

RESOLUTION NUMBER R-288660

ADOPTED ON MAY 13, 1997

WHEREAS, the Metropolitan Wastewater Department of the City of San Diego, Charter City, Owner/Permittee, filed an application for a Coastal Development Permit to construct five thousand linear feet of Dairy Mart Road and replacement of the bridge, located in the Tia Juana River Valley Community Plan area, in the A-1-10, Floodway and Floodplain Fringe Zones; and

WHEREAS, the matter was set for public hearing on May 13, 1997, 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 the Council adopts the following written findings with respect to Coastal Development Permit No. 96-0268:

FINDINGS:

- A. THE PROPOSED DEVELOPMENT WILL NOT ENCROACH UPON ANY EXISTING PHYSICAL ACCESSWAY LEGALLY UTILIZED BY THE PUBLIC OR ANY PROPOSED PUBLIC ACCESSWAY IDENTIFIED IN AN ADOPTED LCP LAND USE PLAN; NOR WILL IT OBSTRUCT VIEWS TO AND ALONG THE OCEAN AND OTHER SCENIC COASTAL AREAS FROM PUBLIC VANTAGE POINTS.

The proposed Dairy Mart Road and Bridge Improvements ("DMR&BI") project is proposed to be located on existing and/or newly acquired public right-of-way which is identified in the adopted Local Coastal Program Land Use Plan. The proposed DMR&BI will not obstruct views to or along the ocean or other scenic coastal areas from the public vantage points within the public right-of-way. The proposed DMR&BI site is approximately 3.2 miles from the Pacific Ocean and would improve public access of the ocean and other scenic coastal areas.

- B. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT MARINE RESOURCES, ENVIRONMENTALLY SENSITIVE AREAS, OR ARCHAEOLOGICAL OR PALEONTOLOGICAL RESOURCES.

With the construction of the proposed Dairy Mart Road and Bridge Improvements project, potential impacts resulting from the implementation of the proposed project identified in the Environmental Impact Report/Environmental Assessment LDR No. 94-0635 would be reduced to a level below significance by implementing the requirements of the Mitigation Monitoring and Reporting Program (MMRP). As such, the proposed public project will not result in adverse affects to marine resources, environmentally sensitive areas or archaeological or paleontological resources. Impacts to Southern Cottonwood Willow Riparian Forest, Coastal Sage Scrub, Southern Willow Scrub, Open Water, Wetland and non-wetland waters of the U.S. would be mitigated to a level below significance. A candidate wetlands habitat restoration site has been identified in the Tia Juana River Valley. Potential noise impacts would be mitigated through implementation of a Construction Noise Mitigation Program.

Potential impacts to other sensitive species, potential water borne erosion impacts and impacts to the activities of the INS near the international border would be mitigated to a level below significance by implementation of appropriate construction activity management measures. Potential paleontological impacts would be monitored and mitigated by the MMRP during project construction.

- C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE REQUIREMENTS RELATED TO BIOLOGICALLY SENSITIVE LANDS AND SIGNIFICANT PREHISTORIC AND HISTORIC RESOURCES AS SET FORTH IN THE RESOURCE PROTECTION ORDINANCE, CHAPTER X, SECTION 101.0462 OF THE SAN DIEGO MUNICIPAL CODE, UNLESS BY THE TERMS OF THE RESOURCE PROTECTION ORDINANCE, IT IS EXEMPTED THEREFROM.

The proposed Dairy Mart Road and Bridge Improvements project is an allowable use in a wetland according to the Resource Protection Ordinance, Municipal Code section 101.0462(G)(1)(c), where there is no feasible, less environmentally damaging location or alternative, and where mitigation measures have been provided to minimize adverse environmental effects. The project, as proposed would reduce any identified direct impacts resulting from the implementation of the project to a level below significance, by implementing the requirements of the Mitigation Monitoring and Reporting Program (MMRP). Biological and Prehistoric resources are protected.

- D. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT RECREATIONAL OR VISITOR-SERVING FACILITIES OR COASTAL SCENIC RESOURCES.

The proposed Dairy Mart Road and Bridge Improvements projects is located approximately three point two miles from the Pacific Ocean and as such will not adversely affect coastal scenic resources. Access to recreational and visitor serving facilities located within the valley will be enhanced and would not be adversely affected by the project.

- E. THE PROPOSED DEVELOPMENT WILL BE SITED AND DESIGNED TO PREVENT ADVERSE IMPACTS TO ENVIRONMENTALLY SENSITIVE HABITATS AND SCENIC RESOURCES LOCATED IN ADJACENT PARKS AND RECREATION AREAS, AND WILL PROVIDE ADEQUATE BUFFER AREAS TO PROTECT SUCH RESOURCES.

The proposed Dairy Mart Road and Bridge Improvements project is not adjacent to any parks and recreation areas. Therefore the proposed development would not adversely affect environmentally sensitive habitats and scenic resources located within any parks and scenic resources and buffer areas would not be required to protect these resources.

- F. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATIONS OF NATURAL LANDFORMS AND WILL NOT RESULT IN UNDUE RISKS FROM GEOLOGIC AND EROSIONAL FORCES AND/OR FLOOD AND FIRE HAZARDS.

Minimal grading would be required to prepare the Dairy Mart Road and Bridge Improvements project site for the proposed improvements. In order to control downstream bank erosion and sedimentation, erosion will be controlled by the use of sand bags, detention basins and in accordance with an approved Storm Water Pollution Prevention Plan (SWPPP). Long term erosion control will be achieved through project landscaping.

- G. THE PROPOSED DEVELOPMENT WILL BE VISUALLY COMPATIBLE WITH THE CHARACTER OF SURROUNDING AREAS, AND WHERE FEASIBLE, WILL RESTORE AND ENHANCE VISUAL QUALITY IN VISUALLY DEGRADED AREAS.

The proposed Dairy Mart Road and Bridge Improvements project would be visually compatible with the surrounding area through the use of native and naturally appearing trees and shrubs eliciting the native colors of the surrounding Tia Juana River Valley. A conscious effort to achieve visual compatibility has resulted in tree and shrub species being included in the improvement plans which occur in the area. The site is currently sparsely vegetated with ruderal and native species. The proposed public project would plant street trees in the area and provide slope erosion control on manufactured slopes. This portion of the Tia Juana River Valley would be visually improved by the construction of the proposed public project.

- H. THE PROPOSED DEVELOPMENT WILL CONFORM WITH THE GENERAL PLAN, THE LOCAL COASTAL PROGRAM, AND ANY OTHER APPLICABLE ADOPTED PLANS AND PROGRAMS.

In considering the approval of the proposed Dairy Mart Road and Bridge Improvements project, The City of San Diego, as a political subdivision of the state, has direct constitutional authority to enact police and regulatory ordinances



for the zoning of the city and the construction of buildings within the city boundaries, and when such legislation is enacted it has the force and effect of state law. However, with respect to the provisions of this legislation, The City of San Diego is not controlled or restricted by the action of the state or its governmental agencies regarding the construction and erection of public improvements. The zoning and building ordinances of the City do not provide any procedure to be taken by the City itself in the construction of its own buildings.


The location of the proposed Dairy Mart Road and Bridge Improvements project is shown in the Tia Juana River Valley Community Plan as necessary circulation element roadway for the efficient movement of people, goods and services as well as emergency and law enforcement vehicles. Therefore the proposed DMR&BI is consistent with the community plan and General Plan.

To provide the City and its residents the benefits of an improved circulation network in this area of the City and where the proposed alignment represents the best alternative to accomplish this purpose, it is in the interest of the people of the City to permit the construction of the Dairy Mart Road and Bridge Improvements in the proposed location.


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

BE IT FURTHER RESOLVED, that based on the findings hereinbefore adopted by the City Council, Coastal Development Permit No. 96-0268 is hereby granted to the Metropolitan Wastewater Department, City of San Diego, Owner/Permittee, in the form and with the terms and conditions as set forth in Coastal Development Permit No. 96-0268, a copy of which is attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By 
Frederick M. Ortlieb
Deputy City Attorney

FMO:mb
06/02/97
Or.Dept:MWWD
Bid No:K97109
R-97-1319

 288660

**RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES**

**AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**COASTAL DEVELOPMENT PERMIT NO. 96-0268
DAIRY MART ROAD AND BRIDGE IMPROVEMENTS
CITY COUNCIL**

This Coastal Development Permit 96-0268 is granted by the Council of The City of San Diego to METROPOLITAN WASTEWATER DEPARTMENT, City of San Diego, Charter City, Owner/Permittee, pursuant to Section 105.0202 of the Municipal Code of the City of San Diego.

1. Permission is hereby granted to Owner/Permittee to construct a Coastal Development located within the right-of-way of Dairy Mart Road and Monument Road, in the A-1-10, Floodway (FW) and Floodplain Fringe (FPF) Zone.
2. The facility shall consist of the following:
 - a. Realignment of 5,000 linear feet of Dairy Mart Road;
 - b. Demolition and replacement of an existing bridge;
 - c. Grading as described by the construction documents; and
 - d. Landscaping consisting of slope erosion control, street trees and a permanent irrigation system.
3. No permit shall be granted nor shall any activity authorized by this permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the permit to Development Services; and
 - b. The Coastal Development Permit is recorded by Development Services in the office of the County Recorder.
4. The following are required environmental mitigation measures for the Dairy Mart Road and Bridge Improvement project and shall be implemented by the Owner/Permittee to comply with the Mitigation Monitoring and Reporting Program (MMRP) as specified

Mitigation Monitoring and Reporting Program (MMRP) as specified in the EIR 94-0635, satisfactory to the City Manager, City Engineer and Environmental Analysis Section (EAS).

ENVIRONMENTAL MITIGATION MONITORING AND REPORTING PROGRAM REQUIREMENTS:

A. Biology

Complete avoidance of construction noise during the March-September breeding period is not possible for either project. There is the likelihood, however, that the more noise-intensive activities such as rough grading of areas closest to the vireo habitat shall occur during the non-breeding season. To mitigate the potential for other construction noise to impact sensitive habitat during the breeding season, the installation of two (2) temporary noise walls is proposed. The following describes the approach, location, and design of the proposed noise walls.

1. The acceptable noise level for breeding territories with relatively low existing ambient noise levels is considered to be 60 dBA. For breeding territories which currently experience ambient noise levels above 60 dBA, maintaining the existing ambient noise level is considered to be the acceptable standard (i.e., successful breeding had previously occurred with such noise levels).

One noise wall shall be installed within the temporary construction easement adjacent to the northern right-of-way of Monument Road/Dairy Mart, beginning approximately 200 feet (61 m) west of the existing intersection of the subject roads and extending east and northeast approximately 800 feet (243.8 m) (i.e., approximately 600 feet (182.9 m) east/northeast of the existing intersection). The second noise wall shall be installed within the temporary construction easement near the northwest right-of-way of existing Dairy Mart Road, beginning at the north end of the existing bridge and extending southwest approximately 600 feet (182.9 m). Figure 36 in EIR 94-0635 shows the approximate locations of the proposed temporary noise walls. Additions to, or modifications of, the proposed temporary noise walls may be required in the implementation of the Biological Opinion requirements for the project. Noise walls shall be 8 ft (2.4 m) in height, as measured from roadway grade, and be constructed of impermeable materials with a density of 36 pounds per lineal foot including barrier, vertical supports, and bracing material combined. Openings shall be provided along each wall to provide for border

patrol access and pedestrian safety from the adjacent roadway. Such openings shall be designed to maintain the noise attenuation purpose of the wall.

Monitoring of noise levels at affected breeding territories shall occur to ensure that acceptable noise levels are maintained from March 15 to September 25. If noise levels of 60dB(A) or baseline ambient, whichever is greater, are found to occur during the monitoring, additional noise control measures shall be required as described below. No noise monitoring or noise control measures are necessary for construction activities during the non-breeding season. The specific provisions of the noise monitoring program are as follows:

- a. Immediately prior to construction during breeding season every year, the Permittee shall be responsible for conducting noise measurements at the MONU and PTCH least Bell's vireo breeding territories to reaffirm the existing ambient noise levels. Confirmation that the subject territories are occupied by least Bell's vireo during the noise measurements shall occur through consultation with IBWC, FWS, or others conducting least Bell's vireo surveys in the area. Focused surveys shall be conducted to determine the presence or absence of least Bell's vireo in the subject territories. The results of the noise measurements and bird survey data shall be reviewed with FWS to reaffirm the acceptable ambient noise levels to be maintained while construction occurs during the breeding season.
- b. The Permittee shall install the two temporary noise walls, described above, prior to the 1998 breeding season and, with the noise walls in-place, conduct noise measurements to confirm that acceptable noise levels can be achieved at nearby breeding territories while construction activities are occurring. The results of the noise monitoring shall be provided to FWS and DSD-EAS by March 1, 1998. If adjustments to the noise barrier(s) are necessary, based on the results of the noise measurements, such adjustments shall be completed by March 15, 1998.
- c. Periodic noise monitoring at the breeding territories shall be conducted while construction occurs during the breeding season. The frequency and location(s) of such monitoring shall be defined through coordination between the City and

FWS. The monitoring program shall be carried out by the Permittee.

- d. Each noise monitoring period shall last at least one hour and shall take place during the normal construction operating hours. Noise readings during quiet times (e.g., lunch break) shall be avoided. The noise meter shall be placed between one and two meters above the ground to monitor the portion of the canopy most actively used by the vireo, or shall be placed as otherwise recommended by a qualified biologist.
 - e. Confounding noise events not related to the project construction activities and not part of the typical ambient noise characteristics shall be factored out of the data. These events include, but are not limited to, excessive or unusual helicopter overflights and INS activities close by, if such events were not included as part of the baseline ambient noise levels. The duration, time, and description of each event shall be recorded by the person conducting the monitoring.
 - f. If the noise level measured at any of the nearby breeding territories exceeds the maximum acceptable noise level of 60 dB(A) or ambient, whichever is greater, for that territory and such exceedance is anticipated to continue on a regular and predictable basis (i.e., measured noise level is not due to an isolated event), implementation of additional noise control measures shall occur. Such additional measures may include restricting noise-intensive activities, or at least such activities as they occur near the impacted territory(ies), to occur only in the afternoon hours. The need for, and nature of, implementing additional noise control measures shall be determined in coordination with FWS.
 - g. Noise monitoring reports shall be prepared on a quarterly basis and forwarded to DSD-EAS and FWS.
2. Prior to advertising the construction contract(s) for the project, EAS shall review and approve conditions of the noise monitoring plan described. The Permittee and the Construction Manager shall ultimately be responsible for meeting the appropriate noise levels and shall require the contractor to meet the established noise levels and take the necessary actions to reduce noise to acceptable levels if the levels are in violation of the noise threshold criteria. As indicated in requirement 1(f) above, construction may

need to be restricted, redirected, delayed, etc. if adverse impacts to vireo behavior occur during construction.

B. Riparian Habitat Mitigation Sites and Approach

1. Suitable mitigation sites within the Tijuana River Valley shall be selected in conjunction with more detailed project planning and regulatory processing. Final mitigation plans shall be designed to be consistent with the goal of creating, preserving, and enhancing riparian resources as outlined in the Draft MSCP subarea guidelines. Potential sites for mitigation shall be identified and finalized following agency approval. Revegetation of the mitigation site shall be intended to create new wetlands at an acreage equal to the impacts to different habitat types multiplied by the mitigation ratios (i.e., no net loss of wetlands).

The parcel(s) selected as a riparian mitigation site for the DMRBI project impacts shall be along the Tijuana River Valley within the floodplain and adjacent to areas that either already support riparian vegetation because of the relatively high groundwater table, are located in areas where the temporary impact occurred (i.e., construction corridor), or are adjacent to established riparian mitigation sites (i.e., those areas restored as part of the South Bay Land Outfall project). The current hydrological condition of the mitigation sites shall be adequate for restoration. These sites shall require a minimum of site preparation and grading before planting. Revegetation shall begin within 12 months after initiating project construction. The following describes key elements of the conceptual approach proposed for habitat restoration.

- a. Prior to grading, the soils of the mitigation site shall be tested to determine agricultural suitability (e.g., soil Ph, nutrients, and salinity levels) to assure proper conditions for seedling establishment and long-term survival of container plant materials. Existing trash and debris shall be removed and disposed of properly. The current level of the basin groundwater table shall be measured in the area to determine the amount of grading necessary for successful restoration of the site. The groundwater level should be no deeper than five to seven feet (1.5 to 2.1 m) below the graded elevation to assure long-term survival of the created habitat. Any soil excavation shall be removed from the site and deposited at a site approved for such use away.

from any wetland or sensitive habitats such as salt marsh, ponds or open water areas, riparian habitats, or coastal sage scrub.

- b. Grading of the mitigation site may require timing grading activities to avoid the breeding season of the least Bell's vireo (March 15-September 25) if occupied habitat is found to occur nearby. If it is necessary to conduct grading during the breeding season, pre-grading surveys for least Bell's vireo and monitoring/mitigation of construction noise shall be required, as described below. During grading operations, equipment shall not be driven or stored in the adjacent wetland habitat not to be impacted by the project, or in other sensitive upland habitats that may be adjacent to the site. Prior to any work near the existing wetlands, the construction manager and a qualified biologist together shall mark the limits of the revegetation site. A project biologist shall be contracted to monitor any grading adjacent to existing wetland habitat during site preparation of the restoration areas.

- c. Plant materials to be used in site restoration shall be consistent with the approved Wetland Mitigation Plan for SBWRP & DMRD&B1 projects.

Container stock and quality cuttings shall be planted in a random pattern consistent with the approved Wetland Mitigation Plan cited above. Understory material shall be planted in clusters (1-3 plants) along the borders of the restoration area and in mixed clusters of 1-3 plants throughout the restoration area. All placement of plant material shall be monitored by a qualified biologist familiar with riparian systems in southern California during installation.

- d. Planting may occur anytime during the fall or winter months. Areas subject to annual flood flows shall be planted after the threat of flooding to ensure the plantings are not washed away. Planting shall not occur during the summer (June-September) unless an approved irrigation system is installed and inspected.
- e. The revegetation sites shall receive temporary irrigation for at least one year. After one year the necessity of continued irrigation shall be evaluated by a qualified biologist based on the overall survival and vigor of the planted

material. Local drought conditions shall be considered when evaluating the need and time period for extending supplemental irrigation. Once the plants are supported by the groundwater and all seed has germinated, the irrigation system may be abandoned.

A temporary overhead or drip irrigation system, or other appropriate means of irrigation, shall be installed prior to any planting. The system shall be operated during dry periods until the plantings have become established. The use of the irrigation system shall be phased out gradually depending on the local weather conditions and plant establishment success during the first two growing seasons. Design of the irrigation system shall allow for deep penetration of the water into the soil.

- f. The Permittee shall provide maintenance for a three- to five-year period to commence at the beginning of the landscape contractor's plant establishment period. The maintenance contractor shall be responsible for maintaining the plants and planting site in good condition, maintaining the irrigation system, controlling and removing invasive exotic species, and performing other maintenance tasks as needed. A qualified field biologist familiar with riparian ecosystems shall evaluate the watering, weeding, and plant survival of the mitigation sites to ensure success of the revegetation effort. The Permittee shall be responsible for ensuring the prescribed periodic and ongoing maintenance and monitoring of the habitat restoration areas occurs.
- g. Planted material failing to establish during the maintenance period shall be replaced with similar plant species if necessary and appropriate, satisfactory to a qualified field biologist. Supplemental planting shall occur as required, based on the results of site monitoring and the overall success of the revegetation.
- h. Salt cedar (*Tamarix* sp.), pampas grass (*Cortaderia atacamensis*), giant reed (*Arundo donax*), castor bean (*Ricinus communis*), tree tobacco (*Nicotiana glauca*), bristly ox-tongue (*Picris echioides*) and all other similarly characterized species identified by the qualified field biologist shall be removed from the revegetation site frequently

to avoid competition with the establishment of the native plantings.

- I. The mitigation site shall be protected and maintained from vandalism by the installation of an appropriate access barrier. Breakage of irrigation equipment, up-rooting of plantings, off-road vehicle activity, and illegal trash dumping and other destructive activities constitute vandalism. The use of any access barriers shall be coordinated with the local INS and be designed to allow apprehension of illegal trespassers. If vandalism persists during the monitoring period, a more permanent or larger barrier shall be installed. These barriers should allow for the movement of wildlife while precluding the entrance of most motor vehicles (except INS vehicles) and domestic livestock or horses. Posted signs designating the area as a restoration site shall be installed

The Permittee shall contract a qualified biologist or native revegetation specialist, with successful experience in native wetlands revegetation, to conduct the prescribed monitoring and reporting of the revegetation project. Monitoring is required throughout the planting period and during the three- to five-year maintenance period. A success evaluation at the end of three years shall be conducted to determine if the final two years of monitoring are required. If the criteria for plant coverage and percentage of overstory, shrub, and herbaceous components identified in the final revegetation plan are met, further monitoring of the site shall not be necessary and the mitigation obligation shall be fulfilled. The only exception shall be the possible need to continue irrigation of the site until plants are supported by groundwater.

A field review and evaluation of the revegetation areas to assess survival of the planted materials shall occur monthly during the first six months following the implementation of the restoration project, quarterly during the second six months, semi-annually over the following year, and annually thereafter for the remainder of the three- to -five year period. As part of the monitoring process, a qualified biologist shall establish permanent sample plots and conduct photo surveys of the mitigation sites.

A report summarizing the results of each monitoring site visit and suggested corrective measures shall be prepared by the Permittee, who shall report to DSD-EAS and the FWS. These reports shall provide an analysis of the information gathered in the field describing the condition of the mitigation sites including survival rates, percent plant cover by species and type, and observations on wildlife using the area. At these particular time periods, 80 percent of the plantings must be surviving. If this goal has not been met, additional planting shall be done to bring the total live plants back up to 100 percent of the original planting.

Success of the plantings after installation shall again be assessed at 2 and 3 years, and 4 and 5 years if necessary. Plantings within the restoration area must achieve the specified goals of plant coverage, percent canopy cover, overstory, and shrub and herbaceous ground covers. The monitoring period shall be extended until the fourth and fifth year success criteria are met for two consecutive years if the criteria are not met by the fourth year. A yearly monitoring report shall be prepared for review by the cooperating agencies, and coordination with appropriate resources agencies shall occur as required by such agencies' project permits and approvals.

- j. Eighty (80) percent of the initial riparian tree and shrub species planted shall be alive at the end of the one year following the initial planting. The condition, including plant survival rate, of the mitigation site at the end of the first year shall be documented in a monitoring report prepared for the FWS and DSD-EAS. If this 80 percent survival goal is not reached, there shall be a replanting effort and potential on-site modifications to the planting area including regrading all or a portion of the mitigation site. Once this has been accomplished to the satisfaction of FWS, the Permittee shall only be responsible for irrigation and removal of exotic plants from the mitigation site on a semi-annual basis for a minimum of three years.
- k. If mitigation occurs on County property, once the success criteria, described above, are met, it is anticipated that the County of San Diego Parks Department shall assume the long-term responsibility for management of the mitigation

area (i.e., shall be integrated into the over plans and management of the Tijuana River Valley Regional Park).

1. Final mitigation areas shall be acquired and approved by DSD-EAS and FWS and final mitigation plans shall be completed and approved by all parties prior to bid award for construction of the DMRBI project.

C. Coastal Sage Scrub Habitat Mitigation Approach

1. Based on the habitat mitigation program described above and summarized in Table 5-4, 0.4 acre (0.2 ha) of coastal sage scrub mitigation shall be required for the 0.2 acre (0.08 ha) of impact by the proposed DMRBI project. Designation of 0.4-acre (0.2 ha) of coastal sage scrub as mitigation for the DMRBI impacts shall be coordinated with FWS and DSD-EAS, and agreement by FWS that the coastal sage scrub preservation is appropriate and sufficient as mitigation for the project shall occur prior to final NEPA document approval.

D. Sensitive Species

1. With respect to mitigating potential impacts to other sensitive species in the project vicinity, the light-footed clapper rail, southwestern willow flycatcher, and wood stork have historically occurred in the Tijuana River Valley; however, none of the three species were observed during recent focused surveys at and around the projects sites. Pre-construction survey(s) shall be conducted to determine whether any of the species is (are) actively nesting in the project area. If the species nest in the nearby area, mitigation shall include construction management measures such as avoiding/minimizing activities in the nearby area, scheduling the more noise-intensive activities to occur later in the day, and/or implementation of noise control measures.

E. Geology/Soils and Erosion

1. The Permittee shall incorporate Best Management Practices (BMPs) into contractor plans and specifications as mitigation measures. Such BMPs may include the following:
 - a. Erosion control devices shall be secured by the contractor at the end of each work shift during the period from November 1 to April 1, or when rain is forecast prior to the next work day.
 - b. Grading activities shall be prohibited at the direction of the Construction Manager when rain is falling and runoff is observed at the site. The contractor shall immediately secure the site for erosion control and storm water runoff.
 - c. Prepare drainage-ways that handle concentrated or increased runoff from disturbed areas by using riprap or other lining materials to control erosion.
 - d. Reduce erosion by limiting the area and time of exposure, and by the provision of diversion channels.
 - e. Use temporary plant cover, mulching, and/or structures to control runoff and protect areas subject to erosion during construction.
 - f. Minimize soil exposure during the rainy season by proper timing of grading and construction and be prepared to shut down all earthwork if precipitation exceeds 0.1 inch per hour.
 - g. Erosion control equipment and materials shall be kept onsite for use during an emergency to quickly construct temporary collectors, diversion channels, intercept drains, berms, dikes and/or filters.
2. Erosion control plans and specifications shall be reviewed by DSD-EAS.
3. Appropriate environmental clearances shall be obtained by the contractor prior to any export of materials offsite.

F. Hydrology/Water Quality

1. The following measures shall be incorporated into the project plans to mitigate Hydrology/Water Quality impacts:
 - a. Restoration of temporary disturbance areas near the channel shall include the revegetation of stripped or exposed areas with vegetation/seed mix native to the area.
 - b. Water containing mud, silt, or other pollutants from construction activities shall not be allowed to enter the river or tributary drainages or placed in locations that may be subjected to high storm flows.
 - c. Preparation shall be made to assure that runoff from steep, erodible surfaces shall be diverted into stable areas with little erosion potential. Frequent diversions shall be placed on dirt roads, cat tracks, or other work trails to control and direct water to prevent unnecessary erosion.
 - d. Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the high water mark before such flows occur.
 - e. Staging/storage areas for equipment and materials shall be located outside of the river and tributary drainages.
 - f. Raw cement and/or concrete or washing thereof, asphalt, paint or other coating materials, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project activities, shall be prevented from contaminating the soil and/or entering the waters of the state. Any of these materials/placed within or where they may enter a stream shall be removed immediately.
 - g. Stationary equipment such as motors, pumps, generators, and welders located within or adjacent to the channel shall be positioned over drip pans.
2. The project contractor(s) shall be responsible for implementing erosion and sedimentation control plans to be implemented during construction. The types of control measures which can be implemented during construction include use of sand bags, brow ditches,

and downdrains to control and direct surface runoff within the construction area, use of check dams and desilting basins, use of silt fences, and graded slope treatments such as hydroseeding/ landscaping, erosion control blankets/mats, and straw wattles.

G. Paleontology

1. Prior to construction activities, the Permittee shall provide verification that a qualified paleontologist and/or paleontological monitor has been retained to implement the paleontological monitoring program. This verification shall be in the form of a letter from the Project Manager to the Principal Planner of the Public Project unit of the Environmental Analysis Section (EAS) of Development Services.

A qualified paleontologist is defined as an individual with a Ph.D. or M.S. degree in paleontology or geology who is a recognized expert in the application of paleontological procedures and techniques such as screen washing of materials and identification of fossil deposits, and who has field experience in southern California.

A paleontological monitor may be retained to perform the on-site monitoring in place of the qualified paleontologist. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and who is working under the supervision of a qualified paleontologist.

All persons involved in the paleontological monitoring of this project shall be approved by EAS at least 30 days prior to the preconstruction meeting.

2. The qualified paleontologist shall attend any preconstruction meetings to consult with the excavation contractor and to make comments and/or suggestions concerning the monitoring program. The paleontologist's duties shall include monitoring, salvaging, preparation of collected materials for storage at a scientific institution that houses

paleontological collections, and preparation of a monitoring report. These duties are defined as follows:

a. Monitoring

The paleontologist or paleontological monitor shall be on-site during all excavation activities in previously undisturbed formations that may contain fossilized materials. Monitoring shall be done full-time in those formations with a high sensitivity rating, and shall be half-time in those formations with a moderate sensitivity rating. The monitoring time may be increased or decreased at the discretion of the paleontologist in consultation with EAS.

b. Salvaging

In the event that fossils are encountered, the paleontologist shall have the authority to divert, direct, or temporarily halt construction activities in the area of discovery to allow recovery of fossil remains in a timely fashion. Because of the potential for recovery of small fossil remains, it may be necessary to set up a screen-washing operation on-site.

The paleontologist shall contact EAS at the time of discovery. EAS must concur with the salvaging methods before construction activities are allowed to resume.

c. Fossil Preparation

Fossil remains shall be cleaned, sorted, repaired, catalogued, and then stored in a local scientific institution that houses paleontological collections.

The qualified paleontologist shall be responsible for preparation of fossils to a point of identification, and submittal of a letter of acceptance from a local qualified curation facility. A qualified curation facility is defined as a research institution with a permanent commitment to long-term care of paleontological collections. Such a institution shall have a professional curatorial staff.

If the fossil collection is not accepted by a local qualified facility for reasons other than

inadequate preparation of specimens, the project paleontologist shall contact EAS to suggest an alternative disposition of the collection.

d. Report Preparation

A monitoring results report with appropriate graphics summarizing the results (even if negative), analyses, and conclusions of the above monitoring program shall be prepared and submitted to EAS within three months following the termination of the paleontological monitoring program. Any discovered fossil sites shall be recorded at the San Diego Natural History Museum.

The construction manager shall notify EAS staff of any preconstruction meeting dates and of the start and end of construction.

5. Prior to the issuance of the notice to proceed, the Owner/Permittee shall:

- a. Ensure the bridge shall meet emergency vehicle weight requirements of 95,000 lbs.

6. Prior to the issuance of the notice to proceed, the Owner/Permittee shall provide the following:

- a. Submit a Hydraulic and Hydrologic Study of the area within the floodway for approval by the City Engineer.
- b. The Owner/Permittee shall show on the improvement plans "Subject to Inundation" for those areas at an elevation lower than the 100-year frequency flood elevation plus one foot.
- c. The Owner/Permittee shall provide slope protection, as required by the City Engineer, where the flow velocity exceeds five feet per second.
- d. The Owner/Permittee shall provide safety fencing where required by the City Engineer.
- e. Prior to the issuance of the notice to proceed, permits or exemptions shall be obtained from the California Department of Fish and Game and the U.S. Army Corps of Engineers for work within the Floodplain Fringe areas.
- f. Prior to the issuance of any grading permits or other work within the Floodplain of the Tijuana River, a Conditional Letter of Map Amendment (Conditional LOMA) or Conditional Letter of Map Revision (Conditional

LOMR) are obtained from Federal Emergency Management Agency (FEMA). The request for the Conditional LOMA or Conditional LOMR shall be submitted through the Floodplain Management Section of the City of San Diego Engineering and Capital Projects Department. The Owner/Permittee shall provide all documentation, engineering calculations and fees which are required by FEMA.

- g. When as-built grading and public improvement plans are available, the Owner/Permittee shall submit a request for a Final LOMA or Final LOMR to FEMA via the Floodplain Management Section of the City of San Diego Engineering and Capital Projects Department. The Owner/Permittee shall provide all documentation, engineering calculations and fees which are required by FEMA.
- h. Prior to the release of the bond for this project, the Final LOMA or Final LOMR shall be issued by FEMA. The Floodplain Management Section of the City of San Diego Engineering and Capital Projects Department will notify the Development Services of such issuance as soon as it is informed by FEMA.
- i. Notes provided by the Floodplain Management Section of the City of San Diego Engineering and Capital Projects Department concerning work in designated floodplains shall be included in all grading and improvement plans.
- j. The Owner/Permittee shall grant a flowage easement, satisfactory to the City Engineer, over the property within the floodway.
- k. Any development within the floodplain fringe area will require either the property to be graded to an elevation two feet above the 100-year frequency flood elevation or provide floodproofing of all structures to that same elevation.

7. All approved landscape shall be maintained in a disease, weed and liter free condition at all times and shall not be modified or altered unless this permit has been amended. Modifications such as severely pruning or "topping" of trees is not permitted unless specifically noted in this permit.

8. If any existing or installed landscape indicated on the approved plans is damaged or removed during demolition, construction or at any time after issuance of any permit, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days by the Owner/Permittee. Three years from the project completion, the replacement size for all

damaged, dead or removed plant material shall be an equivalent size of the specific plant at the time of damage, death or removal to the satisfaction of the City Manager. Prior to three years from the project completion, the replacement size shall be the same size as the original installation as indicated on the improvement plans.

9. The property included within this Coastal Development shall be used only for the purposes and under the terms and conditions set forth in this permit unless authorized by the City Manager or the permit has been revoked by the City of San Diego.

10. This Coastal Development permit may be canceled or revoked if there is a material breach or default in any of the conditions of this permit.

11. This Coastal Development 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.

12. The use of textured or enhanced paving shall be permitted only with the approval of the City Manager and City Engineer, and shall meet standards of these departments as to location, noise and friction values, and any other applicable criteria.

13. Unless appealed this Coastal Development Permit shall become effective on the eleventh working day following receipt by the Coastal Commission of the Notice of Final Action.

14. This Coastal Development Permit must be utilized within 36 months after the effective date. Failure to utilize the permit within 36 months will automatically void the permit unless an extension of time has been granted as set forth in Section 105.0216 of the Municipal Code.

15. All of the conditions contained in this permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this permit be required to comply with each and every condition in order to be afforded special rights which the holder of the permit is obtaining as a result of this permit. It is the intent of the City that the owner of the property which is the subject of this permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property, or the special and extraordinary rights conveyed by this permit, but only if the owner complies with all the conditions of this permit.

In the event that 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 event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition 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 permit can still be made in the absence of the "invalid" conditions(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.

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

APPROVED by the Council of The City of San Diego by Resolution No. R-288660 on May 13, 1997.

AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Permittee, by execution hereof, agrees to each and every condition of this permit and promises to perform each and every obligation of Permittee hereunder.

**METROPOLITAN WASTEWATER DEPARTMENT,
THE CITY OF SAN DIEGO**
Owner/Permittee

By _____

NOTE: Notary acknowledgments
must be attached per Civil
Code Section 1180, et seq.