CALIFORNIA COASTAL COMMISSION
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Th23a

Addendum

November 13, 2012

To: Commissioners and Interested Persons

See the original staff report.

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item Th23a**, Coastal Commission Permit Application **#A-6-NOC-11-086 (San Diego Master Storm Water Maintenance Program)**, for the Commission Meeting of November 15, 2012

Staff recommends the following changes be made to the above-referenced staff report:

1. On Page 7 of the staff report, Special Condition #2 shall be revised as follows:

   2. **Substantial Conformance Review**. Channel maintenance activities will be determined by the City on an annual basis. Annual maintenance activities will be approved through the City's Substantial Conformance Review (SCR) process as detailed in the City's Master Storm Water System Maintenance Program dated October 2011 (**ref. Exhibit #4**), except as revised below:

      Section 6.2 of the City's Substantial Conformance Review Process titled "State and Federal Agencies" shall be modified to include the following:

      Concurrent with the City's SCR process and prior to commencement of work, the City shall submit an annual work plan and supporting documents for priority channels requiring maintenance activities for the upcoming year to the Executive Director of the Coastal Commission for review and written approval. The Executive Director shall review the submitted information to determine whether the proposed maintenance activities are consistent with the Master Maintenance Program and the specific terms of this permit. If any proposed activities are determined by the Executive Director to not be consistent with the Master Maintenance Program and terms of this permit, those specific activities shall not be permitted for that year unless reviewed and approved under a separate coastal development permit. The Executive Director shall notify the City of any proposed activities that do not comply with the terms of this permit within 60 days of submittal by the City of the annual work plan.

No work may occur during the Executive Director's review period until the 60 day time period has passed.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a revised Substantial Conformance Review Program that incorporates the above revisions.

2. On Page 8 and continuing onto Page 9 of the staff report, Special Condition #6 shall be revised as follows:

6. **Construction BMPs**. PRIOR TO THE COMMENCEMENT OF FLOOD CONTROL MAINTENANCE ACTIVITIES, a Construction Runoff and Pollution Control Plan (CRPCP) shall be submitted to the Executive Director for review and written approval, to address the control of construction-phase erosion, sedimentation, and polluted runoff. The CRPCP shall demonstrate and comply with the following construction-related requirements:

[…]

d. Any newly exposed slopes shall be stabilized to minimize erosion and sediment from runoff waters during maintenance activities using mulch, contour grading and/or other established methods where feasible and appropriate;

e. Temporary stockpiles of excavated sediment/vegetation should be protected with geofabric or other appropriate cover to prevent dispersal of the stockpile materials. Permanent stockpiling of excavated material on site shall not be allowed. Vegetation and sediment shall be removed from the site(s) on a regular basis during construction to prevent the accumulation of sediment and debris on the worksite. Excavated sediment and vegetation shall be stockpiled at designated temporary areas on the project site(s) and be removed to a permitted disposal site within three months, unless otherwise extended, in writing, by the Executive Director;

[…]

3. On Page 10 and continuing onto Page 11 of the staff report, Special Condition #9 shall be revised as follows:

9. **Final Wetlands Mitigation Plan**. PRIOR TO THE COMMENCEMENT OF FLOOD CONTROL MAINTENANCE ACTIVITIES, the applicant shall submit for the review and written approval of the Executive Director, a final mitigation plan, developed in consultation with Department of Fish and Game and the U.S. Fish and Wildlife Service and designed by a qualified wetland biologist. Said plan shall be in substantial conformance with the mitigation plan submitted with this application and shall be revised to include the following:

a. Preparation of a detailed site plan of the impact area(s), clearly delineating all areas and types of impact (both permanent and temporary), and identification of the exact acreage of each impact so identified. In addition, a detailed site plan of the mitigation site shall also be included. The final design and construction methods that will be used to ensure the mitigation site achieves the defined goals, objectives, and performance standards. Mitigation for impacts to wetlands shall result in a no-net-loss of function and values and be in-kind habitat to the fullest extent possible and at the appropriate ratios listed below in section d of this special condition. All wetland mitigation shall occur within ~~three~~ nine months of impact and either be located on-site or within the same watershed, but in all cases mitigation must occur within the Coastal Zone. Mitigation shall not occur on sites subject to enforcement action where unpermitted development in wetlands has taken place as those sites are subject to restoration and not mitigation;

[…]

e. All wetland impacts shall be mitigated at a ratio of 1:1 for temporary impacts, 2:1 for Natural flood channels, 3:1 for impacts to Riparian habitat, and 4:1 for impacts to Freshwater Marsh and Disturbed wetland (removal of giant reed (arundo) and other exotic, invasive and non-native vegetation is not considered an impact to wetlands requiring mitigation);

f. A minimum 100 ft. buffer, developed in consultation with the Department of Fish and Game and the U.S. Fish and Wildlife Service, shall be provided from all newly created wetland/riparian habitat on the off-site mitigation site(s) unless 100 ft. is not available;

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

4. On Page 11 of the staff report, Special Condition #10a shall be revised to read as follows:

10**. Final Monitoring Program**. PRIOR TO THE COMMENCMENT OF FLOOD CONTROL MAINTENANCE ACTIVITIES, the applicant shall submit for review and written approval of the Executive Director, in consultation with the Department of Fish and Game, a final detailed monitoring program designed by a qualified wetland biologist/restoration specialist. Said monitoring program shall be in substantial conformance with the Conceptual Wetland Restoration Plan by Helix Environmental Planning, Inc., dated May 2011, and the approved Mitigation Plan required in Special Condition #9 above, but shall be revised to include the following:

a. Submittal, upon completion of the mitigation site, of "as built" plans. Description of an as built assessment to be initiated within ~~30~~ 60 days after completion of the mitigation project. This report shall describe the results of the as-built assessment including a description of how the as-built project differs, if at all, from the originally planned project.

[…]

5. On Page 12 and continuing onto Page 13 of the staff report, Special Condition #11 shall be revised as follows:

11. **Mitigation for Upland Impacts**. PRIOR TO COMMENCEMENT OF FLOOD CONTROL MAINTENANCE ACTIVITIES, the applicant shall submit to the Executive Director for review and written approval, a final detailed coastal sage scrub mitigation plan. Said plan shall be developed in consultation with the U.S. Fish and Wildlife Service and the California Department of Fish and Game, and shall include, at a minimum, the following:

a. Preparation of a detailed site plan delineating all areas and types of impact to upland habitat species (both permanent and temporary) and the exact acreage of each impact;

b. All direct impacts to ~~unoccupied~~ Coastal sage scrub habitat shall be mitigated at a ratio of not less than 1:1 for impacts located outside the City's Multiple Species Conservation Program Multi-Habitat Planning Area (MHPA) and 2:1 for impacts located inside the City's Multiple Species Conservation Program Multi-Habitat Planning Area (MHPA)~~and 3:1 for Coastal sage scrub habitat occupied by California gnatcatchers or other listed species~~; and

[…]

6. On Page 28 of the staff report, the second full paragraph shall be revised as follows:

For any new impacts, the City is proposing to mitigate for identified impacts, in kind, and at ratios identified in the PEIR. Additionally, the mitigation sites will be located within the same watershed as where the impacts occur and within the Coastal Zone. The Commission's staff ecologist has reviewed the project and other than requesting some adjustments to several of the mitigation ratios, concurs with the City's proposed mitigation. To assure adequate mitigation is provided, **Special Condition #9** is attached. This condition requires that all wetland impacts shall be mitigated at a ratio of 1:1 for temporary impacts, 2:1 for Natural flood channels, 3:1 for impacts to Riparian habitat, and 4:1 for impacts to Freshwater Marsh and Disturbed wetland. The Commission does not typically differentiate between wetlands and "disturbed wetlands" for purposes of calculating impacts and as such, requires mitigation for unavoidable impacts of such habitat at the same ratio as other wetlands. In this particular case, while the LCP does not define Disturbed wetland, the City has indicated that such a designation would be applied to wetland areas containing arundo

and other invasive and non-native species and as such, removal of such undesirable species should carry a lesser mitigation ratio. The Commission agrees that removal of such species is desirable and that in this particular case, their removal would not be considered a wetland impact for the purposes of mitigation. Special Condition #9e includes this distinction. In addition, this condition requires that a minimum 100 ft. buffer, approved by the Department of Fish and Game, shall be provided from all newly created wetland/riparian habitat on the off-site mitigation site(s).

7. On Page 30 of the staff report, the first incomplete paragraph shall be revised as follows:

designed mitigation bank. According to the PEIR for the project, depending on the type of habitat impacted and whether or not it is located within the City's Multiple-Habitat Planning Area (MHPA), the City is proposing various mitigation ratios ranging from 0.5:1 for non-native grasslands to 2:1 for Coast live oak woodland. Again, while no sensitive upland habitat impacts have been identified, it is possible some may occur. As such, **Special Condition #11** requires that a final mitigation program for upland habitat be submitted that identifies that all direct impacts to ~~unoccupied~~ Coastal sage scrub habitat shall be mitigated at a ratio of not less than 1:1 for impacts located outside the City's Multiple Species Conservation Program Multi-Habitat Planning Area (MHPA) and 2:1 for impacts located inside the City's Multiple Species Conservation Program Multi-Habitat Planning Area (MHPA) ~~and 3:1 for Coastal sage scrub habitat occupied by California gnatcatchers or other listed species~~. Such ratios are consistent with the mitigation ratios contained within the City's LCP for this type of habitat ~~past Commission precedent~~ and will assure if such impacts occur, they will be adequately mitigated.

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THE CITY OF SAN DIEGO

November 9, 2012

Item Th23a
Appeal/Permit No. A-6-NOC-11-086
City of San Diego
IN FAVOR

Mary K. Shallenberger, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Agenda Item Th23a, Appeal/Permit No. A-6-NOC-11-086, City of San Diego Coastal Development Permit for Storm Water Facility Maintenance Master Program

To Chair Shallenberger and Honorable Commissioners:

The City of San Diego (City) appreciates this opportunity to submit comments on the appeal of the Coastal Development Permit (CDP) for the City's Master Storm Water System Maintenance Program (Master Maintenance Program). Since the first appeal hearing on March 7, we have followed your direction by reaching out to Coastal Commission staff and various stakeholders to address concerns with the Master Maintenance Program. Over the past seven months, City staff have worked extensively with Coastal Commission staff, including Lee McEachern, Michael Sandecki, John Dixon and Deborah Lee. We would like to thank them for their time and effort in making themselves available for numerous meetings and for their guidance through this process. The City is pleased to write this letter in support of staff's recommendation of approval for Permit No. A-6-NOC-11-086 with amended conditions.

Summary of Project Changes

At staff's direction, the City has agreed to three substantial changes to the City-issued CDP: (1) 5-year CDP with narrowed scope; (2) additional water quality improvement measures; and (3) Coastal Commission Executive Director review of the City's annual maintenance plans.

First, and most significantly, the City has narrowed the scope of this CDP associated with the Master Maintenance Program to five years. As a result of the CDP term reduction from twenty to five years, the City reduced the number of channel segments under the CDP to twelve high priority channel segments in three geographic areas: (1) Sorrento Creek, Los Penasquitos Creek, Soledad Creek, and Flintkote channel; (2) Mission Bay High School and Pacific Beach Dr./Olney St. channels; and (3) Tijuana River Pilot Channel and Smuggler's Gulch. The reduced

Applicant's Response to 7 STAFF Recomendation

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scope allowed the City to provide detailed information on compensatory wetland mitigation sites for each project area. As modified, the proposed permit is essentially a project-level CDP for the three project areas rather than a programmatic permit for the original suite of 113 channel segments proposed in the Master Maintenance Program.

Second, the City has committed to implement a suite of additional pollution prevention, source control and treatment water quality improvement activities in the priority channel drainage areas. The activities include sediment reduction outreach to 652 residents and businesses in the priority channel drainage areas through the City's Think Blue program, enhanced street sweeping over 25.4 curb miles with vacuum-assisted sweepers in high-traffic commercial routes, quarterly median sweeping of 11.7 curb miles, and enhanced catch basin inspection and cleaning of 45 catch basins in the project areas. It should be noted that the City's commitment to implement these water quality improvement measures is not an acknowledgement that channel maintenance will always result in non-construction related impacts on water quality, contrary to the statements on pages 3, 35, and 37 of the Staff Report. The City contends that non-construction related water quality impacts as a result of channel maintenance activity is highly dependent on site-specific circumstances, which is a central basis for the Master Maintenance Program requiring the City to conduct an individual water quality assessment prior to annual maintenance activities[1]. In the interest of addressing staff's concern that the water quality assessment process originally proposed as part of the Programmatic Environmental Impact Report (PEIR; 2011) is too complicated, the City proposed the suite of water quality improvement measures to implement in the priority channel areas included in this CDP. The City anticipates that these additional water quality improvement measures will lead to reduction of sediment and pollutant input and improved water quality in the priority channel areas.

Third, the City has agreed to include the Coastal Commission in the annual Substantial Conformance Review process along with the other federal and state agencies with jurisdiction over the Master Maintenance Program. This will allow the Executive Director to review the City's annual maintenance plan to ensure consistency with the Master Maintenance Program and the terms of the CDP. The City believes that these three project changes satisfy the concerns expressed in the original Staff Report dated February 23, 2012, and at the March 7 appeal hearing.

Stakeholder Outreach

In May, City staff met with appellants Coastal Environmental Rights Foundation and San Diegans for Open Government, members of the San Diego Bay Council, and other interested non-governmental organizations to discuss their outstanding concerns and identify mitigation opportunities. At that meeting, the non-governmental organizations committed to provide a

[1] A channel's pre-maintenance pollutant removal capacity is based on factors such as the amount and type of vegetation in the channel. For example, channel maintenance in the Tijuana River Valley is estimated to result in positive net water quality impacts because sediment and trash will be removed from the channel areas with little to no loss of channel vegetation that provides little assimilative capacity for water quality pollutants. Channel maintenance will consist primarily of sediment and trash removal, which is likely to have a positive water quality impact.

written proposal that would resolve their outstanding concerns with the Master Maintenance Program.

To date, we have not received a written proposal but did receive a letter from appellants' attorneys on June 5, 2012, expressing support for a 5-year program. We also received a critique of the City's water quality assessment process that was submitted to Coastal Commission staff by appellants' attorneys on August 6, 2012. We believe the project changes that the City and Coastal Commission staff have developed address the stakeholders' stated concerns.

Requested Modification to Staff Recommendation
The City is willing to comply with the special conditions, as amended; however requests the Commission consider approving the following modification to Special Condition 9.3. as revised in an underline format:

All wetland impacts shall be mitigated at a ratio of 1:1 for temporary impacts, 2:1 for Natural Flood channels, 3:1 for impacts to Riparian habitat, and 4:1 for impacts to Freshwater Marsh, and 2:1 for Disturbed wetland for channel maintenance impacts not previously mitigated, in consultation with California Department of Fish and Game and/or U.S. Fish and Wildlife Service.

Evidence to support Modification to 2:1 mitigation ratio for Disturbed Wetlands
The Biological Technical Report for the City of San Diego Master Storm Water System Maintenance Program (Helix Environmental, May 2011) defines *"disturbed wetland is typically dominated by exotic wetland species that have likely become established following previous disturbance(s), although it may also contain native species. The habitat composition is highly variable based on the hydrology, soils, and type and frequency of disturbance. Species present within the study area include rabbitsfoot grass, curly dock (Rumex crispus), giant reed [Arundo donax], bristly ox-tongue, cockle-bur (Xanthium strumarium), umbrella sedge, common celery (Apium graveolens), Bermuda grass (Cynodon dactylon), and poison hemlock (Conium maculatum). ... Giant reed is mixed with native habitats along the Los Peñasquitos, Soledad, Chollas, and Nestor creeks; Smuggler's Gulch; and the Tijuana and San Diego rivers."*

In the context of channel maintenance, the majority of the disturbed wetlands that could be impacted will consist of in-channel stands of giant reed and other exotic, non-native vegetation as described above. Giant reed, also called arundo, is classified as highly invasive by Cal-IPC and is generally considered to have severe ecological impacts. The City's Land Development Manual Biology Guidelines (Biology Guidelines), Table 2, categorizes Disturbed Wetlands[2] with an impact mitigation ratio of 2:1; and does not increase the ratio in the Coastal Zone, as it does for other wetland types such as freshwater marsh and riparian scrub.

[2] Oberbauer, T., 1996. Terrestrial Vegetation Communities in San Diego County based on Holland's description.

Removal of giant reed is usually considered a desirable activity and agencies typically give mitigation credit for its removal and control. Arundo-dominated wetlands are typically targeted for restoration and enhancement activities, and removal and control of giant reed is a standard compensatory mitigation and land management strategy. The City-required mitigation ratio of 2:1 would, according to the Biology Guidelines, consist of 1:1 restoration or creation, and 1:1 enhancement or acquisition. This adequately mitigates for impacts to disturbed wetlands dominated by giant reed and other exotic, non-native plant species. In addition, the mitigation should apply only to channel maintenance impacts not previously mitigated (as well as potentially sensitive habitats that develop after mitigation has been provided for areas that didn't formerly provide sensitive habitat) and not as additional requirement for enhancement activities such as is being planned in the Tijuana River and Los Penasquitos watersheds as mitigation for channel maintenance.

Furthermore, a 2:1 mitigation ratio for impacts to drainage channels dominated by arundo and other exotic, non-native plant species is adequate inside the Coastal Zone because of the severely reduced ecological value of such a wetland. While a natural wetland in a disturbed state, such as riparian scrub with some arundo encroachment, still maintains a significant amount of wildlife and water quality value that warrants mitigation, an arundo-dominated wetland has diminished values as wildlife habitat, water quality improvements, flood flow modification, and groundwater recharge.

Increasing mitigation ratios for disturbed wetlands within the Coastal Zone would not be consistent with the City's Local Coastal Program (LCP) and Biology Guidelines. The removal of this habitat type in-channel will improve the function and services of impacted wetlands and could reduce additional infestations downstream. Arundo-dominated wetlands are among the least valuable wetlands and clearing them is actually considered beneficial.

A 4:1 mitigation requirement for disturbed wetland that is primarily dominated by non-native exotic plant species, such as giant reed, is excessive and should be modified to 2:1 to be consistent with the City's Biology Guidelines. The City's approved LCP incorporates by reference the Land Development Code Environmentally Sensitive Lands Regulations and Biology Guidelines adopted by Coastal Commission. Therefore, a mitigation ratio of 2:1 is consistent with the City's LCP and appropriate for such a low-quality wetland.

The City respectfully requests that the Coastal Commission follow Staff's recommendation with the modification to Special Condition 9.e. to modify the 4:1 mitigation requirement for impacts to Disturbed wetland to a ratio of 2:1 as substantiated above and approve the CDP with conditions so that the City can move forward with implementation of this crucial maintenance program.

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If you have additional questions, please contact Anne Jarque at 619- 527-3131.

Sincerely,

Kris McFadden
Deputy Director, Transportation & Storm Water Department

cc: Commissioner Steve Blank
Commissioner Dayna Bochco
Commissioner Dr. William A. Burke
Commissioner Wendy Mitchell
Commissioner Jana Zimmer
Commissioner Martha McClure
Commissioner Steve Kinsey
Commissioner Mark W. Stone, Vice-Chair
Commissioner Brian Brennan
Commissioner Richard Bloom
Commissioner Esther Sanchez
Deborah Lee, District Manager, San Diego Coast District Office
Lee McEachern, Coastal Program Analyst, San Diego Coast District Office
Sherilyn Sarb, Deputy Director, San Diego Coast District Office
Mayor Jerry Sanders, City of San Diego
Councilmember Sherri Lightner, City of San Diego, District 1
Council President Pro Tem Kevin Faulconer, City of San Diego, District 2
Councilmember David Alvarez, City of San Diego, District 8
Garth K. Sturdevan, Director of Transportation & Storm Water Department, City of San Diego
Almis Udrys, Deputy Director of IRD & Fiscal Policy, City of San Diego

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THE CITY OF SAN DIEGO

October 30, 2012

Kris McFadden, Deputy Director
Transportation & Storm Water Department
9370 Chesapeake Drive, Suite 100
San Diego, CA 92103

Dear Kris:

I am writing you to clarify the timing and permit requirements for the Sorrento Creek Drainage Channel project.

The original Sensitive Coastal Resource and Coastal Development Permit (SCR/CDP) for the project was approved August 3, 2000, by the City Planning Commission. The effective date of the permit is August, 18, 2000, ten business days beyond the original approval date due to the appeal period per the Municipal Code. Condition No. 5 of the approved permit indicates the permit is valid for ten years. Per Section 7 of the permit and map extension ordinance approved by City Council on September 28, 2009 (O-19894), development permits that were issued prior to July 15, 2008, and that did not expire prior to July 15, 2008, received a 12-month extension of the expiration date of the development permit. The SCR/CDP therefore was valid until August 18, 2011.

After the original SCR/CDP was issued in 2000, dredging and vegetation removal occurred for three years by City forces. This constituted initial utilization of the development permit (SCR/CDP) per Municipal Code Section 126.108 (b)(1)(3). City forces performing the work equates to issuance of a construction permit under standard Development Services Department policy. Evidence of substantial use was in progress since dredging and vegetation removal authorized by the permit was occurring. Per input from the Regional Water Quality Control Board, the project was revised in 2006 via a Substantial Conformance Review approved by the City on April 21, 2006. This revision to the project resulted in less environmental impacts than the original permit. In order to continue work based on this revision, Regional Water Quality Control Board, California Fish and Game, and Army Corps of Engineers permits needed to be secured. These were obtained August 22, 2006, October 31, 2006, and December 21, 2010, respectively. City Council approved the dredging contract on June 28, 2011, prior to the expiration of the original SCR/CDP on August 18, 2011.

Because this work was authorized by City Council prior to the August 18, 2011, expiration date, the City maintained utilization of the development permit (SCR/CDP) per Section 126.0109(a) of the Municipal Code. This contract equates to a construction permit under the Municipal

Letter from City of S.D.

Development Services
1222 First Avenue, MS 501 • San Diego, CA 92101-4155
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Code per standard Development Services Department policy. The work proceeding under this contract remains valid under the original SCR/CDP per Municipal Code Section 126.0109(a) through final inspection.

As I understand, per permit requirements and the City Council approved contract, the dredging work must be completed by tomorrow October 31, 2012, and all construction activity completed by December 19, 2012. After this year's channel maintenance is complete, the original SCR/CDP may no longer be used.

Sincerely,

Kelly Broughton, FASLA
Director, Development Services Department

Th 23a

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November 9, 2012

Mary K. Shallenberger, Chair
California Coastal Commission
45 Fremont Street
San Francisco, CA 94105

Via Electronic Mail
lmceachern@coastal.ca.gov

RE: Item 23.a. on Commission's Agenda for November 15, 2012
Appeal No. A-6-NOC-11-086 (San Diego Master Storm Water Maintenance Program)

Dear Commissioner Shallenberger::

Please accept this letter on behalf of Coastal Environmental Rights Foundation (CERF) and San Diegans for Open Government ("SanDOG"). SanDOG is a non-profit, public-interest organization that advocates for good-governance issues, including environment-related quality-of-life issues in the County of San Diego. CERF is a nonprofit environmental organization founded by surfers in North San Diego County and active throughout California's coastal communities. CERF was established to aggressively advocate, including through litigation, for the protection and enhancement of coastal natural resources and the quality of life for coastal residents.

CERF and SanDOG have appealed the City's Coastal Development Permit for its Master Storm Water System Maintenance Program (MSWSMP). We appreciate the hard work and time Coastal Commission staff has put into this process. The proposed Coastal Development Permit conditions and revisions will result in greater environmental protection of coastal resources.

Notwithstanding the improvements to the permit, CERF and SanDOG request the following specific revisions to the permit.

For TJ River Valley only, SanDOG is satisfied that the commitments that the City made in its lawsuit, coupled with the changes reflected in the Coastal Development Permit, will bring the City into compliance with CEQA and the Coastal Act--assuming that the City actually abides by its commitments and the CDP. (See Staff Report, p. 17).

I. The CDP Should Be Strengthened to Ensure Consistency with the Coastal Act

As for the rest of the City-wide proposal, the CDP should be strengthened as follows:

1) For Special Condition 2, no work may begin during the Executive Director's 60-day review period until the end of the period or until the City satisfies any and all concerns expressed in the Executive Director's notification (if any), whichever comes first.

2) The appeal process for Substantial Conformance Review, as described on pages 14 and 15 of the Staff Report is misleading because it suggests that there is an appeal procedure for Process One decisions made by the City as part of its SCR. However, the appeal process described in Exhibit 4 to the Staff Report does not provide an appeal process for such decisions. (See page 2 of Exhibit 4 ["The decision by City staff will be final and is not appealable."]). If there is a dispute over whether the City actually satisfies the three applicable conditions, there should be a procedure that notifies the public about the City's decision and proves an appeal opportunity.

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Letter from Appellant

3) The first condition for SCR Process One should be rewritten to provide as follows: "The maintenance activity and its significant unmitigated or significant unavoidable impacts are located outside the Coastal Zone." Otherwise, the City could use Process One to approve maintenance activities that harm resources in the Coastal Zone without going through any public-review process (since Process One requires no public notification or participation in the SCR).

4) The CDP should have an additional condition requiring the City to include the CDP's mitigation measures in the Program EIR for the City-wide maintenance program. The PEIR does not automatically expire in five years. Thus, the City could rely on the PEIR six years from now when it issues itself a new CDP and claim that the mitigation measures in the PEIR (which were never supplemented by those in this CDP) are sufficient. To ensure that there is no future back-sliding on the mitigation measures, the CDP should have an additional condition requiring its additional mitigation measures to be put into the PEIR. (This can be done by an addendum, which will not require public comment or circulation.)

5) The first three sentences in the last paragraph on page 40 of the Staff Report should be modified or preferably removed altogether. The PEIR was adopted based on a statement of over-riding considerations because the City-wide maintenance program will have some significant impacts that cannot be mitigated or unavoided to a level of insignificance. Thus, the Coastal Commission cannot make the unequivocal finding that there are no remaining significant impacts. The three sentences in question suggest that the PEIR has fully mitigated and avoided all significant impacts, when in fact it has not. Either remove them or rewrite them in a way that does not suggest that the maintenance program will have zero significant impacts.

II. Previous Mitigation Measures for New Impacts Are Inappropriate

The staff report claims, because "several channels proposed for maintenance have already had channel maintenance that was reviewed and approved by the necessary agencies and mitigation provided for the impacts to habitat", "effectively no new impacts will occur in those channels." (Staff Report, p. 26). For those channels, the City is proposing no additional mitigation. Thus, for Sorrento Creek, Los Penasquitos Creek, and the earthen portion of Soledad Creek, the City will not mitigate for current or future impacts to habitat. The mitigation provided almost two decades ago will apparently suffice for clearing in these channels in perpetuity. This is contrary to the Coastal Act and CEQA.

The baseline for determining impacts is the on-the-ground environment. Though the City did some maintenance in the past, new habitat has taken hold. Currently, these areas provide significant habitat and water quality value. Once maintenance activities are performed, the habitat will be impacted.

Further, the CDP, as written, does not require any mitigation for new impacts, though new and different habitat make have taken hold since previous maintenance activities. Indeed, the staff report acknowledges as much in limiting the life of the CDP:

> Given the fact that habitat and other circumstances can change over time and techniques for addressing channel maintenance removal needs can also evolve, the Commission, in this particular case, chooses to grant the permit for a five year period as proposed by the applicant. (Staff Report, p. 30, emphasis added).

Special Condition 9.b., which requires additional mitigation in consultation with California Department of Fish and Game and/or U.S. fish and Wildlife Service only if new sensitive bird or

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animal species are found onsite, is the only requirement in the CDP which addresses potential new wildlife impacts. (Staff Report, p. 10). However, this does not address habitat or non-special status species variation.

At the very least, in light of the City's substantial conformance review process for individual projects, the Coastal Commission should require a direct comparison of habitat type and species composition through a baseline ecological assessment for each impact area[1]. For those areas where maintenance activities have already taken place, the City should compare the previous baseline ecological assessment to the current assessment for any changes requiring new or additional mitigation. For instance, the baseline in 1996/1997 against which impacts were measured in Sorrento Creek and Los Penasquitos Creek will likely be different than the baseline today.

Though the City should provide new and additional mitigation for this new project (ie. the Master Storm Water System Maintenance Program), if the Commission is inclined not to require new mitigation, the proposed baseline ecological assessment should be required to verify the City's position that impacts are identical and no new mitigation is required.

A. The City's Unlawful Dredging of Sorrento Creek

In the last few weeks of October, the City hurriedly removed vegetation and dredged 3,000 cubic yards of sediment within Sorrento Creek without a valid CDP. CERF urges the Commission to require mitigation for these impacts in light of the City's intentional development within the Coastal Zone without a CDP. Both CERF representatives and Commission staff notified the City that it was proceeding without a valid CDP. Nonetheless, the City conducted the work.

In light of the City's egregious conduct, the Commission should institute an enforcement action which requires payment of civil penalties and mitigation for the impacts to wetlands. As mentioned above, without a baseline assessment, the Commission cannot be certain the City has already mitigated for the current impacts to wildlife and habitat. Moreover, the City should not be allowed to rely upon mitigation for a previously issued CDP for *new* work done without a CDP. Moreover, granting the City an after-the-fact CDP without any habitat mitigation (or baseline assessment *before* the unpermitted work was done) does not ensure compliance with the Coastal Act or the City's Municipal Code.

III. The Commission Can Consider Impacts In the Coastal Zone From Parts of the Project Outside the Coastal Zone

Though the Commission is permitting only those aspects of project within the coastal zone, the City's MSWSMP is City-wide. The upstream waterbodies will be cleared and dredged, resulting in water quality and sedimentation impacts downstream. (See Staff Report, pp. 34-35 regarding water quality impacts of maintenance activities). Specifically, ""the removal of vegetation as a result of maintenance may decrease the capacity of storm water facilities to retain pollutants and result in greater quantities of sediments and pollutants to reach downstream sensitive receptors." (Staff Report, p. 35). Because the coastal zone is downstream of the rest of the Citywide MSWSMP, maintenance activities upstream will negatively impact the coastal zone receiving waters.

The Commission may consider these impacts. (See *Sierra Club v. California Coastal Com.* (2005) 35 Cal. 4th 839, 848–849 [in making permit decision regarding development inside coastal zone,

[1] It's unclear whether Special Condition 9.c. requires preparation of a baseline ecological assessment for areas where maintenance has historically been conducted and new mitigation measures are not proposed. However, a baseline assessment should be required in all areas in order to establish a benchmark against which future activities will be analyzed.

Commission may consider impacts in coastal zone of portions of project outside coastal zone and may properly act to prevent those impacts to extent they are related to development inside coastal zone]). Though the Commission may not deny the CDP solely on the basis of impacts within the coastal zone that will result from proposed development outside coastal zone, it can consider them and prevent them within the coastal zone. The Commission should require further mitigation within the coastal zone (ie. additional sediment catch basins or more frequent inspection and cleaning) to address the impacts of the project which originate outside of the coastal zone, but impact coastal zone resources.

Should you have any questions, please contact our office directly.

Sincerely,

COAST LAW GROUP LLP

MARCO A. GONZALEZ
LIVIA BORAK

Th23a

Tijuana River National Estuarine Research Reserve
California Department of Parks and Recreation
301 Caspian Way • Imperial Beach • CA • 91932
(619) 575-3613 • Fax (619) 575-6913 • www.tijuanaestuary.org

November 8, 2012

Agenda Item: Th23a
Chris Peregrin

CA Coastal Commission, San Diego Office
Attn: Lee McEachern
7575 Metropolitan Drive, suite 103
San Diego, CA 92108

Subject: Th23a; A-6-NOC-11-086.

Dear Mr. McEachern,

I would like to express my support for the City of San Diego's stormwater maintenance actions proposed for the Tijuana River at Smuggler's Gulch and the Pilot Channel (Proposed Project). I feel that the Proposed Project is beneficial as an interim measure to protect human health and safety, horses and equestrian facilities, agricultural operations, and the quality of natural resources in the Tijuana River Valley.

As a member of the Steering Committee on the Tijuana River Valley Recovery Team (TRVRT), I am understand that the City has been working in coordination with the TRVRT and other stakeholders to develop a long-term vision for the River Valley and ensure this vision adequately addresses flooding, sedimentation, and trash accumulation. I believe the Proposed Project is a responsible interim measure that should be approved by the CA Coastal Commission with the understanding that we are working together to identify large-scale watershed restoration and long-term sustainable channel maintenance practices.

Thank you for the opportunity to comment on this project.

Christopher M. Peregrin
Acting Reserve Manager
Tijuana River National Estuarine Research Reserve
301 Caspian Way, Imperial Beach CA 91932
(office) 619-575-3613 ex 303; (mobile) 619-204-0097

Letters of Support 19

November 8, 2012

Lee McEachern, District Regulatory Supervisor
San Diego Coast District
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 921108-4421

RE: Coastal Permit Appeal for San Diego Master Storm Water Maintenance Program Permit (A-6-NOC-11-086)

Dear Mr. McEachern,

We appreciate the work the City of San Diego (City), Coastal Commission, and other organizations have done to add special conditions and improve the proposal for the City's Master Storm Water Maintenance Program (Program). As land owner or manager of large portions of both the Los Peñasquitos Marsh and Tijuana Estuarine Research Reserve, we have been working closely with the City of San Diego Storm Water Department and other stakeholders to reduce the effects of sediment, freshwater and other pollutants, and to improve the overall quality of the Estuaries. Because of this growing partnership we are confident the City will implement this program according to the conditions of the Coastal Permit and with a strong interest in protecting the quality of our coastal wetlands. We therefore support the City in their application and would support the Commission's approval of their permit.

Sincerely,

Clay Phillips, San Diego Coast District Superintendent

Cc Darren Smith, Acting District Services Manager
Robin Greene, North Sector Superintendent

Reading File

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Th23a

Los Peñasquitos Lagoon Foundation

P.O. Box 940, Cardiff by the Sea, CA 92007

November 12, 2012

California Coastal Commission
San Diego Coast District
Attention: Lee McEachern
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-2384

RE: Coastal Permit Application for City of San Diego Storm Water Facility Maintenance (No. A-6-NOC-11-086)

Dear Mr. McEachern,

On behalf of the Los Peñasquitos Lagoon Foundation (LPLF), I would like to express support for the City of San Diego's storm water maintenance actions for drainages within the Coastal Zone that include portions of Sorrento, Soledad and Los Peñasquitos Creeks. LPLF understands the City's need to protect property and human health from the threats of flooding and storm-related damage, but feels that this can be accomplished without further impairment of Los Peñasquitos Lagoon and its Environmentally Sensitive Habitat Areas (ESHA). Therefore, LPLF requests that the Coastal Commission condition Coastal Permit No. A-6-NOC-11-086 such that the City will be required to develop measures prior to implementation of maintenance activities and implement these measures in order to mitigate both direct and indirect impacts to receiving water bodies located downstream of the maintenance activity with emphasis on Los Peñasquitos Lagoon, which is currently listed on the Environmental Protection Agency's 303(d) list of impaired waterbodies for sediment and siltation. LPLF has worked with staff from the City's Transportation and Storm Water Department to develop strategies to protect Los Peñasquitos Lagoon and looks forward to continued coordination to link watershed activities with the protection, restoration, enhancement, and preservation of the Lagoon.

Sincerely,

Mike Hastings
Executive Director, Los Peñasquitos Lagoon Foundation

2

Th23a

CalSorrento Ltd.

Lee McEachern
California Coastal Commission
San Diego Coast District
7575 Metropolitan Drive, Ste 103
San Diego, CA 92108-4421

Dear Commissioners,

I represent Cal-Sorrento Ltd., one of the largest property owners in the Sorrento Valley area of San Diego.

Our problem is that the City owned drainage channels that run adjacent to many of our buildings are cracked, leaking, and so completely blocked by overgrown vegetation that they pose a significant risk to life and property. In the past year water has barreled over the blocked ditches and into our buildings at an alarming rate. In January, 2010 the flooding into our buildings caused over $148,000 in damages and loss of productivity (see attached photos) and then again in December 2010 water, mud, and debris overflowed from the blocked channel adjacent to the railroad tracks and flooded several of our building up to 4 feet high (see attached photos).

These drainage channels were constructed to carry runoff out of the area but they are so blocked and in disrepair that they now are a huge liability. Not only do they pose a serious risk for flooding but they also are a serious health threat because the year-round standing water in them is a tremendous breeding ground for mosquitoes and deep enough in places that a child could drown. In addition to the problem that the overgrowth of vegetation in all of the channels has caused, there is also a significant problem with deterioration of the concrete in the channel that runs adjacent and just south of our buildings at 3377 Carmel Mountain Road and 3323 Carmel Mountain Road. This channel is collapsing and so much of the concrete has broken away that the flow of water is causing significant erosion to the bank that undermines our property. I have brought this to the attention of the City of San Diego Storm Water and to our City Council representative numerous times but the condition of the channel continues to deteriorate so in August of 2012 I had Helenschmidt Geotechnical Inc. visit the site and indentify the potential risks related to this drainage channel (see attached).

It is imperative that the City of San Diego implement a program for clearing and maintaining the storm water channels to protect life and property before any further flooding, damage, or injury occurs.

Thank you,

Terri Ducey
Cal-Sorrento Ltd.
attachments

10951 Sorrento Valley Rd. Suite 1-C San Diego, CA 92121-1613 Tel: (858) 453-0020 Fax: (858) 458-0920

Comment Letter 23

Helenschmidt Geotechnical, Inc.

October 16, 2012
108076

Mr. Steven C. Higgins
Cal-Sorrento Ltd.
10951 Sorrento Valley Rd, Ste 1-C
San Diego, CA 92121

SUBJECT: **Limited Reconnaissance of East-West Drainage Channel North of Industrial Court and West of Interstate 5**

RE: Cal Sorrento Industrial Park, San Diego, CA

Dear Mr. Higgins:

Upon your request the undersigned visited the site on August 24, 2012. The purpose of this site visit was to observe current conditions of the east-west trending concrete lined drainage channel located immediately south of your property and to identify potential risks related to the drainage channel. We have also met with a representative of your office and have been provided some photos taken over the past two years of distress along the channel. This report provides a summary of our observations and conclusions based on our site reconnaissance, review of photographs and knowledge of the site history.

BACKGROUND

A concrete lined channel extends along the length of the south boundary of the property known as Cal-Sorrento Industrial Park and the north boundary of the current Caltrans property (formerly a portion of the Cal-Sorrento Industrial Park). The channel is downstream of a 54-inch concrete storm drain pipe that was extended as part of the adjacent PGR Wall construction for freeway widening. The extension of the storm drain resulted in an angled point of entry into the channel (Figure 1). No splash wall was provided at this point, thereby allowing the channel to be overtopped during some storm events. A significant storm event in January 2010 caused overtopping of the wall immediately downstream of the pipe entry into the channel. The excess water over the side of the channel caused a slope failure, damaged the sidewall of the channel and caused flooding of the property immediately north of the channel. Concurrently, at the downstream portion of the channel (between the 54-inch pipe and Sorrento Valley Road), reeds and vegetation clogging the channel also caused overtopping and significant flooding of the buildings south of the channel.

After the rainfall event of January 2012 and breach of the channel, repairs were made to the channel above the slope failure. However, the repair did not include a splash wall and the slope adjacent to the channel was not reconstructed to a stable configuration. A typical engineered repair would include reconstruction of the slope with compacted fill soils and installation of a splash wall.

We understand that some cleaning of the lower edge of the channel occurred after the event that possibly resulting in some breakage of the channel lining.

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RECENT OBSERVATIONS

Currently, the upper end of the channel, opposite the pipe outlet point, still does not have a sufficient splash wall to divert significant storm runoff (Figure 1). In addition, the slope adjacent to the repaired channel is near vertical and provides only marginal support. The lower portion of the channel has been undermined and has caused erosion under the property to the south (Figures 2 through 4). Figures 3, 4 and 6 show the progression of severe distress to the south side of the channel between November 2011 and October 2012. The concrete channel lining is now suspended and a large void approximately five feet in width and 10 feet in length is present under the parking area. On the opposite side of the channel, erosion has occurred at the toe of slope (Figure 2). The lower reach of the channel, between the distressed area and Sorrento Valley Road is choked with vegetation (Figures 5 and 6). West of the damaged and undermined area, the channel is full of vegetation and debris severely impacting its ability to carry storm water into the Los Penasquitos Creek floodplain.

CONCLUSIONS

The channel in its current state is not considered adequate to carry storm runoff. The lack of a splash wall at the upper end of the channel significantly increases the risk of overtopping, breach of the channel, flooding and slope erosion. Installation of a splash wall and reconstruction of the slope should mitigate this problem.

Distress areas at the lower portion of the channel are likely to worsen even with moderate runoff and will likely cause further undermining of the property to the south. Replacement of the distressed portions of the channel lining and placement of adequate engineered backfill would significantly reduce the potential for undermining of the property to the south and erosion of the slopes to the north.

Clogging of the channel with vegetation may cause a backwater buildup resulting in flooding of the southerly property and erosion of the toe of slope of the properties to the north. In the absence of channel maintenance (repair and cleaning) erosion at the toe of slope of the northerly properties is likely to worsen. The most likely improvements to be affected on the north side of the channel are the sand volleyball court and basketball court for the Rehab Fitness facility. Clearing the channel of vegetation would significantly enhance the capacity of the channel to transport storm runoff and would likely reduce the potential for flooding and erosion.

LIMITATIONS

Our services consist of professional opinions and recommendations made in accordance with generally accepted geotechnical engineering principles and practices. No warranty, express or implied, or merchantability of fitness, is made or intended in connection with our work, by the proposal for consulting or other services, or by the furnishing of oral or written reports or findings.

We appreciate the opportunity to provide our geotechnical services on this project. If you have any questions regarding our letter, please call at your earliest convenience.

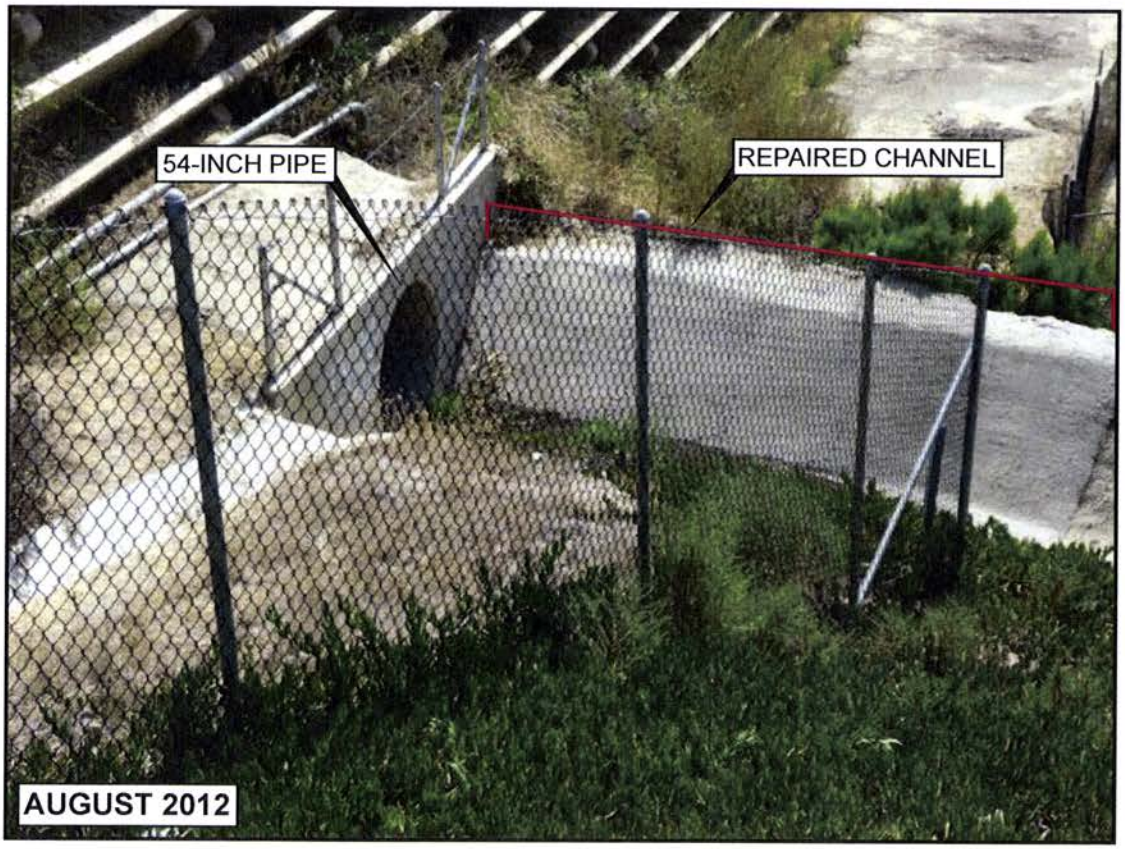
Respectfully,

Helenschmidt Geotechnical, Inc.

Stanley Helenschmidt

Stanley Helenschmidt
Principal Geotechnical Engineer
GE 2064

25



26

Helenschmidt Geotechnical, Inc.

FIGURE NUMBER: 1 PROJECT NO.: 108076

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Helenschmidt Geotechnical, Inc.

FIGURE NUMBER: 2 PROJECT NO.: 108076

Helenschmidt Geotechnical, Inc.

FIGURE NUMBER: 3 PROJECT NO.: 108076

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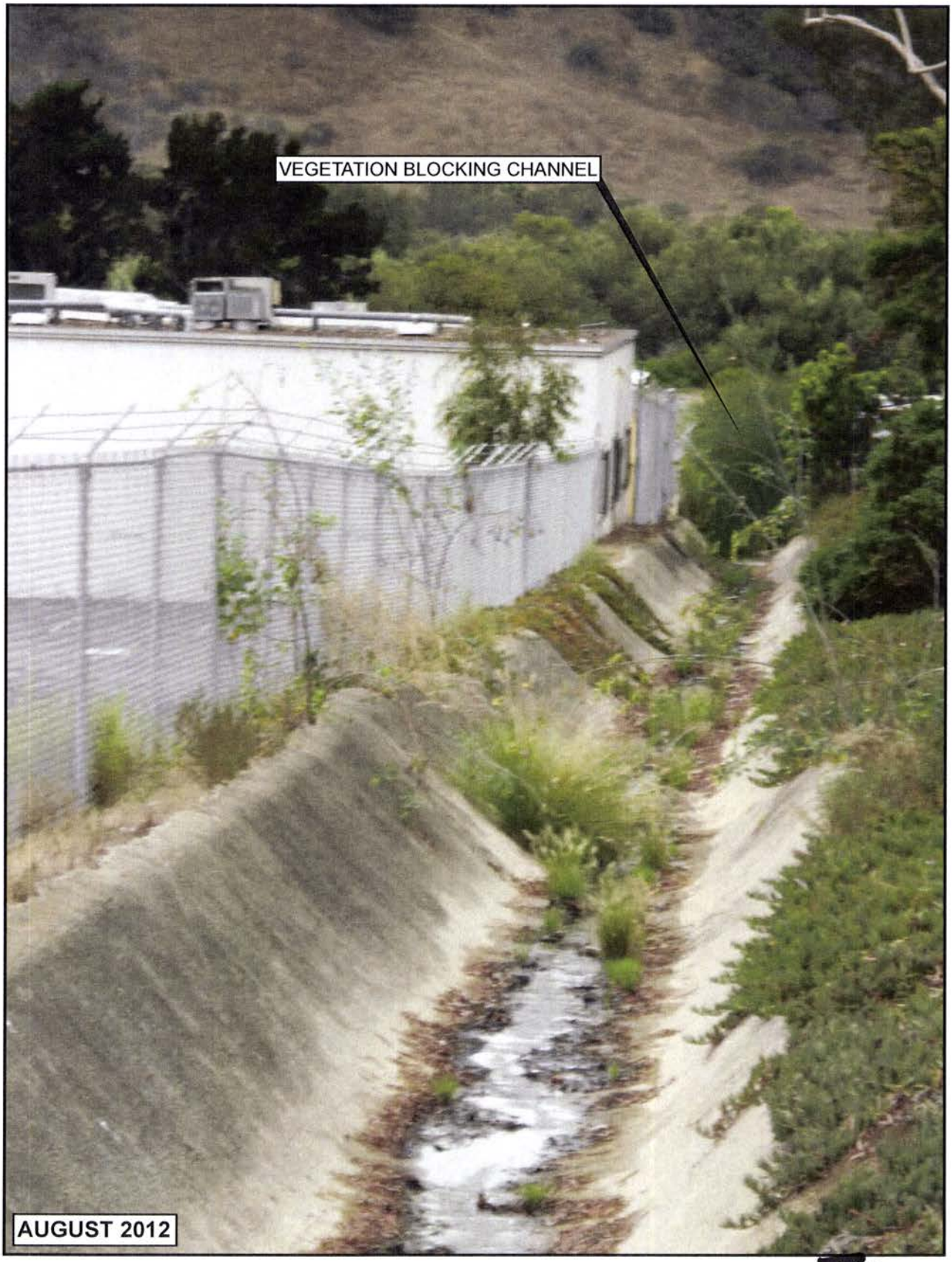
Helenschmidt Geotechnical, Inc.

FIGURE NUMBER: 4 PROJECT NO.: 108076



Helenschmidt Geotechnical, Inc.

FIGURE NUMBER: 5 PROJECT NO.: 108076

Helenschmidt Geotechnical, Inc.

FIGURE NUMBER: 6 PROJECT NO.: 108076

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CALIFORNIA COASTAL COMMISSION
SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370

Th23a

Filed:	11/21/2011
49th Day:	Waived
Staff:	L. McEachern-SD
Staff Report:	10/25/2012
Hearing Date:	11/14-15/2012

STAFF REPORT: RECOMMENDATION ON APPEAL DE NOVO

Local Government:	**City of San Diego**
Decision:	**Approved with Conditions**
Appeal Number:	**A-6-NOC-11-086**
Applicant:	**City of San Diego**
Location:	Various drainages within Coastal Zone to include portions of Sorrento, Soledad and Los Penasquitos Creeks; Flinkote, Mission Bay High School and Pacific Beach Drive/Olney Street Channels; and, the Tijuana River, San Diego, San Diego County.
Project Description:	A 5 year master coastal development permit for clearing of sediment and vegetation and maintenance of storm water facilities to provide adequate flood control.
Appellants:	Coastal Commissioners Brian Brennan and Mark Stone; Coastal Environmental Rights Foundation (CERF); San Diegans for Open Government.
Staff Recommendation:	Approval with Conditions.

SUMMARY OF STAFF RECOMMENDATION:

At its March 7, 2012 hearing, the Commission found that the subject appeal raised a substantial issue with regards to the consistency of the project with the certified LCP. At the same hearing, staff was recommending denial of the project on de novo due to numerous inconsistencies of the project with the certified LCP. However, after the public hearing and deliberations, the Commission voted to continue this matter and asked the City to work with Commission staff and other identified stakeholders to address the identified issues and include project modifications and details such that the project proposal could be brought back to the Commission with a positive recommendation. Since that time, Commission staff has met with the City several times, including a meeting with the various resource agencies involved in this project and with the major stakeholder groups. As a result of these meetings, the City has revised the project such that they are requesting a 5 year permit rather than a 20 year permit and reduced the number of areas where work is proposed to 3 main areas – Sorrento Valley, Mission Bay High School and the Tijuana River Valley. In addition, the City has more specifically detailed the proposed scope of work, provided more detailed water quality BMPs, specified the maximum potential habitat impacts, mitigation ratios and performance standards for habitat impacts and identified available mitigation sites within the Coastal Zone.

The purpose of the project is to maintain storm water facilities to provide adequate flood control. The proposed project involves the removal of accumulated vegetation and/or sediment to restore conveyance capacities in a number of flood control channels. The City's Master Storm Water Maintenance Program (Master Program) describes the maintenance techniques to be employed as well as the protocols to be followed to minimize the impacts to environmental resources.

Annually, the City will prioritize the channels needing maintenance for that year and then complete a series of detailed individual assessments for each channel segment proposed for maintenance (biological, historical, hydrologic, water quality and noise assessments). Based on these assessments, the City will develop the specific projects and work programs consistent with the Master Program and circulate them for review and comment to interested parties and the various resource agencies. The parties will then have 30 days to provide comments and work with the City to assure the project(s) are consistent with the approved program. As the Coastal Commission was not identified as one of the parties for this review, **Special Condition #2** has been added to require the City to provide the same review to the Executive Director of the Commission. The condition further states that if the Executive Director determines the project(s) are not consistent with the approved program, then that project(s) shall be deleted or reviewed pursuant to a separate coastal development permit. With this condition, the Commission can be assured that future maintenance projects over the life of the permit will be consistent with the program and most protective of coastal resources.

As modified by the City, the project will allow for channel maintenance in the identified channels for a 5 year period. As a result of the proposed maintenance, impacts to wetlands and

water quality will occur as well as possible impacts to sensitive upland habitats. The City has done an analysis of each of the channel segments proposed for maintenance and identified the "worst-case" scenario impacts to wetlands. Based on this analysis, up to 10.43 acres of wetlands impacts could occur over the life of the permit as a result of the proposed maintenance. No impacts to sensitive upland species have been identified at this time as a result of the channel maintenance. However, such impacts could result from staging of equipment or gaining access to the channels. As such, **Special Condition Nos. 9, 10 and 11** are proposed. These conditions address mitigation and monitoring for impacts resulting from the proposed maintenance and build on the City's proposed mitigation and monitoring programs. For the most part the City's mitigation program is acceptable. However, staff recommends that certain mitigation ratios and criteria be modified at the direction of the Commission's staff ecologist; these changes include increasing the mitigation ratios for impacts to riparian habitat, disturbed wetlands and coastal sage scrub habitat, the requirement for a 100 ft. buffer surrounding all mitigation sites, mitigation for changed circumstances regarding sensitive animal species be addressed and additional criteria for determining the success of required mitigation.

Relative to water quality, the City is proposing a number of maintenance protocols to reduce the potential for downstream water quality impacts resulting from proposed channel maintenance. The proposed protocols include the installation of BMPs such as silt fences, fiber rolls, gravel bags, temporary sediment basins and stabilized maintenance access points. For the most part, these BMPs address water quality concerns during the maintenance project itself. **Special Condition #6** is proposed to supplement the City's proposal and requires the City to incorporate a number of BMPs to address construction-related water quality issues, such as criteria for staging and storage areas, how to protect temporary stockpiles of sediment, vegetation and debris, and detailed requirements for work equipment.

In addition to the water quality impacts associated with the actual maintenance work, the project will have other water quality impacts. Storm water discharges in urbanized areas raise water quality concerns in that they typically contain high concentrations of pollutants. Pollutants and sediments from human activities settle on streets, walkways and other impervious surfaces until a storm event washes them into nearby storm drains. From there, these pollutants/sediments are transported with the storm water runoff and deposited into downstream waterways and ultimately lagoons, estuaries and the ocean. The City acknowledges that the proposed project will have non-construction related impacts on water quality and while these impacts have not been specifically quantified, the City is proposing mitigation measures that will directly, and over the long-term, result in the reduction of polluted inputs and sediment into the drainages proposed for maintenance. The Commission has reviewed the City's proposed mitigation measures and concurs that the measures will help mitigate for water quality impacts associated with the project. Therefore, **Special Condition #7** is proposed which requires the City to implement the mitigation measures as proposed.

Commission staff has worked extensively with City staff and also met with key interested parties to help develop the City's program into a project that is effective in addressing the City's need to provide necessary flood control while at the same time assuring the work is most

protective of coastal resources. Where impacts occur and cannot be avoided or further minimized, mitigation is proposed. Both the Commission's staff ecologist and water quality technical staff have reviewed the project and with the proposed conditions, support the City's proposed program. Therefore, Commission staff recommends **approval** of coastal development permit application A-6-NOC-11-086, as conditioned.

Standard of Review: Certified City of San Diego LCP.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Project Location
Exhibit 2 – Channel Maintenance Locations
Exhibit 3 – Detailed Project Description
Exhibit 4 – Substantial Conformance Review Process
Exhibit 5 - Supplemental Information – Water Quality
Exhibit 6 – City Permit

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit No. A-6-NOC-11-086 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 A-6-NOC-11-086 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of the certified Local Coastal Program. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment**. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

The permit is subject to the following conditions:

1. **Duration of Master Permit.** The Master Permit is valid for a period of five years from the date of Commission action. Future channel maintenance beyond this date will require an amendment to this coastal development permit or a new coastal development permit. Any modification of the project within the five year period, including, but not limited to, changes in channel size or location, timing of work, or staging areas will require an amendment to this permit unless the Executive Director determines that no amendment is legally required.

2. **Substantial Conformance Review**. Channel maintenance activities will be determined by the City on an annual basis. Annual maintenance activities will be approved through the City's Substantial Conformance Review (SCR) process as detailed in the City's Master Storm Water System Maintenance Program dated October 2011 (**ref. Exhibit #4**), except as revised below:

   Section 6.2 of the City's Substantial Conformance Review Process titled "State and Federal Agencies" shall be modified to include the following:

   Concurrent with the City's SCR process and prior to commencement of work, the City shall submit an annual work plan and supporting documents for priority channels requiring maintenance activities for the upcoming year to the Executive Director of the Coastal Commission for review and written approval. The Executive Director shall review the submitted information to determine whether the proposed maintenance activities are consistent with the Master Maintenance Program and the specific terms of this permit. If any proposed activities are determined by the Executive Director to not be consistent with the Master Maintenance Program and terms of this permit, those specific activities shall not be permitted for that year unless reviewed and approved under a separate coastal development permit. The Executive Director shall notify the City of any proposed activities that do not comply with the terms of this permit within 60 days of submittal by the City of the annual work plan.

   PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a revised Substantial Conformance Review Program that incorporates the above revisions.

3. **Other Permits**. PRIOR TO THE COMMENCEMENT OF DREDGING, the applicant shall submit copies of all other required state or federal discretionary permits (i.e., U.S. Fish and Wildlife Service, Army Corps of Engineers, California Department of Fish and Game, Regional Water Quality Control Board, etc.) for the proposed project to the Executive

Director within 30 days of approval of such permits. Any mitigation measures or other changes for the project required through said permits shall be reported to the Executive Director and shall become part of the project. No changes to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site(s) may be subject to hazards from flooding and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

   Prior to issuance of the Coastal Development Permit, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

5. **Timing of Construction.** To avoid potential impacts to coastal California gnatcatcher, least Bell's vireo, and other sensitive bird species, during their nesting season, maintenance activities within vegetated channels will not be permitted between the dates of February 15th and September 15th of any year; unless written permission from the California Department of Fish and Game and US Fish and Wildlife Service is provided to the Executive Director for review and written approval.

6. **Construction BMPs**. PRIOR TO THE COMMENCEMENT OF FLOOD CONTROL MAINTENANCE ACTIVITIES, a Construction Runoff and Pollution Control Plan (CRPCP) shall be submitted to the Executive Director for review and written approval, to address the control of construction-phase erosion, sedimentation, and polluted runoff. The CRPCP shall demonstrate and comply with the following construction-related requirements:

   a. Prior to the commencement of construction, the limits of the work areas and staging areas shall be delineated in cooperation with a qualified biologist, limiting the potential area affected by construction and ensuring that all agricultural lands, wetlands, and other environmentally sensitive habitats adjacent to construction areas are avoided during construction. All vehicles and equipment shall be restricted to these pre-established work areas and haul routes and to established or designated staging areas. Clearing and grading shall be limited to the minimal footprint necessary and for the shortest time necessary to avoid impacts to adjacent ESHA, riparian habitat and coastal waters;

   b. Best Management Practices (BMPs) shall be designed to control erosion from the disturbed area and prevent sediment and potential pollutants from entering coastal waters

and/or native habitat plant communities during channel maintenance activities. The BMPs shall be implemented prior to or concurrent with construction and maintained throughout the project;

c. In-stream erosion and turbidity control measures shall be implemented during channel dredging activities;

d. Any newly exposed slopes shall be stabilized to minimize erosion and sediment from runoff waters during maintenance activities using mulch, contour grading and/or other established methods;

e. Temporary stockpiles of excavated sediment/vegetation should be protected with geofabric or other appropriate cover to prevent dispersal of the stockpile materials. Permanent stockpiling of excavated material on site shall not be allowed. Vegetation and sediment shall be removed from the site(s) on a regular basis during construction to prevent the accumulation of sediment and debris on the worksite. Excavated sediment and vegetation shall be stockpiled at designated temporary areas on the project site(s) and be removed to a permitted disposal site within three months;

f. During construction, all trash shall be properly contained in a receptacle with a cover over the top to prevent dispersal of trash, removed from the work site, and disposed of on a regular basis (at a minimum of once per week). Any debris discharged into coastal waters during implementation of the approved development shall be recovered immediately and disposed of consistent with the requirements of this coastal development permit and other relevant state and/or federal regulatory controls;

g. Equipment staging and materials stockpiling areas shall be limited to the locations and sizes specified in the approved final CRPCP. Construction vehicles shall be restricted to designated haul routes. Construction equipment and materials shall be stored only in designated staging and stockpiling areas as depicted on the final plans approved for the project;

h. Any fueling and maintenance of construction equipment shall occur within upland areas outside of environmentally sensitive habitat areas or within designated staging areas. Mechanized heavy equipment and other vehicles used during the construction process shall not be refueled or washed within 100 feet of coastal waters; and

i. Fuels, lubricants, and solvents shall not be allowed to enter the coastal waters or wetlands. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site, and a registered first-response, professional hazardous materials clean-up/remediation service shall be locally available on call. Any accidental spill shall be immediately, upon discovery, contained and cleaned up consistent with relevant state and/or federal regulations.

7. **Water Quality Mitigation Measures**. The applicant shall comply with and implement the water quality improvement measures and timeframes identified in the report entitled

"Supplemental Information –Water Quality, Appeal No. A-6-NOC-11-086, City of San Diego, Coastal Development Permit, Master Storm Water System Maintenance Program, dated October 2, 2012 " (**ref. Exhibit #5**)

8. **Other Special Conditions from City of San Diego.** Except as provided by this coastal development permit, this permit has no effect on conditions imposed by the City of San Diego pursuant to an authority other than the Coastal Act. In addition, except as revised herein, the City shall comply with the requirements of the Final Recirculated Master Storm Water System Maintenance Program PEIR Mitigation Monitoring and Reporting Program for the project.

9. **Final Wetlands Mitigation Plan**. PRIOR TO THE COMMENCEMENT OF FLOOD CONTROL MAINTENANCE ACTIVITIES, the applicant shall submit for the review and written approval of the Executive Director, a final mitigation plan, developed in consultation with Department of Fish and Game and designed by a qualified wetland biologist. Said plan shall be in substantial conformance with the mitigation plan submitted with this application and shall be revised to include the following:

   a. Preparation of a detailed site plan of the impact area(s), clearly delineating all areas and types of impact (both permanent and temporary), and identification of the exact acreage of each impact so identified. In addition, a detailed site plan of the mitigation site shall also be included. The final design and construction methods that will be used to ensure the mitigation site achieves the defined goals, objectives, and performance standards. Mitigation for impacts to wetlands shall result in a no-net-loss of function and values and be in-kind habitat to the fullest extent possible and at the appropriate ratios listed below in section d of this special condition. All wetland mitigation shall occur within three months of impact and either be located on-site or within the same watershed, but in all cases mitigation must occur within the Coastal Zone. Mitigation shall not occur on sites subject to enforcement action where unpermitted development in wetlands has taken place as those sites are subject to restoration and not mitigation;

   b. For those sites where impacts occur as a result of channel clearing, but mitigation has previously been provided, no additional mitigation is required, except in circumstances where the vegetation to be impacted is currently being utilized by sensitive bird and animal species and said species were not identified as using the areas when previously impacted and mitigation was completed. In such a circumstance, additional mitigation shall be required and shall be developed in consultation with the California Department of Fish and Game and/or U.S. Fish and Wildlife Service.

   c. Preparation of a baseline ecological assessment of the impact area(s) and any proposed mitigation sites prior to initiation of any activities. Such assessment shall be completed by a qualified biologist and at a minimum shall include quantified estimates of the biological resources and habitat types at each site, description of the functions of these resources and habitats and the associated values. Results of the ecological assessment of the wetland impact area shall form the basis of the goals, objectives, and performance standards for the mitigation project;

d. The mitigation plan shall include clearly defined goals, objectives, and performance standards for the mitigation project and include final design and construction methods that will be used to ensure the mitigation sites achieve the defined goals, objectives, and performance standards. Each performance standard shall state in quantifiable terms the level and/or extent of the attribute necessary to reach the goals and objectives. Sustainability of the attributes should be a part of every performance standard. Success criteria shall require, and final performance monitoring shall ensure that the mitigation program provides, coverage commensurate with standards identified in the monitoring program (**see Special Condition #10**);

e. All wetland impacts shall be mitigated at a ratio of 1:1 for temporary impacts, 2:1 for Natural flood channels, 3:1 for impacts to Riparian habitat, and 4:1 for impacts to Freshwater Marsh and Disturbed wetland;

f. A minimum 100 ft. buffer, developed in consultation with the Department of Fish and Game, shall be provided from all newly created wetland/riparian habitat on the off-site mitigation site(s);

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

10**. Final Monitoring Program**. PRIOR TO THE COMMENCMENT OF FLOOD CONTROL MAINTENANCE ACTIVITIES, the applicant shall submit for review and written approval of the Executive Director, in consultation with the Department of Fish and Game, a final detailed monitoring program designed by a qualified wetland biologist/restoration specialist. Said monitoring program shall be in substantial conformance with the Conceptual Wetland Restoration Plan by Helix Environmental Planning, Inc., dated May 2011, and the approved Mitigation Plan required in Special Condition #9 above, but shall be revised to include the following:

a. Submittal, upon completion of the mitigation site, of "as built" plans. Description of an as built assessment to be initiated within 30 days after completion of the mitigation project. This report shall describe the results of the as-built assessment including a description of how the as-built project differs, if at all, from the originally planned project.

b. A description of all attributes of the mitigation habitat to be monitored along with the methods and frequency of monitoring. This description shall include a rationale for the types of data collected and how those data will be used. The description shall also clearly state how the monitoring data will contribute to the evaluation of project performance.

c. A description of provisions for augmentation, maintenance, and remediation of the mitigation project to ensure each mitigation project attains its respective performance standards, throughout the monitoring period or in perpetuity as appropriate.

d. Annual reports on the monitoring program shall be submitted to the Executive Director for approval for a period of no less than five years for freshwater and brackish water herbaceous communities and riparian scrub communities and 10 years (at a reduced intensity) for tree-based communities. Each report shall include copies of all previous reports as appendices. Each annual report shall also include a "Performance Evaluation" section where information and results from the monitoring program are used to evaluate the status of the mitigation project in relation to the performance standards described in Special Condition #9. In addition, biodiversity and cover requirements should be specific to the species and vegetation layers (e.g., in the herbaceous layer, there shall be at least "X" species of plants present from list A, each with no less that "Y"% cover).

e. Inclusion of a protocol for creation of a comprehensive monitoring report prepared in conjunction with a qualified wetland biologist/restoration specialist at the end of the five or ten year period shall be submitted to the Executive Director for review and approval. This comprehensive report shall consider all of the monitoring data collected over the monitoring period in evaluating the mitigation project performance. Final monitoring for success shall take place no sooner than 3 years after the cessation of all remediation and maintenance activities (including irrigation) other than weeding and trash removal in order to provide evidence that the restoration is self-sufficient. If the report indicates that the mitigation has been, in part, or in whole, unsuccessful, the applicant shall be required to submit a revised or supplemental mitigation program to compensate for those portions of the original program which were not successful. The revised mitigation program, if necessary, shall be processed as an amendment to this coastal development permit.

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

11. **Mitigation for Upland Impacts**. PRIOR TO COMMENCEMENT OF FLOOD CONTROL MAINTENANCE ACTIVITIES, the applicant shall submit to the Executive Director for review and written approval, a final detailed coastal sage scrub mitigation plan. Said plan shall be developed in consultation with the U.S. Fish and Wildlife Service and the California Department of Fish and Game, and shall include, at a minimum, the following:

a. Preparation of a detailed site plan delineating all areas and types of impact to upland habitat species (both permanent and temporary) and the exact acreage of each impact;

b. All impacts to unoccupied Coastal sage scrub habitat shall be mitigated at a ratio of 2:1 and 3:1 for Coastal sage scrub habitat occupied by California gnatcatchers or other listed species; and

c. Except as revised herein, mitigation for upland impacts shall be consistent with those identified in the Final Recirculated Master Storm Water System Maintenance Program PEIR Mitigation Monitoring and Reporting Program approved for the project and consist of either payment in the City's Habitat Acquisition Fund, acquisition and preservation, or purchase of mitigation credits. Mitigation for upland habitat impacts must occur within the Coastal Zone.

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

IV. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. PROJECT DESCRIPTION

The project is for a 5-year master coastal development permit to allow channel clearing (removal of sediment and vegetation) and maintenance of storm water facilities, which includes natural, earthen and manmade drainages, in the City of San Diego to provide adequate flood flows.[1]

Most of the drainages covered by the City's program are located outside of the Coastal Zone. The drainages within the Coastal Zone affected by the proposed project are both earthen and concrete lined (**ref. Exhibit #2**). Below is a table that outlines each drainage and its size and type:

Drainage Name	Channel Type	Length (feet)	Width (feet)
Sorrento Creek	Earthen	820	100
Soledad Creek	Earthen	1,400	26
Soledad Creek	Concrete	2,288	59
Los Penasquitos Creek	Earthen	1,200	100
Flinkote	Concrete	1,016	13
Mission Bay High School	Concrete	1,078	10

[1] The project as originally approved by the City was for a 20-year master coastal development permit for maintenance of storm water facilities. Since then, the City has modified the project to only propose a 5-year permit and has reduced the number of storm water facilities in the Coastal Zone that will be maintained.

Pacific Beach Dr./Olney St.	Earthen	900	10
Tijuana River	Earthen	5,400	23
Smuggler's Gulch	Earthen	3,040	20

As described by the City, the Master Storm Water System Maintenance Program (Master Program) is intended to guide the long-term maintenance of storm water facilities maintained by the City of San Diego's Transportation & Storm Water Department's Storm Water Division (SWD). The purpose of the project is to maintain storm water facilities to provide adequate flood control. The Master Program describes the maintenance techniques to be employed as well as the protocols to be followed to minimize the impacts to environmental resources.

The scope of work includes primarily the removal of accumulated vegetation and/or sediment to restore conveyance capacities. The work is typically done with mechanized equipment, but when access is unavailable, it will be done by hand. Impacts to sensitive resources and water quality would be minimized through a number of avoidance measures, construction methodologies and BMPs detailed in the Master Program. Unavoidable impacts would be mitigated at the ratios included in the LCP or for maintenance areas where clearing has occurred previous and mitigation for impacts already completed, no additional mitigation is proposed.

The Master Program includes a process by which individual storm water facility maintenance would be identified and prioritized annually through an evaluation process that considers the costs and benefits of maintenance of each facility in meeting flood control and water quality goals. Each year, an Annual Maintenance Priority List would be established for the upcoming fiscal year.

Once the priority list is established, the City will complete a series of studies, the goal of which is to determine the best way to maximize flood control while minimizing impacts on sensitive biological resources and water quality. These studies include individual biological, historical, hydrologic, water quality and noise assessments. Based on the results of these studies, the City will prepare an Individual Maintenance Plan (IMP) for each maintenance activity. The IMPs would identify the width of the facility to be cleared, maintenance methods and equipment to be used, access roads/paths, staging areas and schedules. The goal of the IMPs would be to minimize the amount of clearing in order to reduce impacts on sensitive biological resources while providing necessary flood control capacity.

Annual maintenance would then be authorized through a process known as Substantial Conformance Review (SCR). Under the SCR process, the City's Development Services Department (DSD) would evaluate the potential impacts associated with annual maintenance proposals and compare them with the impacts analyzed in the certified Program Environmental Impact Report (PEIR), and with the objectives, standards, guidelines, and conditions of the Coastal Development Permit. While the PEIR did analyze potential impacts, it was done on a programmatic basis. For example, impacts on sensitive biological resources were estimated for the entire project based on certain assumptions. The SCR process would utilize a comprehensive checklist included in the Master Program to confirm whether or not the proposed maintenance is consistent with the Master Program and PEIR. The checklist includes an itemized list of the

mitigation measures in the PEIR and maintenance protocols included in the Master Program. In addition to the SCR checklist, the City would use the (IMPs) to assess the project. If DSD determines, based on the site-specific analysis and SCR checklist, that the proposed maintenance activities have been adequately addressed pursuant to the Master Program, PEIR and associated mitigation measures, maintenance protocols and required BMPs, then a Notice of Future Decision will be posted at the project site and mailed to property owners/residents within 300 ft. of the site and also to interested persons. The public then has 12 business days to file an appeal of the City staff's decision to the Planning Commission. The Planning Commission hearing will then be scheduled within 60 days and at that time, they will make a decision to affirm, reverse or modify the City staff's decision. If a maintenance activity is determined not to be in substantial conformance, then a new or amended permit would be required along with subsequent environmental review.

Concurrent with the City SCR process, information on the proposed project will be submitted to the appropriate State and Federal Resource Agencies for approval under the terms and conditions of their respective permits. The agencies will review the application and supporting documentation to determine consistency of the project with the specific terms of the permit issued by their agency. If any of the agencies determine that one or more of the maintenance activities are not consistent, then the City would have to work with the concerned agency to identify additional measures that would be necessary to bring the activities in compliance. The City will not begin work on any maintenance activity until they have approval of the State and Federal Resource Agencies with jurisdiction over the affected biological resources. To assure that the Coastal Commission has the same opportunity to comment on the yearly projects, **Special Condition #2** is proposed. This condition requires that the City's SCR process be revised to include review by the Executive Director of the Commission. If the Executive Director determines any identified project is not consistent with the program, than that project would be deleted or reviewed under a separate CDP.

B. STANDARD OF REVIEW

After the Commission has certified a Local Coastal Program (LCP), Section 30603 of the Coastal Act provides for appeals to the Coastal Commission of the certified local government's actions on certain types of development applications (including those proposing development between the sea and the first public road paralleling the sea, development within 300 feet of the top of the seaward face of any coastal bluff and development located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream). The locally-approved master coastal development permit covers various drainages located within the City of San Diego's Coastal Zone and is thus appealable to the Commission. In this case, two commissioners, Coastal Environmental Rights Foundation (CERF), and San Diegans for Open Government appealed the City's approval of the underlying 20 year San Diego Master Storm Water Maintenance Program to the Commission. As noted above, the Commission opened a public hearing on March 7, 2012, and found that the appeal raised a substantial issue. In its "de novo" review of this application, the Commission's standard of review for the proposed development is whether it would conform with the policies and provisions of the City of San

Diego's certified Local Coastal Program (LCP) and the public access and recreation policies of the Coastal Act since portions of the project area are located between the sea and the first public road paralleling the sea. The LCP consistency issues raised by the proposed development are discussed in the following sections

C. MAINTENANCE/PERMIT HISTORY

As noted, the project subject to this review occurs in generally three areas of the City: Sorrento Valley, Mission Bay Park/Pacific Beach and the Tijuana River Valley. With the exception of the channels proposed for maintenance in Mission Bay Park/Pacific Beach, maintenance has occurred within various segments of the channels/creeks/rivers subject to this review as follows:

Sorrento Valley

To address on ongoing flooding problem that affected both public streets and private industrial development, the City issued itself an emergency coastal development permit in 1997 for the clearance of vegetation in Sorrento Creek. Subsequently, annual maintenance (for 10 years) of Sorrento, Soledad and Los Penasquitos Creeks was permitted by the City in 2000 (ref. SCR/CDP No. 96-7762). Pursuant to this permit, the City performed maintenance dredging in 2000, 2001 and 2003 using an excavator. In 2004, maintenance only included the trimming of vegetation. In 2006, the City modified the project (through a substantial conformance review) to incorporate measures to reduce water quality impacts resulting from the maintenance. Subsequently, in the winter of 2009/2010, the City performed emergency maintenance in some channel segments (ref. Emergency CDP #818358).

To address mitigation for impacts of the above cited channel improvements, the City obtained a coastal development permit from the Commission in January of 2000. The project was to create a mitigation bank, just east of the Sorrento Valley within the Los Penasquitos Canyon (known as the "El Cuervo" Mitigation site) through the creation of approximately 12.5 acres of wetland habitat by removing existing berms and fill, recontouring the site and revegetating with riparian species (ref. CDP #6-99-101). Subsequently, the City expanded the site with the creation (7.27 acres) and enhancement (4.80 acres) at the City's "El Cuervo" Mitigation Site (ref. CDP #6-04-118).

Mission Bay Park/Pacific Beach

No maintenance activities have occurred in these channels.

Tijuana River Valley

The proposed project is part of a large ongoing restoration and flood control maintenance effort in a largely undeveloped region of the Tijuana River Valley that was primarily initiated in 1993 through emergency flood control work activities and followed up with a City issued CDP in 1998 (Ref. 6-TJN-98-232). The emergency flood control activities that took place in 1993 as a

result of severe El Nino storms included removal of 3,500 cubic yards of illegally placed fill in several locations (and associated habitat restoration and enhancement mitigation of a 45.9 acre site within the Tijuana River Valley through CDP 6-TJN-94-38), reconstruction of an erodible berm that helps to direct low flows in the river into the appropriate storm water control channels, formation and repair of a pilot channel, widening of Smuggler's Gulch channel to accommodate increased flood flows, and repair and armoring of flood control berms adjacent to two residential developments. The flood control activities permitted in 6-TJN-98-232 resulted in 3.3 acres of new wetland impacts, which were required to be mitigated at a 3:1 creation/restoration ratio. The required mitigation for that project created/restored 9.9 acres of riparian habitat located on the south side of the Tijuana River, near the western terminus of the Pilot Channel. The mitigation site was completed in 1995 and has expanded from 9.9 acres to 11.02 acres of riparian habitat since that time. The proposed project will occur in the same locations and footprint as the original 1993 emergency work.

Because the Mater Storm Water Permit was taking longer than expected due to litigation and other unforeseen circumstances, the City decided to process a separate permit for the Tijuana River Valley. In 2011, the City approved a CDP for long-term maintenance of the Pilot Channel and Smuggler's Gulch. The City's action was appealed to the Coastal Commission who found the project did not raise a substantial issue with regards to the grounds of the appeal (ref. Appeal No. A-6-TJN-11-084). However, this permit has not been able to be implemented due to pending litigation.

D. PROTECTION OF SENSITIVE BIOLOGICAL HABITAT

The City's storm water system is distributed over 342 square miles. As such, the physical attributes vary with individual components of the storm water system. Within the Coastal Zone, the storm water facilities affected by the subject permit contain a large diversity of vegetation and wildlife. Wetland/riparian vegetation communities exist as do sensitive upland habitats and many animal species. As such, the project has the potential to adversely impact these sensitive coastal resources.

The following are applicable LCP policies from several of the Land Use Plans affected by the proposed project:

Torrey Pines Community Plan – Local Coastal Program Policies

WETLANDS/ENVIRONMENTALLY SENSITIVE RESOURCES

The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted where there is no feasible, less environmentally damaging alternative, where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following newly permitted uses and activities:

1. 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.
2. Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
3. Restoration purposes.
4. Nature study, aquaculture or similar resource-dependent activities.

Pacific Beach Community Plan – Local Coastal Program Policies

OPEN SPACE PRESERVATION

1. Designate the Rose/Creek inlet and flood control channel as open space, and further develop the area adjacent to the floodway as a linear parkway with native riparian landscaping, pedestrian and bicycle paths. Pursue funding sources, such as grants or landscape maintenance districts to facilitate development and maintenance of this area. Develop and use maintenance standards for the flood control channel that will reconcile the conflicting goals of maintaining the channel to control floods and minimizing disturbance of the natural riparian habitat.

Tijuana River Valley Land Use Plan- Specific Recommendations,

(E) Environmentally Sensitive Habitat Areas

- The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted 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 minor incidental public service projects, restoration purposes, nature study and mineral extraction.

The following provisions of the certified LCP Land Development Code are applicable to the proposed project and state, in part:

Section 143.0101 Purpose of Environmentally Sensitive Lands Regulations [ESL]

The purpose of these regulations is to protect, preserve and, where damaged, restore, the *environmentally sensitive lands* of San Diego and the viability of the species supported by those lands. These regulations are intended to assure that *development*, including, but not limited to *coastal development* in the Coastal Overlay Zone, occurs in a manner that protects the overall quality of the resources and the natural and topographic character of the area, encourages a sensitive form of *development*, retains biodiversity and interconnected habitats, maximizes physical and visual public access to and along the shoreline, and reduces hazards due to *flooding* in specific areas while minimizing the need for construction of *flood* control facilities. These regulations are intended to protect the public health, safety, and welfare while employing regulations that are consistent with sound resource conservation principles and the rights of

private property owners.

Section 143.0130 - Uses Allowed Within Environmentally Sensitive Lands

Allowed uses within environmentally sensitive lands are those allowed in the applicable zone, except where limited by this section.

[…]

(d) Wetlands in the Coastal Overlay Zone. Uses permitted in wetlands shall be limited to the following:

(1) Aquaculture, wetlands-related scientific research and wetlands-related educational uses;
(2) Wetland restoration projects where the primary purpose is restoration of the habitat;
(3) Incidental public service projects, where it has been demonstrated that there is no feasible less environmentally damaging location or alternative, and where mitigation measures have been provided to minimize adverse environmental effects.

(e) Wetland Buffer Areas in the Coastal Overlay Zone. Permitted uses in wetland buffer areas shall be limited to the following:

(1) Public Access paths;
(2) Fences;
(3) Restoration and enhancement activities; and
(4) Other improvements necessary to protect wetlands.

Section 143.0141 - Development Regulations for Sensitive Biological Resources

Development that proposes encroachment into sensitive biological resources or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations and the Biology Guidelines in the Land Development Manual.

(a) State and federal law precludes adverse impacts to wetlands or listed noncovered species habitat. The applicant shall confer with the U.S. Army Corps of Engineers, U.S. Fish & Wildlife Service and/or California Department of Fish and Game before any public hearing for the development proposal. The applicant shall solicit input from the Resource Agencies on impact avoidance, minimization, mitigation and buffer requirements, including the need for upland transitional habitat. The applicant shall, to the maximum extent feasible, incorporate the Resource Agencies' recommendations prior to the first public hearing. Grading or construction permits shall not be issued for any project that impacts wetlands or Listed non-covered species habitat until all necessary federal and state permits have been obtained.

(b) Outside and inside the MHPA, impacts to wetlands, including vernal pools in naturally occurring complexes, shall be avoided. A wetland buffer shall be maintained around all wetlands as appropriate to protect the functions and values of the wetland. In the Coastal Overlay Zone the applicant shall provide a minimum 100-foot buffer, unless a lesser or greater buffer is warranted as determined through the process described in 143.0141(a). Mitigation for impacts associated with a deviation shall achieve the goal of no-net-loss and retain in-kind functions and values.

(c) Inside the MHPA, development shall avoid impacts to narrow endemic species. Outside the MHPA, measures for protection of narrow endemic species shall be required such as management enhancement, restoration and/or transplantation. A list of narrow endemic species is included in the Biology Guidelines in the Land Development Manual.

[…]

(i) All development occurring in sensitive biological resources is subject to a site-specific impact analysis conducted by the City Manager, in accordance with the Biology Guidelines in the Land Development Manual. The impact analysis shall evaluate impacts to sensitive biological resources and CEQA sensitive species. The analysis shall determine the corresponding mitigation, where appropriate, and the requirements for protection and management.

Land Development Code Biological Guidelines

B. Identification of the Mitigation Program

1. Mitigation Element. Mitigation must be determined on a case-by-case basis. Mitigation refers to actions to help sustain the viability and persistence of biological resources, as exemplified below. Mitigation will consist of actions that either compensate for impacts by replacing or providing substitute habitats, or rectify the impact by restoring the affected habitats. The requirements of the mitigation will be based on the type and location of the impacted habitat, and additionally for uplands, on the location of the mitigation site. The Mitigation Element will consist of a discussion of the amount (i.e. quantity) and the type (i.e. method) of mitigation.

   The following guidelines are provided to achieve consistency and equity among projects. Mitigation for specific projects may differ depending on site-specific conditions as supported by the Project-level analysis.

   a. Mitigation for Wetlands Impacts

      The ESL regulations require that impacts to wetlands be avoided. Unavoidable impacts should be minimized to the maximum extent practicable, and mitigated as follows:

As part of the project-specific environmental review pursuant to CEQA, all unavoidable wetlands impacts (both temporary and permanent) will need to be analyzed and mitigation will be required in accordance with Table 2; mitigation should be based on the impacted type of wetland habitat. Mitigation should prevent any net loss of wetland functions and values of the impacted wetland.

[…]

Wetland creation is an activity that results in the formation of new wetlands in an upland area. An example is excavation of uplands adjacent to existing wetlands and the establishment of native wetland vegetation.

Wetland restoration is an activity that re-establishes the habitat functions of a former wetland. An example is the excavation of agricultural fill from historic wetlands and the re-establishment of native wetland vegetation.

Wetland enhancement is an activity that improves the self-sustaining habitat functions of an existing wetland. An example is removal of exotic species from existing riparian habitat.

Wetland enhancement and wetland acquisition focus on the preservation or the improvement of existing wetland habitat and function, and do not result in an increase in wetland area; therefore, a net loss of wetland may result. As such, acquisition and/or enhancement of existing wetlands may be considered as partial mitigation only, for any balance of the remaining mitigation requirement after restoration or creation if wetland acreage is provided at a minimum of a 1:1 ratio. For permanent wetland impacts that are unavoidable and minimized to the maximum extent feasible, mitigation shall consist of creation of new, in-kind habitat to the fullest extent possible and at the appropriate ratios. **In addition, unavoidable impacts to wetlands located within the Coastal Overlay Zone shall be mitigated on-site, if feasible. If on-site mitigation in not feasible, then mitigation shall occur within the same watershed. All mitigation for unavoidable wetland impacts within the Coastal Overlay Zone, shall occur within the Coastal Overlay Zone.** [emphasis added]

[…]

The mitigation ratios, set forth in Table 2, in combination with the requirements for no-net-loss of functions and values and in-kind mitigation, are adequate to achieve the conservation goals of the City's MSCP Subarea Plan for wetlands habitats and covered species which utilize those habitats. […]

The City's storm water system is comprised of a number of different types of facilities designed to transport storm runoff through the metropolitan area. The storm water system includes a series of natural (earthen) and man-made (concrete, rip rap) channels which are used to convey

storm water and urban runoff. During high-flow storm events, vegetation may cause flooding by slowing the velocity of floodwater while sediment may diminish the conveyance capacity of the facility reducing the remaining freeboard able to handle flows. Thus, the City is proposing maintenance involving primarily the removal of accumulated vegetation and/or sediment to restore conveyance capacities within the storm water facilities.

a. Wetland Impacts

Within some of these drainages and the surrounding area, there exist wetlands, sensitive uplands and various wildlife species. With the master permit approved by the City, impacts to wetland resources will occur. The following is a discussion of each of the three areas covered by this permit and the impacts anticipated over the life of the permit. Based on a worst case scenario, the City has estimated the amount of project impacts in each of the channel segments as follows:

Sorrento Valley

Channel Segment/Type	Channel Acreage/Impacts
Soledad Creek – Concrete Lined	3.10 acres total (2.85 acres unvegetated; .25 acres freshwater marsh)
Soledad Creek – Earthen Bottom	.84 acres wetlands (no specific type identified)
Sorrento Creek – Earthen Bottom	1.88 acres wetlands (no specific type identified)
Flinkote Channel – Concrete Lined	.30 acres total (.15 acres unvegetated; .15 acres freshwater marsh)
Los Penasquitos Creek – Earthen Bottom	2.75 acres wetlands (no specific type identified)

Mission Bay Park/Pacific Beach

Channel Segment/Type	Channel Acreage/Impacts
Mission Bay High School – Concrete Lined	.21 acres total (.08 unvegetated; .13 acres freshwater marsh)
Pacific Beach Dr./Olney St. – Concrete Lined	.04 acres unvegetated
Pacific Beach Dr./Olney St. – Earthen Bottom	.21 acres total (.03 acres unvegetated; .18 acres freshwater marsh)

Tijuana River Valley

Channel Segment/Type	Channel Acreage/Impacts
Tijuana River Pilot Channel – Earthen Bottom	2.85 acres wetlands (no specific type identified)
Smuggler's Gulch – Earthen Bottom	1.40 acres wetlands (no specific type identified)

As noted previously, the above cited habitat impacts to the various channel segments are based on a worst case scenario. Each year, when the priority channels are chosen, site specific studies will be prepared. These studies include individual biological, historical, hydrologic, water

quality and noise assessments. Based on the results of these studies, the City will prepare an Individual Maintenance Plan (IMP) for each maintenance activity. The IMPs would identify the width of the facility to be cleared, maintenance methods and equipment to be used, access roads/paths, staging areas and schedules. The goal of the IMPs would be to minimize the amount of clearing in order to reduce impacts on sensitive biological resources while providing necessary flood control capacity. As such, it is at this time when the actual amount of habitat impacts will be identified.

However, for the purposes of this review, it is assumed that the entire amount of impacts identified above will be impacted. Based on the information submitted by the City as described above, a total of 10.43 acres of wetlands could be impacted by the project. Therefore, the proposed master storm water permit would result in the dredging of wetlands as defined by the City's LCP; and, thus, the project is subject to review by the Commission for consistency with the requirements of the City's certified LCP.

The above cited LCP provisions set forth a number of limitations on what development projects may be allowed in coastal wetlands, sensitive habitat areas, and coastal waters, or that may affect coastal resources. For analysis of whether a filling, diking or dredging project in a wetland is allowable under the City's certified LCP, there are three general tests:

- that the purpose of the filling, diking, or dredging is for one of the specific uses allowed;

- that the project has no feasible less environmentally damaging alternative; and

- that feasible mitigation measures have been provided for all remaining unavoidable impacts to minimize adverse environmental effects.

Allowable Use

Under the first of these tests, a project must qualify as one of the identified allowable uses. In this particular case, the proposed development, with the special conditions attached hereto, meets the above requirements. The sole purpose of the project is to maintain several of the City's major storm water channels, which serves a significant portion of the City. This activity qualifies as serving incidental public service purposes, as the City will be maintaining existing public flood facilities. Incidental public service projects are allowed in wetlands under both the City's LCP.

The proposed project involves maintenance of existing channels to provide better flood protection for the surrounding watershed areas. The City has indicated that without the proposed maintenance, existing surrounding development would be subject to flooding during most storm events. The proposed channel maintenance represents a use that is incidental to the existing flood control system. The flood control system provides a public service in that it protects the general public as well as public and private property from flooding. Thus, the proposed development is both incidental and serves a public service purpose. Thus, as an incidental public service use, the project constitutes an allowable use under the City's LCP. Therefore, the

proposed development is consistent with the City's LCP with regard to uses allowed within wetlands.

Feasible, Less Environmentally Damaging Alternatives

The second test of the City's certified LCP is whether there are feasible less environmentally damaging alternatives to the proposed project. Under the LCP, adverse impacts on the environment must be avoided if possible as a first priority when considering a proposed project. In cases where a thorough analysis and review determine that adverse impacts on the environment posed by the proposed project cannot be feasibly avoided through the selection of a different alternative, the LCP further requires the consideration of alternatives that would reduce the unavoidable adverse impacts on the environment posed by the subject project. Only after determining that a proposed project's adverse impacts on the environment cannot be feasibly avoided or further reduced through the selection of feasible alternatives to the project does the consideration of mitigation for adverse impacts become possible.

If the Commission can, through such analysis, conclude that "there is a feasible less environmentally damaging alternative than the proposed development" then approval of the subject coastal development permit would be inconsistent with the City's LCP. If, however, the Commission analyzes the alternatives to the project and determines that the proposed project is the only feasible less environmentally damaging alternative while still achieving the intended goals of the project, then the Commission review of the subject project proceeds through the remaining test of the relevant LCP policies.

The project will result in permanent impacts to approximately 10.43 acres of wetland habitat as a result of the proposed maintenance. However, the proposed alternative represents the least environmentally damaging, feasible alternative and thus the preferred alternative. The City did look at a number of alternatives to the project to either eliminate or reduce impacts on sensitive coastal resources. These alternatives include the 1) No Project - No Maintenance performed; 2) Raising the channel banks using walls and berms; 3) Diverting storm water into pipes around constrained areas; 4) Widening channels to accommodate vegetation; 5) Off-Site runoff reduction – Low Impact Development (LID); and, 6) Obtain individual permits for each project each year. Each of the alternatives is discussed in detail below:

No Project Alternative – Under this alternative the City would not conduct any maintenance activities. The City has determined that the primary cause of flooding and property damage in the project areas is due to the accumulation of sediment, trash/debris and vegetation. Without such maintenance, flooding and property damage will continue. Although this alternative is the environmentally-preferred alternative because it avoids significant environmental impacts, it would not meet the basic object of the project to protect life and property from flooding. Thus, this alternative was determined to be infeasible.

Raised Bank Alternative – Under this alternative walls or levees would be constructed along the tops of the channels to allow them to have a larger carrying capacity to compensate for the accumulation of sediment and vegetation in the channels. Although this alternative would likely have fewer impacts to wetlands and water quality, the City determined this alternative to be

infeasible due to its temporary nature and overall, would likely not be less environmentally-damaging than the proposed project. The City determined this alternative to be temporary in that over time, sediment and vegetation accumulation would eliminate any increased flood capacity of the channel created by the structures. Thus, this alternative was determined to be infeasible.

Channel By-Pass Alternative – This alternative would involve the construction of underground pipes that would divert some or all of the flow around a channel segment to allow the channel vegetation to remain. While this alternative is environmentally preferable because it would result in fewer impacts to wetlands and water quality, the City determined it to be economically and socially infeasible. The City determined that the estimated cost of such an alternative would be $540,000.00 per channel segment. This does not include any necessary easements or condemnation of structures/property to achieve the project. In addition, it is likely such an alternative would only be temporary as vegetation and sediment would continue to accumulate in the channels resulting in need for more or increased pipes sizes. Thus, this alternative was determined to be infeasible.

Widened Channel Alternative – This alternative would involve the widening and deepening of the existing channels to increase their capacity. The goal of this alternative would be to enable the vegetation to exist in the channel without causing flooding. Again, while this alternative would likely result in a significant reduction in impacts related to wetlands, the City determined it to be economically and socially infeasible due to its costs and impacts on adjacent property owners. The City for the most part has very little right-of-way beyond the existing channels. Thus, to implement this alternative, the City would need to purchase adjacent property and/or secure easements from landowners. Aside from these costs, significant grading would be necessary and together, the City estimates that this alternative would cost $280,000.00 per 100 lineal feet of channel, making the cost infeasible. In addition, this alternative would also only be temporary in that over time, vegetation and sediment would accumulate in the widened channels resulting in the need for maintenance. Thus, this alternative was determined to be infeasible.

The Off-Site Runoff Reduction/Low Impact Development (LID) Alternative - This alternative would involve implementing low impact development (LID) measures upstream to reduce the volume of urban runoff entering the channels. The City has indicated that the LID process is intended to mimic predevelopment hydrological conditions by using design practices and techniques to effectively capture, filter, store, evaporate, detain and infiltrate runoff close to its source. The City has determined that while this alternative could potential result in fewer impacts, it fails to meet the project's main objective of protecting health and safety and recurring flood risk. In addition, the City already requires new development and redevelopment projects to implement LID measures. On a City-wide basis, LID is not likely to substantially decrease the volume of urban runoff entering channels within a reasonable time frame or within the limits of this five year permit. The City estimates that it will take decades before there is a substantial reduction in runoff volume and thus reduce the need for maintenance in existing channels. Thus, this alternative was determined to be infeasible

Obtain Individual Permits Alternative – This alternative involves the status quo and obtaining permits for maintenance on an as-needed basis as has been done historically. The City rejected

this alternative because it does not meet the basic project goal of providing a comprehensive approach to maintenance that several of the resource agencies have requested that the City pursue. Thus, this alternative was determined to be infeasible

The City has determined that none of the identified alternatives are feasible substitutes for the proposed master maintenance program. As noted above, the City has indicated that each of the identified alternatives either do not meet the project objectives of protecting life and property from flooding, would result in greater overall impacts or would be cost prohibitive. The Commission concurs with the City's analysis. In order to reduce the risk of flooding, maintenance of existing flood control facilities is necessary. While programs are being implemented City wide to reduce the quantity of runoff and improve the quality of runoff, which will help, over time, to reduce the frequency of future channel maintenance, those programs by themselves do not eliminate the need for the project (these will be discussed in more detail in a subsequent section of this report).

In addition, each year when the annual projects are developed, additional studies will be prepared to determine exactly the amount of clearing necessary and the amount of impacts associated with such clearing. At that time, the City will work to further minimize impacts and again look at alternatives that would help to reduce impacts on sensitive coastal resources. Additionally, and as will be discussed in a subsequent section of this report, several of the channels proposed for maintenance have already had channel maintenance that was reviewed and approved by the necessary agencies and mitigation provided for the impacts to habitat. Thus, effectively, no new impacts will occur in those channels. Therefore, as discussed above, the Commission has considered alternatives, including the no-project alternative and the proposed project. The Commission finds for the reasons set forth above that there are no feasible, less environmentally damaging alternatives to the proposed project.

Feasible Mitigation Measures

The third test set forth by the City's LCP is whether feasible mitigation measures have been provided to minimize significant adverse environmental impacts. As noted previously, based on a worse case scenario, the proposed project could result in up to approximately 10.43 acres of wetland impacts. Typically, the Commission has found that mitigation for wetland impacts should occur at ratios of either 4:1 or 3:1 (or greater in some instances). In addition, the Commission typically requires that mitigation be as near as possible to the area of impact, within the Coastal Zone and that the mitigation habitat be the same type of habitat as that impacted. The City's LCP (Biological Guidelines cited above) detail the mitigation requirements for all unavoidable impacts to wetlands. The City is proposing to mitigate for wetland impacts consistent with the requirements of the LCP. Specifically, the City's is proposing to mitigate for impacts to riparian wetlands at a 3:1 ratio and freshwater marsh at a 4:1 ratio, with at least a 1:1 component to include creation of new habitat to try and assure a no net loss.

With the original project approved by the City, the project did not identify potential mitigation sites nor specifically identify that impacts to wetlands in the Coastal Zone needed to be mitigated within the Coastal Zone. However, the City has revised its application to include that impacts to wetlands in the Coastal Zone will be mitigated within the Coastal Zone. In addition, the City has

identified a number of potential mitigation sites within the same watershed(s) and with the Coastal Zone in which necessary mitigation could occur.

While the City has identified specific mitigation ratios and sites, there also is an additional consideration relative to mitigation for habitat impacts associated with the proposed project. Most of the channel segments proposed for maintenance with this permit have been previously maintained, cleared and mitigated for pursuant to permits issued by the City and Coastal Commission (ref. Section B above). Thus, while impacts to vegetation will occur, most of the impacts will occur within the same channel and same foot print as those previously cleared and mitigated for. Under such circumstances, the City is not proposing to include additional mitigation. In other words, for those channel segments that are being cleared that have previously been cleared and mitigated for, the City is not proposing to provide additional mitigation. Below is a table that details each of the channel segments where work is proposed, if work/mitigation has previously been approved and proposed mitigation.

Sorrento Valley

Channel Segment/Type	Previous Permits/Mitigation	Additional Mitigation Proposed
Soledad Creek – Concrete Lined	2010 Emergency Maintenance – no follow-up permit – No mitigation previously provided	4:1 mitigation proposed for impacts to freshwater marsh to include 1:1 creation
Soledad Creek – Earthen Bottom	Within footprint of 1996/1997 authorizations and mitigated at El Cuervo Mitigation Site.	None
Sorrento Creek – Earthen Bottom	Within footprint of 1996/1997 authorizations and mitigated at El Cuervo Mitigation Site.	None
Flinkote Channel – Concrete Lined	2010 Emergency Maintenance – no follow-up permit – No mitigation previously provided	4:1 mitigation proposed for impacts to freshwater marsh to include 1:1 creation
Los Penasquitos Creek – Earthen Bottom	Within footprint of 1996/1997 authorizations and mitigated at El Cuervo Mitigation Site	None

Mission Bay Park/Pacific Beach

Channel Segment/Type	Previous Permits/Mitigation	Additional Mitigation Proposed
Mission Bay High School- Concrete Lined	None	4:1 mitigation for impacts to wetlands to include 1:1 creation
Pacific Beach Dr./Olney St. – Concrete Lined	None	None
Pacific Beach Dr./Olney St. – Earthen Bottom	None	4:1 mitigation for impacts to wetlands to include 1:1 creation

Tijuana River Valley

Channel Segment/Type	Previous Permits/Mitigation	Additional Mitigation Proposed
Tijuana River Pilot Channel – Earthen Bottom	Within the footprint of several past permits. Mitigation for impacts occurred adjacent to channel and was successfully completed in 2001	2:1 removal of exotics within and around the channel
Smuggler's Gulch – Earthen Bottom	Within the footprint of several past permits.	2:1 removal of exotics within and around the pilot channel

As detailed above, the proposed project will result in adverse impacts to approximately 10.43 acres of wetland habitat over the 5 year term of the permit. The impacts identified herein are a worse case scenario. Each year, specific projects will be identified and impacts associated with those projects will be reviewed and minimized to the extent feasible. In addition, for a number of the channel segments proposed for maintenance, work will occur within the same footprint as previously permitted channel maintenance projects that have already provided mitigation for unavoidable impacts. For those channels, the City is not proposing any additional mitigation. The Commission's Staff Ecologist, Dr. John Dixon has reviewed the City's proposal and generally concurs with the City's approach that once impacts are mitigated, additional mitigation is not necessary for clearing the same channel in the future. However, he has raised one particular issue. If areas that were not previously utilized by sensitive species and were previously cleared with mitigation provided are now being utilized by sensitive animal species, additional mitigation should be required. In such circumstances, the City should consult with the California Department of Fish and Game and/or U.S. Fish and Wildlife Service and propose additional mitigation. In this way, the changed circumstances will be addressed and the Commission can be assured that impacts not previously addressed are now being mitigated. . **Special Condition #9b** has been added to address this issue.

For any new impacts, the City is proposing to mitigate for identified impacts, in kind, and at ratios identified in the PEIR. Additionally, the mitigation sites will be located within the same watershed as where the impacts occur and within the Coastal Zone. The Commission's staff ecologist has reviewed the project and other than requesting some adjustments to several of the mitigation ratios, concurs with the City's proposed mitigation. To assure adequate mitigation is provided, **Special Condition #9** is attached. This condition requires that all wetland impacts shall be mitigated at a ratio of 1:1 for temporary impacts, 2:1 for Natural flood channels, 3:1 for impacts to Riparian habitat, and 4:1 for impacts to Freshwater Marsh and Disturbed wetland. In addition, this condition requires that a minimum 100 ft. buffer, approved by the Department of Fish and Game, shall be provided from all newly created wetland/riparian habitat on the off-site mitigation site(s).

The Commission finds that to ensure that the mitigation is successful and that the mitigation area(s) become fully established, functioning wetland habitat, the area must achieve significant vegetative cover. Therefore, **Special Condition #10** requires submittal of a revised monitoring

program to include provisions for monitoring the site for five years or until the site achieves the required vegetative cover. Although as submitted, the applicant's mitigation plan calls for monitoring, the plan does not explicitly provide for the submittal of monitoring reports to the Commission to ensure the mitigation site becomes established with wetland vegetation as proposed. Therefore, **Special Condition #10** also requires that the monitoring program include provisions for submittal of monitoring reports to the Commission each year. If the final report indicates that the mitigation project has been unsuccessful, in part, or in whole, based on the approved performance standards, the applicant is required to submit a revised or supplemental revegetation program to compensate for those portions of the original program which did not meet the approved performance standards.

The proposed project serves the public purpose of protecting the general public and public and private property from flooding. The proposed project serves an incidental public service purpose because it will repair and maintain existing flood control channels. Therefore, the proposed development meets the requirement of the City's LCP that it be one of the specifically enumerated allowable uses. As described previously, a number of project alternatives were considered and the proposed project represents the least environmentally damaging feasible alternative.

b. Upland Habitat/Wildlife Impacts

As noted above, the proposed maintenance will occur within existing concrete and natural channels. These areas contain wetland and native upland habitats as well as sensitive bird and animal species. The EIR for the City's Master Maintenance Program identifies that impacts to native upland habitat will occur as a result of the necessary maintenance throughout the City. However, the City has not identified whether or not any impacts to native upland habitat will occur as a result of the proposed maintenance within the Coastal Zone. Based on the habitat mapping done for the project, there is no sensitive upland habitats located in the channels proposed for maintenance; however such habitat may exist in areas surrounding the channels. As such, impacts to upland habitat are not anticipated as removal of such habitat is not necessary for improvement of flood conveyance within the identified channels. Thus, if impacts to upland habitat are to occur, they would likely occur as a result of mobilization of equipment, gaining access to the channels themselves and/or staging of equipment to truck excavated sediment and vegetation to offsite disposal areas, but impacts are not anticipated.

However, each year when the annual projects are developed, additional studies will be prepared to determine exactly the amount of clearing necessary and the amount of impacts associated with such clearing. At that time, the City will work to minimize impacts and again look at alternatives that would help to eliminate or reduce impacts on sensitive coastal resources.

According to the City's LCP Biological Guidelines, mitigation for impacts to sensitive upland habitats can be achieved in various ways. These include offsite acquisition, onsite preservation, habitat restoration and monetary compensation. For the proposed project, if impacts are identified, the City is proposing to mitigate through payment into the City's Habitat Acquisition Fund, acquisition and preservation of specific land, or purchase of mitigation credits from a

designed mitigation bank. According to the PEIR for the project, depending on the type of habitat impacted and whether or not it is located within the City's Multiple-Habitat Planning Area (MHPA), the City is proposing various mitigation ratios ranging from 0.5:1 for non-native grasslands to 2:1 for Coast live oak woodland. Again, while no sensitive upland habitat impacts have been identified, it is possible some may occur. As such, **Special Condition #11** requires that a final mitigation program for upland habitat be submitted that identifies that all impacts to unoccupied Coastal sage scrub habitat shall be mitigated at a ratio of 2:1 and 3:1 for Coastal sage scrub habitat occupied by California gnatcatchers or other listed species. Such ratios are consistent with past Commission precedent and will assure if such impacts occur, they will be adequately mitigated.

In addition, while the program does include measures to help protect sensitive animal and bird species (including threatened and endangered species that occur in project limits) during maintenance activities, surveys of such species within the project limits have not been conducted and it is unknown what impacts the project will have on these species. Again, the exact extent of impacts to sensitive biological resources (including wetlands, uplands, birds and animals) will not be known until each of the particular maintenance projects are identified and prioritized.

As such, just the same as with upland habitat impacts, the removal operations and periodic maintenance may also result in unintentional adverse impacts to sensitive bird species if they are located within the vegetation removal area when such work occurs or as a result of noise from the mechanical equipment used for the maintenance. The start of nesting season for bird species in these areas varies from February 15 to April 30 and can extend through September.

Therefore, due to the fact that all of the sites have the potential to provide habitat for sensitive bird species, it is necessary to ensure that nesting/foraging bird species are protected during construction activities. In this case, in order to minimize potential adverse impacts to bird species, **Special Condition #5** prohibits both water-based and land-based vegetation removal activities, as well as excavation within the channels, during the bird nesting season (February 15 through September 15), unless approved in writing by the U.S. Fish and Wildlife Service or the California Department of Fish and Game.

The applicant had initially requested authorization to undertake channel maintenance activities on an annual basis as needed for a period of twenty years. However, based on concerns raised by this proposal related to protection of sensitive biological resources, the City modified their request to allow maintenance activities for a five year period. In San Diego County, the Commission has, on occasion, granted agencies multi-year permits for activities involving maintenance of lagoons mouths and tidal prisms in order to reduce both Commission and District staff workload associated with processing repetitive, routine coastal permits. Given the fact that habitat and other circumstances can change over time and techniques for addressing channel maintenance removal needs can also evolve, the Commission, in this particular case, chooses to grant the permit for a five year period as proposed by the applicant. **Special Condition #1** limits the authorized development to five years and states that any maintenance beyond this period would require review pursuant to an amendment to this permit or a new coastal development permit.

In summary, the Commission finds that the proposed maintenance activities are consistent with the certified LCP. The proposed impacts to wetlands are for an incidental public service, have been minimized to the maximum extent feasible and adequate mitigation is provided. In addition, no impacts to sensitive upland habitats have been identified. However, should impacts occur, the City must provide mitigation at acceptable ratios consistent with relevant LCP provisions. Therefore, as conditioned, the Commission finds the proposal consistent with the biological resource policies of the certified LCP.

E. PROTECTION OF WATER QUALITY/DOWNSTREAM RESOURCES/HAZARDS

As the proposed development will occur within various drainages, water quality impacts can occur as a result of the proposed maintenance both on site and downstream.

The following provision of the Torrey Pine Community Plan – Land Use Plan pertains to the proposed development:

7. Riparian vegetation in channels through the Sorrento Valley industrial area shall be preserved in its natural state in order to maintain its vital wildlife habitat value. When vegetation removal is necessary for flood control, the required state and federal permits shall be obtained.

The following provisions of Tijuana River Valley Land Use Plan are applicable and state, in part:

Tijuana River Valley Land Use Plan- Specific Recommendations,

(C) Flood Control

- Flood Control should generally be limited to existing agreements with wildlife agencies and where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety and unless demonstrated to be needed based on a cost benefit analysis and pursuant to a restoration plan. Floodplains within the MHPA, and upstream from the MHPA if feasible, should remain in a natural condition and configuration in order to allow for the ecological, geological, hydrological, and other natural processes to remain or be restored.

- No berming, channelization, or man-made constraints or barriers to creek, tributary, or river flows should be allowed in any floodplain within the MHPA unless reviewed by all appropriate agencies, and adequately mitigated. Review must include impacts to upstream and downstream habitats, flood flow volumes, velocities and configurations, water availability, and changes to the water table level. Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects

where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

- No riprap, concrete, or other unnatural material shall be used to stabilize river, creek, tributary, and channel banks within the MHPA. River, stream, and channel banks shall be natural, and stabilized where necessary with willows and other appropriate native plantings. Rock gabions may be used where necessary to dissipate flows and should incorporate design features to ensure wildlife movement.

[…]

(G) Grading/Sediment Control/Water Quality

- Sediment control measures (debris basins, desilting basins or silt traps) shall be installed in conjunction with any new development in which grading is proposed. The prevention and control of runoff of fertilizers, pesticides and other urban pollutants into riparian and floodplain areas should be required.

In addition, the following provisions of the certified Land Development Code are applicable and state, in part:

Section 143.0145 - Development Regulations for Special Flood Hazard Areas

[…]

(3) Channelization or other substantial alteration of rivers or streams shall be limited to that necessary for the following:

(A) Essential public service projects, where no other feasible construction method or alternative project location exists;

(B) Flood control projects, where no other feasible method for protecting existing public or private development exists and where such protection is necessary for public safety.

(C) Projects where the primary function is the improvement of fish and wildlife habitat.

[…]

(5) Development that involves channelization or other substantial alteration of rivers or streams is subject to the following requirements.

(A) All requirements and relevant recommendations of hydrological studies for the watershed of the affected stream, as approved by the City Engineer, shall be incorporated

into the project design and mitigation measures. These requirements include erosional characteristics, flow velocities, volume, sediment transport, and maintenance of hydrology.

(B) The channel shall be designed to ensure that the following occur:

(i) Stream scour is minimized;
(ii) Erosion protection is provided;
(iii) Water flow velocities are maintained as specified by the City Engineer;
(iv) There are neither significant increases nor contributions to downstream bank erosion and sedimentation of sensitive biological resources; acceptable techniques to control stream sediment include planting riparian vegetation in and near the stream and detention or retention basins;
(v) Wildlife habitat and corridors are maintained;
(vi) Resource management criteria are implemented consistent with applicable land use plans; and
(vii) Groundwater recharge capability is maintained or improved.

(C) Channels that accommodate a base flood shall do so without increasing the water surface elevation more than one foot at any point from the level of a nonconfined base flood in the natural undeveloped floodplain. Channels may accommodate less than a base flood (low-flow channels), but shall be designed and constructed in accordance with FEMA regulations.

(D) All artificial channels shall consist of natural bottoms and sides and shall be designed and sized to accommodate existing and proposed riparian vegetation and other natural or proposed constraints. Where maintenance is proposed or required to keep vegetation at existing levels compatible with the design capacity of the channel, a responsible party shall be identified and maintenance and monitoring processes shall be established to the satisfaction of the City Engineer.

(6) Development shall not significantly adversely affect existing sensitive biological resources on-site or off-site.

The City manages a large "Municipal Separate Storm Sewer System (MS4)" which conveys storm water runoff from natural and developed areas to receiving waters such as lakes, rivers, creeks, streams, lagoons and the ocean. According to the City, the MS4 system "…is an inter-connected system of natural drainages and constructed drains, pipes and channels. Collectively, the MS4 functions to convey drainage flows from impervious surfaces to receiving waters in order to protect the life and property of the City's citizens from potential flooding."

The drainages proposed for maintenance within the Coastal Zone with this program are spread out through the City. While some of the drainages are relatively minor in size and scope of resources, the Tijuana River, Soledad and Los Penasquitos Creeks all contain significant sensitive resources. In addition, they are also upstream of and drain directly to significant

resource areas (Tijuana Estuary and Los Penasquitos Lagoon). Thus, maintenance work in the upstream channels could have impacts on the downstream sensitive resources of these natural habitat areas by increasing sediment transport through the more "efficient" channels once maintained.

The City is proposing a number of maintenance protocols to reduce the potential for downstream water quality impacts resulting from proposed channel maintenance. The proposed protocols include the installation of BMPs in and around the channel maintenance areas such as silt fences, fiber rolls, gravel bags, temporary sediment basins and stabilized maintenance access points. For the most part, these BMPs address water quality concerns during the maintenance project itself. **Special Condition #6** is proposed to supplement the City's proposal and requires the City to incorporate a number of BMPs to address construction-related water quality issues.

In order to ensure that construction material, debris, or other waste associated with project activities does not enter the water, **Special Condition #6 also** prohibits permanent stockpiling of material and other BMPS to assure staging and storage of equipment, materials, sediments and removed vegetation does not result in impacts to adjacent sensitive areas. In addition, **Special Condition #6**, requires that all excess excavated material from the site be disposed of at a permitted disposal site.

In addition to the water quality impacts associated with the actual maintenance work, the project will have other water quality impacts. Storm water discharges in urbanized areas raise water quality concerns in that they typically contain high concentrations of pollutants. Pollutants and sediments from human activities settle on streets, walkways and other impervious surfaces until a storm event washes them into nearby storm drains. From there, these pollutants/sediments are transported with the storm water runoff and deposited into downstream waterways and ultimately lagoons, estuaries and the ocean. According to the City, the "…purpose of the Master Maintenance Program is to incorporate an integrated approach to maintenance by balancing the need to restore channel conveyance capacity for flood control and public safety with strategies to protect water quality and biological resources."

The proposed maintenance project will occur in both natural and concrete lined drainages. The natural drainages contain both sediments and vegetation and can function as a natural filtering mechanism of pollutants. According to the PEIR, the ability of plants and sediments to capture pollutants varies, depending on the flow characteristics of each facility. Surface flows range from dry weather or low flow to wet weather or high flow conditions. The removal of vegetation as a result of maintenance may decrease the capacity of storm water facilities to retain pollutants and result in greater quantities of sediments and pollutants to reach downstream sensitive resources.

However, as originally proposed, there were few provisions to address water quality concerns after the maintenance is completed and vegetation and/or sediment have been removed. As noted above, the removal of vegetation as a result of maintenance may decrease the capacity of storm water facilities to retain pollutants and result in greater quantities of sediments and

pollutants to reach downstream sensitive resources. To address these non-construction related water quality concerns citywide, the applicant explains the City's approach as follows:

> …the City has engaged in a multi-faceted urban runoff management program in the various watersheds within its jurisdiction. The City's water quality protection program is based on an integrated and tiered Best Management Practice (BMP) approach. Three BMP tiers are defined with the goal of maximizing the effectiveness of BMPs to reduce pollutants and sediment loads and guide implementation strategies. Over time, these activities may also lead to reduced maintenance needs in downstream channel areas as sediment sources and other pollutants are reduced and/or eliminated in the upstream watershed.
>
> The application of the City's tiered and integrated BMP approach has potentially significant long-term impacts to the Master Maintenance Program. Source control and pollution prevention activities will reduce the supply of sediment and deleterious inputs to natural and constructed channel segments. The implementation of Low Impact Development (LID) practices and other structural BMPs will treat storm water runoff, slow velocities, and lessen flows of sediment-laden water to receiving waters. Finally, the combined effect of these activities, joined with the associated outreach and improvements in public awareness is anticipated to lead to long-term improvements in the quality of runoff transported through the City's MS4. This will reduce the need for downstream channel clearing activities to increase channel capacity and reduce flood risk.

In addition to the three tiered approach, the City's urban runoff management program includes education and outreach activities, inspection and enforcement, coordination with watershed stakeholders and many other activities designed to reduce pollutant sources and treat runoff. The programs the City currently engages in city-wide to address the quantity and quality of urban runoff include: a) Low Impacts Development (LID) Program; b) Watershed Asset Management Plans; c) Comprehensive Load Reduction Plan Development; d) Think Blue Public Pollution Prevention Program; e) Street Sweeping Pilot Studies; and, f) Canyon Area Outfall Asset Assessment (**ref. Exhibit #5, pages 6-8**).

Additionally, the City has implemented a number of specific BMP projects in the general area of the proposed channel maintenance to address sediment and water quality. These include: a) Mission Bay low flow diversion/interceptor system; b) Los Penasquitos TMDL Development; c) Los Penasquitos Lagoon Mouth Opening; d) Los Penasquitos Desilting Basin; and, e) the Tijuana River Valley Restoration Project (**ref. Exhibit #5, pages 9-10**).

Even with these programs/projects in place, the City acknowledges that water quality impacts associated with the proposed project will still occur as a result of diminished pollutant removal capacity of the channels. With the original project, the City proposed a detailed methodology to estimate the net impact of maintenance on water quality (positive effects versus negative effects). However, after review of this methodology by the Commission's Water Quality staff, it was determined that the proposed methodology was too complicated and hard to understand and not well supported by studies and data. After discussing this concern with the applicant, they agreed that for the purposes of the maintenance project subject to this review within the Coastal Zone,

they would revise the City's proposed water quality mitigation program. As such, in order to offset the impacts to water quality resulting from the proposed channel maintenance, the City has provided the following:

> The City proposes to utilize a suite of pollution prevention, source control, special study/process improvement, and treatment BMPs to address sediment and other pollutants inputs to priority channel area drainages within the coastal zone. The selected activity suite was derived from evaluation of current water quality improvement activities in each drainage area, and synthesis of City programmatic findings. The proposed activity suite is both representative of the City's overall tiered and integrated BMP approach, as well as designed to reduce sediment and other pollutant loads from entering the priority channel areas. The City anticipates that application of these activities within the priority channel drainage areas will mitigate for potential water quality impacts associated with the proposed maintenance activities during this permit cycle and lead to long-term water quality benefits.

The key water quality enhancements proposed by the City include pollution prevention, source control and treatment (**ref. Exhibit #5, pages 11-17**). Specifically, the City is proposing the following:

a. **Pollution Prevention - Commercial and Residential Sediment Reduction Outreach**. The City proposes to develop targeted outreach materials to distribute to residential, commercial and rural/agricultural properties within the maintenance areas subject to this review. The City proposes to develop and distribute targeted outreach "door hanger" type materials to 652 properties within the coastal zone adjacent to the proposed maintenance channels. The distributed materials will cover appropriate BMPs tailored to the property land use as it relates to storm water pollution prevention of sediment, common urban pollutants and agricultural-related waste products. The intent of the flyers is to create awareness and instigate changes in behavior that address water quality improvement needs.
b. **Source Control - Enhanced Street Sweeping**. The City has conducted a number of street sweeping pilot studies which have indicated that on relatively flat routes, vacuum-assisted/regenerative air sweeping machines are up to 33% more effective in weight of debris collected per broom mile swept. Street sweeping is effective in picking up sediment and other pollutants before they are washed into storm drains during rain events. Currently the City sweeps residential areas on a monthly basis and commercial areas weekly. The City proposes with this application to prioritize sweeping of several high-traffic commercial routes in the coastal zone adjacent to the proposed channel maintenance areas utilizing these more efficient machines. In addition, the City is proposing to sweep (quarterly) utilizing the vacuum machines along the roadway medians as well which has been proven to be very effective in picking up sediment/pollutants. The City is proposing to implement the sweeping enhancements for improved debris removal for a total of 25.4 curb miles in the coastal zone. The City projects that the enhanced sweeping BMP will benefit water quality in the drainages leading to the channel areas proposed for maintenance by reducing pollutant loads

entering the channel areas and offset the temporal loss of potential water quality infiltration after maintenance.

c. **Source Control - Continue to Participate and Provide Leadership in the Tijuana River Recovery Team Process.** The Tijuana River Valley is unique in that the majority of the watershed is in Mexico and as such, most of the trash, sediments and pollutants affecting the Valley are from Mexico, where the City has essentially no control. Given the unique challenges in managing water quality in this bi-national watershed, a collaborative multi-agency and international approach is one of the few ways the City can proactively participate in decisions affecting the water quality improvements for the Valley. As such, the City proposes to continue to participate and provide leadership in this bi-national, multi-agency process with the goal of reducing the sediment and trash loads crossing the U.S/Mexico border and deposited in the Tijuana River Valley.

d. **Treatment - Enhanced Catch Basin Inspection Implementation**. Currently, the City inspects catch basin inlets once yearly (NPDES requirement). Based on results of several pilot studies, which have indicated that increased inspections of existing treatment facilities may lead to improved debris removal, the City is proposing to increase the inspection frequency (and cleaning as necessary) by 5% of catch basins adjacent to channels proposed for maintenance with this permit for a total of 45 catch basins to be inspected and cleaned as necessary.

e. **Special Study/Process Improvement – Degraded Outfalls.** The City has over the last several years gathered data on existing canyon outfalls that includes information on necessary maintenance, access, surrounding vegetation and other pertinent information in an effort to begin necessary maintenance of outfalls needing repair. Utilizing the information that has been gathered, the City proposes to implement a special study to develop a process to identify an efficient procedure to handle specific maintenance, repair and/or replacement for outfalls in canyon areas that have sediment-related issues. The study will focus on identifying a clear decision making process to assess needed repairs to individual outfalls, initiating appropriate environmental review and permitting and developing a process to implement and track the status of repairs. It is hoped that this process will lead to a cost effective approach to manage City outfalls to reduce sediment loads discharging to canyon areas.

   In addition, the City proposes, based on results achieved by the study identified above, to implement one pilot outfall repair project in the Coastal Zone. The project will be work on an existing outfall identified to be in need of energy dissipation, repair and/or replacement and utilize existing City processes to budget, plan, engineer and conduct necessary repairs. The City will then document the effort and provide a report to the Executive Director of the Commission on the lessons learned in order to allow for more efficient and cost effective repairs of other outfalls in the future.

Based on the above, the City is acknowledging that the proposed project will have non-construction related impacts on water quality and while these impacts have not been specifically quantified, the City is proposing mitigation measures that will directly, and over the long-term, result in the reduction of polluted inputs and sediment into the drainages proposed for maintenance. The Commission has reviewed the City's proposed mitigation measures and

concurs that the measures will help mitigate for water quality impacts associated with the project. Therefore, **Special Condition #7** is proposed which requires the City to implement the mitigation measures as proposed.

In addition to the CDP, the proposed project requires other regulatory approvals such as the U.S. Army Corps of Engineers, California Regional Water Quality Control Board, California Department of Fish and Game, and the U.S. Fish and Wildlife Service. The applicant has applied for permits from these agencies. **Special Condition #3** requires the applicant to provide all necessary state and federal permits and/or approvals for all aspects of the proposed project, or evidence that no authorization is required, for the review and approval of the Executive Director prior to the commencement of construction.

The primary purpose of the proposed project is to minimize the risk of flooding developed areas surrounding the channels proposed for maintenance. The proposed project will improve the hydraulic capacity of the channels and manage sediment accumulation to accommodate higher flows and reduce flooding events in the immediate area. Moreover, the proposed project, as conditioned, effectively protects important habitat values while minimizing the risk to life and property from flood and geologic (i.e., erosion) hazards. The Commission therefore finds that the proposed project is consistent with the above cited provisions related to hazards.

The project proposes channel maintenance involving removal of both sediment and vegetation from both earthen and concrete channels. Based on the above discussion, the proposed maintenance will have impacts to water quality both during the maintenance activities and once the maintenance is complete. To address impacts during construction, conditions of this permit require the applicant to follow and implement various BMPs to help reduce the potential impacts. To address water quality impacts resulting from the loss of vegetation/sediment, the City is proposing a series of measures to reduce polluted inputs and sediment into the channels subject to this review over the life of the permit. With these measures, impacts on water quality will be mitigated and the proposed project is consistent with the above cited provisions of the certified LCP.

F. PUBLIC ACCESS

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." Portions of the proposed project will occur seaward of the first through public road and the sea. Coastal Act Sections 30210 through 30213, as well as Sections 30220 and 30221 specifically protect public access and recreation, and state:

> **Section 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.

Section 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.

Section 30212(a): Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects…

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

Section 30220: Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 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.

The proposed maintenance project will occur within a number of areas within the City's Coastal Zone. Specifically, the maintenance will occur within Sorrento Valley, Mission Bay Park/Pacific Beach and the Tijuana River in the Tijuana River Valley.

Each of the maintenance areas are located within drainages where very limited, if any, public access is available or desirable. However, most of the drainages proposed for maintenance already include access to the facilities. Such accesses include rights-of-way, utility roads, ramps, footpaths, etc. Many of these access points are available and used by the public to hike, walk dogs, bicycle, etc. While maintenance activities are occurring, it may be that portions or all of the access ways will be blocked by equipment and/or stockpiles of vegetation and sediment removed from the drainages. However, generally, the maintenance activities in any particular area will not be very long and as such, any closures of access would be temporary and not significant. Therefore, the Commission finds that proposed maintenance activities will not have any significant impacts on public access, consistent with the above cited Coastal Act provisions.

G. LOCAL COASTAL PLANNING

As noted, the project is located within several areas of City of San Diego, which has a certified LCP. Based on the preceding discussion in this report, the Commission finds that the proposed development, as conditioned, is consistent with all applicable provisions of the certified LCP. The Commission also finds, that based on the above, the proposed development, as conditioned, would not prejudice the ability of the City of San Diego to continue to implements its local coastal program for the various segments affected by this permit.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City of San Diego is the lead agency for purposes of CEQA review for the proposed project, and the Coastal Commission is a responsible agency. The City prepared and certified a Program Environmental Impact Report (PEIR) for the project. Section 13096 of the California Code of Regulations requires Commission approval of a coastal development permit to be supported by a finding showing the permit to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

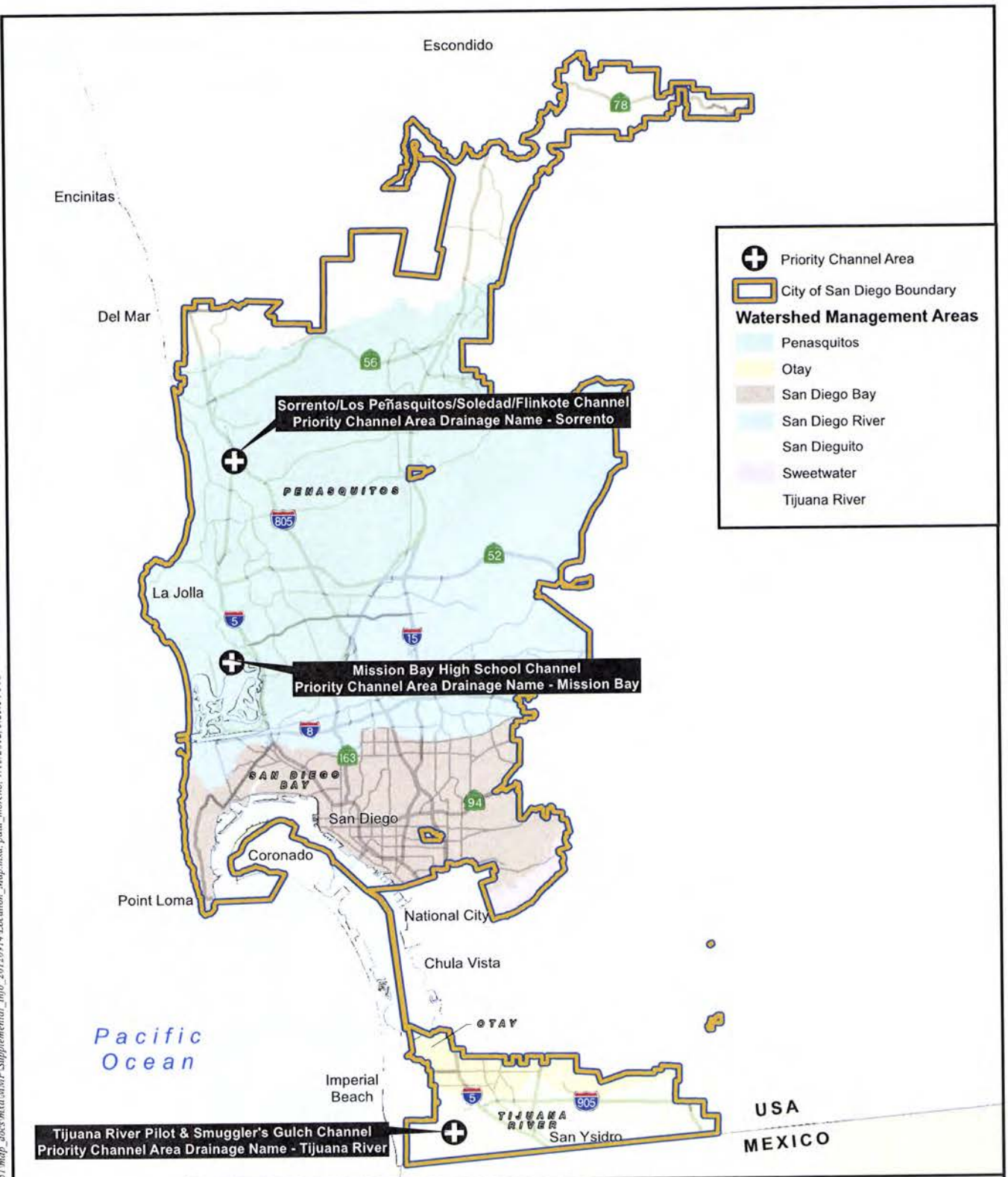
As described above, the proposed project has been conditioned to avoid adverse environmental impacts. Mitigation measures including water quality BMPs and habitat mitigation will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. The proposed project, as conditioned, is consistent with the policies of the City's LCP relating to protection of sensitive biological resources and water quality. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

- Certified City of San Diego Local Coastal Program (LCP)
- City of San Diego Supplemental Information – Water Quality dated September 13, 2012
- City of San Diego Amended Supplemental Information – Water Quality dated October 2, 2012
- City of San Diego Supplemental Information for Appeal No. A-6-NOC-11-086 dated July 27, 2012
- City of San Diego Master Storm Water System Maintenance Program dated October 2011
- City of San Diego Master Storm Water System Maintenance Program Final Recirculated Program Environmental Impact Report dated October 2011
- City of San Diego CDP Nos. 96-7762, 818358, 6-TJN-94-38, 6-TLN-98-232
- Coastal Commission CDP/Appeal Nos. 6-04-118, 6-99-101, A-6-TJN-11-084
- Water Quality Control Plan for the Sorrento Creek Channel Maintenance Project San Diego, California by EDAW dated March 2006.

(G:\Reports\Appeals\2011\A-6-NOC-11-086 de novo City of San Diego stfrpt.doc)



SOURCES: Roads, Hydrology Municipal (SanGIS, 2009). Aerials (Aerials Express, 2009).

CITY OF SAN DIEGO
LOCATION MAP
MASTER STORM WATER SYSTEM MAINTENAN

URS

12500 0 12500 25000 Feet

SCALE: 1" = 25,000' (1:300,000)
SCALE CORRECT WHEN PRINTED AT 8.5X11

CREATED BY: PM | DATE: 9/13/

PM: BE | PROJ. NO: 27679051.0

EXHIBIT NO. 1
APPLICATION NO.
A-6-NOC-11-086
Location Map

California Coastal Commission

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EXHIBIT NO. 2

APPLICATION NO.

A-6-NOC-11-086

Channel Maintenance Locations

1 of 3

California Coastal Commission

SOURCES:
Survey Areas, Access,
Staging Area, Impacts (Helix, 2011)
Aerial (Aerials Express, 2010).

ATTACHMENT 1C
MISSION BAY HIGH SCHOOL CHANNEL
MASTER MAINTENANCE PROGRAM
CITY OF SAN DIEGO

URS

75 0 75 150 Feet
1 inch = 150 feet
SCALE CORRECT WHEN PRINTED AT 11X17

CREATED BY: PM	DATE: 7/24/2012	FIG. NO:
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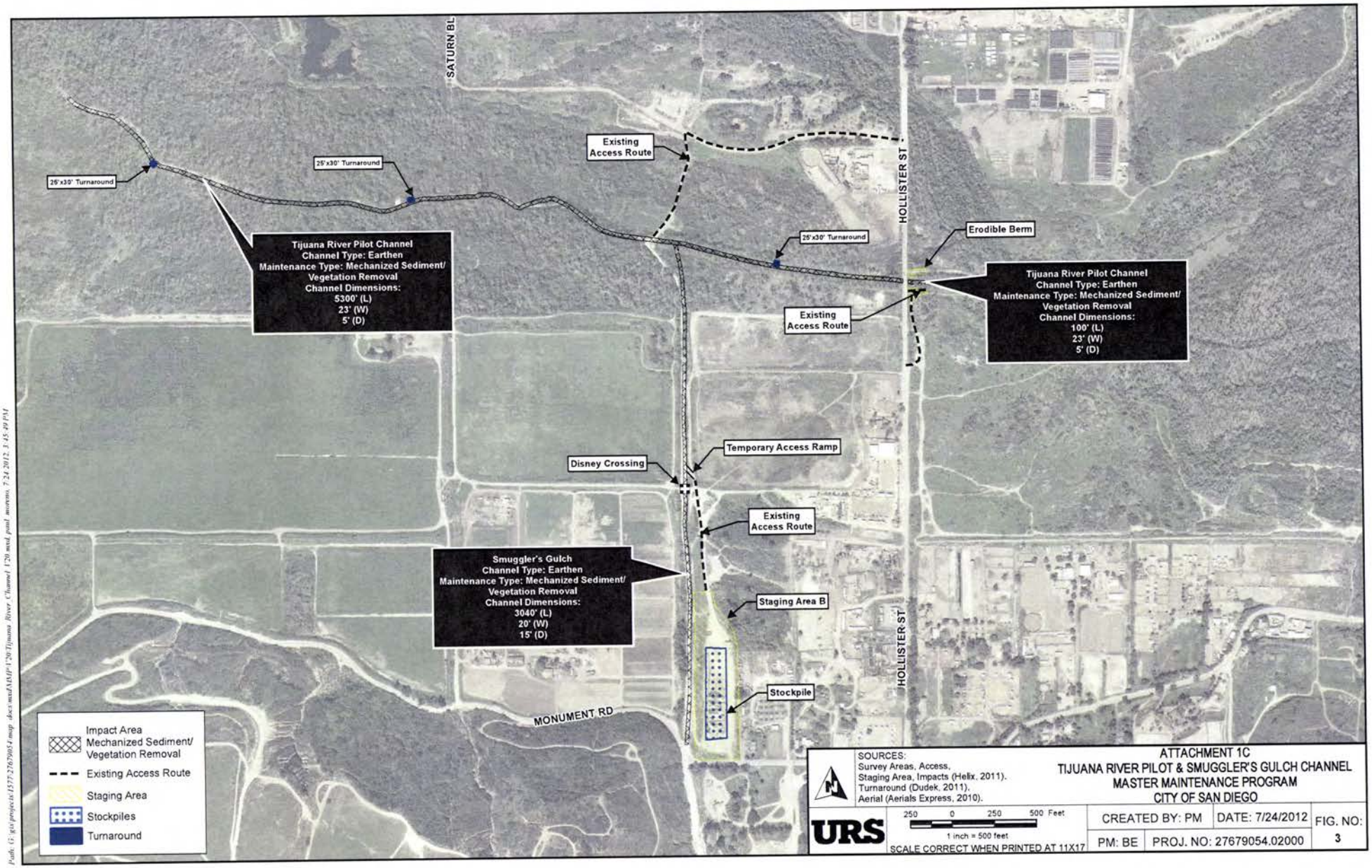

SOURCES:
Survey Areas, Access, Staging Area, Impacts (Helix, 2011).
Turnaround (Dudek, 2011).
Aerial (Aerials Express, 2010).

ATTACHMENT 1C
TIJUANA RIVER PILOT & SMUGGLER'S GULCH CHANNEL
MASTER MAINTENANCE PROGRAM
CITY OF SAN DIEGO

URS

250 0 250 500 Feet
1 inch = 500 feet
SCALE CORRECT WHEN PRINTED AT 11X17

CREATED BY: PM	DATE: 7/24/2012	FIG. NO: 3
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DETAILED PROJECT DESCRIPTION

Sorrento Creek, Los Peñasquitos Creek, Soledad Creek and Flinkote Channels

To meet the City of San Diego's Master Storm Water System Maintenance Program (Master Program or MMP) goals and objectives, the proposed maintenance of Sorrento Creek[1] and Soledad Creek[2] (MMP Maps 7, 11, & 12); Los Peñasquitos Creek (MMP Map 7 & 8); and the Flinkote channel[3] (MMP Map 9) would include the periodic dredging and vegetation trimming within all three channels to provide flood protection to the surrounding properties and protect the Los Peñasquitos Lagoon from additional sediment transport from upstream activities (Attachment 1c, Figure 1). The channelization and maintenance of the earthen portions of the Sorrento Creek, Soledad Creek and Los Peñasquitos Creeks (west of the Interstate-5/805 interchange) have been previously permitted by the City of San Diego under Sensitive Coastal Resource/Coastal Development Permit (SCR/CDP) No. 96-7762. Maintenance of these creeks have been inconsistent since 1997, including a redesign in 2006 that incorporated minimization and avoidance measures to reduce potential water quality impacts to the Los Peñasquitos Lagoon downstream. In addition, emergency maintenance was conducted in the winter of 2009/2010 in the concrete-lined portions of Sorrento Creek, Soledad Creek and Flinkote channel under Emergency CDP No. 818358 and US Army Corps of Engineer's Regional General Permit No. 63 for Repair and Protections Activities under Emergency Situations. Under the Master Maintenance Program, the proposed maintenance activities, as described below, will remain within the same project footprint and channel dimensions as the originally permitted projects.

Location

The Sorrento Creek, Soledad Creek, Los Peñasquitos Creek and the Flinkote channels are generally located in Sorrento Valley at Interstate-5/Insterste-805 (I-5/I-805) merge within the City of San Diego's Coastal Overlay Zone and Torrey Pines Community Plan and Local Coastal Program (LCP). Sorrento Creek is mapped within the Coastal Zone's Non-appealable Area 1; Soledad Creek is mapped within the Coastal Appealable and Non-appealable Area 1; Los Peñasquitos Creek is mapped within the Coastal Appealable and Deferred-Certified areas (east of the I-5/I-805 merge); and the Flinkote channel is mapped within the Non-appealable Area-1 jurisdictions.

The project area is zoned IL-3-1 (Industrial-Light) and designated for Industrial and Open Space land uses in the Torrey Pines Community Plan LCP. Sorrento Creek and Los Penasquitos Creek are located within the City's Multiple Species Conservation Program's Multi-Habitat Planning

[1] Facility Description is listed as the Los Penasquitos Creek Channel (Map 7) in the MMP Program Environmental Impact Report (PEIR) Table 3-1.

[2] Soledad Creek is also known as Carroll Canyon Creek, as referenced in the Sorrento Creek Maintenance Project (SCR/CDP 96-7762).

[3] Facility Description is listed as 11000 Roselle St/11100 Flinkote Ave in the MMP PEIR Table 3-1.

Area (MHPA); whereas Soledad Creek and the Flinkote channel are not located within but adjacent (upstream) to the MHPA. The project area is also located within the Federal Emergency Management Agency (FEMA) Special Flood Hazard Area and 100-year floodway.

All four channel segments are located in Peñasquitos Hydrologic Unit and drain runoff from the east (Los Peñasquitos Canyon), south (Carroll/Soledad Canyon), and west (Torrey Pines mesa/Sorrento Valley business area). The Flinkote channel, generally located at 11040 Roselle Street, drains in a westerly direction from Flinkote Avenue toward Roselle Street and into Sorrento/Carroll Creek as referenced by MMP Map 9 (11100 Roselle St/11100 Flinkote Ave). Sorrento Creek, delineated in MMP Map 7 (Los Peñasquitos Creek) and Soledad Creek, delineated in MMP Maps 11 (Soledad Creek) and 12 (Soledad Creek), drains in a northerly direction running parallel and between Roselle Street and Sorrento Valley Road. The Los Peñasquitos Creek, delineated as MMP Map 8 (Los Penasquitos Creek), drains to the west from Los Peñasquitos Canyon. All three drainage facilities confluence with Sorrento Creek near 11107 Roselle Street, just west of the I-5/I-805 merge and North County Transit District/Metropolitan Transit Development Board (NCTD/MTDB) right-of-way (railway); where runoff then flows north (downstream) into the Torrey Pines State Park and Los Peñasquitos Lagoon out to the Pacific Ocean.

Project Description

The proposed maintenance project within the Sorrento Valley area includes the periodic dredging and vegetation trimming and removal of approximately 40,000-55,000 cubic yards of materials (i.e., sediment and vegetation debris), occupying approximately 8.9 acres. Prior to maintenance, surveys will be conducted to assess actual target removal locations and the volume of sediment to restore the channel's conveyance capacity. Adapted from the previously permitted activities, the maintenance can be characterized by the following project components 1) Soledad Creek 2) Sorrento Creek; 2) Los Peñasquitos Creek; 3) Flinkote channel and 4) designated access routes and staging areas. Each of these is discussed in more detail below.

1. Soledad Creek (MMP Maps 11 & 12 – Soledad Creek): The proposed maintenance in the Soledad Creek can be segmented into two distinct channel types: a) Concrete-lined and b) Earthen.

    a) Concrete-lined portion of Soledad Creek (MMP Maps 11 &12-Soledad Creek): Starting at the upstream end, this segment of Soledad Creek was constructed as a fully concrete-lined trapezoidal channel, approximately 2,288 feet (length) x 59 feet (width) x 5 feet (depth). From an earthen creek draining from Soledad to the southeast, this drainage facility transitions into a concrete-lined channel just north of Tansy Street. The channel runs directly northwest under the I-5 overpass near the Sorrento Valley Boulevard and Roselle Street where it then transitions back to a narrower earthen creek north of a concrete access ramp into the channel located

near 10920 Roselle Street. A pedestrian bridge that connects foot-traffic from Roselle Street to the Sorrento Valley Coaster Station crosses the concrete-lined channel a few feet south of the access ramp. The maintenance methodology in this concrete-lined segment of Soledad Creek would require heavy equipment entering/exiting the channel from an existing concrete ramp on Roselle Street. A small skid-steer (bobcat) or dozer would push accumulated material in the channel to a central location. An excavator or loader stationed inside the channel will then place material into queued dump trucks to dispose of at an approved off-site location or facility.

b) Earthen-portion of Soledad Creek (MMP Map 11): As described in the Sorrento Creek Maintenance Project Water Quality Control Plan (EDAW 2006), the earthen portion of Soledad Creek south of the confluence to the concrete-lined channel will be maintained by mechanical bucket dredging. The earthen portion is approximately 1,400 feet (length) x 26 feet (width) x three feet (depth). An excavator, positioned above the channel bank on the existing access road, will reach approximately 35 feet below and dredge the target width and depth of the creek. The excavator will remove sediment directly from the channel and place the material into queued dump trucks for off-site disposal. In addition, since the west bank was previously vegetated with native plant stock to stabilize slopes; access points for the excavator may require vegetation trimming to allow for appropriate clearance.

2. Sorrento Creek (MMP Map 7-Los Peñasquitos Creek): Near 11075 Roselle Street; the Soledad Creek, Los Peñasquitos Creek and the Flinkote facilities converge into one channel, Sorrento Creek (MMP Map 7-Los Peñasquitos Creek). This segment, from the confluence to Estuary Way, is approximately 820 feet (length) x 100 feet (width) x 5 feet (depth). The original channel configuration identified in the 1997 Sorrento Creek Emergency Project and the redesigned 2006 Sorrento Creek Maintenance Project included an additional 980 linear feet north into the Torrey Pines State Reserve. Since this segment is on state-owned land, the City removed this area from the Master Maintenance Program. As prescribed by the Master Maintenance Program's IHHA requirements, this segment of Sorrento Creek may require dredging and vegetation removal.

3. Flinkote channel (MMP Map 9-11000 Roselle St/11100 Flinkote Ave):
Perpendicular to Sorrento Creek and Soledad Creek, where it also confluences with Los Peñasquitos Creek, is a small concrete-lined drainage facility identified as the Flinkote channel (MMP Map 9-11000 Roselle St/11100 Flinkote Ave). This facility conveys runoff from the surrounding Sorrento Valley business park and the Torrey Pines mesa area to the west. The channel segment between Flinkote Avenue and

Roselle Street was constructed as a trapezoidal channel approximately 740 feet (length) x 13 feet (width) x 2.5 feet (depth). Runoff flows from this channel segment easterly through a triple-box culvert under Roselle Street into a constructed concrete-trapezoidal channel which is approximately 276 feet (length) x 13 feet (width) x 2.5 feet (depth) and empties at the confluence via two 16-inch storm drain pipes. The total length of this channel is 1,016 feet. Mechanized equipment, such as a small bobcat, will enter the channel from an existing concrete ramp located at 11055 Flinkote Avenue. The bobcat will push material to the access ramp where a loader will place the material directly into a dump truck for appropriate disposal. East of Roselle Street, another maintenance method will be employed which requires a skid-steer (bobcat) to be placed into the facility from an access point in the existing parking lot above the channel. The bobcat will push material to the access point where a loader will place excavated material into queued dump truck for appropriate disposal.

4. Los Peñasquitos Creek (MMP Map 8-Los Penasquitos Creek): This segment of Los Peñasquitos Creek is configured with an earthen bottom and rip-rap sides and drains into Sorrento Creek from the east. However, maintenance of the channel segment east of the I-5/I-805 merge is not considered a priority at this time and is not included in the proposed scope of work.

   As described in the 1997 Sorrento Creek Emergency Project and the 2006 Sorrento Creek Maintenance Project Water Quality Control Plan, Los Peñasquitos Creek west of the I-5/I-805 merge would be maintained by trimming vegetation only. However, under the Master Maintenance Program, a site-specific IHHA could recommend sediment removal in this area to restore the creek to its original conveyance capacity.

   If vegetation management is prescribed, past practices included vegetation trimming by hand via manned rowboats or by foot in shallow waters with crews in waders. Tree limbs that are extending below the banks into the channel would also be trimmed above the water line, if necessary. Vegetation management would be completed by using hand tools such as machetes, brush cutters with tri-blades, saw-blades, or hedge trimmer attachments and chain-saws. Vegetation trimming would focus on woody species, non-native species, and thick, matted vegetation.

   Crews would access the channel by foot from the existing ramp on Sorrento Valley Road, adjacent access road and parking lot. Small two-man rowboats may also be used to haul and trim vegetation within the channel. The rowboat would be launched from designated launch points along the existing access road and parking lots. Cut

material will be collected at a central location on the access road and hauled immediately to an appropriate disposal location.

5. Access Routes and Staging Area: Two primary access routes/roads with designated launch points and three existing access ramps would be used by maintenance equipment and foot-traffic to enter/exit channel facilities. These access routes/ramps are located within existing trails and access areas that are established and identified in the Master Maintenance Program and previous permits.

   The first access route is an existing decomposed-granite (DG) trail, or access road running parallel and behind the existing buildings (11025 Roselle Street to 11075 Roselle Street) adjacent to Sorrento Creek. This access road is approximately 1,950 feet long and 15-20 feet wide and would be used for maintenance activities associated with Sorrento Creek, Soledad Creek and Los Peñasquitos Creek. The second access route is an existing earthen path located north of 11107 Roselle Street approximately 200 feet in length and 10 feet wide and would be used for Sorrento Creek maintenance activities.

   There are three existing concrete ramps that allow access for equipment and foot traffic into the Sorrento Creek, Soledad Creek, Los Peñasquitos Creek and Flinkote channel segments. The first ramp is generally located at 10920 Roselle Street and provides access to the upstream portions of Sorrento Creek, Soledad Creek. The second ramp is generally located at 11055 Flinkote Avenue and provides direct access into the Flinkote channel. The third ramp is located on the east side of Sorrento Valley Road (3956 Sorrento Valley Road) and provides direct access into the Los Peñasquitos Creek (west of the I-5/I-805 merge).

   The surrounding public roadways (Roselle Street, Estuary Way, Flinkote Avenue, Dunhill Street, Sorrento Valley Road and Sorrento Valley Boulevard) would be used during maintenance activities for equipment staging and general traffic. With individual private property owner's permission, crews may also use existing paved parking lots and driveways adjacent to the Sorrento Creek, Soledad Creek, Los Peñasquitos Creek and Flinkote channels.

   Staging areas for equipment and temporary stockpile/dewatering would be located in existing access routes, public right-of-way or paved parking lots. Master Maintenance Program protocols would be implemented and adhered to both pre- and post-maintenance to ensure impacts to coastal and environmental resources are avoided and minimized.

Mission Bay High School and Pacific Beach Drive/Olney Street Channels

To meet the City of San Diego's Master Storm Water System Maintenance Program (Master Maintenance Program or MMP) goals and objectives, the proposed maintenance of the Mission Bay High School (MMP Map 36) and Pacific Beach Dr/Olney St (MMP Map 37) channels would include the periodic sediment and vegetation removal of both channels to provide flood protection to the surrounding properties. The maintenance activities will also protect the Kendall-Frost and Mission Bay Marsh Northern Preserve from accumulating sediment and trash/debris and additional potential impacts further downstream.

Location

The project site located in the Pacific Beach Community Plan & Local Coastal Program Land Use Plan (LUP) between Garnet Avenue and Pacific Beach Drive. Both the Mission Bay High School (MMP Map 36-Mission Bay High School), which drains in a north-south direction from Quincy Street to Pacific Beach Drive; and the Pacific Beach Dr/Olney St (MMP Map 37-Pacific Beach Dr/Olney St), which drains in an east-west direction from Lee Street to Olney Street; form a L-shaped conveyance system. The Mission Bay High School channel is mapped within the Coastal Zone's Appealable and Coastal Permit jurisdictions; and the Pacific Beach Dr/Olney St channel is mapped solely within the Commission's Coastal Permit jurisdiction. In addition, both channels are located outside the Coastal Zone's Beach Impact Area as identified in the Pacific Beach LUP.

The project area is zoned RS-1-7 (Residential-Single Family) and designated for School and Single Family Residential land uses in the Pacific Beach LUP. Both channels are not located within, but are adjacent (upstream) to the City's Multiple Species Conservation Program's Multi-Habitat Planning Area (MHPA). The project area is also located within the Federal Emergency Management Agency (FEMA) Special Flood Hazard Area. The site is bordered by Mission Bay High School to the east, Campland on the Bay to the south, and residential (military housing) to the west and north. (Attachment 1c, Figure 2)

The project site is located in the Peñasquitos Hydrologic Unit and runoff from these channels directly drains into Mission Bay. Rose Creek, which also drains into Mission Bay, is approximately 1,500 linear feet east but does not connect to this conveyance system.

Project Description

The project incorporates removal approximately 1,200 cubic yards of materials (i.e., sediment and trash debris), occupying approximately 0.45 acres, and includes the following project components: (1) Mission Bay High School channel, (2) Pacific Beach Dr/Olney St channel and (3) designated access routes and staging areas. Each of these is discussed in more detail below.

1. Mission Bay High School (MMP Map 36-Mission Bay High School): This channel was built in the early 1960's as a concrete-lined trapezoidal channel that conveys runoff from impervious surfaces from Mission Bay High School and the surrounding Admiral Hartman Military Housing west of Rose Creek. The channel is approximately 1,078 feet (length) x 10 feet (width) x two feet (depth). Because there is no existing access ramp, a small skid-steer (bobcat) would be lowered in the channel by a larger piece of equipment, such as crane or Gradall. The skid-steer would push accumulated material to a central location in the facility while a small excavator or loader, stationed outside the channel, will scoop the stockpiled material into a queued dump truck to be hauled to an appropriate disposal facility.

2. Pacific Beach Dr/Olney St (MMP Map 36-Pacific Beach Dr & Olney St): Connecting perpendicularly to the Mission Bay High School channel is the Pacific Beach Dr/Olney St channel. The channel is a small earthen brow-ditch approximately 900 feet (length) x 10 feet (width) and two feet (depth). Runoff from the Mission Bay High School channel empties into this drainage facility and flows directly west where it connects to a 42-inch reinforced concrete pipe (RCP) at the intersection of Olney Street. Runoff is then conveyed diagonally under Pacific Beach Drive to an outfall structure into the Mission Bay Northern Wildlife Preserve. No equipment would enter or be placed in this channel to conduct maintenance. Instead, a Gradall or excavator would be stationed above the channel within the unimproved shoulder of Pacific Beach Drive. The equipment's bucket will reach into the channel and scoop the accumulated material to its original configuration. Dredge spoils would be directly loaded into queued dump trucks to be hauled to an appropriate disposal facility.

3. Designated access routes and staging areas: The surrounding public roadways (Lee Street, Garnet Avenue, Olney Street and Pacific Beach Drive) and Mission Bay High School would be used during maintenance activities for equipment staging and general traffic. Staging areas for equipment and temporary stockpile/dewatering would be located on Mission Bay High School property and existing access routes, including Lee Street and Pacific Beach Drive. These access routes are located within existing access areas that are established and identified in the Master Maintenance Program. Master Maintenance Program protocols would be implemented and adhered to both pre- and post-maintenance to ensure impacts to coastal and environmental resources are avoided and minimized.

Tijuana River Pilot and Smuggler's Gulch Channels

To meet the City of San Diego's Master Storm Water System Maintenance Program (Maintenance Program or MMP) goals and objectives, the proposed maintenance of the Smuggler's Gulch (MMP Maps 138 & 139) and Tijuana River Pilot Channel (MMP Maps138a-c) would include the periodic dredging of both channels to provide flood protection to the surrounding properties and protect the Tijuana River National Estuarine Research Reserve from accumulated sediment and trash/debris being transported further downstream (Attachment 1c, Figure 3). The City of San Diego constructed Tijuana River Pilot Channel in 1993 under Emergency Coastal Development Permit No. 96-7932, shortly after severe El Nino storms flooded the majority of the Tijuana River Valley. Smuggler's Gulch is a historical agricultural ditch that runs perpendicular to the Tijuana River Pilot Channel. In 1993, the City constructed the Tijuana River Pilot Channel to divert smaller floodwaters (2-5 year storm events) in the southern channel. These channels were inconsistently maintained since 1993 until emergency permits were issued in 2009 and 2010 that allowed maintenance to occur in both of these years. The proposed maintenance under the Master Maintenance Program would encompass the same footprint and project description as the project approved by the Commission on appeal (A-6-TJN-11-084) in December 2011.

Location

The Tijuana River Pilot Channel and Smuggler's Gulch are generally located between Hollister Street to the west and Monument Road to the south, within the City of San Diego's Coastal Overlay Zone (Appealable area) and Tijuana River Valley Community and Local Coastal Program Land Use Plan (LUP). The U.S.-Mexico Border is directly south; the Pacific Ocean, Tijuana River National Estuarine Research Reserve and the City of Imperial Beach are directly west; the Otay-Nestor community is to the north; and the San Ysidro community is to the east of the project site.

The project area is zoned OF-1-1 (Open Space-Floodplain) and AR-1-1 (Agricultural / Residential); and designated for Open Space and Agricultural land uses in the Tijuana River Valley LUP. Both channels and Staging Area B are located within the City of San Diego's Multiple Species Conservation Program's Multi-Habitat Planning Area and the County of San Diego's Tijuana River Valley Regional Park. Staging Area D is located on an undeveloped lot approximately ¼ mile east of the channel maintenance area on the City of San Diego's Metropolitan Wastewater Treatment Facility; but is outside the City's Multi-Habitat Planning Area and the County's Regional Park.

The Tijuana River Pilot Channel and Smuggler's Gulch are located within the Federal Emergency Management Agency (FEMA) Special Flood Hazard Area and 100-year floodway.

The main Tijuana River flows in a north-westerly direction from Mexico, where the majority of the Tijuana River Watershed is located. As the Tijuana River enters the U.S., the wide floodplain splits into smaller tributaries identified as the Tijuana River's Northern and Southern channels.

Smuggler's Gulch flows from the U.S.-Mexico Border in a northerly direction where it confluences perpendicularly with the Tijuana River Pilot Channel, which flows from the east to the west. The County has been maintaining the segment of Smuggler's Gulch south of Monument Road to the Border; while the City of San Diego has maintained the segment of Smuggler's north of Monument Road. Staging Areas B and D are both located on City-owned property managed by the City's Public Utilities Department.

Project Description

The project incorporates removal of approximately 10,000–30,000 cubic yards of materials (i.e., sediment and trash debris), occupying a total of 4.61 acres and includes the following project components: (1) the Tijuana River Pilot Channel (including reconstruction of a failed portion of the channel bank and use of three equipment turnarounds), (2) Smuggler's Gulch (including maintenance of a gabion rock mattress and an access ramp), and (3) several designated access routes and two staging areas (B and D). Each of these is discussed in more detail below.

1. Tijuana River Pilot Channel (MMP Maps 138a-c): An existing channel (previously permitted and constructed in 1993) would be reconstructed and maintained. The project would include clearing and/or dredging within a 23-foot-wide corridor centered on the channel (approximately 5 feet deep with a 15-foot-wide channel bottom). The portion of the Pilot Channel that is within the project extends in an east-to-west direction beginning 100 feet east of the Hollister Street bridge and ending 5,300 feet west of the bridge, for a total of 5,400 linear feet.

   Three equipment turnarounds (extending beyond the 23-foot-wide Tijuana River Pilot Channel maintenance corridor an additional 25 feet in width for a length of approximately 30 feet along the channel) are sited immediately adjacent to the Tijuana River Pilot Channel are required for the Tijuana River Pilot Channel maintenance activity. Two of the turnarounds are located west of the Tijuana River Pilot Channel confluence with Smuggler's Gulch and were constructed and utilized during the 2009 maintenance activities. The third turnaround is located east of this confluence and has yet to be constructed. All three turnarounds are necessary for equipment movements within the confined channel work area. It is expected that the current and proposed turnarounds would remain at the same locations for future maintenance needs for the project.

2. Smuggler's Gulch (MMP Maps 138 & 139): Smuggler's Gulch channel is an existing historical agricultural channel with manufactured berms and a channel bottom that is mostly unvegetated or vegetated with only herbaceous species. The project includes maintenance of portions of the channel located immediately north of Monument Road spanning to the Disney Crossing and continuing north to the confluence with the Tijuana River Pilot Channel. These two sections of Smuggler's Gulch total approximately 3,040 linear feet. The dredging would be limited to a footprint approximately 20 feet wide and would consist of dry excavation only. Also incorporated with the Smuggler's Gulch component is the cleaning of existing culverts under Monument Road and at the Disney Crossing. No permanent structures would be built in the channel.

3. Staging Areas and Access Routes: Two staging areas would be used throughout the project for equipment and material staging. Dredge/excavation spoils would be transferred to and temporarily stored at the staging areas. The Master Maintenance Program identifies a suite of Best Management Practice (BMP) that will be employed at the staging areas to minimize/avoid any potential impacts from the staging areas. Manual and mechanical separation of the spoil material may also occur to sort sediment, vegetation, trash, and tires. Staging Area B is east of and adjacent to Smuggler's Gulch. There is a permanent earthen berm between this area and Smuggler's Gulch protecting it from flooding. Permanent gated access to the staging area is from Monument Road. This area was initially used in 2001 and has been used since during each maintenance event both by the City and County of San Diego. No excavation or grading would be necessary in this area. There are no direct biological resource impacts associated with Staging Area B.

   Staging Area D is located east, adjacent to the South Bay International Wastewater Treatment Plant south of Monument Road. This area is not near enough to the channel maintenance areas to function as the single staging area for the project but would be used in conjunction with Staging Area B for staging equipment and spoil materials. No excavation or grading would be necessary in this area. There are no direct biological resource impacts associated with Staging Area D.

   Two public roadways would be used during maintenance activities, Monument Road and Hollister Street. Monument Road is south of the site, spanning between two staging areas, and is used for hauling excavated materials from Staging Area B to Staging Area D. Hollister Street is located east of the site and was traveled for transit between Staging Area B to the off-road access route in the Tijuana River Valley Regional Park (TRVRP). Throughout the project, there shall be no construction-related road closures and both roads would remain open during construction

activities. No impacts to biological resources would occur through the use of the Monument Road and Hollister Street access routes.

Three off-road access routes would be used during construction. These access routes are located within existing trails and access areas that are established and identified in the Master Maintenance Program and previous permits. One route runs west from Hollister Street to the TRVRP entrance and then runs south to the confluence of the Pilot Channel and Smuggler's Gulch. The portion of this access route that runs from the Tijuana River Pilot Channel north to the TRVRP is subject to erosion and sediment/trash deposition during heavy storms and therefore may require excavation in order to be used by equipment.

The second off-road route runs parallel to Smuggler's Gulch north of Staging Area B and allows access into Smuggler's Gulch via an access ramp on the east bank, immediately downstream of the Disney Crossing. The access ramp was constructed in 2009 and is a maintained feature of the project that allows construction equipment access to the channels during dredging while avoiding having the majority of the construction access occurs north of the project site. This design feature was developed in 2009 per the direction of the U.S. Army Corps of Engineers (ACOE). This access ramp is approximately 15 feet wide by 75 feet long and was constructed using on-site earth materials (i.e., excavation and re-contouring of the existing bank of the Smuggler's Gulch) within an area of disturbed, non-native vegetation. The portion of Smuggler's Gulch south of Disney Bridge will be accessed directly from Monument Road.

The third off-road route is parallel with Hollister Street to the east and allows access to the portion of the Tijuana River Pilot Channel east of the Hollister Street Bridge. The route is approximately 15 feet wide and is an existing dirt road except for an approximately 45-foot-long section on the south bank of the Tijuana River Pilot Channel where existing wetlands vegetation would be impacted to allow access to the area. The erodible berm located east of Hollister Street Bridge and north of the Tijuana River Pilot Channel, could also be used for small equipment and foot-traffic, as well.

Throughout implementation of the project, the dredged channels (i.e., Smuggler's Gulch and Tijuana River Pilot Channel) would be used for construction access and for hauling excavated materials.

6.0 SUBSTANTIAL CONFORMANCE REVIEW PROCESS

6.1 City Of San Diego

Annual maintenance needs shall be determined by the SWD on an annual basis. The need for maintenance will be identified on an annual Priority List. Proposed annual maintenance activities shall be approved through the City's Substantial Conformance Review (SCR) process. If it is determined that additional facilities need to be maintained and added to the annual Priority ~~annual~~ List once it has been submitted, an SCR may also be completed on that maintenance activity if it occurs in a storm water facility included in the Master Program. If a maintenance activity or location is determined not to be in substantial conformance, then a new or amended permit shall be processed in accordance with the San Diego Municipal Code (SDMC) Section 126.0113.

To initiate the SCR process, SWD will submit a general application (Form DS-3032) to DSD. In addition, SWD will provide copies of the individual technical assessments described in Section 5.1., as appropriate, and the SCR Checklist, included in Appendix J.

DSD will review the application, including mandatory technical assessments, as well as the ~~Master~~ SDP/CDP and the PEIR. Based on this initial review, DSD will make a determination as to whether the proposed maintenance activities are in substantial conformance with the Master Program, ~~Master~~ SDP/CDP and certified PEIR through a Process One or Two Decision, in accordance with SDMC Section 112.0502 or 112.0503, respectively. If DSD concludes that the activity is not in substantial conformance with the Master Program, ~~Master~~ SDP/CDP and the certified PEIR, a new or amended permit will be required in accordance with SDMC Section 126.0113.

Process One Decision

A Process One Decision will be used to authorize maintenance when the SCR review concludes that the proposed maintenance activities will occur in one of the storm water facilities identified in the Master Program, ~~Master~~ SDP/CDP and certified PEIR, and the following conditions apply:

1. The maintenance activity is located outside the Coastal Zone;

2. The biological resources which will be impacted by the proposed maintenance will not exceed the impacts assumed in the PEIR; and

3. The applicable mitigation measures identified in the MMRP contained in the certified PEIR as well as the applicable protocols identified in this Master Program have been incorporated into the IMP.

A Process One Decision shall be processed in accordance with SDMC Section 112.0502. For informational purposes, the primary steps associated with a Process One Decision are summarized below. However, any subsequent amendments to the SDMC could supersede the following summary.

1. SWD will submit an application for each proposed maintenance activity including mandatory technical assessments to DSD.

2. DSD will complete an Initial Study, in accordance with the California Environmental Quality Act (CEQA). Based on the information contained in the Initial Study and the application including the technical assessments, the City will determine the appropriate CEQA process for the proposed maintenance activities, and carry out that process in accordance with CEQA.

   If the Initial Study and supporting documentation show that the impacts associated with the proposed maintenance activity have been adequately addressed in the PEIR and mitigation will be carried out, as defined in the MMRP, no further environmental review will be required, and the certified PEIR will be used to satisfy CEQA review requirements for the subsequent maintenance activity.

3. A copy of the application including mandatory technical assessments for each proposed maintenance activity will be mailed, as a courtesy, to the appropriate community planning group(s).

4. DSD staff will review the application to determine if the proposed maintenance activity is in conformance with the PEIR, Master Program and ~~Master~~ SDP/CDP Permit using the SCR Checklist.

5. City staff will use the certified PEIR, Master Program and ~~Master~~ SDP/CDP Permit, and render a decision to deny or approve SWD's request to conduct the proposed maintenance. The decision by City staff will be final and is not appealable.

Process Two Decision

A Process Two Decision will be used to authorize maintenance when the SCR identifies that all the conditions associated with Process One Decision are met, but the maintenance will occur within the Coastal Zone. Process Two decisions shall be processed in accordance with SDMC Section 112.0503.

The following procedures will be followed in processing proposed maintenance activities under Process Two Decision. As discussed earlier, any subsequent amendments to Sections 112.0502 and 112.0503 of the SDMC could supersede the following summary.

1. SWD will submit an application including technical assessments information along with a Public Notice package for each proposed maintenance activity to DSD.

2. DSD will complete an Initial Study in accordance with the CEQA. Based on the information contained in the Initial Study and the application including supplemental information, the City will determine the appropriate CEQA process for the proposed maintenance activities, and carry out that process in accordance with CEQA.

If the Initial Study and supporting documentation show that the impacts associated with the proposed maintenance activity have been adequately addressed in the certified PEIR and mitigation will be carried out, as defined in the MMRP, no further environmental review will be required, and the PEIR will be used to satisfy CEQA review requirements for the subsequent maintenance activity.

3. A Notice of Future Decision will be posted at the storm water facility proposed to be maintained.

4. A Notice of Future Decision will be mailed to the SWD, property owners and occupants within a 300-foot radius of a proposed maintenance activity and the appropriate community planning group(s).

5. City staff will review the application and render a decision (see steps 4 and 5 of Process One Decision). This decision is appealable to the Planning Commission.

6. A ~~Public~~ Notice of Decision will be sent to interested persons, who previously requested, in writing, ~~-~~such notice from DSD. The Notice shall be sent ~~within~~ no later than ~~-~~two~~10~~ business days after the decision~~date the Notice of Future Decision is mailed~~.

7. The public or SWD will have 12 business days to file an appeal from City staff's decision date to the Planning Commission.

8. If an appeal is filed, a Planning Commission hearing will be scheduled approximately 60 calendar days after the appeal is filed.

9. DSD staff will prepare a Notice of Public Hearing and Planning Commission Report. ~~Within~~ At least 10 business days prior to the hearing, the Notice of Public Hearing will be published as well as mailed to property owners and occupants within a 300-foot radius of the proposed maintenance activity that is being appealed, the applicable community planning group(s), and persons who submitted a written request in response to the Notice of Future Decision.

10. The Planning Commission will consider the PEIR, Master Program and ~~Master~~ SDP/CDP and make a decision to affirm, reverse or modify City staff's decision.

Process Four Decision

If the SCR review determines that the proposed maintenance activities are not identified in the Master Program, ~~Master~~ SDP/CDP and certified PEIR, the authorization will require a new or amended permit. New permits would likely require a Process Four Decision due to the presence of environmentally sensitive lands in accordance with SDMC Section 112.0507, but each application will be reviewed to determine the appropriate Process.

Process Four. As discussed earlier, any subsequent amendments to Section 112.0507 of the SDMC will supersede the following summary.

1. SWD will submit an application for a discretionary permit with a Public Notice package to DSD.

2. DSD will prepare an Initial Study for the proposed activities. Based on the Initial Study and after considering the information contained the individual assessments required by the Master Program, DSD will prepare a tiered Negative Declaration, Mitigated Negative Declaration, or EIR, or a Supplemental or Subsequent EIR or an addendum to the PEIR to address the proposed maintenance activities. The CEQA document will be circulated for public review in accordance with the CEQA Guidelines.

3. A Notice of Application will be posted at each storm water facility proposed to be maintained.

4. A Notice of Application will be mailed to the SWD, property owners and occupants within a 300-foot radius of a proposed maintenance activity and the appropriate community planning group(s)

5. City staff will review the application. Once all issues have been resolved, City staff will begin the hearing process.

6. DSD staff will prepare a Notice of Public Hearing and Planning Commission Report. At least ~~T~~ten business days before the hearing, the Public Notice will be mailed to the SWD, property owners and occupants within a 300-foot radius of the proposed maintenance activity that is being appealed and applicable community planning group(s).

7. The Planning Commission will consider the discretionary permit application and CEQA documentation, and make a decision. This decision will be appealable to the City Council.

8. The public or SWD will have 10 business days after the Planning Commission's decision to file appeal to the City Council.

9. City Council will hear any appeal and affirm, reverse or modify the Planning Commission's decision.

6.2 State And Federal Agencies

Concurrent with the City's SCR process, the SWD will also submit appropriate applications and supporting documentation to the California Department of Fish and Game (CDFG), California Regional Water Quality Control Board (RWQCB), and U.S. Army Corps of Engineers (Corps) for approval under the terms and conditions of their respective general wetland permits. The agencies will review the application and supporting documentation to determine whether the proposed maintenance activities are consistent with the analysis contained in the PEIR and the specific terms of any permit issued by the respective agency.

The City will not conduct any proposed maintenance without prior approval from the state or federal agency with jurisdiction over the affected resources.

Under the state and federal regulations, maintenance activities that could impact wetland habitat and/or species protected by state and federal endangered species acts would require one or more of the following permits or approvals.

404 Permit

Under Section 404 of the federal Clean Water Act (CWA), a permit issued by the Corps would be required for maintenance proposals that would affect "waters of the United States". The City is proposing to obtain an Individual 404 Permit under which it would conduct future maintenance activities pursuant to the proposed Master Program.

401 Certification

A Section 401 Water Quality Certification issued by the RWQCB would be required for all maintenance proposals within waters of the U.S. The City is proposing to obtain a series of four-year 401 Certifications under which it would conduct future maintenance activities pursuant to the proposed Master Program.

1605 Streambed Alteration Agreement

A Section 1605 Streambed Alteration Agreement issued by CDFG would be required for maintenance proposals that would impact streambeds. The City is proposing to obtain a ~~Master~~ 1605 Streambed Alteration Agreement under which it would conduct future maintenance activities pursuant to the proposed Master Program.

National Pollutant Discharge Elimination System Permit

A Section 402 NPDES Permit issued by the RWQCB, and/or compliance with the state General Permit for Construction Activities may be required to conduct maintenance when water quality impacts could occur during maintenance.

Wastewater Discharge Regulations

Wastewater Discharge Regulations (WDRs) could be required from the RWQCB whenever dewatering would occur as part of a maintenance activity. Dewatering is necessary when water within the storm water facility must be removed so that maintenance may be accomplished

Coastal Development Permit

A CDP issued by the California Coastal Commission would be required for maintenance within the Coastal Commission Permit jurisdiction and the Deferred Certification Areas of the Coastal Zone.

Supplemental Information- Water Quality

Appeal No. A-6-NOC-11-086

City of San Diego

Coastal Development Permit

Master Storm Water System Maintenance Program

October 2, 2012

Executive Summary

The City of San Diego (City) Transportation & Storm Water Department is responsible for storm water management within City limits. The Master Storm Water System Maintenance Program is designed to integrate operation and maintenance planning, implementation, and assessment activities with water quality protection programs. This Supplemental Information submittal identifies the City's approach to watershed and site-specific water quality improvement activities aimed at reducing water quality impacts associated with maintenance activities and the need to provide flood control within the California Coastal Commission's jurisdiction.

The City conducts a multi-faceted urban runoff program with a tiered Best Management Practice (BMP) approach to efficiently and cost-effectively implement water quality improvement activities. The tiered BMPs include: pollution prevention, source control, and treatment and special study activities. The City has assessed the current inventory of water quality BMPs in the watershed areas draining to the three proposed priority channel maintenance areas within the coastal zone. At the request of Coastal Commission staff, the City proposes to implement a suite of key program enhancements that provide a water quality benefit associated with the proposed channel maintenance activities, which are identified in Table ES-1.

This document presents a summary of the City's programmatic findings and proposes specific water quality improvement activities within the coastal zone to address potential effects associated with channel operation and maintenance. The City anticipates that the suite of water quality mitigation described in this document can be adapted to meet long-term water quality objectives throughout this reiterative process in future permit cycles under the Master Maintenance Program.

Table ES-1. Proposed Water Quality Improvement Activities in Priority Channel Areas.

Number	Priority Channel Area Drainage	Water Quality Activity Type	Description	Implementation Frequency	Duration
1	Los Peñasquitos	Pollution Prevention	Commercial and residential property sediment reduction outreach distribution.	250 parcels	Approximately one month prior to maintenance initiation.
2		Source Control	Street sweeping improvements- targeted vacuum-assisted/regenerative air machine usage.	19.4 curb miles	One year subsequent to sediment removal maintenance events.
3		Source Control	Street sweeping improvements- targeted median sweeping route addition.	10.8 curb miles	
4		Treatment	Enhanced catch basin inspection and as-needed cleaning implementation.	25 inlet locations	
5	Mission Bay	Pollution Prevention	Commercial and residential property sediment reduction outreach distribution.	152 parcels	Approximately one month prior to maintenance initiation.
6		Source Control	Street sweeping improvements- targeted vacuum-assisted/regenerative air machine usage.	1.0 curb miles	One year subsequent to sediment removal maintenance events.
7		Source Control	Street sweeping improvements- targeted median sweeping route addition.	0.9 curb miles	
8		Treatment[1]	Enhanced catch basin inspection and as-needed cleaning implementation.	10 inlet locations	
9	Tijuana River	Pollution Prevention	Commercial and residential property sediment reduction outreach distribution.	250 parcels	Approximately one month prior to maintenance initiation.
10		Source Control	Street sweeping improvements- targeted vacuum-assisted/regenerative air machine usage.	5.0 curb miles	One year subsequent to sediment removal maintenance events.
11		Source Control	Municipal and bi-national agency collaboration through Tijuana River Valley Recovery Team to address sediment and trash.	Ongoing	Coastal Development Permit term.
12		Treatment	Enhanced catch basin inspection and as-needed cleaning implementation.	10 inlet locations	One year subsequent to sediment removal maintenance events.
13	Los Peñasquitos/ Mission Bay/ Tijuana River	Special Study	Evaluate the need and potential effectiveness of implementing slope stabilization measures and small scale water quality basin BMPs on City-owned parcels within the priority channel drainage areas.	To be determined	One year subsequent to sediment removal maintenance event for each priority channel segment.
14	Los Peñasquitos/ Mission Bay/ Tijuana River	Special Study	Degraded canyon area municipal separate storm sewer (MS4) outfall evaluation and improvement process.	To be determined	One year subsequent to sediment removal maintenance event for one priority channel segment
15	Los Peñasquitos/ Mission Bay/ or Tijuana River	Pilot Implementation Study	Conduct repairs on a prioritized representative degraded outfall to determine the relative level of planning, engineering and implementation effort needed to address identified canyon-area outfall problems.	1 outfall location	Coastal Development Permit term.

[1] A dry weather diversion is located at the downstream end of the Mission Bay High School and Pacific Beach Drive/Olney Street Channels. The diversion treats 100% of the dry weather runoff by diverting it to the sanitary sewer system.

Introduction

The City of San Diego (City) Transportation & Storm Water Department is responsible for storm water management within City limits. Responsibilities include: maintaining drainage infrastructure, compliance with water quality regulations, and enforcement of municipal code and ordinances. Like many municipal entities, the City is faced with aging infrastructure and limited budget and resources. Regardless of these resource limitations, the City is obligated to reduce flood risk and protect public and private property by maintaining the design capacity through efficient operation and maintenance of drainage infrastructure.

The City has developed the Master Storm Water System Maintenance Program (Master Maintenance Program) to optimize its business processes and practices related to channel operation and maintenance activities. The Master Maintenance Program is intended to integrate operational and maintenance planning, implementation and assessment activities with its water quality protection programs. This document provides a representative summary of the current activities the City conducts within its jurisdiction to improve water quality and an assessment of additional activities that the City proposes to implement to mitigate for potential water quality impacts associated with channel operation and maintenance in the coastal zone.

Managing Storm Water Systems in the City San Diego

The City manages a large Municipal Separate Storm Sewer System (MS4) which conveys storm water runoff from natural and developed areas to receiving waters such as lakes, river, creeks, streams, lagoons, and the Pacific Ocean. The City's MS4 system is an inter-connected system of natural drainages and constructed drains, pipes, and channels. Collectively, the MS4 functions to convey drainage flows from impervious surfaces to receiving waters in order to protect the life and property of the City's citizens from potential flooding.

City of San Diego **Storm Drain System Features**
• Drains over 213,000 acres • Distributed throughout six watershed areas • 70,000+ storm drain assets • 900+ miles of storm drain pipe • 84+ miles of drainage channels

Storm water discharges from MS4s in urbanized areas are a concern because of the high concentration of pollutants found in urban runoff. Pollutants from human activities settle on impervious surfaces until precipitation events wash them into nearby storm drains. Common pollutants include metals, pesticides, fertilizers, bacteria, litter, and sediment. Storm water runoff picks up and transports these pollutants, non-native vegetation, and other components then discharges them to waterways via the MS4. In some cases, portions of the MS4 and/or waterways can accumulate sediment and debris that reduce flood conveyance capacity and increase flood risk for adjacent public or private infrastructure. The City's

MS4 discharges are regulated under a National Pollutant Discharge Elimination System (NPDES) permit.

The City is responsible for NPDES program compliance and management; as well as, the operation and maintenance of City drainage and flood control systems. This dual responsibility requires the City to optimize the use of fiscal and other resources to integrate municipal flood control and storm water quality management. The City has formally defined the linkage of its flood control and water quality protection programs through its mission statement, core values and five overall goals.

City of San Diego Transportation & Storm Water Department Mission Statement:

"To protect and improve water quality and to reduce flood risk through efficient storm water management."

Master Maintenance Program

The purpose of the Master Maintenance Program is to incorporate an integrated approach to maintenance by balancing the need to restore channel conveyance capacity for flood control and public safety with strategies to protect water quality and biological resources. The Master Maintenance Program also identifies the process by which the City intends to identify maintenance needs, prioritize channels for maintenance, analyze alternatives, minimize impacts, conduct technical assessments necessary to determine the appropriate mitigation, and perform and report on maintenance activities. These processes will provide resource agencies (including the California Coastal Commission), watershed stakeholders, and other interested parties the tools to evaluate the purpose, methods and mitigation proposed for channels with maintenance needs.

City of San Diego Tiered BMPs

Tier I BMPs

Non-structural source control and pollution prevention activities.

Tier II BMPS

Structural BMPs such as infiltration basins and LID techniques to reduce runoff volumes and pollutant loads. Pilot studies to increase BMP effectiveness/ application are also included in Tier II.

Tier III BMPs

Infrastructure-intensive structural pollution reduction treatment measures.

Pollution Prevention Links to the Master Maintenance Program

In response to NPDES permit obligations and as a result of integrated flood control drivers, the City has engaged in a multi-faceted urban runoff management program in the various watersheds within its jurisdiction. The City's water quality protection program is based on an integrated and tiered Best Management Practice (BMP) approach. Three BMP tiers are defined with the goal of maximizing the effectiveness of BMPs to reduce pollutants and sediment loads and guide implementation strategies. Over time, these activities may also

lead to reduced maintenance needs in downstream channel areas as sediment sources and other pollutants are reduced and/or eliminated in the upstream watershed.

The application of the City's tiered and integrated BMP approach has potentially significant long-term impacts to the Master Maintenance Program. Source control and pollution prevention activities will reduce supply of sediment and deleterious inputs to natural and constructed channel segments. The implementation of Low Impact Development (LID) practices and other structural BMPs will treat storm water runoff, slow velocities, and lessen flows of sediment-laden water to receiving waters. Finally, the combined effect of these activities, joined with associated outreach and improvements in public awareness is anticipated to lead to long-term improvements in the quality of runoff transported through the City's MS4. This will reduce the need for downstream channel clearing activities to increase channel capacity and reduce flood risk.

Programmatic BMP Inventory Overview

The City's multi-faceted urban runoff management program includes: education and outreach activities through the Think Blue program; implementation of Tier I, II, and III BMPs; inspection and enforcement activities; coordination with watershed stakeholders; and many other activities designed to reduce pollutant sources and treat urban runoff.

These activities may reduce the frequency and extent of impacts for channel maintenance over time. Any reductions in maintenance needs resulting from the City's general city-wide programmatic and LID programs would be captured by the annual hydrology studies, and channel maintenance activities would be adjusted accordingly. The projects below provide a representative sample of the suite of general water quality improvement projects that the City engages in throughout its jurisdiction, both in and outside of the coastal zone; as well as specific projects in the Peñasquitos, Mission Bay/La Jolla, and Tijuana River watersheds (Figures 1 and 2).

Wetland Mitigation

The Master Maintenance Program's Programmatic Environmental Impact Report (PEIR) identifies wetland mitigation implementation that is designed to offset not only biological impacts but also potential water quality and other impacts associated with wetland habitat values, functions and services. Mitigation for wetland impacts will be implemented in the form of wetland creation/establishment and wetland enhancement within the same watershed as the impacts but, in some cases, offsite. The mitigation ratios applied to the Master Maintenance Program include accounting for habitat, water quality, and other impacts. In general, these processes work to improve water quality by cycling of nutrients; removal of elements or compounds; retention of particulates; export of organic carbon; and/or maintenance of plant and animal communities (USACOE South Pacific Division, Standard Operations Procedure for Determination of Mitigation Ratios, 2012).

Low Impact Development Program

The City requires all new development and redevelopment activities to comply with storm water pollution prevention requirements that are outlined in the City's Storm Water Standards Manual and Low Impact Development (LID) Design Guide. The City's current LID program incorporates both Tier I and II activities and requires new development and redevelopment projects, with limited exceptions, to: 1) implement standard LID practices that include optimizing site layout to reduce the need for grading; 2) minimize the footprint of impervious surfaces such as paving and roofs; 3) disperse runoff to landscaped areas; and, 4) provide buffer zones around natural water bodies so that bioretention areas and other LID facilities can be located there. Larger priority development projects are required to implement additional LID measures to retain, reuse, or promote evapotranspiration of storm water, including retention and detention systems, use of biofilters and pervious surfaces, landscaping design, minimizing soil compaction, and use of cisterns or rain barrels. The City has required these LID measures for applicable projects since March 2008.

Examples of LID implementation in the City include two projects in the Los Peñasquitos watershed. At the Mira Mesa Library, the City has initiated a capital improvement project designed to allow storm water filtration and infiltration through a pervious pavement BMP in the library parking lot. The City has also initiated a capital improvement project designed to implement a hydrodynamic separator BMP in a residential street environment at Marindustry Street to remove trash, sediment, and other pollutants from storm water prior to an MS4 discharge into a canyon area. These types of projects will reduce sediment loads in the City's storm water and ultimately lead to a reduced need for maintenance in downstream channel areas.

Additionally, the City recently audited its codes, ordinances, policies, and regulations to identify barriers to the implementation of these LID storm water management measures. This audit identified several efficiency improvements in its regulatory support for water quality protection best management practices and LID implementation projects that are being pursued.

Watershed Asset Management Plans

The City is currently in the development phase of Watershed Asset Management Plans (WAMPs) for each watershed within the City's jurisdiction. A WAMP is a planning document, updated annually, that develops the projects, tasks, actions, program elements, and levels of investment needed to manage the watershed's assets to meet City-identified levels of service. These plans will provide a vehicle to identify and prioritize potential water quality and flood control challenges; evaluate opportunities for integrating water quality and flood control management into City projects, and operations and maintenance activities within the watershed; and provide a vehicle for public participation.

Comprehensive Load Reduction Plan Development

The City recently completed collaborating with other named Responsible Parties for the *Revised Total Maximum Daily Loads for Indicator Bacteria, Project 1 – Twenty Beaches and Creeks in the San Diego Region* (Bacteria TMDL) to jointly prepare a Comprehensive Load Reduction Plan (CLRP) in fiscal year 2012. The CLRP outlined the BMPs needed to achieve bacteria load reductions from each Responsible Parties' MS4. Included as part of this project are a suite of recommended nonstructural and structural BMPs selected based on their applicability to specific pollutants, impairments and conditions in the watershed(s), specific land use conditions, and suitability and availability of land for implementation in the target watersheds.

In fiscal year 2013, the Responsible Parties have agreed to cooperatively develop an update to the CLRP that will use computer modeling to provide greater detail regarding the number, location, and type of BMPs that will be needed to achieve the bacteria reductions, and address other pollutants within the watershed. A number of projects identified in the CLRPs are directly applicable to reducing sediment and other pollutants entering the MS4 and will lead to improved water quality in channel segments throughout the City's jurisdiction.

Think Blue Public Pollution Prevention Program

Think Blue is the City of San Diego's storm water pollution prevention campaign that aims to educate residents, businesses, and industry leaders about the effects of storm water pollution and how to prevent that pollution from harming our environment. Exemplary projects attributed to Think Blue include the following:

- Project Swell (a partnership between the City, San Diego Unified School District and San Diego Coastkeeper) to enhance existing science curricula to better address pressing environmental issues related to local watersheds;
- Initiation of a Think Blue booth to answer questions and provide educational outreach materials to Mission Bay park visitors, RV-users, and boaters during the summer months; and,
- Development and implementation of numerous public education and outreach multi-media campaigns and materials.

These and other Think Blue efforts are important components in reducing sediment and other pollutants entering the MS4 and will lead to improved water quality in channel segments throughout the City's jurisdiction.

Street Sweeping Pilot Studies

The City is currently in the fifth phase of a series of pilot projects to evaluate potential water quality benefits of various optimization techniques that may be applied to its current street sweeping efforts. Each pilot program phase is designed either to assess specific Tier II modifications to current street sweeping practices, or to determine the relative pollutant removal efficiency of specific sweeper technologies and/or sweeping techniques. The intent of this work is to improve pollutant removal (including sediment) from urbanized areas prior to entering the City's MS4 and moving to receiving waters. A number of the pilot study routes were located in the Los Peñasquitos watershed.

Canyon Area Outfall Asset Assessment

The City has identified a need to assess canyon areas where MS4 asset structural or configuration issues have the potential to cause or contribute to downstream water quality problems, such as sediment loads. Accordingly, the City has developed and implemented a prioritized assessment strategy for canyon outfall assets to identify areas where assets may need to be rehabilitated or replaced to prevent structural damage, reduce or eliminate potential erosion issues and/or improve water quality in downstream receiving waters. These assessments will lead to Tier II-type improvements of the City's MS4 outfalls. In addition, this work is consistent with the City's CLRPs.

The City is currently implementing the fourth phase of this work, and to date visited over 1,500 of the estimated 11,000 canyon area outfalls throughout its jurisdiction. The most recent phase of this work was conducted exclusively in the Los Peñasquitos watershed.

Site-Specific BMP Inventory

A number of Tier I, II and III BMPs have been employed within areas that interest both the City's jurisdiction and the coastal zone to address sediment and water quality pollutants (Figure 2). A brief description of a selection of the BMPs and water quality improvement projects located within the priority coastal maintenance areas of Sorrento Creek, Los Peñasquitos Creek, Soledad Creek, Flintkote, Mission Bay High School/Pacific Beach Drive/Olney Street, and Tijuana River Pilot/Smuggler's Gulch channels are presented below.

Mission Bay Treatment-Mission Bay Sewage Interceptor System Site I-8 (Dry Weather Flow Diversion)

In response to a series of sewer overflows and other non-point source pollution issues that resulted in degraded water quality in Mission Bay, the City has constructed an extensive network of diversion systems over the past 25 years. The Mission Bay Sewage Interceptor System (MBSIS) protects water quality by intercepting flow from the MS4 during non-rain event periods, and diverts it to the City's wastewater collection system. One of the MBSIS locations is located at the terminus of the Mission Bay High School/ Pacific Beach Drive/Olney Street channel immediately upstream of the discharge to Mission Bay. This BMP provides 100% treatment and water quality protection for dry weather flows transported and conveyed from the Mission Bay High School/Pacific Beach Drive/Olney Street channel.

Los Peñasquitos TMDL Development

The City recently completed participation in a three year watershed-based project to develop a Total Maximum Daily Load (TMDL) for sedimentation/siltation in Los Peñasquitos Lagoon (Lagoon). This Lagoon is identified to be an impaired waterbody on the Clean Water Act Section 303(d) list for sedimentation/siltation. The City and other stakeholders worked collaboratively to develop the Los Peñasquitos Lagoon Sedimentation TMDL to restore the most sensitive beneficial uses in the Lagoon. This project included collaboration with Responsible Parties and stakeholders to achieve consensus and carry a Basin Plan Amendment to the California Regional Water Quality Control Board (Regional Board) hearing supporting adoption for the first time in the San Diego Regional Board's history. The City solely funded the project and solicited the support of other stakeholders in the watershed.

Los Peñasquitos Treatment- Lagoon Mouth Opening

The City is currently in the final stages of approval for implementation of a project to assist in physically opening the Lagoon mouth to restore the tidal prism. Tidal flushing of the Lagoon during the summer months is necessary to allow inundation of oxygen-rich waters into the Lagoon and prevent fish kills. Under this collaborative program with the Los Peñasquitos Lagoon Foundation and State Parks, City equipment and operators will excavate and properly dispose of marine sediments from the inlet area and re-contour the area to mimic natural beach contours.

Los Peñasquitos Treatment- Desilting (Sediment) Basin

In cooperation with the Los Peñasquitos Lagoon Foundation, State Parks and the State Coastal Conservancy, the City assists with the management and maintenance of a desilting (sediment) basin located directly upstream from the Sorrento Valley area channels just east of the Interstate-5 and Interstate-805 merge. The basin was constructed with the intended objective to intercept sediment loads from the Los Peñasquitos Creek; thereby, reducing the sediment input into the Los Peñasquitos Lagoon. The regulatory permitting, maintenance and monitoring efforts are shared through a cooperative monitoring and maintenance agreement between the Los Peñasquitos Foundation and the City. Specifically, the City is responsible to dredge and dispose of any sediment, debris and trash accumulated in the basin to maintain its hydraulic capacity and helps restore the Lagoon.

Tijuana River Valley Restoration Project - SWRCB-Funded Grant

The City is helping to lead the Tijuana River Valley Recovery Team's (Recovery Team) efforts to address sediment and trash pollutants impacting the sensitive habitat, biological, cultural and recreational resources in the Tijuana River Valley (Note: this project is not displayed on Figure 2). The Recovery Team is a collaboration of more than 30 federal, state and local agencies and other interested parties from both sides of the border focused on addressing sediment, trash, and associated environmental issues. The City has taken a leadership role in the collaborative stakeholder-led approach to integrate the diverse scientific, environmental, regulatory and private stakeholder perspectives with existing planning documents. The result of this effort was the creation of the Tijuana River Valley Recovery Strategy (Recovery Strategy) document. The Recovery Strategy identifies a series of Tier I, II, and III-type BMP activities on both sides of the U.S./Mexico international border to reduce the impacts of anthropogenic sediment and trash on the Valley's resources and reduce the need for the City's channel maintenance activities.

Proposed Master Maintenance Program Water Quality Improvement Activities

The City proposes to utilize a suite of pollution prevention, source control, special pilot study/process improvement, and treatment BMPs to address sediment and other pollutant inputs to priority channel area drainages within the coastal zone. The selected activity suite was derived from evaluation of current water quality improvement activities in each drainage area, and synthesis of City programmatic findings. The proposed activity suite is both representative of the City's overall tiered and integrated BMP approach, as well as designed to reduce sediment and other pollutant loads from entering the priority channel areas. The City anticipates that application of these activities with the priority channel drainage areas will mitigate for potential water quality impacts associated with proposed maintenance activities during this permit cycle and lead to long-term water quality benefits.

Pollution Prevention - Commercial and Residential Sediment Reduction Outreach

The City's Think Blue program provides a proven education and outreach program that works with communities across each of the watersheds within City jurisdiction. Think Blue creates awareness and instigates changes in behavior that address water quality improvement needs. As part of the Master Maintenance Program, the City proposes to develop and distribute targeted outreach materials for residential, commercial, and rural/agricultural properties within the priority coastal zone maintenance areas. Distribution of these materials will be in addition to the robust schedule of radio, television, and movie theater advertising used to support the City's the successful and ongoing Think Blue pollution prevention campaign and address pollutants. City staff also regularly meets with property owners and other stakeholders throughout the City area. These regular meetings support not only the City's storm water pollution prevention measures but also environmentally sensitive habitat protection measures, agricultural best management practices, and other applicable topics. It is the City's intent to continue regular meetings with stakeholders to present new written materials supporting pollution reduction efforts that will reduce sediment and other pollutant loads from entering the priority channel areas.

Targeted outreach material will be developed for residential, commercial, and rural/agricultural properties within the priority channel drainage areas. The distributed material will cover appropriate best management practices tailored to the property land use as it relates to storm water pollution prevention of sediment, common urban pollutants, and agricultural-related waste products. Where appropriate, the distributed material will be printed in both English and Spanish. The targeted material will be distributed to up to 250 properties within each priority channel drainage area approximately one month prior to each scheduled maintenance activity. Material will be distributed to a total of 652 properties in the coastal zone adjacent to the priority channels in the Sorrento Creek, Mission Bay, and Tijuana River areas (Figures 3-5; Table 1).

Table 1. Summary of Targeted Commercial, Residential, and Agricultural Land Use Sediment Reduction Outreach Activities

Channel Area	Number of Targeted Properties
Sorrento	250
Mission Bay	152
Tijuana River	250
Total	**652**

Source Control - Enhanced Street Sweeping

Currently, the City street sweeping program encompasses approximately 2,500 miles of street surface within City jurisdiction. In general, the City sweeps residential areas on a monthly basis and commercial areas on a weekly frequency. These frequencies translate to approximately 36,000 and 45,000 curb miles of street sweeping for residential and commercial areas annually, respectively. The culmination of this effort leads to annual average removal of over 20,000 cubic yards of material (weighing more than 5,000 tons) from impervious street surfaces within City jurisdiction.

The City's Street Sweeping Pilot Study Phase I data indicated that on relatively flat routes, vacuum-assisted/regenerative air sweeping machines can be up to approximately 33% more efficient in weight of debris collected per broom mile swept. The second phase of the Street Sweeping Pilot Studies have shown that increasing sweeping frequency to twice per week has limited effectiveness for the more common mechanical sweepers in the City's fleet. While increased sweeping frequency (twice weekly) using vacuum-assisted/regenerative air machines has been shown to provide similar debris removal rates per broom mile swept compared to once per week sweeping, increased bi-weekly sweeping presents significant logistical challenges for managing the City's limited sweeping resources. The third phase of the City's Street Sweeping Pilot Studies indicated that a substantial pollutant removal benefit could be gained from sweeping median street areas that are not subject to regular street sweeping routes. Specifically, the initial sweeping event in median areas collected over three times the average of weight of material per broom mile using mechanical sweepers on typical curb and gutter areas. The Phase III data also suggested an optimum sweeping frequency for median areas that considers pollutant and debris build-up rates and City operational capacity constraints is quarterly sweeping events.

The City proposes a two-fold approach to using enhanced street sweeping as a source control activity to reduce sediment and other pollutants from impervious surfaces prior to wash-off into the priority channel areas. First, the City intends to prioritize sweeping of several high-traffic commercial routes in the coastal zone adjacent to the priority channel areas utilizing its limited vacuum-assisted/regenerative air fleet on a weekly basis (Figures 6-8). Second, the City proposes to sweep select median areas within each priority channel drainage area on a quarterly basis. The identified sweeping machine enhancement on select commercial routes and additional quarterly median sweeping will be will be conducted in the

priority channel drainage area for one calendar year subsequent to each maintenance event that requires sediment removal. Once the post-maintenance calendar year is complete, the City, at its option, may resume its regularly scheduled sweeping regime in the priority drainage area.

Enhanced sweeping source-control BMP will benefit water quality in the drainages leading to the priority channel areas by reducing pollutants loads entering into the specific channel and offset the temporal loss of potential water quality infiltration after maintenance. Sweeping enhancements will account for improved debris removal on a total of 25.4 curb miles using the vacuum-assisted/regenerative air machines and 11.7 curb miles of median areas within the coastal zone (Table 2). Enhanced sweeping of 25.4 curb miles on a weekly basis using vacuum-assisted/regenerative air enhanced machines could improve pollutant removal over 1,320 curb miles within the priority channel drainage areas on an annual basis. In addition, enhanced quarterly median sweeping could add 46.8 curb miles of previously un-swept area annually to the City's integrated pollutant removal activities.

Table 2. Summary of Source Control- Enhanced Street Sweeping Activities

Channel Area	Sweeping Machine Enhancement Area (curb miles)	Median Sweeping Enhancement Area (curb miles)
Sorrento	19.4	10.8
Mission Bay	1.0	0.9
Tijuana River	5.0	--[1]
Total	**25.4**	**11.7**

[1] Roadway configuration within the Tijuana River and Smugglers Gulch Channel drainage area within the coastal zone does not include sufficient median roadway area to provide appreciable pollutant removable benefit for enhanced median sweeping.

Treatment - Enhanced Catch Basin Inspection and As-needed Cleaning Implementation

It is widely recognized that treatment of sediment, trash and other pollutants in storm water runoff is a key mechanism to reduce sediment accumulation in channel areas. Further, the maintenance and management of the nearly 40,000 catch basin inlets in the City represents one of the most time-and resource intensive of the City's many efforts to prevent pollutants from reaching receiving waters. Recently, the City performed a pilot study to assess the treatment efficacy and operation and maintenance requirements for six types of commercially-available catch basin insert products. Catch basin insert products are designed to reduce the level of trash, debris, and other pollutants from storm water through mechanical filter unit processes prior to runoff entry into the MS4 system. The City's Catch Basin Insert Pilot Study data indicated that the tested products had limited treatment capacity during storm events, with a majority of the products overflowing/bypassing during the initial minutes of a monitored storm event.

Catch basins themselves may trap many different types of solids and chemicals that wash off the landscape, from fine particulates and leaves to gross pollutants, floatables and trash. Given the treatment

performance data for catch basin insert products, the City conducted a separate pilot study to assess the relative pollutant removal efficacy of enhanced catch basin inspection and cleaning. The Catch Basin Inlet Cleaning Pilot Study indicated that differences in land use types, drainage system ages and conditions, and the sensitivity of receiving waters, can impact pollution prevention efficacy of storm drain catch basin cleaning in different land use areas. The results of the Catch Basin Inlet Cleaning Pilot Study suggested the City's current NPDES-regulated cleaning frequency of one annual cleaning per inlet may be modified to tailor to local conditions. The City currently anticipates that an approximately 5% increase in inspection of the City's MS4 inlets will likely lead to improved debris removal. The increased inspections will be used to identify and clean inlets adjacent to the channel impact areas where surrounding land use and other factors are shown to cause increased debris accumulation. Within a month after each specific channel maintenance activity that requires sediment removal is initiated, the City proposes to increase the inspection frequency and cleaning by 5% in that priority drainage area for one calendar year. Furthermore, with each inspection, storm drain catch basins with significant accumulated debris will be cleaned to reduce sediment and pollutant loads in coastal waters (Figures 6-8) and mitigate removal of in-channel sediment and vegetation that can improve water quality. Since these three priority channels are within natural depositional areas in the lower reaches of the watershed, the City anticipates sediment and wetland vegetation will continue to accumulate after maintenance. Once the post-maintenance calendar year is complete, the City, at its option, may resume its regularly scheduled inlet inspection regime in the priority drainage area.

It is recognized that a 5% increase in inspection frequency in relatively small priority channel drainage areas with few catch basin inlets will result in only a minor increase in potential for identifying problem catch basins. Accordingly, the City proposes to increase inspection (and subsequent as-needed cleaning) frequency for one calendar year by 5% or up to 10 catch basin inlet locations per priority channel drainage area after maintenance is initiated where sediment removal is required. Increased catch basin inspection implementation will likely account for improved debris removal in a portion of the 45 MS4 inlets as described in Table 3.

Table 3. Summary of Treatment- Catch Basin Inspection and As-needed Cleaning Activities

Channel Area	Estimated Number of Catch Basins Within Drainage Area Within Coastal Zone	Number of Increased Catch Basin Inspections and As-needed Cleaning
Sorrento	505	25
Mission Bay	11	10
Tijuana River	149	10
Total	**667**	**45**

Source Control – Continued Tijuana River Valley Recovery Team Leadership and Participation

The City has been an active participant in the San Diego Regional Water Quality Control Board's Recovery Team process since its inception in 2008. Given the unique challenges in managing water quality in the bi-national Tijuana River watershed, this collaborative multi-agency and international approach is one of the few ways the City can proactively influence policy and implementation decisions that will have impact on the sediment and trash loads crossing the U.S./Mexico border, and deposited in the Smugglers Gulch and Pilot Channels.

The City supports the Recovery Team's mission "to bring together the governmental administrative, regulatory, and funding agencies in tandem with advice from the scientific community, the environmental community, and affected stakeholders to protect the Tijuana River Valley from future accumulations of trash and sediment, identify, remove, recycle or dispose of existing trash and sediment, and restore the Tijuana River floodplain to a balanced wetland ecosystem" through numerous planning and implementation actions. These activities include: coordination with Recovery Team stakeholders to promote appropriate sediment management practices (pollution prevention), financial and personnel support of manual trash pickup events in the Valley (source control) and planning and preliminary design of structural BMPs to treat sediment and trash in storm water flows (treatment). Because of numerous stakeholder involvement and physical limitations to implement BMP projects in this area, the City proposes to continue working closely with local, state and federal regulators and agencies, non-government organizations, and other stakeholders in the Recovery Team to implement appropriate BMP activities collaboratively. This includes continuation of cross-border engagement with agency representatives in Mexico to encourage pollution prevention, source control and structural BMP activities to treat the sediment and trash issues at the source. Representative examples of current and upcoming City-funded Recovery Team-related activities include: continued support and data collection oversight for WiLDCOAST (a local cross border non-profit organization) trash pickup programs, coordination with Mexican agencies in review of available hydrology and hydraulic reports detailing flow patterns and regimes in Mexico leading to potential sediment basin implementation, support of a collaborative regional sediment management plan that intends to identify cost-efficient re-use and disposal options for sediment excavated from the Tijuana River Valley. It is anticipated that over time, the Recovery Team's pollution prevention, source control, and treatment efforts will reduce sediment and trash accumulating within coastal waters and resources.

Special Study – Slope Stabilization and Small Scale Water Quality Basin BMP Evaluation

Slopes with anthropogenic-caused disturbance and other development with reduced stability in open space areas have potential to contribute to sediment and pollutant loading issues in watersheds served by the City's MS4. The City proposes to conduct a special study to evaluate the need and potential effectiveness of implementing slope stabilization measures and small-scale water quality basin BMPs on City-owned parcels within the priority channel drainage areas (Figures 3-5; these figures indicate City-owned parcels within each priority channel drainage area). The special study will be conducted in priority drainage areas after maintenance where sediment removal is required within one calendar year after maintenance is initiated. The evaluation would include a desktop review of City owned properties for potential signs of erosion or other issues that may require a need to implement slope stabilization or other BMPs. Potentially suitable sites, as determined in the desktop survey, will be further investigated with a field visit by a certified specialist in sediment and erosion control. The results of the field visit will determine potential BMPs that may be employed to stabilize slopes and/or reduce sediment-laden runoff from the site. The focus of the special study will be on evaluating slope stabilization and water quality basin BMP options regarding their applicability to the site conditions, space and sizing requirements, environmental impacts and the resulting mitigations measures, maintenance procedures, and a cost-benefit review. The City will submit the results of this special study to Coastal Commission staff.

This evaluation will help the City decision-making process on employing the appropriate cost-effective BMP to areas with sediment impairment concerns and potentially help to identify additional water quality mitigation options for future Coastal Development Permits under the Master Maintenance Program.

Special Study/Process Improvement - Degraded Outfalls

Over the past three years, the City has been proactively visiting and assessing MS4 outfalls in canyon areas to evaluate the structural condition of the reinforced concrete, corrugated metal, and other material pipe assets (Figure 9). The majority of the assessed outfalls were designed prior to 1984 when design standards were not specifically detailed in storm water management controls. Since 1984, design standards have been significantly improved and are incorporated on new outfall construction or when major repairs are performed.

As part of the City's MS4 outfall assessment work, the adjacent downstream channel condition, surrounding vegetation and a series of other physical parameters have also been evaluated. The result of this effort is a database of canyon area asset condition assessments that can be queried for various attributes such as presence of signs of active erosion downstream of the MS4 outfall, standing water and non-native vegetation. A number of degraded outfalls that appear to require maintenance, repair, or replacement to reduce potential erosion and/or other problems have also been identified (Figure 10).

During this permit cycle, the City proposes to implement a special study to develop a process and efficient procedure to handle specific maintenance, repair, and/or replacement needs for outfalls with sediment-related issues (Figure 11). This special study will focus on identifying a clear decision-making process to assess needed repairs at the individual outfall level, initiating appropriate environmental permitting documents, and developing a process to implement and/or track the status of repair/replacement jobs. Within one-year after maintaining one of the three priority channels, the City will prepare this special study and submit the report to Coastal Commission staff. The City anticipates this preparatory study will identify a process to prioritize drainage-related Engineering & Capital Projects and/or other appropriate repair and replacement techniques that can reduce sediment and debris loads in coastal areas and will lead to improved water quality in channel segments with the coastal zone and throughout the City's jurisdiction.

Figure 11. Example of Canyon Area Outfall in Need of Repair

Special Study- Degraded Outfall Repair Pilot

The City's proactive effort to assess the condition of outfall structures in canyon areas and identify outfalls with sufficient damage to either the structure or the downstream channel is the basis to allow for structural or other improvements to reduce sediment loads to priority channel and other areas. The proposed Special Study/Process Improvement - Degraded Outfalls work presented above intends to provide the City a prioritization process to cost-efficiently evaluate degraded outfalls, plan, design, and permit repair work. In conjunction with this study, the City proposes to implement one pilot outfall repair project in the coastal zone, within a five-year term as part of the Coastal Development Permit for the Los Peñasquitos, Mission Bay and Tijuana River priority channel areas.

Subsequent to the maintenance of any one of the three priority channels, the City will implement a repair project on a prioritized outfall.. The project will select a representative outfall in need of energy dissipation, repair and/or replacement and utilize existing City processes to budget, plan, engineer and conduct repairs to the selected outfall location. The duration, level of effort, cost and lessons learned from each component of the repair project will be documented in order to allow efficient future implementation of additional outfall repairs. Prior to the permit expiration date, the City will provide a brief technical memorandum documenting the degraded outfall repair process for use in internal and external communication with stakeholders in the Master Maintenance Program process.

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Internal Order No. 21000287

COASTAL DEVELOPMENT PERMIT NO. 714232
SITE DEVELOPMENT PERMIT NO. 714233
MASTER STORM WATER SYSTEM MAINTENANCE PROGRAM
PROJECT NO. 42981 (MMRP)
CITY COUNCIL

This Coastal Development Permit No. 714232 and Site Development Permit No. 714233 is granted by the City Council of the City of San Diego to the City of San Diego Transportation and Storm Water Department, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0501 and 126.0701. The approximate 32 miles of natural and man-made (concrete/earthen) channels, detention basins and storm drain outfalls are located with the City's 342.4-square mile metropolitan area, and within the City's public right-of-way or storm water easements dedicated to the City of San Diego and maintained by the City of San Diego's Transportation and Storm Water Department. These storm water facilities are also located within portions of the Coastal Overlay, Open Space, Agricultural, Residential, Commercial and Industrial Zones and within the Clairemont Mesa, College Area, Encanto Neighborhoods, Linda Vista, Mid-City Communities, Mira Mesa, Mission Valley, Navajo, Otay Mesa-Nestor, Pacific Beach, Peninsula, Skyline-Paradise Hills, Southeastern San Diego, Tijuana River Valley, and Torrey Pines Community Planning areas within the City of San Diego.

Subject to the terms and conditions set forth in this Permit, permission is granted to the Owner/ Permittee for cleaning and long term maintenance of storm water facilities and subject to the Master Storm Water System Maintenance Program (October, 2011) and Program Environmental Impact Report SCH No. 2004101032; Project No. 42891, [Exhibit "A"] dated October 24, 2011, and on file in the Development Services Department.

This Permit provides the City of San Diego Transportation and Storm Water Department the authority to:

a. Fulfill the mandate of Section 26.1 of the San Diego City Charter to provide essential public works and public health services by maintaining the storm water conveyance system for the purpose of reducing flood risk;

b. Implement a comprehensive program that will govern the future maintenance of the City's storm water system in an efficient, economic, environmentally and aesthetically acceptable manner for the protection of property and life, in accordance with Council Policy 800-04;

c. Ensure implementation of Best Management Practices (BMPs) and maintenance protocols during maintenance activities to avoid and/or minimize effects on environmental resources; and

d. Implement a comprehensive review process for annual maintenance activities; and

e. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for the subject storm water facilities in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by November 4, 2014.

2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.

3. This Permit shall expire in twenty years.

4. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.

5. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.

6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

8. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Owner/Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Owner/Permittee by the City: (1) to grant Owner/Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Owner/Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Owner/Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" conditions(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project.

12. The mitigation measures specified in the Mitigation Monitoring and Reporting Program, and outlined in Program Environmental Impact Report (PEIR) No. 42891/SCH No. 2004101032, shall be noted on the maintenance plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

13. The Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in PEIR No. 42891/SCH No. 2004101032, satisfactory to the Development Services Department and the City Engineer. Prior to the issuance of the "Notice to Proceed" with maintenance, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Biological Resources; Historical Resources; Water Quality; Land Use Policies and Paleontological Resources.

13. The Permittee shall comply with Exhibit "A", the Master Storm Water System Maintenance Program satisfactory to the Development Services Department.

14. Prior to the Development Services Department approval of any work, other than emergency actions, the Permittee shall submit an application for a Substantial Conformance Review to the Development Services Department for proposed site specific work consistent with Exhibit "A", the Master Storm Water System Maintenance Program.

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code §66020.

APPROVED by the City Council of the City of San Diego on October 24, 2011.

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

RESOLUTION DENYING THE APPEAL AND MODIFYING THE PLANNING COMMISSION'S DECISION BY APPROVING MODIFIED COASTAL DEVELOPMENT PERMIT NO. 714232 AND MODIFIED SITE DEVELOPMENT PERMIT NO. 714233 FOR THE MASTER STORM WATER SYSTEM MAINTENANCE PROGRAM PROJECT NO. 42891.

WHEREAS, the City of San Diego Transportation and Storm Water Department (T&SWD), Owner/Permittee, filed an application with the City of San Diego for a permit to clean and maintain existing storm water facilities as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Coastal Development Permit No. 714232 and Site Development Permit No. 714233; and

WHEREAS, the project site is defined as located within the City's 342.4 square mile metropolitan area and within portions of the Coastal Overlay, Open Space, Agricultural, Residential, Commercial and Industrial zones and the Clairemont Mesa, College Area, Encanto Neighborhoods, Linda Vista, Mid-City Communities, Mira Mesa, Mission Valley, Navajo, Otay Mesa-Nestor, Pacific Beach, Peninsula, Skyline-Paradise Hills, Southeastern San Diego, Tijuana River Valley, and Torrey Pines Community Planning areas as described in the original Master Storm Water System Maintenance Program (Master Program) (March 2010); and

WHEREAS, on May 13, 2010, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 714232 and Site Development Permit No. 714233 and pursuant to Resolution No. 4586-PC voted to approve the Project; and

WHEREAS, an appeal of the Planning Commission's decision was submitted jointly by San Diego Coastkeeper, Coastal Environmental Rights Foundation, San Diego Audubon Society, Friends of Rose Canyon, San Diego Chapter of the Sierra Club, San Diego Canyonlands, and the California Native Plant Society; and

WHEREAS, in response to comments from, and meetings with, appellants during the public review period for the original PEIR and following the appeal of the Planning Commission decision, the T&SWD incorporated a number of modifications to the Master Program originally approved by the Planning Commission, which the T&SWD considers a good faith effort to respond to appellants' concerns and recommends that the City Council approve as modified; and

WHEREAS, the modifications included, among other things: (1) reducing the number of storm water facilities included in the Master Program by removing many of the storm water facilities within open space, the number of miles was reduced from 50 to 32 miles and 113 rather than 160 facilities; (2) adding measures to further reduce impacts to biology and water quality; (3) identifying specific areas to be used for staging, stockpiling and storage for each facility to be

maintained; (4) estimating biological impacts based on disturbance generally being limited to the channel bottom plus two feet on either side rather than the full channel, as assumed in the original PEIR; (5) clarifying the Master Program objectives; (6) providing increased opportunities for public input through pro-active notification and presentations at City Council and Community Planning Chair committee meetings; adopting the City's Substantial Conformance Review process rather than the originally proposed Consistency Determination process; and (7) refining Master Program protocols to improve specificity and enforceability; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter required the City Council to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals affected by the decision, and the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on October 24, 2011, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of San Diego that it modifies the Planning Commission decision and adopts the following modified findings with respect to Coastal Development Permit No. 714232 and Site Development Permit No. 714233:

FINDINGS:

Site Development Permit - Section 126.0504

A. Findings for all Site Development Permits

1. The proposed development will not adversely affect the applicable land use plan.

The 32 miles of storm water facilities to be maintained by T&SWD are designed to convey storm water flows in order to protect the life and safety of its citizens and to control flooding. These facilities also convey urban runoff from development, protect water quality, and support natural resources. The long-term performance of storm water facilities is dependent upon ongoing and proper maintenance. To maintain the effectiveness of storm water facilities, the T&SWD has prepared the Master Program. The purpose of the Master Program is to permit and implement a comprehensive, annual approach to the maintenance of existing storm water facilities.

The Master Program maintenance activities are subject to the City's General Plan (March 2008), the Clairemont Mesa, College Area, Encanto Neighborhoods, Linda Vista, Mid-City Communities, Mira Mesa, Mission Valley, Navajo, Otay Mesa-Nestor, Pacific Beach, Peninsula, Skyline-Paradise Hills, Southeastern San Diego, Tijuana River Valley, and Torrey Pines Community Plans. The applicable environmental goals, objectives and guidelines identified in the General Plan and the applicable community plans can be generally characterized as follows: (1) maintain natural drainages; (2) minimize disturbance to natural habitat and the wildlife it supports; (3) protect water quality; and (4) create and maintain recreation opportunities

associated with natural drainages. In order to assess the relationship of storm water maintenance to the environmental goals, objectives and guidelines of the General Plan and applicable Community Plans, the following discussion is based on the Master Program's four over-arching goals and objectives.

Maintain Natural Drainages

Maintenance activities would not alter the configuration of the natural drainage courses included in the Master Program. While the Master Program does provide for removal of accumulated sediment and overgrown vegetation that interfere with conveyance of floodwater, it would not allow any physical modifications of the underlying drainage. Furthermore, the removal of riparian vegetation would not significantly impact the character of the natural drainages. In general, mature trees, spaced at least 50 feet apart, would be allowed to remain in place during maintenance. Given the fact that typical riparian tree canopy widths have a radius of 10-20 feet, this would allow the appearance of a continuous tree canopy following maintenance, which would retain the visual character of these drainages. The dominant understory vegetation would be expected to re-establish within six to 12 months of maintenance. Thus, the affect of removing this understory vegetation would be temporary in nature, and would not adversely affect the implementation of the land use policies intended to maintain natural drainages.

Minimize Disturbance to Natural Habitat and the Wildlife It Support

Maintenance activities would disturb wetland vegetation found within the storm water facilities and the wildlife it supports. Due to the impedance to flood water associated with wetland habitat, achieving the primary goal of the Master Program to control flooding, maintenance is expected to remove portions of wetland vegetation located within storm water facilities included in the Master Program. However, protocols in the Master Program, combined with biological mitigation required by Recirculated Program Environmental Impact Report (PEIR) No. 42891/SCH No. 2004101032 and the associated Mitigation Monitoring and Reporting Program (MMRP) would minimize impacts to natural habitat and wildlife in several ways.

First, individual hydrologic and hydraulic assessments (IHHA's) would be completed prior to maintenance to identify the minimum amount of vegetation that needs to be removed and still result in effective storm water conveyance. In most cases, it is anticipated that removal of vegetation on the banks of storm water facilities would not be necessary to effectively convey flood water. As indicated earlier, trees spaced a minimum of 50 feet apart on the bottom of storm water facilities would remain after maintenance. The retention of mature trees and the ability of understory vegetation to naturally re-establish within a short period of time will help achieve the goal of minimizing impacts to natural habitat and wildlife. Lastly, impacts to wetland habitat would be mitigated by enhancing, restoring and/or creating wetland habitat. Whenever feasible, this mitigation would occur within the same watershed as the impact. This mitigation would further minimize the net impact of maintenance on natural habitat and associated wildlife. Thus, the proposed Master Program would achieve the land use policies intended to minimize disturbance to natural habitat.

Protect Water Quality

Maintenance of storm water facilities could adversely affect water quality by reducing the ability of sediment and vegetation within those facilities to remove and retain urban pollutants from surface water. The removal of sediment and/or vegetation in the course of maintenance would diminish the pollutant removal function of these components until they naturally re-establish between maintenance events. On the other hand, maintenance can improve water quality by eliminating the pollutants that have accumulated in a channel. Removal of the pollutants retained in sediment and plants would avoid the potential for them to be transported downstream during high runoff flows. Maintenance would also improve water quality by removing illegally dumped materials such as trash, appliances, furniture, shopping carts, and tires. The Master Program requires Best Management Practices (BMPs) and an analysis of net benefits or impacts to water quality that may result from maintenance activity. If adverse impacts are found, mitigation will be required in accordance with the PEIR and associated MMRP. Therefore, the Master Program would not adversely affect the land use policies intended to protect water quality.

Create and Maintain Recreation Opportunities Associated With Natural Drainages

The Master Program would not interfere with the scenic, natural or cultural resources within resource-based parks. Drainages within resource-based parks are not bordered by development which requires flood protection. Thus, these areas are not included in the Master Program. The Master Program would not alter the natural landforms and would not result in the loss of open space. The configuration and continuity of the drainage system would be unchanged by maintenance activities. No filling or reconfiguration of the storm water facilities would occur as part of the Master Program. Therefore, the Master Program would not adversely affect the land use policies intended to maintain and create recreation opportunities associated with drainages.

2. The proposed development will not be detrimental to the public health, safety, and welfare.

The purpose of the Master Program is to assure that the storm water facilities managed by T&SWD minimize the risk of flooding on adjacent property. The Master Program describes the maintenance techniques to be employed as well as the protocols to be followed to minimize the impacts to environmental resources. The primary objectives of the Master Program are:

- Fulfill the mandate of Section 26.1 of the San Diego City Charter to provide essential public works and public health services by maintaining the storm water conveyance system for the purpose of reducing flood risk;

- Develop a comprehensive program that will govern the future maintenance of the City's storm water system in an efficient, economic, environmentally and aesthetically acceptable manner for the protection of property and life in accordance with Council Policy 800-04;

- Ensure implementation of Best Management Practices (BMPs) and maintenance protocols during maintenance activities to avoid and/or minimize effects to environmental resources, and incorporate the analysis of the operational and pollution prevention benefits of each proposed project; and

- Create an integrated comprehensive review process for annual maintenance activities that will facilitate authorizations from local, state and federal regulatory agencies.

Maintenance of concrete-lined and earthen channels, storm drain outlets/inlets, and detention basins may include the removal of vegetation (cover), sedimentation, and trash/debris that attract vagrants, high concentrations of pollutants, and other vector-controlled insects/mammals such as mosquitoes and rats. On an annual basis, the T&SWD receives numerous documented telephone calls and several damage claims against the City from property owners and businesses adjacent to unmaintained channels that are directly affected by associated storm event flooding, vectors, odors, and vagrancy nuisances.

Implementation of the Master Program will protect and promote the public's health, safety, and welfare by providing the means to eliminate detrimental health and safety concerns that result from improperly maintained storm water facilities.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The Master Program is subject to the City's Environmentally Sensitive Lands (ESL) regulations (Section 143.0101 et seq. of the Land Development Code (LDC) because maintenance would occur within sensitive biological and historical resources, wetlands and floodplains. The Master Program is requesting deviations to the Land Development Code (LDC) to impact sensitive biological and historical resources and to not maintain a 100-foot buffer around all wetlands.

For projects occurring within the Coastal Overly Zone impacts are allowed for incidental public service projects, such as maintenance of storm water facilities. As an incidental public service project, the maintenance activities proposed complies with the City's Biology Guidelines where unavoidable impacts include those necessary to allow reasonable use of a parcel entirely constrained by wetlands; roads where the only access to the developable portion of the site results in impacts to wetlands, and essential public facilities where no feasible alternative exists. Furthermore, within the Coastal Overlay Zone impacts to wetlands shall be limited to only those uses identified in Section 143.0130 (d) for the ESL which is limited to aquaculture, nature study project or similar resource dependent uses, wetland restoration and incidental public service projects. The ESL regulations for development occurring within the Coastal Overly Zone also require that a 100-foot buffer be maintained around all wetlands, as appropriate, to protect the functions and values of the wetlands. This project will comply with all applicable regulations of the Land Development Code with the approval of a deviation to enter within the 100-foot wetland buffer to perform maintenance.

B. Supplemental Findings--Environmentally Sensitive Lands

1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

Implementation of the Master Plan will ensure that the design and siting of future storm water maintenance activities will minimize, to the extent possible, disturbance to environmentally sensitive lands. On an annual basis, the T&SWD will identify specific maintenance activities to be undertaken the next fiscal year. A detailed hydrology and hydraulic study will be conducted for each storm water facility to determine the minimum amount of vegetation and sediment removal needed to achieve the desired flood conveyance capacity. Once this is determined, an Individual Maintenance Plan (IMP) will be prepared to define the limits, approach to maintenance and appropriate protocols to control impacts of the maintenance on biological resources, historic resources and/or water quality. Based on the IMP, biology, historic, and noise studies would be conducted to determine what mitigation would be required by the Mitigation Monitoring and Reporting Program to offset impacts associated with the proposed maintenance.

These activities would then be subject to a Substantial Conformance Review (SCR) process to assure that the applicable Master Plan protocols and MMRP mitigation measures are incorporated into each individual maintenance activity. The "SCR Package" would include an Individual Maintenance Plan (IMP); Individual Biological Assessment (IBA); Individual Historical Assessment (IHA); Individual Hydrologic and Hydraulic Assessment (IHHA); and an Individual Noise Assessment (INA). An SCR package would be prepared for each storm water facility prior to maintenance to evaluate the current capacity and the condition and extent of sensitive resources within the facility, and maintenance activity details such as method(s) and equipment to be used, maintenance requirements, and schedule. The SCR Package would be evaluated by designated City departments as well as state and federal agencies to confirm that the proposed maintenance activities would be consistent with the Master Program and that environmental impacts would be mitigated pursuant to the MMRP.

2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards;

The Master Program only allows maintenance of storm water facilities. It does not allow for expansion or modification of the underlying drainages. Therefore, the proposed maintenance activities will not alter the natural landform or geology. The Master Program also establishes a series of protocols to be carried out during maintenance activities to minimize impacts related to soil and erosion. Therefore, the maintenance activities will not result in undue geologic or erosional forces.

Implementation of the Master Program would also reduce flood hazards within the affected areas by removing sedimentation often carrying pollutants that have either dropped within the channel bottoms from surface run-off and/or wetland vegetation which interferes with the efficient conveyance of storm. Furthermore, removal of vegetation, under the Master Program, may also

prevent fire hazards to residents and businesses adjacent to channels that could be prone to fire hazards because of the fire load (vegetation).

3. **The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.**

Maintenance activities will take place within storm water facilities which have been maintained in the past. The Master Plan specifically excludes any expansion or modifications to the storm water facilities beyond their original configuration. With respect to biologically sensitive lands, the Master Program includes a series of protocols specifically designed to minimize the impact of maintenance on environmentally sensitive lands within as well as adjacent to maintenance activities. A series of water quality protocols are included in the Master Program to ensure that areas downstream of maintenance activities do not experience increased sedimentation or diminished water quality. Biology protocols will require that sensitive biological areas adjacent to maintenance areas be protected during maintenance. IHHAs are required by the Master Plan to identify the minimum amount of environmentally sensitive vegetation which must be removed to increase the capacity of storm water facilities to convey storm water.

Although significant historic resources are not expected to be encountered during maintenance, the MMRP requires monitoring whenever the PEIR identifies a moderate to high potential for buried historic resources to occur within proposed maintenance areas. This monitoring will assure that any significant resources present within or adjacent to maintenance will be detected and mitigation carried out to retain valuable information associated with historic resources.

4. **The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.**

The PEIR's analysis of the consistency of the Master Program with the MSCP Subarea Plan (Table 4.1-3) concluded that maintenance would be consistent with the various general planning policies as well as adjacency guidelines. With respect to general MSCP policies, it is concluded that the maintenance activities would be consistent for the following reasons:

- The natural configuration of the storm water facilities would not be modified other than to remove accumulated sediment and vegetation would be expected to reestablish between maintenance intervals.
- Except for short-term erosion control, maintenance would not introduce new berming, rip rap, channelization or similar features within natural drainages.
- Access routes will use existing roadways or be designed to minimize disturbance within MHPA areas.
- Maintenance activities would be of limited durations and would occur during daylight hours when wildlife movement is limited.
- Wherever possible, maintenance activities would avoid breeding seasons for sensitive bird species. Where avoidance during the breeding season is not possible, noise reductions measures would be incorporated into the maintenance activities.
- The Master Program contains maintenance protocols which prohibit the use of invasive plants in revegetation efforts as well as measures to limit the spread of existing invasive

species into downstream areas during maintenance. In addition, invasive species would be removed during maintenance

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

Storm water facility maintenance will not contribute to erosion of public beaches or impact the supply of beach sand. Although maintenance often involves the removal of sediment, the sediment is comprised of silt and clay material rather than sand. Thus, the removal of sediment would not deprive local beaches of a sand source. Lastly, the velocity of storm water in areas which require routine maintenance are by nature non-erosive which contributes to the fact that sediment from surrounding sources tends to accumulate in these areas.

6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

The biological mitigation measures included in the Recirculated PEIR and accompanying MMRP are specifically designed to provide adequate compensation for impacts resulting from storm water facility maintenance. In particular, the mitigation ratios required by the PEIR and MMRP are consistent with the requirements of the City's Biological Guidelines and mitigation traditionally imposed by state and federal agencies with regulatory authority over the biological resources potentially impacted by maintenance. The adequacy of mitigation measures for biological resources will be reviewed by state and federal resource agencies as well as DSD staff to assure that the proposed mitigation is sufficient to reduce maintenance impacts to below a level of significance.

On an annual basis, the City will determine the amount of vegetation impacts based on the final IMPs. Based on these calculations, the City will define and implement compensation actions in accordance with the mitigation measures identified in the PEIR. The mitigation program will also be reviewed by the State and Federal regulatory agencies to assure that adequate compensation is carried out.

With respect to historical resources, the monitoring and subsequent data recovery required by the PEIR and MMRP will be specifically designed to mitigate for significant historic resources encountered during maintenance.

C. Supplemental Findings--Environmentally Sensitive Lands Deviations

1. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands.

The PEIR includes a specific discussion of alternatives to minimize the flood risk to adjacent life and property including: widening existing channels, constructing berms and walls on top of the existing banks and implementing measures outside of the storm water facilities to reduce the amount of runoff entering the facilities. After evaluating each of these alternatives, the PEIR

concluded that none of these alternatives were feasible. In general these alternatives were considered infeasible due the cost and/or difficulties associated with acquiring and using adjacent private property.

The Master Program requires a rigorous effort to reduce biological impacts associated with maintenance. As discussed earlier, the Master Program requires detailed hydrology and hydraulic studies are performed before maintenance plans are prepared to make sure that the minimum amount of vegetation is removed to achieve flood control objectives. Mature trees spaced more than 50 feet apart are required to be retained during maintenance.

In addition, the PEIR identifies a broad range of mitigation measures intended to reduce potential impacts to biological and/or historic resources associated with storm water facilities. No other feasible mitigation measures were identified during public review or testimony which would be more effective than those included in the MMRP.

2. The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.

Within the Coastal Overlay Zone deviations from the ESL regulations are requested. Deviations to the 100 foot buffer around all wetlands and to impact sensitive biological and historical resources are requested. The proposed deviations are unavoidable because storm water facilities by their very nature and function are located within wetlands and the removal of vegetation to clean and maintain them could potentially impact sensitive biological and historical resources.

A. Coastal Development Permit - Section 126.0708

1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

Maintenance activities would occur within existing drainage courses which are not considered coastal access ways. Furthermore, access routes required to transport maintenance equipment into the storm water facilities would not impede coastal access nor would they impede coastal views.

2. The proposed coastal development will not adversely affect environmentally sensitive lands.

Maintenance activities will take place within storm water facilities located within the coastal zone which have been maintained in the past. The Master Plan specifically excludes any expansion or modifications to the storm water facilities beyond their original configuration. With respect to biologically sensitive lands, the Master Program includes a series of maintenance protocols specifically designed to minimize the impact of maintenance on environmentally sensitive lands within the coastal zone. A series of water quality protocols are included in the

Master Program to ensure that areas downstream of maintenance activities do not experience increased sedimentation or diminished water quality within the coastal zone. Biology protocols will require that sensitive biological areas adjacent to maintenance areas be protected during maintenance. IHHAs are required by the Master Plan to identify the minimum amount of environmentally sensitive vegetation which must be removed to increase the capacity of storm water facilities to convey storm water.

Although significant historic resources are not expected to be encountered during maintenance within the coastal zone, the MMRP requires monitoring whenever the PEIR identifies a moderate to high potential for buried historic resources to occur within proposed maintenance areas. This monitoring will assure that any significant resources present within or adjacent to maintenance will be detected and mitigation carried out to retain valuable information associated with historic resources.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

The maintenance activities associated with the Master Program would conform to the Local Coastal Program (LCP) and Implementation Program. The City's Land Development Code provides part of the City's LCP for development in the Coastal Overlay Zone. For the reasons stated on page 5, this project would comply with the applicable regulations of the Land Development Code. The policies and recommendations that make up the City's adopted Local Coastal Programs (LCPs) are also included and incorporated into the goals, objectives, and recommendations of the community plans and/or other area planning documents for the areas within the Master Program.

The community plans which incorporate the LCP set forth a number of conservation policies which are related to storm water maintenance. The applicable environmental goals, objectives and guidelines can be generally characterized as follows: (1) maintain natural drainages; (2) minimize disturbance to natural habitat and the wildlife it supports; (3) protect water quality; and (4) create and maintain recreation opportunities associated with natural drainages.

Maintenance activities would not alter the configuration of the natural drainage courses included in the Master Program. The Master Program does not allow any physical modifications of the underlying drainage.

While maintenance activities would disturb wetland vegetation found within the storm water facilities and the wildlife it supports, protocols in the Master Program, combined with biological mitigation required by the MMRP, would minimize impacts to natural habitat and wildlife.

Maintenance protocols and mitigation measures would be implemented in accordance with the Master Program and PEIR to prevent significant degradation of water quality related to maintenance. Furthermore, removal of the pollutants retained in sediment and plants would improve local water quality and prevent these pollutants from being transported downstream during high flow events.

Lastly, the Master Program would not interfere with the scenic, natural or cultural resources within resource-based parks. The Master Program would not alter the natural landforms and would not result in the loss of open space. No filling or reconfiguration of the storm water facilities would occur as part of the Master Program. Therefore, the Master Program would not adversely affect the land use policies intended to maintain and create recreation opportunities.

4. **For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.**

The cleaning and maintenance activities of the Master Program would occur within existing storm water facilities. These facilities are not considered to be for public access or public recreational uses, therefore the Master Program is in conformance with the policies of California Coastal Act.

B. Supplemental Findings--Environmentally Sensitive Lands within the Coastal Overlay Zone

1. **Based on the economic information provided by the applicant, as well as any other relevant evidence, each use provided for in the Environmentally Sensitive Lands Regulations would not provide any economically viable use of the applicant's property.**

While storm water facilities are permitted as incidental public services projects, under the ESL regulations encroachment into the 100-foot wetland buffer is not allowed without an approval of a deviation. As use of the facilities to effectively convey storm water requires routine maintenance, the T&SWD would be denied the only economically viable use of the facilities if it were not allowed entry into the wetland buffer area for cleaning and maintenance. Therefore, the applicant's only economically viable use of the property is to use the facilities for storm water conveyance due to current easements restricting the use and the presence within wetland areas.

2. **Application of the Environmentally Sensitive Lands Regulations would interfere with the applicant's reasonable investment-backed expectations.**

The strict application of the ESL regulations would not allow for maintenance of existing storm water facilities because they are located within wetlands and could potentially impact sensitive biological and historical resources within the Coastal Overlay Zone. Since the City has made the investment of constructing storm water facilities strict application of ESL would prelude cleaning and maintenance and would therefore, interfere with their reasonable investment-back expectations, as well as protecting life and property from flooding.

Additionally as a General Fund department, the Transportation and Stormwater Department of the City of San Diego has paid tax-payer's dollars in claims against the City by residents and

business owners for the loss of property and damage caused by flooding. This has been correlated to lack of frequent maintenance activities (dredging and excavation) for affected channels whose conveyance capacities are diminished by the accumulated material that settles within the channel.

3. The use proposed by the applicant is consistent with the applicable zoning.

The project is located within the City's 342.4 square mile metropolitan area and within portions of the Coastal Overlay, Open Space, Agricultural, Residential, Commercial and Industrial zones. Incidental public service projects, such as storm water facilities, are permitted uses in all zones and therefore the proposed use by the applicant is consistent with the applicable zoning.

4. The use and project design, siting, and size are the minimum necessary to provide the applicant with an economically viable use of the premises.

The 32 miles of storm water facilities to be maintained by T&SWD are designed to convey storm water flows in order to protect the life and safety of its citizens and to control flooding. These facilities also convey urban runoff from development, protect water quality, and support natural resources. This project was revised to include maintenance of 32 rather than 50 miles of channels and 113 rather than 160 facilities in order to design the project to the minimum channels and facilities that would reasonably need maintenance for the life of the project. The sites are existing storm channels and facilities. No enlargement of facilities or new facilities are proposed by the project. Based on IHHA's, vegetation removal will be limited to that necessary to achieve desired conveyance of storm water and specific limits have been established such that vegetation will not be removed from the sides of channels that are over 20 feet wide. The long-term performance and economic viability of these storm water facilities is dependent upon ongoing and proper maintenance. Implementation of the Master Program will aid in maintaining the economic viability and effectiveness of storm water facilities.

5. The project is the least environmentally damaging alternative and is consistent with all provisions of the certified Local Coastal Program with the exception of the provision for which the deviation is requested.

The Master Plan is the least damaging alternative and specifically excludes any expansion or modifications to the storm water facilities beyond their original configuration. With respect to impacts to biologically sensitive lands, the Master Program includes a series of maintenance protocols specifically designed to minimize the impacts to them as well as adjacent to maintenance activities. A series of water quality protocols are included in the Master Program to ensure that areas downstream of maintenance activities do not experience increased sedimentation or diminished water quality. Biology protocols will require that sensitive biological areas adjacent to maintenance areas be protected during maintenance. IHHAs are required by the Master Plan to identify the minimum amount of environmentally sensitive vegetation which must be removed to increase the capacity of storm water facilities to convey storm water.

Although significant historic resources are not expected to be encountered during maintenance, the MMRP requires monitoring whenever the PEIR identifies a moderate to high potential for

City Clerk

By_____
Deputy City Clerk

Approved: _____
(date)

_____
JERRY SANDERS, Mayor

Vetoed: _____
(date)

_____
JERRY SANDERS, Mayor

buried historic resources to occur within proposed maintenance areas. This monitoring will assure that any significant resources present within or adjacent to maintenance will be detected and mitigation carried out to retain valuable information associated with historic resources.

A deviation related to the requirement for a 100-foot buffer around biological resources in the coastal zone is appropriate because maintenance does not constitute the type of development warranting a buffer. Furthermore, the storm water facilities are typically located in highly urbanized areas where adjacent development precludes 100-foot buffers.

The project is consistent with the provisions of the certified Local Coastal Program. According to the LUP's utilities, such as storm water facilities are allowed. A deviation to the 100-foot buffer around all wetlands and to sensitive biological resources is requested because storm water facilities by their very nature and function are located within wetlands and the removal of vegetation to clean them impacts sensitive biological resources. Therefore, with the exception of the deviations the project is consistent with all provisions of the certified Local Coastal Program.

The above findings are supported by the minutes, maps, and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that the appeal of the San Diego Coastkeeper, Coastal Environmental Rights Foundation, San Diego Audubon Society, Friends of Rose Canyon, San Diego Chapter of the Sierra Club, San Diego Canyonlands, and the California Native Plant Society is denied; the decision of the Planning Commission is modified; and modified Coastal Development Permit No. 426369 is granted to the City of San Diego Storm Water Department, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
Nina M. Fain
Deputy City Attorney

NMF:jls
9/23/2011
Or.Dept: SWD
R-2012-131
PL#2010-00871

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND