹⁸

Finally, the proposed project area does not support livestock, nor is it planted with fruit or nut-bearing plants. Upon purchasing the W-19 site in 2004, the San Dieguito River Park JPA halted agricultural activities to allow natural habitat transition to occur. Since that time, the project area has served as open space for the benefit of the public and wildlife alike. The proposed project would convert what is currently transitional open space into coastal wetland open space, and in doing so, will provide a critical piece of the larger restoration of San Dieguito Lagoon.

Therefore, the Commission finds that the proposed project area does not contain prime agricultural soils, and the project area also is not in agricultural production. Therefore, the proposed restoration will have no effect on maintaining prime agricultural land in agricultural production, and thus the first directive of Section 30241 is not applicable to the proposed project.

Minimizing Conflicts Between Agricultural and Urban Land Uses

As cited above, Section 30241 also enumerates a series of measures to be undertaken to minimize conflicts between agricultural lands, both prime and non-prime, and urban uses. As discussed, the proposed project area contains approximately 170 acres of former agricultural land, which includes the proposed restoration area, new trail alignment, utility realignment, and material disposal site. The Commission finds that for the reasons discussed below, the proposed project is a permissible conversion consistent with the applicable criteria of Section 30241.

1. Establishing stable boundaries between urban and rural uses

San Dieguito Lagoon marks the western terminus of the San Dieguito River, where river waters flowing from the east enter the Pacific Ocean. The western portion of the lagoon (i.e., from the inlet to approximately 0.75 miles inland) is within the City of Del Mar. The

¹⁷ <https://maps.conservation.ca.gov/dlrp/ciftimeseries/>

¹⁸ Per NRCS regulations, if the overall impact rating calculated during the farmland conversion impact rating assessment is less than 160, then the land is not subject to the FPPA. (See 7 CFR § 658.4.) The proposed conversion was rated at 100.22. (See Appendix K of the Final EIR, available online at http://www.sdrp.org/wordpress/wp-content/uploads/App-K_Farmland-Conversion-Impact-Rating-Form.pdf.)

eastern part of the lagoon and surrounding uplands, which includes the 170 acres of former agricultural land, is part of the City of San Diego.

The W-19 and W-6 sites are each roughly bisected by two City of San Diego zoning designations. The low-lying, northern portions closer to the river channel are designated Open Space-Floodplain (OF-1-1), which the San Diego Municipal Code states is intended “to preserve the natural character of floodplains while permitting development that will not constitute a dangerous condition or an impediment to the flow of flood waters.”¹⁹ The southern, more upland portions of the sites (i.e., closer to El Camino Real) are designated Agricultural-Residential (AR-1-1), which is applied to lands that “are in agricultural use or that are undeveloped and not appropriate for more intense zoning.”²⁰ These low-intensity designations generally cease at the crest of the river valley both north and south of the lagoon, where the zoning changes to heavier, more urbanized designations such as Commercial-Community and Residential. In this way, the zoning code generally uses the edges of the river valley to demarcate the boundary between the low-intensity, rural uses of the lagoon and the higher intensity, more urban land uses of the cityscape on either side of the lagoon.

The proposed project would restore former agricultural land from transitional habitat into coastal wetland habitat. In the portions of the project area designated Open Space-Floodplain, the proposed wetland restoration will better fulfill the intent of the designation by enhancing the functional capacity of the natural floodplain and increasing flood resiliency, especially as sea level rise occurs. In the area designated Agricultural-Residential, the habitat restoration and construction of the trail will permanently establish low-intensity uses befitting the designation, such as nature study and pedestrian and equestrian recreation. These changes will more clearly characterize the lagoon as an intentionally delineated open and natural space meant for low-intensity, more rural land uses, in contrast to the higher-intensity, more urbanized land uses of the surrounding city. As a result, the project will reinforce the buffer between two incompatible intensities of land use. Therefore, conversion of the site’s former agricultural lands through the proposed restoration project will minimize conflicts between urban and rural land uses.

2. Limiting Conversions Around Urban Periphery to Complete Stable Boundaries

The proposed restoration constitutes a conversion of former agricultural land on the periphery of an urban area (i.e., residential and commercial development in the City of San Diego) that would complete a logical and viable “neighborhood” of open space and wildlife lands by adding a significant piece toward the larger restoration of San Dieguito Lagoon and by providing greater ecological continuity with portions of the lagoon already restored by SCE. Moreover, the proposed trail will provide a significant link for connecting the communities north and south of the lagoon. As discussed above, the proposed conversion of former agricultural lands for the restoration project will undo

¹⁹ San Diego Municipal Code § 131.0205.

²⁰ *Id.* at § 131.0303.

historical encroachment of heavier forms of development into San Dieguito Lagoon, contributing to the establishment of a more stable boundary between the lagoon and the surrounding urbanized area.

3. Develop Lands Not Suitable for Agriculture First Before Converting Agricultural Lands

While lands within the project site were formerly farmed, agriculture is no longer compatible with the modern uses of San Dieguito Lagoon. As the San Diego region has become more heavily populated over time, the areas surrounding San Dieguito Lagoon have become heavily developed and increasingly urbanized, with the lagoon itself having been filled in in many places to accommodate new development. For the past several decades, efforts have been underway to undo some of these historical encroachments into the lagoon. However, the overall intent of these efforts is not to repair the landscape so that it can be farmed again, but to restore the natural wetland habitat and to provide an open recreational space to serve the communities that have developed along the periphery of the lagoon. As a result, farming no longer takes place in the lagoon, and the lagoon lands surrounding the W-19 and W-6 sites are devoted to restoration, open space, and public recreation. To resume farming on the project site alone would be incompatible with the modern natural and open space uses of the area.

Moreover, the project site's location within the natural floodplain and proximity to the lagoon inlet renders the site vulnerable to sea level rise. Based on SLR modeling data from the United States Geological Survey (USGS), northern parts of the W-19 site (i.e., nearest the river channel) are already subject to tidal flooding under present conditions.²¹ This flooding is projected to gradually submerge the project area as SLR progresses. Under the extreme-risk aversion scenario, a majority of the W-19 site and all of the W-6 site will be inundated within approximately 50 years. Due to the flood-prone nature of the area and the saline soils that will result from increasingly regular seawater inundation, agriculture is not a feasible use for the project area in the long term. For these reasons, the proposed project would develop lands not suitable for agriculture.

4. Avoid Non-agricultural Development That Would Impair Viability of Agricultural Lands

As discussed above, the proposed restoration will be of lands that were previously used for agriculture but have been in transition for many years as part of a larger restoration vision for San Dieguito Lagoon. Because there is no agriculture currently taking place within the lagoon, the project would not impact the economic viability of any agricultural activities moving forward. Furthermore, there are no agricultural activities in the vicinity with the potential to be impacted by the proposed trail development, material disposal, or beach nourishment. Finally, all proposed project features would not preclude future agricultural uses in adjacent areas.

²¹ The USGS CoSMoS online mapping tool is available at <https://data.pointblue.org/apps/ocof/cms/index.php?page=flood-map>.

For all of the reasons discussed above, the Commission finds that the proposed conversion of former agricultural lands is a permissible conversion of agricultural land consistent with Sections 30241 and 30242 of the Coastal Act.

I. California Environmental Quality Act (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires that a specific finding be made in conjunction with Coastal Development Permit applications showing the application to be consistent with any applicable requirements of CEQA. Public Resources Code, Section 21080.5(d)(2)(A) prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The San Dieguito River Park Joint Powers Authority, acting as the lead agency under CEQA, certified the Final Environmental Impact Report (FEIR) for the project in November 2018, and adopted an Addendum to the FEIR in May 2020.²² The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of environmental review under CEQA (Section 15251(c)). The Commission has reviewed the relevant coastal resource issues with the proposed project and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. All above findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. Thus, if so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

²² San Dieguito River Park Joint Powers Authority, *San Dieguito Lagoon W-19 Restoration Project Final Environmental Impact Report*, November 2018, SCH #2014081095, available online at https://keepsandiegomoving.com/Libraries/Transnet-doc/San_Dieguito_W-19_Final_EIR.sflb.ashx.

APPENDIX A – Substantive File Documents²³

- CDP File 6-20-0160
- CDP File 6-04-088-A16
- State of California Office of Historic Preservation Planning Bulletin #4, “Archaeological Resource Management Reports (ARMR): Recommended Contents and Format”
- National Oceanic and Atmospheric Administration Fisheries West Coast Region, “California Eelgrass Mitigation Policy and Implementing Guidelines,” October 2014

²³ These documents are available for review in the Commission’s San Diego Coast District office in San Diego.