

(R-2000-77)

RESOLUTION NUMBER R- 292053

ADOPTED ON AUG 03 1999

WHEREAS, on January 14, 1999, San Dieguito Partnership, LP, submitted an application to The City of San Diego for a rezone, vesting tentative map, planned industrial development permit and resource protection ordinance permit for the Nobel Research Park project; and

WHEREAS, the permit was set for a public hearing to be conducted by the Council of The City of San Diego; and

WHEREAS, the issue was heard by the Council on August 3, 1999; and

WHEREAS, the Council of The City of San Diego considered the issues discussed in Mitigated Negative Declaration No. 99-0034; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that it is hereby certified that Mitigated Negative Declaration No. 99-0034, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of The City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of land use actions for the Nobel Research Park project.

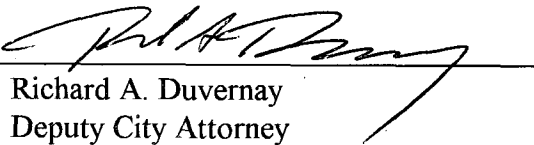
BE IT FURTHER RESOLVED, that the Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and

therefore, that said Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is hereby approved.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the Council hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated herein by reference.

APPROVED: CASEY GWINN, City Attorney

By


Richard A. Duvernay
Deputy City Attorney

RAD:lc

07/19/99

Or.Dept:Plann.&Dev.Rvw.

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EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

LDR NO. 99-0034

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Land Development Review Division, 1222 First Avenue, Fifth Floor, San Diego, CA 92101. All mitigation measures contained in the Mitigated Negative Declaration (LDR No. 99-0034) shall be made conditions of the Vesting Tentative Map or Planned Industrial Development Permit as may be further described below.

Biology

A. Biology

Prior to the issuance of any grading permit, and with the approval of the City, the applicant shall mitigate impacts to 41.47 acres of land by one of the two following options:

1. With City approval of a biology report indicating resources on the mitigating site:
 - A. The purchase of 11.72 acres of Tier II habitat or higher, and the purchase of 14.84 acres of Tier III habitat or higher within the MHPA.
2. With the approval of the City, of both the long biological value of the site and a monitoring program:
 - A. The purchase of 29.67 acres of Tier III habitat or higher, and the purchase of 23.44 acres of Tier II habitat or higher outside of the MHPA.

B. Vernal Pools

1. As a condition of the Vesting Tentative Map a conservation easement shall be placed over a 2.58 acre lot that abuts Interstate 805 to the east and Nobel Drive to the south as shown on the approved VTM, PID Grading plans, page 1 of 1, dated 12-28-98.
2. As a condition of the grading permit the site shall be graded so that drainage into the watershed area of the vernal pools shall not occur. Grading shall be in compliance with the approved VTM, PID, Grading plans, page 1 of 1, originally dated 12/28/98.
3. As a condition of the grading permit, the conservation easement shall be fenced at the top of the berm surrounding the watershed with a 6-foot-high chain-link fence.
4. As a condition of the grading permit signs shall be placed on the fence indicating the presence of vernal pools.

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5. Agreement of a vernal pool maintenance program approved by the City shall be required prior to the recordation of any final map.

C. Riparian Habitat

Impacts to 0.08 acre of jurisdictional wetlands and 0.22 acre of non-wetland jurisdictional waters shall be mitigated off-site through the creation of 0.3 acre and enhancement of 0.6 acre of southern willow scrub in the western portion of Gonzales Canyon. See Figures 3 and 4, for off-site mitigation location. Mitigation measures as described below can also be found in the Conceptual Wetland Habitat Restoration Plan for Nobel Research Park, prepared by RECON (No. 3068B) dated May 12, 1999.

Prior to the issuance of any grading permit, the applicant shall verify to the City the issuance of a 1603 permit from the California Department of Fish and Game, and the issuance of a 404 permit from the U.S. Army Corps of Engineers.

1. Wetland Creation and Restoration

- A. Planting and seeding will be limited to October 15 to February 1 to coincide with appropriate weather conditions.
- B. The mitigation areas will be monitored for five years following the completion of restoration implementation. The mitigation site shall attain 90 percent native cover, 80 percent density, and 80 percent diversity of target southern willow scrub community selected by the project biologist from within a 10-mile radius of the project site.

The target community shall be selected prior to restoration implementation after the approval of a final plan. The target community shall be of high quality with few to no exotic species present. The specific target functions and values shall be included in the final revegetation plan.

- C. Sheet flow runoff from the Gonzalez Canyon drainage is directed into the wetland creation area adjacent to the existing natural drainage. The wetland creation receives additional precipitation run-off from the slopes located to the south and west of the mitigation area. The specific target functions and values shall be included in the final revegetation plan.
- D. The restoration site shall be graded to lower its elevation to that of the existing channel bottom. The excavation shall leave a small berm between the existing channel and the restoration area to avoid impacts to the existing wetlands. Prior to the plant installation, the project biologist shall evaluate the constructed berm and make recommendations to ensure optimum hydrologic conditions.
- E. Non-native plant material shall be completely removed from the restoration site to prevent non-native seed dispersal. All non-native species located within 50 feet of the restoration area (within the existing drainage or on the weedy upland areas) shall be removed prior to plan implementation to further control weeds on the mitigation site.

F. Container Plants

Willow and mule fat cuttings shall be taken from trees within a 10-mile radius of the mitigation site. These cuttings shall be rooted in one-gallon containers for planting at the wetland creation site. San Diego sagewort (*Artemisia palmeri*) and blue elderberry shall be grown from locally collected seeds. Exact planting locations shall be determined in the final restoration plan.

1. Riparian Scrub Planting Densities:

- A. Arroyo willow (*Salix lasiolepis*), 300 one-gallon plants per acre.
- B. San Diego sagewort (*Artemisia palmeri*) 100 one gallon plants per acre.
- C. Blue elderberry (*Sambucus mexicana*) 50 one gallon plants per acre.
- D. Mule fat (*Baccharis salicifolia*) 200 one gallon plants per acre.
- E. Seed collection and application

Seed collection shall begin at least six months prior to restoration implementation. The site shall be seeded with locally collected annuals and perennials. Seed will be applied by hand to prevent disturbance of transplants.

1. Seed application rates:

- A. Gumplant (*Grindelia camporum*) 2 pounds per acre.
- B. Arroyo willow (*Salix lasiolepis*) 2 pounds per acre.
- C. Mule fat (*Baccharis salicifolia*) 3 pounds per acre.
- D. Coyote bush (*Baccharis pilularis*) 1 pound per acre.
- E. Coast goldenbush (*Isocoma menziesii*) 1 pound per acre.
- F. Taragon (*Artemisia dracunculus*) 1 pound per acre.
- G. Giant rye grass (*Leymus condensatus*) 0.25 pounds per acre.
- H. Blue elderberry (*Sambucus mexicana*) 2 pounds per acre.

- I. Western ragweed (*Ambrosia psilostachya*) 2 pounds per acre.

H. Irrigation for pre-restoration

Planting holes shall receive one gallon of water prior to planting, followed by another gallon following plant installation.

2. Site protection

A fence shall be built along the entire perimeter of the mitigation site to protect the restoration. The fence shall consist of a six-foot-tall chainlink, or other effective design more complimentary with the surrounding aesthetics. No seeding or translocation of sensitive plant species shall be performed prior to the installation of fencing around the site. Silt fencing shall be installed, as necessary, on the restoration site where steep slopes and potential erosion could create sedimentation in existing adjacent native habitat. The protection fence shall remain in place and maintained in-perpetuity. Access gates shall be installed at appropriate locations. All gates shall remain locked except while construction or maintenance personnel are on-site.

Signs shall be placed on the fence at locations where unauthorized entry is most likely. Signs bolted to the fence shall provide notice that the area is an ecological preserve, that trespassing is prohibited, and cite penalties for trespass violation, including liability for repair of any damage within the fenced area. Signs will also identify the restoration project and a contact for additional information.

3. As-built plan

Within 30 days of the completion of mitigation implementation an as-built plan shall be submitted to the Environmental Analysis Section of the Planning and Development Review Department, the California Fish and Game Department, and the U.S. Army Corps of Engineers. This plan shall include implementation dates, plant numbers and locations, and any significant problems encountered or if changes are needed to be made in the field during implementation of the final restoration plan, to determine if the mitigation project has been built as proposed.

4. Maintenance and Restoration

The monitoring and maintenance period shall begin immediately upon completion of plant installation and shall last for a period of five years. The maintenance and monitoring program shall be as follows:

1. Weeding, quarterly for years 1, 2 and 3, and biannually for years 4 and 5.

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2. Trash removal, monthly for year 1, and quarterly for years 2 thru 5.
3. Fence maintenance, monthly for year 1, and quarterly for years 2 thru 5.
4. Qualitative monitoring, monthly for years 1 and 2, quarterly for years 3, 4 and 5.
5. Quantitative monitoring, none for year 1, and in the spring for years 2 thru 5.

5. Implementation Monitoring

To ensure that conditions of this restoration plan are adhered to, all implementation activities shall be monitored and recorded by the project biologist. The biologist shall be available on-site during revegetation implementation to assist in making necessary plan modifications so the work may proceed. Records shall include dates of translocation of salvaged species container plantings and seeding. These shall be included in the first annual report.

6. General Maintenance Procedures

A. Vegetation clearing and trash removal

Pruning of any native vegetation or removal of dead wood and leaf litter shall not be allowed in the revegetation areas. Trash shall be removed by hand. Trash consists of all man-made materials, equipment, or debris left within the restoration area that is not serving a function related to revegetation.

B. Weed control

Hand weeding or other weed control methods shall be performed by maintenance workers familiar with and trained to distinguish weeds from native species.

Weeds shall be killed or removed before the seeds are set for the revegetation project. Weed control shall be under the direction of the project biologist. Exotic species that have the potential to occur on site are listed below. These and potentially other species shall not be allowed to root:

1. Giant reed (Arundo donax)
2. Acacia (Acacia sp.)
3. Mustard (Brassica nigra)
4. Selloa pampas grass (Cortaderia selloana)
5. Filaree, storksbill (Erodium sp.)

6. Eucalyptus (*Eucalyptus* sp.)
7. Sweet fennel (*Foeniculum vulgare*)
8. Tree tobacco (*Nicotiana glauca*)
9. Castor bean (*Ricinus communis*)
10. Peruvian pepper (*Schinus molle*)

C. Irrigation post planting

Irrigation shall be applied to container and salvaged plants at the discretion of the project biologist. Natural precipitation should be anticipated, however, rainfall patterns vary and an irrigation system may be necessary for successful implementation of the revegetation plan.

7. Wetlands creation

Permanent vegetation sampling stations shall be established within the restoration site to measure year-to-year changes in shrub cover, density, and diversity following the protocol of the California Native Plant Society Plant Communities Project. This data shall be compared to baseline data collected from the intact mature riparian habitat which will be selected prior to implementation of the final habitat restoration plan. Results shall objectively determine if the restoration and enhancement areas approach the community characteristics of the reference area habitat.

Three plots shall be established in the reference and restoration site to determine species cover, composition, density, and diversity. Each sample endpoint will be used as a photo documentation point to record the progress of mitigation over the monitoring period.

8. Monitoring Reports

Annual reports summarizing monitoring results shall be submitted to the California Department of Fish and Game, The U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and the City of San Diego by the project December 31 of each year. The quantitative report shall include survey methods, data summary analysis, performance standards comparison, discussion, remedial action discussion, recommendations, and photo documentation. Each annual report shall compare findings of the current year with those in previous years.

A. Qualitative Monitoring

The project biologist shall review the restoration areas to examine transplant vigor, native annual and grass germination, and exotic plant encroachment. The

biologist shall document the findings and make recommendations for remedial actions, if necessary.

A list of wildlife species observed on the restoration site shall be compiled during each qualitative monitoring visit. A description of wildlife use shall be included with each annual report.

B. Quantitative Monitoring

Quantitative monitoring shall measure the development of vegetation in the restoration area and document achievement of success criteria in the restoration areas as defined by the performance standards.

9. Performance Standards

Five year performance standards:

	Transplant Container Plant Survival	Total Native Plant Cover	Density as a Percentage Of Reference Area Values	Diversity as a Percentage of Reference Area Values
Year 1	80%	-	-	-
Year 2	100%	50%	50%	50%
Year 3	100%	75%	60%	60%
Year 4	100%	90%	70%	70%
Year 5	100%	90%	80%	80%

If the minimum levels for any one of the measurements described above are not achieved in any year, the project biologist shall implement remedial actions, such as replanting container stock, to reach the following year's expected levels. In order to meet the performance standards, the habitat must sustain itself for a minimum of one year (meeting the fifth year performance standards) in the absence of significant maintenance measures any year during the five year monitoring period.

10. Tolerance of weeds

The cover of non-native annual grasses and herbs as identified by the project biologist, shall be no more than 5 percent of that measured in the control sites during the monitoring period.

11. Remedial Measures

If performance criteria are not achieved at the end of the fifth year, the permittee shall consult with the U.S. Fish and Wildlife Service, the California Department of Fish and

Game, the U.S. Army Corps of Engineers, and the City of San Diego, to determine whether the mitigation effort is acceptable. The owner/project proponent understands that failure of any significant portion of the mitigation area may result in a requirement to replace or revegetate that portion of the site.

12. Notification of Completion

At the end of the fifth year, a final report shall be submitted to the agencies evaluating the success of the mitigation. The report shall make a determination of whether the requirements of the mitigation plan have been achieved. If they have been achieved, the project biologist shall inform the owner/project proponent, USFWS, CDFG, USACE, and the City of San Diego. A site review will be scheduled for all parties to review the revegetated site. Upon confirmation of project success, the agencies shall release the owner/project proponent of all obligations

The issuance of the California Department of Fish and Game 1603 permit and the Army Corps of Engineer's 404 permit must be verified by the Planning and Development Review Department prior to the issuance of any grading permits.

Transportation

1. Prior to the issuance of any building permits, the applicant shall permit and bond for the construction of Judicial Drive from the northerly property line to Nobel Drive as a four-lane major street, satisfactory to the City Engineer.
2. Prior to issuance of any building permits, the applicant shall permit and bond for the construction of the following improvements at the project's access to judicial Drive: a traffic signal, a southbound dual left-turn lane, and northbound right turn-lane. The improvements shall be constructed to the satisfaction of the City Engineer.
3. Prior to the issuance of any building permits, the applicant shall permit and bond for the construction of a traffic signal at the intersection of Judicial Drive and Nobel Drive, satisfactory to the City Engineer.
4. Prior to issuance of any building permits, Nobel Drive extension from Shoreline Drive to I-805 and Nobel Drive/I-805 southfacing interchange shall be assured to the satisfaction of the City Engineer (FBA project #NUC-21, CIP #52-362.0).
5. Prior to issuance of any building permits above 999 ADT of the total development of 7,670 ADT, Nobel Drive from I-805 to Miramar Road shall be assured to the satisfaction of the City Engineer (FBA project NUC-22, CIP # 52-427.0).
6. Prior to issuance of any building permits above 3,835 ADT of the total development of 7,670 ADT, Miramar Road from I-805 to east of Eastgate Mall shall be assured to the satisfaction of the City Engineer (FBA project NUC-50).

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To be assured to the satisfaction of the City Engineer means that before development is authorized in each phase, the improvements must meet one of the following criteria:

1. The improvement must be completed and open to traffic.
2. The improvement must be under contract.
3. The improvement must be bonded.
4. The improvement must be scheduled for construction in the City CIP for the year building permits are requested.
5. Improvements must be programmed for construction in the STIP for the year building permits are requested.

Hydrology/Water Quality

1. Final grading plans shall show the interception of water runoff by desilting basins prior to entering the storm drain system. There shall be one desilting basin for each buildable lot as shown on the VTM, PID Grading Plans, Sheet 1 of 1, originally dated 12-28-98.
2. Prior to the issuance of building permits, plans shall be submitted for approval by the Planning and Development Review Department depicting the location of interceptors to trap petroleum and oil from runoff from parking areas. The plans shall indicate the type of filtration system (i.e. grass swales, charcoal filters, etc.) to be used. These facilities shall be located on the graded pads.
3. The applicant/owner shall be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) for approval by the City's Stormwater Administrator prior to issuance of a grading permit.

Noise

A. Exterior Noise Levels:

1. Building plans shall indicate that all exterior usable open space are located outside of the 70-75 decibel contour lines as depicted on Attachment A for lots four through 10 as shown on the approved Vesting Tentative Map, sheet 1 of 1, dated 12-28-98.
2. For any exterior usable open space located within the 70-75 decibel contour line as depicted on Attachment A, a site specific noise study shall be required. The study shall be submitted to the Planning and Development Review Department for approval prior to the issuance of building permits. The noise study shall include mitigation measures that would reduce the exterior open space decibel level to below 70 decibels (dB{A}), Community Noise Equivalent Level (CNEL). The mitigation measures shall be included on the plans submitted to the City for building permit approval

B. Interior Noise Levels

Prior to the issuance of building permits, site specific noise studies for lots four through ten (as shown on the approved Vesting Tentative Map, sheet 1 of 1, dated 12-28-98) shall be submitted to the Planning and Development Review Department for approval. The noise studies shall include mitigation measures that will reduce interior noise levels to below 50 decibels, Community Noise

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Equivalent Level. The mitigation measure shall be included on the plans submitted to the City for building permit approval.

Light/Glare

Prior to the issuance of building permits, the owner/permittee shall submit site specific building plans to the Planning and Development Review Department for approval, that show that no more than 50 percent of any exterior elevation will be constructed of materials with a light reflectivity greater than 31 percent.

Paleontology:

1. Prior to any grading activities and/or the issuance of permits, San Dieguito Partnership, L.P. shall provide a letter of verification to the Environmental Review Manager of the Land Development Review Division (LDR) stating that a qualified paleontologist has been retained to implement the monitoring program. A qualified paleontologist is defined as an individual with a PhD or MS degree in paleontology or geology who is recognized as an expert in the application of paleontological procedures and techniques.

A paleontological monitor may be retained to implement the on-site monitoring. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials who is working under the supervision of a qualified paleontologist. The requirement for monitoring shall be noted on grading plans.

2. All persons involved in the paleontological monitoring of this project shall be approved by EAS at least 30 days prior to the preconstruction meeting.
3. The qualified paleontologist or paleontological monitor shall attend any preconstruction/pregrading meetings to consult with the excavation contractor. The paleontologist's duties shall include the monitoring, salvaging, preparation of collected materials for storage, and preparation of a monitoring results report.

A. Monitoring

The paleontologist or paleontological monitor shall be on-site full time during excavation into previously undisturbed formations. The monitoring time may be decreased at the discretion of the paleontologist in consultation with LDR, depending on the rate of excavation, the materials excavated, and the abundance of fossils.

B. Salvaging

If fossils are encountered, the paleontologist shall have the authority to divert or temporarily halt construction activities in the area of discovery to allow recovery of fossil remains. The paleontologist shall contact LDR at the time of discovery. LDR shall concur with the salvaging methods before construction activities are allowed to resume.

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C. Fossil Preparation

The qualified paleontologist shall be responsible for preparation of fossils to a point of identification as defined in the City of San Diego Paleontological Guidelines, and submittal of a letter of acceptance from a local qualified curation facility. The paleontologist shall record any discovered fossil sites at the San Diego Natural History Museum.

D. Report Preparation

The qualified paleontologist shall be responsible for the preparation of a monitoring results report with appropriate graphics summarizing the results (even if negative), analysis, and conclusions of the above program. The report shall be submitted to LDR prior to the issuance of building permits and/or certificates of occupancy. If building plans are not required, the paleontologist shall submit the report to LDR within three months following the termination of the monitoring program.

The above mitigation monitoring and reporting program will require an additional fee of \$450.00 to be collected prior to the issuance of grading permits to ensure the successful completion of the monitoring program.