

**CALIFORNIA COASTAL COMMISSION**

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# W11c

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Hearing Date: 04/12/23

## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 5-22-0627

**Applicant:** Orange County Public Works (Attn: Camille Adler and Giles Matthews)

**Location:** 0.23-acre plot on the southern bank of San Diego Creek, located between MacArthur Boulevard and California Avenue, Irvine, Orange County

**Project Description:** The San Diego Creek Restoration Pilot Program will measure passive rates of native riparian recovery in a 0.23-acre test plot. The project includes removing native and non-native vegetation, grading shallow channels for irrigation, weeding for invasive species, and measuring native riparian cover in the test plot after 5 years.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The project site is a 100-ft. wide by 100-ft. long (0.23 acres) test plot located on the southern bank of San Diego Creek in the City of Irvine. The site is located approximately 0.5 miles upstream of the Upper Newport Bay State Ecological Reserve (Ecological Reserve) and four miles upstream of the mouth of Newport Bay, which opens to the Pacific Ocean.

The project site includes native and non-native riparian habitat that constitute environmentally sensitive habitat area (ESHA). The applicant, Orange County Public

Works (OC Public Works), wishes to inform future restoration efforts by measuring native riparian vegetation recovery on the banks of San Diego Creek in the absence of active restoration. The San Diego Creek Restoration Pilot Program would measure this by: 1) removing all vegetation and removing up to six feet of sediment from within the test plot; 2) grading shallow channels to improve irrigation in the inland portion of the test plot; 3) manually weeding non-native invasive species from the test plot for five years; and 4) comparing the resulting quality and coverage of riparian habitat in the plot to original conditions. The pilot program would be conducted in both the subject test plot and a second upstream test plot located outside of the coastal zone. The upstream plot is not included in the subject coastal development permit (CDP) application.

The project site is in the City of Irvine. However, the site is also located on land owned by the University of California, Irvine and excluded from Irvine's certified Local Coastal Program. The University of California, Irvine does not have a Long-Range Development Plan (LRDP) certified by the Commission. Therefore, the Commission is the permitting authority and the standard of review is the Chapter 3 policies of the Coastal Act.

Staff recommends APPROVAL of the proposed project with seven special conditions requiring: 1) submittal of a revised restoration plan; 2) implementation of an integrated pest management plan; 3) pre-construction bird nesting surveys; 4) local resource agency approval; 5) proof of legal ability to comply with conditions; 6) construction best management practices; and 7) assumption of risk.

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### **Exhibits**

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Existing Site Cross-Sections](#)

[Exhibit 3 – Site Photos](#)

[Exhibit 4 – Project Plans](#)

[Exhibit 5 – ESHA Determination](#)

## I. MOTION AND RESOLUTION

**Motion:** I move that the Commission **approve** Coastal Development Permit (CDP) Application No. 5-22-0627 pursuant to the staff recommendation.

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

**Resolution:** The Commission hereby approves Coastal Development Permit Application No. 5-22-0627 and adopts the findings set forth below on grounds that the development, as conditioned, will be in conformity with the Chapter 3 policies 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 will substantially lessen any significant adverse impacts of the development on the environment.

## II. 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 applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

- 1. Submittal of Revised Sediment and Vegetation Removal and Restoration Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the Executive Director's review and written approval, a revised, final Sediment and Vegetation Removal and Restoration Plan (Restoration Plan) in substantial conformance with the Restoration Plan dated September 12, 2022. The final, revised Restoration Plan shall at minimum include the following:
- A. Elimination of the "DRAFT" watermark from all pages;
  - B. Provisions for removal of vegetation without the use of herbicide in the coastal zone for at least one year following the start date of construction (or as may be authorized by the Executive Director upon discovery of giant reed (*Arundo donax*), peppergrass (*Lepidium virginicum*), and/or Santa Maria feverfew (*Parthenium hysterophorus*);
  - C. Success criteria including, but not limited to, at least 75% cover of native riparian woody vegetation within five years of vegetation and sediment removal;
  - D. Provisions for submittal of a monitoring report within 30 days of the conclusion of the five-year monitoring period for Executive Director review and approval. The report shall include:
    - i. Figures showing the riparian species composition and cover in the plot prior to the project, upon completion of the second monitoring year, and upon completion of the fifth monitoring year;
    - ii. A general description of all maintenance events and damage that occurred in the five-year period, including any impacts to the waterway or terrestrial habitat surrounding the plot;
    - iii. An analysis of the final plot condition and whether the success criteria have been met;
    - iv. A summary of the annual monitoring reports prepared by the applicant's consultant throughout the five-year period.
  - E. Provisions for the permittee to apply for a CDP Amendment to implement an adaptive mitigation plan within 90 days of completion of the five-year monitoring period if the success criteria have not been met by the conclusion of the five-year monitoring period. The adaptive mitigation plan shall continue monitoring and restoration efforts until at least 75% cover of native riparian species in the test plot is established .

The permittee shall undertake development in accordance with the final Restoration Plan approved by the Executive Director. Any proposed changes to the approved, final Restoration Plan shall be reported to the Executive Director. No changes to the

approved, final Restoration Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**2. Herbicide Use** The permittee shall comply with the following requirements:

- A. Glyphosate-based herbicide shall be prohibited for use as part of the approved project unless the applicant obtains an amendment to this coastal development permit or a new coastal development permit for its use.
- B. All other non-glyphosate-based herbicides shall be prohibited on the project site during the first year of the approved project. If giant reeds (*Arrundo donax*), peppergrass (*Lepidium virginicum*), and/or Santa Maria feverfew (*Parthenium hysterophorus*) are observed in or adjacent to the project site, the applicant must provide evidence those invasive plant species cannot be controlled through any other method. Only after review and concurrence of the evidence by the Executive Director and other resources agencies with jurisdiction, may the applicant use non-glyphosate herbicides during the first year of the approved project.
- C. Following completion of the first year after the grading and vegetation removal phase, or upon observation of giant reed, peppergrass, and/or Santa Maria feverfew, the applicant may submit a request for the use of non-glyphosate-based herbicide on the project site for the review and written approval of the Executive Director. The request shall be substantially consistent with the Integrated Pest Management Plan received on February 8, 2023 and at minimum include:
  - i. A comparison of the downstream and upstream plots in terms of non-native, invasive species contamination;
  - ii. An analysis of how the contamination occurred;
  - iii. A feasibility analysis of other control methods, including a grow-kill cycle and manual removal;
  - iv. Photographs of the non-native, invasive vegetation observed in the test plot; and
  - v. An updated integrated pest management plan that includes the proposed non-glyphosate-based herbicide type and application method.

No herbicide shall be used onsite prior to receipt of written approval of the Executive Director or an amendment to the subject permit.

**3. Construction Timing and Sensitive Bird Species Surveys.** For any construction activities occurring between February 1 and August 31, including grading and removal of vegetation, the permittee shall retain the services of a qualified biologist

or environmental resources specialist (hereinafter, “environmental resources specialist”) to conduct nesting bird surveys to determine the presence of sensitive songbirds and raptor species, including, but not limited to, Least Bell's vireo (*Vireo bellii pusillus*). The permittee shall ensure that all project construction operations shall be carried out consistent with the following:

- A. If an active nest of any sensitive songbird is found within 300 feet of the project, or an active nest for any raptor species is found within 500 feet of the project, the permittee shall retain the services of an environmental resources specialist with experience conducting bird and noise surveys, to monitor bird behavior and construction noise levels. The nest shall not be removed or disturbed. The environmental resources specialist shall be present at all relevant construction meetings and during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction related noise. The environmental resources specialist shall monitor birds and noise every day at the beginning of the project and during all periods of significant construction activities. Construction activities may occur only if construction noise levels are at or below a peak of 65 dB at the nest(s) site(s). If construction noise exceeds a peak level of 65 dB at the nest(s) site(s), sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction shall cease and shall not recommence until either new sound mitigation can be employed or the nesting birds have fledged.
  - B. If an active nest of a federally or state-listed threatened or endangered species or bird species of special concern is found within 300 feet of the project, or an active nest for any species of raptor is found within 500 feet of the project, the permittee shall notify the appropriate State and Federal Agencies within 24 hours, and appropriate action specific to each incident will be developed. The permittee will notify the California Coastal Commission by e-mail within 24 hours and consult with the Commission regarding determinations of State and Federal agencies.
  - C. The environmental resource specialist shall be present during all construction activities during the bird nesting/breeding season if an active nest is identified, until the birds have fledged.
  - D. The permittee shall cease work should any breach in compliance with this condition occur, or if any unforeseen sensitive habitat issues arise. The permittee shall immediately notify the Executive Director if activities outside the scope of the subject CDP occur. If significant impacts or damage occur to sensitive habitats or to wildlife species, the permittee shall be required to submit a revised or supplemental program to adequately mitigate such impacts.
- 4. Other Agency Approvals.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director copies of any/all permits issued by the Regional Water Quality Control Board, California Department of Fish and

Wildlife, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, and Environmental Protection Agency, or letter(s) of permission, or evidence that no permit or permission is required. The permittee shall inform the Executive Director of any changes to the project required by these resource agencies. Such changes shall not be incorporated into the project until the permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director issues a written determination that no amendment is legally required.

**5. Proof of Legal Ability to Comply with Conditions.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall demonstrate its legal ability or authority to comply with all of the terms and conditions of this coastal development permit by submitting, for the Executive Director's review and approval, information indicating approval from the record title property owner(s) that (a) authorizes the applicant to proceed with the approved development and (b) permits the applicant to comply with the terms and conditions of this coastal development permit.

**6. Construction Best Management Practices.**

A. The permittee shall comply with the following construction-related requirements and shall do so in a manner that complies with all relevant local, state and federal laws applicable to each requirement:

- i. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
- ii. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- iii. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
- iv. Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to, the placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
- v. All construction materials, excluding lumber, shall be covered and enclosed on all sides, and stored as far from a storm drain inlet and any receiving waters as possible.

B. BMPs designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the onset of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:



- i. The permittee shall ensure the proper handling, storage, and application of construction materials. These measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from any receiving waters and storm drain inlets as possible;
- ii. The permittee shall develop and implement spill prevention and control measures;
- iii. The permittee shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a storm drain, open ditch or surface water;
- iv. The permittee shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction;
- v. 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 shall be prohibited, to minimize wildlife entanglement and plastic debris pollution. Only 100% biodegradable (not photodegradable) natural fiber netting shall be allowed;
- vi. The permittee shall not spray landscaping chemicals in or within 25 feet of any drainage swale, and will minimize the use of landscaping chemicals within the project to the extent feasible;
- vii. The permittee shall implement Integrated Pest Management for the project to the extent feasible, to minimize the use of landscaping chemicals and to prevent the degradation of coastal water quality;
- viii. Containment products, including, but not limited to, tarps or debris booms, shall be used to capture and prevent the discharge of construction pollutants into the adjacent waterway;
- ix. The vibratory hammer method shall be used for pile installation; if this is deemed infeasible, the permittee shall use the impact hammer method of pile installation; and
- x. All construction equipment shall use vegetable oil-based hydraulic fluids and/or biodiesel.

**7. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards from storms, sea level rise, fluvial or tidal induced erosion, earthquakes, and other hazards; (ii) to assume the risks to the permittee and the property that is

the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; (v) that sea level rise could render it difficult or impossible to provide services to the site (e.g., maintenance of roadways, utilities, sewage or water systems), thereby constraining allowed uses of the site or rendering it uninhabitable; and (vi) that the development may be required to be removed or relocated and the site restored if it becomes unsafe or if removal is required pursuant to the Coastal Act.

## **IV. FINDINGS AND DECLARATIONS**

### **A. Project Description**

#### **Project Location**

San Diego Creek is an approximately 16-mile long waterway beginning in Lake Forest, meandering through Irvine, and terminating at the Upper Newport Bay Ecological Reserve. The project site is located on the southern bank of San Diego Creek between MacArthur Boulevard and California Avenue in the City of Irvine, Orange County ([Exhibit 1](#)). The applicant, OC Public Works, has identified two test plots for the proposed San Diego Creek Restoration Pilot Program. The upstream plot is located outside of the coastal zone and is not subject to the Commission's review.

The downstream plot is a 100-ft. by 100-ft. area (0.23 acre) located in the coastal zone, approximately 0.5 miles upstream of the Ecological Reserve and 4.5 miles upstream of the mouth of Newport Bay at the Pacific Ocean. The Ecological Reserve is a designated Marine Protected Area. The project site is owned by the University of California and managed by the Orange County Flood Control District via a flood control easement.

#### **Site History**

In 1980, the Commission issued CDP No. 5-81-126 for the City of Newport Beach to remove 35,000 cy. of sediment from San Diego Creek. The project was intended to both improve the creek's flood capacity and reduce turbidity in the downstream Ecological Reserve. The permit did not include findings addressing ecological impacts, nor conditions requiring habitat mitigation. In 1983, the City acted on CDP No. 5-81-126 and dredged Basin 1 between Campus Drive and MacArthur Boulevard. Two additional, connecting flood control basins were subsequently developed outside of the coastal zone.

In 2003, the Orange County Flood Control District conducted a hydraulic analysis of San Diego Creek and found a significant decrease in flood capacity compared to the as-built conditions. The analysis indicated gradual sediment accretion as the primary cause. In 2004, the Commission issued Emergency Permit No. 5-03-523-G to the

County of Orange for removal of 27,000 cy. of sediment and 325 tons of non-native vegetation from the southern creek bank. The emergency permit approved dredging in Basin 1 from the toe of the southern slope to the creek's center line. The County began dredging in March 2003, but halted work within the same month upon discovery of Least Bell's vireo nests as required by the California Department of Fish and Wildlife. The emergency work did not resume and Emergency Permit No. 5-03-523-G expired without fulfillment.

In 2008, the Commission approved Waiver No. 5-08-013-W for the County to remove non-native, invasive vegetation from the northern and southern banks of Basin 1 during a five-year period. The approved work included success criteria of less than 1% coverage of exotic vegetation within five years. However, preliminary nesting surveys found the presence of Least Bell's vireo onsite and the County did not conduct the approved work. No other permit history was found for the coastal zone portion of San Diego Creek.

### **Project Purpose and Description**

Sedimentation is a natural process caused by strong flows from upstream water sources. Left unchecked, it can fill flood control channels and form a sediment bench between riparian habitat and the waterway. Since the County's 2003 hydraulic analysis, sediment has continued to build along the creek banks and drastically altered the topography. Topographic surveys of San Diego Creek conducted in October 2021 show sediment levels extending six to 11 ft. higher than as-built channel elevations ([Exhibit 2](#)).

Sediment benches along the southern and northern creek banks have provided new substrate for riparian vegetation, resulting in acres of new, lush vegetation along the base of the creek banks. But the vegetated benches block the mid- and back-slope vegetation from natural irrigation. An aerial survey conducted by the applicant on November 2021<sup>1</sup> shows bands of visibly desiccated vegetation lining the southern bank. The mid- and back-slope desiccation is also visible in current photographs ([Exhibit 3](#)).

Based on current sediment levels, the applicant anticipates dredging will be necessary in the future to restore the channel's 100-year storm flood capacity. This will improve water accessibility for desiccated vegetation, but would require removal of all riparian vegetation established on the sediment benches—native and non-native alike. OC Public Works would have to conduct a significant amount of restoration to mitigate the impacts of the future project.

However, OC Public Works is not currently proposing restoration of the channel's flood capacity. Rather, the proposed San Diego Creek Pilot Program is intended to study whether native riparian habitat restoration is possible in the absence of active restoration efforts (such as hydroseeding and introducing mature native plants.) The study's results will inform the applicant's restoration efforts in the larger future project,

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<sup>1</sup> Ref. <https://www.youtube.com/watch?v=lnhbcm1IXwY>

providing insight into how much funding, staffing, and time may be necessary. The proposed San Diego Creek Restoration Pilot Program includes four months of plot alteration and five years of monitoring within the 0.23-acre test plot only.

First, the applicant would demarcate the 100-ft. wide by 100-ft. long test plot with temporary markers and remove all vegetation from the plot, including both native and non-native species ([Exhibit 4](#)).

Next, the applicant would remove 400 cy. of sediment from the plot by dredging the six-foot deep sediment mound located at the creek edge ([Exhibit 2](#)). This would not require excavation below the mean high tide line. Three 10-ft. wide strips on all sides of the plot (excluding the side abutting the creek) would be graded slightly to create a natural slope between the test plot and the surrounding land. Shallow, irregularly-shaped channels perpendicular to the creek would be graded within the plot to allow natural irrigation of the back slope. The applicant proposes to export the 400 cy. yards of graded sediment to a processing station for vegetation and debris removal. Uncontaminated sediment of appropriate grain sizes would be reused in the Talbert Marsh Living Shoreline, a restoration project recently approved by the Commission in Newport Beach.<sup>2</sup>

The sediment and vegetation removal phase is proposed to begin in September 2023. Equipment would be staged in an 800 sq. ft. area located on unvegetated dirt adjacent to the bike path. OC Public Works staff would access the plot via a 3,000 sq. ft. temporary accessway located between the construction staging area and the area of passive restoration ([Exhibit 4](#)). The proposed accessway is vegetated almost entirely with non-native invasive species, except for a single coyote brush plant less than 400 sq. ft. in size. All vegetation would be removed from the proposed accessway during the test plot vegetation removal phase. But unlike the plot, the temporary access area would be hydroseeded with native riparian species immediately after the alteration work concluded.

Following the removal phase, the applicant proposes to monitor the plot and buffer areas for five years. If signs of native riparian regrowth are not observed by the end of the second year, the applicant would initiate active restoration by planting up to 200 willow stakes and up to 600 mule fat stakes in the plot. Otherwise, the applicant does not intend to actively restore the test plot beyond continuous weeding of non-native invasive species in the plot. The applicant proposes submittal of annual monitoring reports to the Commission and other resources agencies with project jurisdiction. Upon completion of the five-year monitoring period, the applicant proposes to submit a final assessment report to the Executive Director. The applicant's proposed monitoring and mitigation plans are described in the 'Biological Resources' subsection below.

### **Standard of Review**

The project site is in the City of Irvine. However, the site is also located on lands owned by the University of California, Irvine ([Page 2 of Exhibit 1](#)), all of which were excluded

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<sup>2</sup> Ref. [CDP No. 5-21-0907](#) (Orange County Public Works).

from Irvine's certified Local Coastal Program pending certification of an LRDP for the university. The University of California, Irvine does not have an LRDP certified by the Commission. Therefore, the standard of review is the Chapter 3 policies of the Coastal Act.

## **B. Biological Resources**

Section 30107.5 of the Coastal Act defines "ESHA" as:

"Environmentally sensitive area" means 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.

Section 30231 of the Coastal Act states:

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

Section 30233(a) of the Coastal Act states:

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:

(4) Incidental public service purposes...

(7) Nature study, aquaculture, or similar resource dependent activities.

Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30231 of the Coastal Act requires that the biological productivity of streams be maintained and restored by protecting riparian habitats and their associated vegetation buffer areas. Section 30233(a) requires that any project involving dredging of open coastal waters constitute a specifically allowed use, be the least environmentally damaging alternative feasible, and adequately mitigate any unavoidable, adverse environmental impacts. Section 30240 limits ESHA impacts to only resource-dependent uses.

### Site Characterization

OC Public Works submitted multiple habitat surveys of the area conducted between October 2021 and June 2022. According to the surveys, the test plot consists of approximately 75% native, riparian vegetative cover and 25% non-native, invasive vegetative cover in the test plot. [Page 3 of Exhibit 4](#) shows strands of native and non-native species stretching parallel to the creek, likely corresponding to each strand's proximity to water.

A dense band of native mule fat scrub (*Baccharis salicifolia*) extends along the creek's edge, interspersed with patches of invasive tree tobacco (*Nicotiana glauca*), castor bean (*Ricinus communis*), and a single native, non-invasive elderberry shrub (*Sambucus nigra*). Southward of the mule fat thicket and further from the creek's edge is an expanse of invasive, non-native poison hemlock (*Conium maculatum*) and summer mustard (*Brassica nigra*). The intermingled hemlock and summer mustard patch extends from the mid-slope to the back slope. Smaller bands of native species also vegetate the mid-slope, including coyote brush (*Baccharis pilularis*), saltbush (*Atriplex spp.*), and mule fat. Much of the mid- and back-slope vegetation is desiccated.

Least Bell's vireo and California gnatcatcher (*Poliioptila californica*) were not observed visually or auditorily in any site survey. This may be due in part to the site's proximity to the freeway and the associated noise levels. Regardless, sensitive avian species could potentially use the riparian habitat onsite for nesting in the future. Creeks, streams, and the associated riparian habitat in southern California are rare and may be easily disturbed and degraded by human activities and development, such as vegetation removal and ground disturbance. Commission environmental program manager Dr. Jonna Engel has reviewed the biological reports submitted with this application and determined that, under Section 30107.5, portions of the project site rise to the level of constitute ESHA.

Specifically, ESHA within the test plot extends from the creek edge (i.e. the northernmost side of the plot) to the approximate line of coyote brush and saltbush located near the back-slope ([Exhibit 5](#)). The portion of the test plot behind the coyote brush and saltbush, located furthest from the creek edge, appears too desiccated to function as valuable wildlife habitat. The ESHA within the test plot includes 0.01 acres of tree tobacco, 0.002 acres of castor bean, and an unknown acreage of poison hemlock mixed with summer mustard. While these species are non-native and invasive, they may still provide valuable shelter, foraging area, and movement corridors for wildlife.

The applicant did not submit aquatic habitat surveys. While the project includes removal of sediment from within the channel, the proposed work does not extend below the mean high tide line and will not disturb any existing submerged land ([Exhibit 4](#)).

### **Allowable Use**

The proposed project is a study of passive restoration efficacy. While the removal of all vegetation in the plot would result in temporary adverse impacts to ESHA, the project has been designed to ultimately result in a net benefit to biological productivity (including improved back-slope irrigation and five years of weeding for invasives.) Therefore, the project meets the first requirement of Section 30233(a)(6) as a nature study, the third prong of Section 30236 as development primarily intended to improve natural habitat, and a resource-dependent use allowed within ESHA under Section 30240(a). In addition to specifying allowed uses, these policies require that the project constitutes the least environmentally damaging alternative feasible.

### **Alternatives Analysis**

The applicant provided an analysis of alternative projects intended to study the effectiveness of passive restoration.

1. **No Project.** The applicant could opt not pursue a pilot study of passive restoration. No work would occur on the southern creek bank. The project site would remain degraded by non-native, invasive plant species, which may spread further and reduce native species diversity onsite. The mid- and back-slope would remain desiccated and cut off from a water source. The applicant would have to continue planning the larger dredging project to restore San Diego Creek's flood capacity without information on the feasibility of passive restoration. If the applicant proposed passive restoration to mitigate several acres of riparian habitat removal, the Commission and other resource agencies would have difficulty assessing the likelihood of success. If the subject pilot project were not conducted and the applicant proposed active restoration of the entire creek in the future, they might struggle to fund the project.
2. **Non-Native Vegetation Removal Only.** The applicant could remove the patches of summer mustard, poison hemlock, castor bean, and tree tobacco from the project site without altering existing native plant species. No grading would occur. The project site would be weeded and monitored for a five year period. The mid- and back-slope would remain desiccated and cut off from a water source. The study results would be of limited relevance to the larger future dredging project, which will require complete vegetation removal in some portions of the creek. Furthermore, it may not be feasible to remove the invasive plants without disturbing intermingled native root systems. Removing the tree tobacco and castor bean shrubs would be especially difficult to accomplish without disturbing the surrounding mule fat thicket and trampling native plants on the mid-slope.
3. **Sediment Removal Only.** The applicant could grade the project site to remove built up sediment and add natural irrigation channels spanning the length of the test plot, with no vegetation removal except the portions displaced by the

channels. The project site would be weeded and monitored for a five year period. Native root systems would be disturbed by the channel excavation and invasive species weeding, while above-ground plants would be trampled without several accessways. Opportunistic invasive species with faster propagation cycles and hardier root systems may dominate the site. Additionally, the study results would be of limited relevance to the larger future dredging project, which will require complete vegetation removal in some portions of the creek.

- 4. Alternate Location.** The applicant could attempt to find a new, less vegetated test plot location with the intent of reducing the amount of native riparian vegetation disturbance. However, the applicant was not able to find an alternate creek bank location containing less ESHA than the currently proposed plot. The subject plot hosts the greatest proportion of non-native species and desiccated habitat on the southern bank. It is located close to an intersection of roads, bike paths, and an active parking lot, reducing the likelihood of nests or permanent wildlife homes in the plot ([Exhibit 1](#)). While the site does host ESHA, it is currently degraded with non-native invasive species and receives inadequate irrigation on the mid- and back-slope.
- 5. Proposed Project.** As previously described, the applicant would remove sediment up to six feet in depth and all vegetation from a 0.23-acre test plot. The project would temporarily impact approximately 0.17 total acres of ESHA, but has been designed to result in a net improvement to the native species coverage and diversity onsite (which is currently degraded by non-native invasive species.) The proposed temporary accessway currently constitutes invasive non-ESHA and would be improved with vegetation removal and hydroseeding, resulting in 0.07 acres (3,000 sq. ft.) of new, native riparian habitat. If signs of native riparian regrowth were not observed by the end of the second year, the applicant would initiate active restoration by planting up to 200 willow stakes and up to 600 mule fat stakes in the plot. Overall, the project is intended to improve, or result in no net change to, the existing ESHA onsite. The project will also provide valuable information on whether passive restoration is a feasible mitigation measure for the larger future dredging project, enabling the Commission to conduct a more informed review of the project in the future.

The hydraulic analysis conducted by the County in 2003 demonstrated a clear need for maintenance of San Diego Creek's flood capacity. In the 20 years since the County's analysis, the channel has only become shallower and the back slope further desiccated. OC Public Works is responsible for maintaining the flood control channel's capacity and will have to dredge significant amounts of sediment to protect surrounding development from flooding. The applicant wishes to research passive restoration and ultimately improve the design of the future creek dredging project.

Alternative 1 (No Project) offers no benefit to the existing habitat and no new information for the applicant. Alternative 2 (Non-Native Vegetation Removal Only) and Alternative 3 (Sediment Removal Only) may weaken existing native habitat and worsen the degree of invasive species contamination onsite, while also not providing research



results relevant to the future project. Alternative 4 (Alternate Location) is not feasible, as the applicant was not able to find an alternate creek bank location containing less ESHA than the currently proposed plot.

The applicant has collaborated with several resource agencies, including the California Department of Fish and Wildlife and U.S. Army Corps of Engineers, in designing Alternative 5 (Proposed Project). The proposed project minimizes environmental impacts and creek bed alteration to the greatest extent feasible while still gathering data on the feasibility of passive restoration. While the project will temporarily eradicate all ESHA in the 0.23-acre test plot, it is designed to ultimately restore and enhance the quality and cover of ESHA onsite.

The proposed project is the least environmentally damaging alternative feasible in terms of overall project design. However, the proposed use of herbicide raises other potential impacts to biological resources.

### **Herbicide Use**

The applicant has submitted a “Sediment and Vegetation Removal Restoration Plan” (Restoration Plan), dated September 12, 2022, proposing the use of both glyphosate- and non-glyphosate-based herbicide throughout the five-year monitoring period.

Glyphosate is an active ingredient in many herbicides (such as Rodeo™, Roundup™, and Aquamaster™) which halts cell growth in plants by inhibiting synthesis of amino acids. Glyphosate-based herbicide is currently registered by the United States Environmental Protection Agency (EPA) as a non-selective herbicide of relatively low toxicity, suitable for use in wetland and riparian areas. An assessment published by the EPA in September 1993 states that there is no substantive evidence of glyphosate carcinogenicity in humans.<sup>3</sup> The assessment also states that “[b]ased on current data, EPA has determined that the effects of glyphosate on birds, mammals, fish and invertebrates are minimal.”

Glyphosate-based herbicide poses potential risks to sensitive species in and around the test plot, regardless of how minor the potential effects may be. The use of non-glyphosate-based herbicide would minimize the possibility of adverse impact on wildlife, but still poses issues of possible aquatic contamination in the event of a storm. Pedestrians using the nearby bike path could explore the area and unwittingly distribute herbicide themselves, or incur dermal irritation. Removing invasive species by hand would seem to minimize risks to wildlife and pedestrians to the greatest extent feasible.

Unfortunately hand-removal is not a realistic control method for all invasive species. Giant reeds (*Arrundo spp.*), peppergrass (*Lepidium spp.*), and Santa Maria feverfew (*Parthenium hysterophorus*) have been observed in the project vicinity, all of which have

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<sup>3</sup> Ref. [https://www3.epa.gov/pesticides/chem\\_search/reg\\_actions/reregistration/fs\\_PC-417300\\_1-Sep-93.pdf](https://www3.epa.gov/pesticides/chem_search/reg_actions/reregistration/fs_PC-417300_1-Sep-93.pdf)

been determined noxious weeds by the California Department of Food and Agriculture.<sup>4</sup> Noxious weeds are defined as plants difficult to eradicate that may threaten the well-being of the state. While many invasive plants can be killed through a grow-kill cycle (i.e. waiting for germination before manual removal to prevent seeding), most noxious weeds can grow from root or rhizome pieces as small as one inch. Complete eradication is nearly impossible, especially when trying not to disturb nearby native root systems. Without the use of non-glyphosate-based herbicides, the test plot may be overrun with noxious weeds once the soil is cleared and irrigated.

Following discussion with Commission staff, the applicant eliminated all glyphosate-based herbicide use in the coastal zone from the proposal. The applicant also submitted an Integrated Pest Management Plan, received by the Commission on February 8, 2023, which proposes solely manual vegetation removal during the removal phase and first year of monitoring. The applicant requests an exception from the requirement not to use herbicide if any of the three noxious weeds listed above are observed in or near the project site prior to completion of the first monitoring year. In that scenario, or following completion of the first year, the applicant may submit a request for the use of non-glyphosate-based herbicide for the review and approval of the Executive Director in consultation with the other resource agencies. The applicant would retain a California Licensed Pest Control Advisor to apply the herbicide in the most targeted approach feasible, such as injection. No herbicide application would take place within 48 hours of a predicted rain event of at least 20% probability.

To minimize the risk of adverse environmental impacts while improving the likelihood of restoration success, **Special Condition 1** requires the applicant to submit a revised, final Restoration Plan eliminating the use of herbicide throughout the project.

**Special Condition 2** requires the applicant to adhere to the Integrated Pest Management Plan received on February 8, 2023. Additionally, the applicant may submit a request for non-glyphosate-based herbicide use for review and written approval of the Executive Director. The request may be submitted only after completion of the first monitoring year, or earlier if giant reeds, peppergrass, or Santa Maria feverfew are observed nearby. The request must include documentation of the plot contamination, the type of non-glyphosate-based herbicide proposed, and the method of application proposed. Waiting at least one monitoring year before using herbicide will ensure the applicant measures the feasibility of passive restoration without herbicide. It will also ensure that the applicant uses all other possible methods of control for at least one year prior to resorting to herbicide use.

Thus, as proposed and conditioned, the project meets the second criteria of sections 30233(a), 30236, and 30240 as the least environmentally damaging alternative feasible. For consistency with these policies, the project must also adequately mitigate all unavoidable, adverse environmental impacts.

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<sup>4</sup> Ref. <https://www.cdffa.ca.gov/plant/ipc/encycloweedia/pdf/CaliforniaNoxiousWeeds.pdf>

### Proposed Mitigation

The applicant submitted a “Sediment and Vegetation Removal Restoration Plan” (Restoration Plan), dated September 12, 2022. The Restoration Plan estimates that approximately 75% of the 0.23-acre test plot constitutes native woody vegetative cover. This estimation is generally consistent with Dr. Engel’s ESHA determination, which includes roughly three-quarters of the plot ([Exhibit 5](#)).

The project would temporarily eliminate 0.17 acres of ESHA and 0.06 acres of non-ESHA within the 0.23-acre test plot. If successful, the project would increase ESHA coverage to 0.2 acres (i.e. at least 90% native cover of the test plot.) This would allow the applicant to restore sensitive habitat at a greater ratio in the larger future dredging project, rather than replace it at a 1:1 ratio. The project would also provide 0.07 acres of additional ESHA through clearance and hydroseeding of the temporary accessway abutting the plot. Therefore, the project is designed to provide at least 0.27 acres of native, riparian woody vegetation and improve ESHA quality onsite. No adverse impacts to ESHA would occur.

If the test plot provides 75% native cover upon completion of the five-year monitoring period, the project would maintain the existing amount of ESHA within the test plot. The applicant would likely have difficulty using solely passive restoration to mitigate impacts of the larger future dredging project. But the project would reduce the existing degree of invasive-species contamination and ultimately improve ESHA quality on-site. No adverse impacts to ESHA would occur.

If the project provides less than 75% native cover upon completion of the five-year monitoring period, the project would lessen the existing amount of ESHA within the test plot. The submitted Restoration Plan indicates that, in the event of less than 75% native cover after five years, the applicant will propose follow-up mitigation of all adverse impacts to ESHA.

To ensure potential adverse impacts to ESHA are mitigated, **Special Condition 1** requires the applicant to submit a revised Restoration Plan for Executive Director review and approval. The revised Restoration Plan shall include provisions for the applicant to submit a monitoring report to the Executive Director within 30 days of the conclusion of the five-year monitoring period. The submittal must describe the resulting species composition and coverage and determine whether at least 75% cover of native riparian woody vegetation has been achieved in the test plot. If the subject success criteria has not been met, the permittee shall apply for a CDP amendment to implement an adaptive mitigation plan within 90 days of completion of the five-year monitoring period. The adaptive mitigation plan shall continue monitoring and restoration efforts until establishment of at least 75% cover of native riparian species in the test plot. To avoid confusion and finalize its requirements, the revised Restoration Plan must also eliminate the current “Draft” watermark.

In past actions the Commission has required any adverse impacts to ESHA be mitigated at a 3:1 ratio of new to impacted habitat. However, the subject project is a nature study proposing only temporary adverse impacts to existing ESHA and

permanent beneficial impacts (i.e. improved irrigation and reduced non-native invasive vegetative cover on-site.) With the required adaptive mitigation plan, the project would result in an overall improvement to the quality and cover of existing ESHA in the test plot.

As proposed, all sediment and vegetation removal will be scheduled to avoid the avian nesting season occurring from February 1<sup>st</sup> to August 31<sup>st</sup>. The California Department of Fish and Wildlife and other resource agencies have prohibited any work from occurring during nesting season as a condition of approval for their permits. To ensure the work does not disturb any nests outside of nesting season, **Special Condition 3** requires pre-construction nesting bird surveys conducted per the California Department of Fish and Wildlife guidelines. If an active nest is identified within the subject area of work, regular surveys shall continue and the applicant shall implement a 300-ft. minimum avoidance buffer for all passerine bird nests, or 500-ft. minimum buffer for all protected or raptor species, and develop a specific Nesting Bird Management Plan. **Special Condition 4** requires the applicant to comply with all local resource agency requirements and submit any project revisions to the Executive Director for determination whether a CDP amendment is required.

The project site is owned by the University of California and managed by the Orange County Flood Control District via a flood control easement. **Special Condition 5** therefore requires the applicant to demonstrate its legal ability to comply with all conditions of the subject CDP for review and approval by the Executive Director. The applicant may satisfy this requirement by submitting a letter of project authorization from the property-owner.

### **Conclusion**

The project area contains riparian habitat and open coastal waters protected under Chapter 3 policies of the Coastal Act; however, the proposed development will serve a coastal-dependent use as a restoration study, constitute the least environmentally damaging alternative feasible, and adequately mitigate unavoidable impacts to ESHA. Therefore, as proposed and conditioned, the project is consistent with Chapter 3 policies of the Coastal Act regarding protection of biological resources.

### **C. Water Quality**

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

Sections 30230 and 30231 of the Coastal Act require the maintenance, enhancement, and restoration of biological productivity in coastal waters, in part by limiting waste introduction to the greatest extent feasible.

No work is proposed below the mean high tide line and no construction equipment is proposed for contact with open waters. However, the use of excavation equipment and temporary plot markers on the southern creek bank may still pose a risk of sediment and debris pollution in the waterway. OC Public Works' submitted Restoration Plan, dated September 12, 2022, proposes continual monitoring of surface flows during construction for signs of project-related turbidity. If increased turbidity is observed, all activity would cease pending installation of preventative measures. The applicant also submitted a BMP Plan, dated March 23, 2021, proposing the following pollution prevention measures:

Straw wattles, silt fences, gravel bags, coir rolls or other measures will be installed surrounding the working area to prevent sediment from entering the stream. As far as possible all BMPs will be 100% biodegradable. Any BMP that contains non-biodegradable components will be removed on completion of the initial project activities. Surface flows will be continually visually monitored for signs of increased turbidity and oil. If any abnormalities are observed, additional BMPs will immediately be installed until the abnormalities are bated. Equipment will be staged away from the channel and will have drip pans with secondary containment when not in use. Equipment will be regularly inspected for leaks. Work will take place by starting near the water line and removing sediment moving back toward the maintenance road. This will prevent the equipment from needing to work in flowing water.

The construction staging area is located at least approximately 70-ft. south of the creek ([Exhibit 4](#)). This distance combined with the use of drip pans will minimize any pollution from equipment. **Special Condition 6** requires the applicant to implement additional sediment and pollution prevention measures, including the daily removal of construction debris from the project site and forgoing the use of any plastic netting onsite.

The potential use of herbicide near an open waterway may raises additional risks to water quality. The applicant's Integrated Pest Management Plan, received by Commission staff on February 8, 2023, proposes BMPs for the potential use of herbicide. As described in the 'Biological Resources' subsection above, no herbicide

would be used on the project site during the removal phase and at least the first year of monitoring (unless specific genera of noxious weeds are observed onsite or nearby.)

If the applicant cannot eliminate invasive contamination onsite without herbicide, they must request for Executive Director review and approval before retaining a California Licensed Pest Control Advisor. The advisor would apply the herbicide in a targeted approach, such as injection into specific plants. No herbicide application would take place within 48 hours of a predicted rain event of at least 20% probability. **Special Condition 2** requires the applicant to adhere to the Integrated Pest Management Plan received by Commission staff on February 8, 2023.

As proposed and conditioned, the project will provide minimize the effect of construction activities on the marine environment. Therefore, the Commission finds that the proposed development, as conditioned, conforms to the Coastal Act Chapter 3 policies regarding water quality.

## D. Coastal Hazards

Section 30253 of the Coastal Act states, in relevant 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. [...]

Coastal Act Section 30253 requires new development to minimize risks to life and property by assuring stability and avoiding any contribution to erosion or the need for shoreline or bluff protection.

The applicant's submitted Restoration Plan dated September 12, 2022 describes existing and anticipated hydro-geomorphological conditions onsite. The applicant proposes 400 cy. of cut and no fill on the San Diego Creek southern bank. Most excavation will occur near the base of the bank slope, where sedimentation has created a six to 11-ft. tall bench landlocking the mid- and back-slope. Sediment will also be removed to create shallow irrigation channels spanning the test plot and naturally sloping in 10-ft. wide transitions between the test plot and the surrounding bank.

The absence of the lower-slope bench and vegetation increases the risk of scour (i.e. localized bank erosion from flowing water) onsite, especially during the first storm. But mature vegetation, root systems, and sloped transitions established up- and downstream of the test plot should limit scouring onsite. The applicant will actively monitor the project site for signs of erosion until the site revegetates. The sediment control measures described above--straw wattles, silt fences, gravel bags, coir rolls

and/or other measures—will be used as erosion control measures if bank erosion threatens existing riparian vegetation.

**Special Condition 6** requires the applicant to adhere to the proposed and additional erosion control measures to reduce the risk of scour onsite. To ensure the applicant acknowledges the risks inherent to the project location, **Special Condition 7** requires the applicant to assume all risks of the development, indemnify the Commission in the event of any damage resulting from the approved project, and acknowledge that future removal may be determined necessary if at any point the development poses a risk to public safety.

Therefore, as proposed and conditioned, the project is consistent with Chapter 3 Coastal Act policies regarding coastal hazard policies.

## E. Visual Resources

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30251 of the Coastal Act requires that the scenic and visual qualities of coastal areas be protected and, where feasible, restored and enhanced. The project site is located adjacent to a pedestrian/bike path that provides access to Upper Newport Bay. The primary viewshed in this area would be observed from the bike path near the top of the slope, although the riparian bench at the creek's edge impedes direct views of the waterway.

The proposed project would temporarily remove 0.23 acres of existing vegetation and install visible markers along the plot edges while the site revegetates, resulting in temporary impacts to visual resources onsite. Equipment will be removed upon completion of the sediment and vegetation removal phase. Construction debris will be removed from the site daily. Additionally, at least 25% of the test plot is currently desiccated and the lower riparian bank blocks views of the waterway. The project is intended to improve vegetative cover and lower the unnatural sediment bank. As such, the project will result in a net improvement to visual resources onsite.

Therefore, as proposed and conditioned, the Commission finds the project consistent with Section 30251 of the Coastal Act.

## **F. California Environmental Quality Act (CEQA)**

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The County of Orange is the lead agency for purposes of CEQA compliance. On May 25, 2010, the Orange County Board of Supervisors adopted a resolution certifying Final Environmental Review (FEIR) No. 600 for restoration of San Diego Creek's flood-control capacity, including dredging and vegetation removal between Jamboree Road and Interstate 405. This is the larger, future project the applicant wishes to prepare for with the subject application. However, FEIR No. 600 analyzes all components of the currently proposed project (i.e. sediment removal, vegetation removal, the potential use of herbicide, etc.), albeit on a larger scale and magnitude. The FEIR is sufficient to determine that the project has been designed to mitigate all potential significant environmental effects.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full: as conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate potential impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.



## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

1. Best Management Practices Plan, submitted by Orange County Public Works, dated March 23, 2021.
2. Integrated Pest Management Plan, submitted by Orange County Public Works, received by Commission staff on February 8, 2023.
3. Sediment and Vegetation Removal and Restoration Plan, submitted by Orange County Public Works, dated September 12, 2022.