

RESOLUTION NUMBER R- 298783

ADOPTED ON JAN 13 2004

WHEREAS, Western Pacific Housing, Permittee, submitted an application to the City of San Diego for a Site Development Permit No. 10167/Coastal Development Permit No. 41872 for the Carmel Valley Trunk Sewer project; and

WHEREAS, the matter 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 City Council on January 13, 2003; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration No. 4411; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration No. 4411, 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 the Carmel Valley Trunk Sewer project.

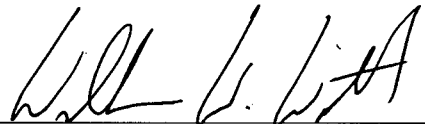
BE IT FURTHER RESOLVED, that the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial

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

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the City Council 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.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

APPROVED: CASEY GWINN, City Attorney

By   
William W. Witt  
Deputy City Attorney

MJL:WWW:cdk:pev  
12/18/03  
Or.Dept: DSD  
R-2004-688

## EXHIBIT A

### MITIGATION MONITORING AND REPORTING PROGRAM Site Development Plan and Coastal Development Permit for Carmel Valley Trunk Sewer Project No. 6147, LDR No. 42-1081,

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 (Project No. 6147) shall be made conditions of the Site Development Plan and Conditional Use Permit Amendment as may be further described below.

The above mitigation monitoring and reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.

#### MITIGATION, MONITORING AND REPORTING PROGRAM:

To ensure that further site development would avoid significant environmental impacts, a Mitigation, Monitoring and Reporting Program (MMRP) is required. Compliance with the mitigation measures would be the responsibility of the applicant. The basis for the MMRP can be found in the Initial Study. The mitigation measures are described below.

#### **General measures which must be completed prior to any authorization to proceed:**

1. After project approval by the Decisionmaker and prior to the issuance of any discretionary approval(s), the applicant shall deposit \$7,000.00 with the Development Project Manager in the Development Services Department to cover the City's costs associated with implementation of the Mitigation, Monitoring and Reporting Program (MMRP).
2. The Environmental Review Manager (ERM) of the City's Land Development Review Division (LDR) shall verify that the following statement is shown on the grading and/or construction plans as a note under the heading, *Environmental Requirements*: "The Carmel Valley Trunk Sewer Project is subject to a Mitigation Monitoring and Reporting Program and shall conform to the mitigation conditions as contained in MND (Project No. 6147)".
3. The owner/permittee shall make arrangements to schedule a pre-construction meeting to ensure implementation of the MMRP. The meeting shall include the Resident Engineer and the City's Mitigation Monitoring Coordination (MMC) Section.

#### **Paleontological Resources**

##### **Prior to preconstruction (precon) meeting**

4. Land Development Review (LDR) Plan Check  
Prior to the issuance of a Notice to Proceed (NTP) or any permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Environmental Review Manager (ERM) of LDR shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.

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5. Letters of Qualification have been Submitted to ERM  
Prior to the recordation of the first final map, NTP, and/or, including but not limited to, issuance of a Grading Permit, Demolition Permit or Building Permit, the applicant shall provide a letter of verification to the ERM of LDR stating that a qualified Paleontologist, as defined in the City of San Diego Paleontological Guidelines, has been retained to implement the monitoring program. The letter shall identify all monitors to be working under the supervision of the qualified paleontologist.
6. Second Letter Containing Names of Monitors has been sent to Mitigation Monitoring Coordination (MMC).
  - a. At least thirty days prior to the Precon Meeting, a second letter shall be submitted to MMC which shall include the name of the Principal Investigator (PI) and the names of all persons involved in the Paleontological Monitoring of the project.
  - b. MMC will provide Plan Check with a copy of both the first and second letter.
7. Records Search Prior to Precon Meeting  
At least thirty days prior to the Precon meeting, the qualified Paleontologist shall verify that a records search has been completed, and updated as necessary, and be prepared to introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities. Verification includes, but is not limited to, a copy of a confirmation letter from the San Diego Natural History Museum, other institution, or, if the record search was in-house, a letter of verification from the PI stating that the search was completed.

### **Precon Meeting**

8. Monitor Shall Attend Precon Meetings
  - a. Prior to beginning of any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the Paleontologist, Construction Manager and/or Grading Contractor, Resident Engineer (RE), Building inspector (BI), and MMC. The qualified Paleontologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring Program with the Construction Manager and/or Grading Contractor.
  - b. If the Monitor is not able to attend the Precon Meeting, the RE, or BI as appropriate, will schedule a focused Precon Meeting for MMC, Monitors, Construction Manager and appropriate Contractor's representatives to meet and review the job on-site prior to start of any work that requires monitoring.
9. Identify Areas to be Monitored  
At the Precon Meeting, the Paleontologist shall submit to MMC a copy of the site/grading plan (reduced to 11x17) that identifies areas to be monitored.
10. When Monitoring Will Occur  
Prior to the start of work, the Paleontologist also shall submit a construction schedule to MMC through the RE, or BI, as appropriate, indicating when and where monitoring is to begin and shall notify MMC of the start date for monitoring.

### **During Construction**

11. Monitor Shall be Present During Grading/Excavation

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- a. The qualified Paleontologist shall be present full-time during the initial cutting of previously undisturbed formations with high and moderate resource sensitivity, and shall document activity via the Consultant Site Visit Record (form). This record shall be faxed to the RE, or BI as appropriate, and MMC each month.
12. Discoveries
- a. Minor Paleontological Discovery  
In the event of a minor Paleontological discovery (small pieces of broken common shell fragments or other scattered common fossils) the Paleontologist shall notify the RE, or BI as appropriate, that a minor discovery has been made. The determination of significance shall be at the discretion of the qualified Paleontologist. The Paleontologist will continue to monitor the area and immediately notify the RE, or BI as appropriate, if a potential significant discovery emerges.
  - b. Significant Paleontological Discovery  
In the event of a significant Paleontological discovery, and when requested by the Paleontologist, the city RE, or BI as appropriate, shall be notified and shall divert, direct, or temporarily halt construction activities in the area of discovery to allow recovery of fossil remains. The determination of significance shall be at the discretion of the qualified Paleontologist. The Paleontologist with Principal Investigator (PI) level evaluation responsibilities shall also immediately notify MMC staff of such finding at the time of discovery. MMC staff will coordinate with appropriate LDR staff.
13. Night Work
- a. If night work is included in the contract
    - (1) When night work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
    - (2) The following procedures shall be followed:
      - (a) No Discoveries  
In the event that nothing was found during the night work, The PI will record the information on the Site Visit Record Form.
      - (b) Minor Discoveries
        - (1) All Minor Discoveries will be processed and documented using the existing procedures under **During Construction** 12. a., with the exception that the RE will contact MMC by 9 A.M. the following morning.
      - (c) Potentially Significant Discoveries
        - (1) If the PI determines that a potentially significant discovery has been made, the procedures under **During Construction** 12. b., will be followed, with the exception that the RE will contact MMC by 8 A.M. the following morning to report and discuss the findings.
  - b. If night work becomes necessary during the course of construction
    - (1) The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
    - (2) The RE, or BI, as appropriate, will notify MMC immediately.
  - c. All other procedures described above will apply, as appropriate.
14. Notification of Completion  
The Paleontologist shall notify MMC and the RE, or BI as appropriate, of the end date of monitoring.

## Post Construction

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The Paleontologist shall be responsible for preparation of fossils to a point of curation as defined by the City of San Diego Paleontological Guidelines.

15. Submit Letter of Acceptance from Local Qualified Curation Facility.  
The Paleontologist shall be responsible for submittal of a letter of acceptance to ERM of LDR from a local qualified curation facility. A copy of this letter shall be forwarded to MMC.
16. If Fossil Collection is not Accepted, Contact LDR for Alternatives  
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 LDR, to suggest an alternative disposition of the collection. MMC shall be notified in writing of the situation and resolution.
17. Recording Sites with San Diego Natural History Museum  
The Paleontologist shall be responsible for the recordation of any discovered fossil sites at the San Diego Natural History Museum.
18. Final Results Report
  - a. Prior to the release of the grading bond, two copies of the Final Results Report (even if negative), which describes the results, analysis, and conclusions of the above Paleontological Monitoring Program (with appropriate graphics) shall be submitted to MMC for approval by the ERM of LDR.
  - b. MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.

**Biological Resources: Coastal California Gnatcatcher (Federally Threatened)**

Prior to the issuance of any authorization to proceed, the City Manager (or appointed designee) shall verify that the Multi-Habitat Planning Area (MHPA) boundaries and the following project requirements regarding the coastal California gnatcatcher are shown on the construction plans:

**No clearing, grubbing, grading, or other construction activities shall occur between March 1 and August 15, the breeding season of the coastal California gnatcatcher, until the following requirements have been met to the satisfaction of the City Manager.**

1. A qualified biologist (possessing a valid Endangered Species Act Section 10(a)(1)(A) Recovery Permit) shall survey those habitat areas within the MHPA that would be subject to the construction noise levels exceeding 60 decibels [dB(A)] hourly average for the presence of the coastal California gnatcatcher. Surveys for this species shall be conducted pursuant to the protocol survey guidelines established by the U.S. Fish and Wildlife Service within the breeding season prior to the commencement of construction. **If the gnatcatchers are present, then the following conditions must be met:**
  - a. Between March 1 and August 15, no clearing, grubbing, or grading of occupied gnatcatcher habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; **AND**
  - b. Between March 1 and August 15, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 dB(A) hourly average at the edge of the occupied gnatcatcher habitat. An analysis showing that noise generated by construction activities would not exceed 60 dB(A) hourly average at the edge of occupied habitat must be completed by a qualified acoustician (possessing a current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by

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the City Manager at least two weeks prior to the commencement of construction activities; **OR**

- c. At least two weeks prior to the commencement of construction activities, under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 dB(A) hourly average at the edge of habitat occupied by the coastal California gnatcatcher. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring shall be conducted at the edge of the occupied habitat area to ensure that noise levels do not exceed 60 dB(A) hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the qualified acoustician or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (August 16).

*\* Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.*

2. If coastal California gnatcatchers are not detected during the protocol survey, the qualified biologist shall submit substantial evidence to the City Manager and applicable resource agencies which demonstrate whether or not mitigation measures such as noise walls are necessary between March 1 and August 15 as follows:
  - a. If this evidence indicates the potential is high for coastal California gnatcatchers to be present based on historical records or site conditions, then Condition 1-b or 1-c shall be adhered to as specified above.
  - b. If this evidence concludes that no impacts to the species are anticipated, no mitigation measures would be necessary.
3. If the permittee begins construction prior to the completion of the protocol gnatcatcher surveys, then the Development Services Department shall assume that the appropriate avian species are present and all necessary protection and mitigation measures shall be required as described in 1 c.

**Biological Resources: least Bell's vireo** (State & Federally Endangered)

Prior to the issuance of any authorization to proceed, the City Manager (or appointed designee) shall verify that the following project requirements regarding the least Bell's vireo are shown on the construction plans:

**No clearing, grubbing, grading or other construction activities shall occur between March 15 and September 15, the breeding season of the least Bell's vireo, until the following requirements have been met to the satisfaction of the City Manager.**

1. A qualified biologist (possessing a valid Endangered Species Act Section 10(a)(1)(A) Recovery Permit) shall survey those wetland areas that would be subject to the construction noise levels exceeding 60 decibels [dB(A)] hourly average for the presence of the least Bell's vireo. Surveys for this species shall be conducted pursuant to the protocol

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survey guidelines established by the U.S. Fish and Wildlife Service within the breeding season prior to the commencement of construction. **If the least Bell's vireo is present, then the following conditions must be met:**

- a. Between March 15 and September 15, no clearing, grubbing, or grading of occupied least Bell's vireo habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; **AND**
- b. Between March 15 and September 15, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 dB(A) hourly average at the edge of the occupied least Bell's vireo habitat. An analysis showing that noise generated by construction activities would not exceed 60 dB(A) hourly average at the edge of occupied habitat must be completed by a qualified acoustician (possessing a current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the City Manager at least two weeks prior to the commencement of construction activities; **OR**
- c. At least two weeks prior to the commencement of construction activities, under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 dB(A) hourly average at the edge of habitat occupied by the least Bell's vireo. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring shall be conducted at the edge of the occupied habitat area to ensure that noise levels do not exceed 60 dB(A) hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the qualified acoustician or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (September 16).

*\* Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.*

2. If least Bell's vireo are not detected during the protocol survey, the qualified biologist shall submit substantial evidence to the City Manager and applicable resource agencies which demonstrate whether or not mitigation measures such as noise walls are necessary between March 15 and September 15 as follows:
  - a. If this evidence indicates the potential is high for least Bell's vireo to be present based on historical records or site conditions, then Condition 1-b or 1-c shall be adhered to as specified above.
  - b. If this evidence concludes that no impacts to the species are anticipated, no mitigation measures would be necessary.
3. If the permittee begins construction prior to the completion of the protocol vireo surveys, then the Development Services Department shall assume that the appropriate avian species are present and all necessary protection and mitigation measures shall be required as described in 1 c.

**Biological Resources: Raptors**

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Prior to the issuance of any authorization to proceed the ERM of the LDR shall ensure that the following measures are included as notes in the construction plans and grading plans:

1. If construction activities occur during the raptor breeding season (generally February through July), a pre-construction nest survey (one survey) shall be conducted within 500 feet of the impact area to look for active raptor nests.
2. If no nests are found then no further mitigation is required.
3. If an active nest is found, monitoring shall be conducted by a qualified biologist to ensure all construction remains at least 300 feet from a Cooper's hawk nest. If any other active raptor nest is discovered the appropriate buffer shall be determined in consultation with the project biologist, Environmental Analysis Section staff, and the resource agencies.
4. The biologist in consultation with EAS staff shall be responsible for determining when the nest becomes inactive and measure 3 above is no longer required.

### **Biological Resources: Habitat Mitigation**

Prior to the issuance of any authorization to proceed the ERM of the LDR shall ensure that the following measures are included as notes in the construction plans and grading plans:

1. The applicant shall provide verification of the acquisition of 0.98 acre of Pardee Homes Pacific Highlands Ranch Units 2 -4 wetland mitigation area. The mitigation area shall be monitored for 5 years or until the success criteria are met as determined by the City of San Diego, the USFWS, CDFG and the ACOE. Wetland mitigation shall be consistent with the City of San Diego Land Development Code Biology Guidelines dated May 19, 2001.
2. The applicant shall provide verification of the acquisition of 2.70 acres of suitable upland mitigation land. Upland mitigation shall be consistent with the City of San Diego Land Development Code Biology Guidelines dated May 19, 2001.

### **Multi-Habitat Planning Area (MHPA)**

Prior to the issuance of any authorization to proceed the ERM of the LDR shall ensure that the following measures are included as notes in the construction plans and grading plans:

1. A qualified biologist shall inspect all construction fencing prior to construction and shall monitor construction activities to avoid unauthorized impacts.
2. All staging areas shall be located as shown in the biology report and as shown on the approved plans. All equipment and/or materials related to construction shall be fenced and stored in the designated area.
3. All construction and staging area limits shall be clearly delineated prior to construction with orange construction fencing or silt fencing to ensure that construction activity remains within the defined construction limits.
4. The biologist shall provide direction to construction personnel regarding the need to avoid impacts to adjacent sensitive areas.
5. The non-irrigated hydroseed mix used for erosion control shall only contain native species and shall only be applied under the supervision of the biologist or a landscape architect.
6. All security lighting for the staging areas shall be shielded and directed away from the wildlife corridor.
7. No nighttime construction shall be allowed to preclude impacts to the MHPA and wildlife corridor.

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8. All construction crews and/or field workers shall be trained to ensure compliance with mitigation conditions. The City's educational brochure shall be distributed to construction and maintenance personnel.
9. All construction/grading plans shall be made available to crews in the field showing these conditions.
10. Bollards, gates, etc. shall be used to preclude vehicular access onto the access road. Signage shall be placed at the new access points from the street and near wetlands and sensitive plant species.
11. Trash and debris discharged along sewer access paths in and adjacent to the MHPA shall be removed during routine sewer and access path maintenance by MWWD.

### **Health/Public Safety**

Prior to the issuance of any authorization to proceed the ERM of the LDR shall ensure that the following measures are included as notes in the construction plans and grading plans:

1. Prior to the removal of any soil from the site, samples shall be taken and tested for pesticides to evaluate soil handling, segregation and disposal options.
2. Contaminated soil shall be removed per the disposal facility requirements.
3. DEH shall be contacted immediately should additional contamination, such as underground storage tanks, be discovered.
4. Prior to the release of the grading bond, the applicant shall provide the ERM of the LDR with a copy of the "No Further Action" letter issued by DEH.

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