



Date of Notice: July 6, 2020

# NOTICE OF RIGHT TO APPEAL

## ENVIRONMENTAL DETERMINATION

### PLANNING DEPARTMENT

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**PROJECT NAME/NUMBER:** Los Peñasquitos Lagoon Vegetation Monitoring  
**COMMUNITY PLAN AREA(s):** Torrey Pines, Carmel Valley, University  
**COUNCIL DISTRICT:** 1

**LOCATION:** Los Peñasquitos Lagoon is an approximately 1,200-acre coastal marsh located along the outlet of Los Peñasquitos Creek at the northern edge of the City of San Diego. The western boundary of the lagoon is the Pacific Ocean at Torrey Pines State Beach, and the eastern boundary is generally parallel with Interstate 5 (I-5); however, the lagoon extends east of I-5 a short distance along Los Peñasquitos Creek, Carmel Valley Creek, and Carroll Canyon Creek. The lagoon is bounded by Torrey Pines State Natural Reserve to the south and primarily residential land uses in the City of Del Mar to the north. The State of California Department of Parks and Recreation (California State Parks), which owns and manages the Los Peñasquitos Lagoon, has classified the lagoon as a State Marsh Natural Preserve. The Project site includes the lagoon as well as three Project staging areas on existing developed (i.e., paved) parking lots adjacent to the lagoon, including the North Beach Lot, South Beach Lot, and the Sorrento Valley Park and Ride at the intersection of Sorrento Valley Road and Carmel Valley Road (see Figure 1). The commercial parking areas between the Los Peñasquitos Lagoon and I-5 could also potentially be used for Project staging (see Figure 1). The project area is in the Torrey Pines, Carmel Valley, and University Community Planning Areas within Council District 1.

**PROJECT DESCRIPTION:** Mayoral Approval to allow for MS4 Permit-required aerial vegetation monitoring of Los Peñasquitos Lagoon. In order to conduct the aerial monitoring, the City of San Diego will require access to the lagoon from California State Parks – San Diego Coast District. Los Peñasquitos Lagoon has been subject to excessive sedimentation due to urbanization of the surrounding areas (e.g., I-5, State Route [SR-] 56, Del Mar Heights, Torrey View Estates). The high rate of sediment deposition within the lagoon has resulted in reduced tidal mixing within lagoon channels, degraded and net loss of saltmarsh vegetation, increased vulnerability to flooding for surrounding urban and industrial developments, increased turbidity associated with siltation in lagoon channels, and constricted wildlife corridors (San Diego Regional Water Quality Control Board [RWQCB] 2012). In 1992, Los Peñasquitos Lagoon was listed as a Category 5 impaired body of water under Section 303(d) of the Clean Water Act (CWA) for sedimentation/siltation (State Water Resources Control Board [SWRCB] 2011). In 2009, the San Diego RWQCB initiated development of a sediment Total Maximum Daily Load (TMDL) (i.e., the maximum amount of a pollutant allowed to enter the waterbody so that the waterbody will meet and continue to meet water quality standards for that particular pollutant) to address the sediment impairment in the lagoon. With the help of a third-party stakeholder group, the San Diego RWQCB developed the TMDL and adopted Resolution No. R9-2012-0033, which amended the Water Quality Control Plan for the San Diego Basin (Basin Plan) to include the Los Peñasquitos Sediment TMDL, during a public hearing on June 13, 2014. The SWRCB adopted Resolution No. 2014-0001 on January 21, 2014 to incorporate the Los

Peñasquitos Sediment TMDL into the Basin Plan and the U.S. Environmental Protection Agency (USEPA) approved the Los Peñasquitos Sediment TMDL Basin Plan Amendment on October 30, 2014 (SWRCB 2018).

The numeric targets for the TMDL were calculated based on historic water quality conditions in the mid-1970s, when sediment water quality in the lagoon was last attained. Continued sedimentation and freshwater inputs, both resulting from urbanization, have resulted in significant alterations to habitat. Therefore, in addition to a sediment load target, the TMDL also established a vegetation numeric target based on restoration of 80 percent of the historic (i.e., 1970s) tidal and non-tidal saltmarsh habitat. The 1970s baseline was established by analyzing historical aerial imagery from the lagoon to determine historical vegetation types. California State Parks estimated that 180 acres of the 390 to 570 acres of coastal salt marsh has been impaired by sedimentation, converting coastal salt marsh to more riparian, freshwater habitat (City of San Diego Storm Water Department and USEPA 2010). Based on historical and current vegetation types, California State Parks developed seven generalized vegetation classifications including: 1) saltmarsh; 2) non-tidal saltmarsh; 3) non-tidal saltmarsh—*Lolium perrene* infested; 4) freshwater marsh; 5) southern willow scrub/mulefat scrub; 6) herbaceous wetland; and 7) upland. The vegetation numeric target for the TMDL was set as an increasing trend in the total area of tidal saltmarsh and non-tidal saltmarsh vegetation with a final goal of 346 acres. This target acreage represents 80 percent of the total acreage of tidal and non-tidal saltmarsh present in 1973 (San Diego RWQCB 2012).

To track progress toward attaining the vegetation numeric target for the TMDL, the San Diego Regional Municipal Separate Storm Sewer System (MS4) Permit (Order No. R9-2013-0001, as amended by Order Nos. R9-2015-0001 and R9-2015-0100) requires the Responsible Co-permittees, who include the County of San Diego, City of San Diego, City of Poway, and City of Del Mar, to monitor the vegetation in Los Peñasquitos Lagoon each Fall. As described in Attachment E to the MS4 Permit, Co-permittees are required to annually obtain and digitize aerial imagery of the Los Peñasquitos Lagoon to analyze the lagoon vegetation and interpret vegetation classifications. The results of the aerial imagery analysis must be submitted to the San Diego RWQCB as part of the Los Peñasquitos Watershed Management Area Water Quality Improvement Plan Annual Report due January 31 each year (SWRCB 2019).

Aerial imagery required by the MS4 Permit has historically been captured via photographers in planes flying over the Project area. However, the proposed Project would involve the use of remote-controlled drones to collect the required aerial imagery of vegetation in the Los Peñasquitos Lagoon. All work would be performed by City of San Diego staff and approved contractors. Drones would be deployed by one to three Federal Aviation Administration-licensed drone pilots, and at least one staff member that would maintain visibility of the drones over the Project area at all times during flight operations. Drones would be flown at an elevation of approximately 280 meters to 300 meters (approximately 919 feet to 984 feet) above mean sea level. The total flight duration would range from 7 to 13 hours; however, the precise schedule and duration of work would depend on environmental and meteorological conditions to ensure conditions are safe for drone flight (e.g., below the drone's maximum wind speed limit), visibility of the drone is maintained (e.g., clear skies), and clear imagery is captured for vegetation analysis (e.g., clear skies with low humidity). The proposed drone operations and data collection would occur between September and October.

The proposed Project does not involve any temporary ground disturbance or permanent development (e.g., grading, excavation, etc.). The proposed drone operations would require minimal set up, which would be restricted to the previously disturbed and unvegetated staging areas or publicly accessible trails and footpaths (see Figure 1). If access to the lagoon is required to maintain visibility with the drone, the City of San Diego would obtain a Right of Entry Permit from California State Parks. Staff would enter the lagoon from the mouth of Los Peñasquitos Creek at Torrey Pines State Beach using a kayak or stand-up paddleboard. Staff would be limited to open water areas of the lagoon and would not disturb existing vegetation.

According to the Los Peñasquitos Lagoon Foundation, several sensitive plant and wildlife species are known to occur within the lagoon and adjacent uplands, including 35 plants, 1 insect, 6 reptiles, and 5 birds (Los Peñasquitos Lagoon Foundation 2016). However, the proposed drone operations would occur outside of breeding (i.e., February through August) and nesting (March through August) seasons for migratory birds. Additionally, no vegetation removal or other habitat disturbance would occur. Therefore, the proposed Project would have no potential for impacts to migratory birds or other special status plant and wildlife species. Due to the elevation (i.e., 280 to 300 meters) and duration (i.e., 7 to 13 hours) that the drones would be flown, operation of the drones would result in negligible noise at the ground surface and would not result in indirect impacts to biological resources or recreational activities at the lagoon.

The proposed drone operations would not have the potential to impact cultural resources because no ground disturbance would be required. As previously described, the proposed Project staging areas were previously disturbed and unvegetated areas (e.g., paved surface parking lots), which would not be modified as a part of the proposed Project. Therefore, there would be no potential for previously recorded or previously unknown cultural and archaeological resources to be encountered or disturbed.

The proposed Project does not involve any permanent development or associated construction and would not impact stormwater flow; as such, the proposed Project would not require the preparation or use of construction stormwater best management practices (BMPs) or a Storm Water Quality Management Plan. The proposed Project would serve as a data collection effort to monitor and improve the water quality in the Los Peñasquitos Lagoon, and therefore, would not require development of a Storm Water Pollutant Prevention Plan (SWPPP) or Water Pollution Control Plan.

Given the elevation (i.e., 280 meters to 300 meters [approximately 919 feet to 984 feet] above mean sea level) and short duration of the proposed drone operations (i.e., 7 to 13 hours) as well as the lack of ground disturbance, the proposed Project would have no impact on the physical environment. The Project would not have the potential to result in adverse impacts to aesthetics, agricultural and forestry resources, air quality, biological resources, cultural resources, energy, geological and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation, tribal cultural resources, utilities, or wildfire.

**ENTITY CONSIDERING PROJECT APPROVAL:** City of San Diego

**ENVIRONMENTAL DETERMINATION:** Categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15306 (Information Collection) and Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources).

**ENTITY MAKING ENVIRONMENTAL DETERMINATION:** City of San Diego Mayor-Appointed Designee.

**STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION:** The City of San Diego conducted an environmental review that determined approval of the proposed project by the Mayor-Appointed Designee and issuance of a Right of Entry Permit by California State Parks as stated above would not have the potential for causing a significant effect on the environment pursuant to State CEQA Guidelines Section(s) 15306 (Information Collection) which consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource; Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) which consist of actions taken by regulatory agencies as authorized by State law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment; and where the exceptions listed in CEQA Guidelines Section 15300.2 would not apply in that no cumulative impacts were identified;

no significant effects on the environment were identified; the project is not adjacent to a scenic highway; no historical resources would be affected by the action; and the project was not identified on a list of hazardous waste sites pursuant to Section 65962.5 of the Government Code.

**CITY CONTACT:** Andre Sonksen, Program Manager  
**MAILING ADDRESS:** Transportation & Storm Water Department  
9370 Chesapeake Drive, Suite 100, MS 1900  
San Diego, CA, 92123  
**PHONE NUMBER:** (858) 541-4317  
**EMAIL ADDRESS:** [ASonksen@sandiego.gov](mailto:ASonksen@sandiego.gov)

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On July 6, 2020 the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Contact/Project Manager listed above.

Applications to appeal CEQA determination to the City Council must be filed with the Office of the Clerk within 10 business days from the date of the posting of this Notice (**July 20, 2020**). During the Statewide "Safer-at-Home" directive to reduce the spread of COVID-19, beginning March 19, 2020, appeals to the City Clerk must be filed by email or US Mail as follows:

1. Appeals filed via Email: Send the appeal by email to [Hearings1@sandiego.gov](mailto:Hearings1@sandiego.gov); your email appeal will be acknowledged within 24 hours. You must separately mail the required appeal fee by check payable to the City Treasurer to: **City of San Diego Planning Department, Attn: Myra Herrmann, 9485 Aero Drive, MS 413, San Diego, CA 92123**. The appeal filing fee must be postmarked within 5 business days of the date the appeal is filed.
2. Appeals filed via US Mail: Send the appeal by US Mail to **City Clerk/Appeal, MS 2A, 202 C Street, San Diego, CA 92101**. Appeals filed by US Mail must have a United States Postal Service (USPS) postmark by the appeal deadline to be considered valid. You must separately mail the required appeal fee by check payable to the City Treasurer to: **City of San Diego Planning Department, Attn: Myra Herrmann, 9485 Aero Drive, MS 413, San Diego, CA 92123**. The appeal filing fee must be postmarked within 5 business days of the date the appeal is filed.

If you have any questions regarding the procedures to file the appeal, please contact **Myra Herrmann** at [mherrmann@sandiego.gov](mailto:mherrmann@sandiego.gov).

This information will be made available in alternative formats upon request.

**POSTED IN THE OFFICE OF DSD**

**POSTED:** July 6, 2020

**REMOVED:** \_\_\_\_\_

**POSTED:** M. Herrmann



Figure 1      Project Area and Staging Areas

