

RESOLUTION NUMBER R-288661

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 develop the South Bay Water Reclamation Plant at the subject property described in Attachment One - Legal Description, attached hereto and made a part hereof, in the Tia Juana River Valley Community Plan area, in the A-1-10 and FPF 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 City Council of the City of San Diego as follows:

1. That the City Council adopts the following written findings with respect to Coastal Development Permit No. 96-0317:

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 South Bay Water Reclamation Plant site is not located on any existing or proposed physical accessways identified in the adopted Local Coastal Program Land Use Plan. The proposed Plant will not obstruct views to or along the ocean or other scenic coastal areas from any public vantage points. The proposed Plant site is approximately three point two miles from the Pacific Ocean. The existing and proposed finish grade of the Plant site is such that existing vegetation and variation of topography intervening between the Plant site and the Pacific Ocean obscures any view of the ocean.

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

With the construction of the proposed South Bay Water Reclamation Plant, 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 development will not result in adverse affects to marine resources, environmentally sensitive areas or archaeological or paleontological resources. Impacts to Southern Willow Scrub and sensitive species would be mitigated to a level below significance. 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 South Bay Water Reclamation Plant 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 South Bay Water Reclamation Plant is located approximately three point two miles from the Pacific Ocean and as such will not adversely affect coastal scenic resources. Recreational and visitor serving facilities located within the valley would not be adversely affected by the construction and continued operation of the proposed development. This would be assured by the conditions of approval contained within the permit and the required MMRP.

- 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 South Bay Water Reclamation Plant 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.

The existing site of the proposed South Bay Water Reclamation Plant was previously graded and is generally level. Minimal grading would be required to prepare the site for the proposed construction of the reclamation plant. There will be no downstream bank erosion and sedimentation. Erosion will be controlled by the use of sand bags, detention basin 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 South Bay Water Reclamation Plant 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 Tijuana River Valley. A conscious effort to achieve visual compatibility has resulted in tree and shrub species being included in the development plans which occur in the area. The site is currently sparsely vegetated with ruderal and native species. The proposed development would landscape all areas not devoted to buildings, vehicular circulation and parking. The existing site would be visually improved by the construction of the proposed development and the accompanying landscaping and public art program features.

- 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 South Bay Water Reclamation Plant, 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 provisions of this legislation the City is not controlled or restricted by the action of the state or its governmental agencies with respect to 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.

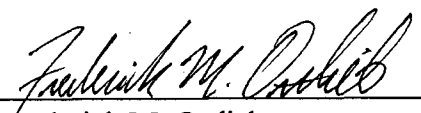
The location of the proposed South Bay Water Reclamation Plant is shown in the Tia Juana River Valley Community Plan for utility land uses such as this plant. Therefore the proposed plant is consistent with the community plan in effect for this site.

To provide the City and its residents the benefits of a water reclamation plant in the southern area of the City and where no other feasible sites exist to accomplish this purpose, it is in the best interests of the people of the City to permit the construction of the South Bay Water Reclamation Plant in the proposed location.

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

2. That based on the findings hereinbefore adopted by the City Council, Coastal Development Permit No. 96-0317 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. 96-0317, 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:
R-97-1320

ATTACHMENT ONE - LEGAL DESCRIPTION
FOR
SOUTH BAY WATER RECLAMATION PLANT
COASTAL DEVELOPMENT PERMIT NO. 96-0317

That portion of Section 2, 3, 10, 11, Township 19 South Range 2 West, San Bernardino Base and Meridian, in the City of San Diego, County of San Diego, State of California, described as follows:

Beginning at the Southwest Corner of the Northeast Quarter of the Southeast Quarter of Section 3 as shown on Record of Survey No. 13207 filed in the office of the county recorder May 30, 1991; Thence South $0^{\circ}27'45''$ West 1322.68' feet to the Southwest corner of the Southeast Quarter of the Southeast of above said Section 3; Thence South $0^{\circ}27'45''$ West 405.06 feet along the West line of Lot 1 of above said Section 10 to the United States International Boundary Line; Thence North $84^{\circ}40'32''$ East 2672.71 feet along said boundary line with Mexico to the Southeast corner of Lot 2 of above said Section 11; Thence North $0^{\circ}34'55''$ East 133.32 feet to the Northeast corner of said Lot 2; Thence North $89^{\circ}21'57''$ West 1324.04 feet to the corner common to above said Sections 2, 3, 10, 11; Thence North $0^{\circ}28'52''$ East 1323.42 feet, along the East line of said Section 3 to the Northeast corner of the Southeast Quarter of Record of Survey; Thence South $89^{\circ}20'56''$ East 257.26 feet along the South line of the Northwest Quarter of the Southwest Quarter of above said Section 2; Thence North $66^{\circ}30'30''$ West 1316.50 feet to a point on the Southerly right of way line of Dairy Mart Road as shown on Record of Survey, said Right of Way being a curve concave Northerly, having a radius of 1030.00 feet, a radial line to said point bears South $32^{\circ}26'52''$ East; Thence Southwesterly along said curve a distance of 337.46 feet, through a central angle of $18^{\circ}46'19''$ to the beginning of a reverse curve, concave Southeasterly, having a radius of 50.00 feet, a radial line to said point bears South $13^{\circ}40'33''$ East; Thence Southwesterly along the arc of said curve a distance of 64.89 feet through a central angle of $74^{\circ}21'17''$; Thence South $1^{\circ}58'10''$ West 203.73 feet to the cusp of a curve, concave Southwesterly, having a radius of 225.00 feet, a radial line to said cusp bears South $88^{\circ}01'50''$ East; Thence Northwesterly along the arc of said curve through a central angle of $31^{\circ}42'42''$ a distance of 124.53 feet to a point on the West line of the Northeast Quarter of the Southeast Quarter of Section 3 as shown on above said Record of Survey, a radial line to said point bears North $60^{\circ}15'28''$ East; Thence South $0^{\circ}27'49''$ West 250.85 feet to the POINT OF BEGINNING.

Above described parcel contains 2,956,086.14 SQ. FT., 67.862 AC. more or less.

R-288661

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. 96-0317
SOUTH BAY WATER RECLAMATION PLANT
CITY COUNCIL

This Coastal Development Permit 96-0317 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 southeast of the intersection of Dairy Mart Road and Monument Road, as described by the Attachment One - Legal Description, in the A-1-10 and Floodplain Fringe (FPF) Zone.

2. The facility shall consist of the following:

a. Buildings described as the following:

- i. Headworks building of approximately 17,713 square feet and measuring thirty-nine feet high.
- ii. Flow Equalization building of approximately 10,562 square feet and measuring twenty-two feet high.
- iii. Operations building of approximately 13,272 square feet and measuring twenty-five point seventy-five feet high.
- iv. Maintenance building of approximately 11,340 square feet and measuring twenty-two feet high.
- v. Chemical building of approximately 12,250 square feet and measuring twenty-seven point five zero feet high.

- vi. Three electrical substations and one main electrical plant each of approximately 1,248 square feet and measuring eight point thirty-three feet high.
 - vii. Effluent pump station building of approximately 2,520 square feet and measuring twenty-five point twenty-five feet high.
 - viii. Blower building of approximately 3,861 square feet and measuring twenty-two point five zero feet high.
 - ix. Tertiary filters building of approximately 9,866 square feet and measuring thirty-five point six feet high.
 - x. UV Basins and Control building of approximately 2,783 square feet and measuring twenty feet high.
 - xi. Odor Control Facility.
 - xii. Vent stack measuring forty-two feet high.
- b. Demonstration Garden, Slope Erosion Control and Project Entry and Site Landscaping;
 - c. Off-street parking;
 - d. Public art program, including a ten-foot-high blue fence, vortex tiled inverted fountain, public viewing and interpretive display areas; and
 - e. Total site grading quantity of 194,100 cubic yards.
 - f. Incidental accessory uses as may be determined incidental and approved by the Development Services Manager.

3. Not fewer than 46 off-street parking spaces for visitors shall be maintained on the property in the location shown on Exhibit "A," dated May 13, 1997, on file in the Office of Development Services. Parking spaces shall comply with Division 8 of the Zoning Regulations of the Municipal Code (101.0800) and shall be permanently maintained and not converted for any other use. Parking space dimensions shall conform to Zoning Ordinance standards. Parking areas shall be clearly marked at all times. Landscaping located in any parking area shall be permanently maintained and not converted for any other use.

4. Owner/Permittee is authorized to discharge an average daily flow of 7 MGD and a peak daily flow of 18 MGD of secondary treated wastewater to the South Bay Land Outfall (CDP 6-88-277) and the South Bay Ocean Outfall (CD-2-94 and CD-31-95) currently under construction. CEQA discharge approval was addressed in the South Bay Tunnel and Ocean Outfall: Focused supplement to the International Boundary and Water Commission (IBWC) International Wastewater Treatment Plan and Outfall Facilities Environmental Impact Statement (February, 1994) DEP No. The proposed project is categorically exempt from review of biologically sensitive lands, prehistoric and historic resources under CEQA Guidelines of existing facilities, Section No. 15301; and 94-0615.

5. 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;
- b. The Coastal Development Permit is recorded in the office of the County Recorder.

6. The following are required environmental mitigation measures for the South Bay Water Reclamation Plant project and shall be implemented by the Owner/Permittee to comply with the Mitigation Monitoring and Reporting Program (MMRP) as specified in the Environmental Impact Report 94-0635, satisfactory to the City Manager, the 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. Southern Willow Scrub Habitat Replacement

1. If the permittee directly causes the loss of 0.02 acres of southern willow scrub, the permittee shall mitigate this loss by providing 0.04 acres of southern willow scrub offsite. This southern willow scrub replacement shall be incorporated into the habitat replacement program proposed for the Dairy Mart Road and Bridge Improvement Project.

C. 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.

D. 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.

G. 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.

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

7. Before issuance of any building permits, complete grading and working drawings shall be submitted to the Development Services Manager for approval. Plans shall be in substantial conformance to Exhibit "A," dated May 13, 1997, on file in the Office of Development Services. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

8. Prior to the issuance of any grading permit, landscape erosion control construction documents, including plans, details and specifications (including a permanent or temporary automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit 'A' dated May 13, 1997, Landscape Concept Plan, on file in the Office of Development Services. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

9. Prior to the issuance of any building permits, the Owner/Permittee shall:

- a. Ensure that building address numbers are visible and legible from the street in accordance with the Uniform Fire Code Section 10.208 to the satisfaction of the Fire Chief.
- b. Show the location of all fire hydrants on the plot plan in accordance with the Uniform Fire Code Section 10.301 to the satisfaction of the Fire Chief.

10. Prior to the issuance of any building permit, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit 'A' dated May 13, 1997, Landscape Concept Plan, on file in the Office of Development Services. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

11. Prior to the issuance of any Certificate of Occupancy for any building, it shall be the responsibility of the Owner/Permittee to install all approved landscape and obtain all required landscape inspections.

12. 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.

13. 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 or Certificate of Occupancy, 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 date of occupancy, 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 date of occupancy, the replacement size shall be the same size as the original installation as indicated on the building permit set of drawings.

14. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot

candle plot and/or a point by point plot to include all areas within the private property and to extend a minimum of fifty (50) feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, fixture model name and number; including all necessary shields, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than two footcandles. Light levels throughout the planned commercial development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding seventeen footcandles anywhere within the site. The Owner/Permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required to establish conformance with the conditions of this permit during the night inspection. Night inspections may required additional fees as determined by the Development Services Manager.

15. 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 Development Services Manager or the permit has been revoked by the City of San Diego.

16. 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. Cancellation or revocation may be instituted by the City of San Diego or Owner/Permittee.

17. 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.

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

19. Details of all exterior illumination shall be submitted prior to issuance of building permits. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall only on the same premises as light sources are located.

20. Unless appealed to the California Coastal Commission, this Coastal Development Permit shall become effective on the eleventh day following the decision of the City Council.

21. 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.

22. 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.

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" 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.

The issuance of this permit by the City of San Diego does not authorize the applicant 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-288661 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**

By _____

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

R 288661