MINUTE ITEM
This Calendar Item No. C44
was approved as Minute Item
No. 44 by the State Lands
Commission by a vote of 3
to 0 at its 3/8/94
meeting.

CALENDAR ITEM

C44

A 74

S 38

03/08/94
W 20725.206
A. Scott

ADOPTION OF THE CITY OF CARLSBAD'S FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATION FOR THE BATIQUITOS LAGOON RESTORATION PROJECT AND ISSUANCE OF LETTER PERMIT TO THE CITY OF CARLSBAD FOR CONSTRUCTION OF A LEAST TERN NESTING SIGHT

APPLICANT:
City of Carlsbad
2075 Las Palmas Drive
Carlsbad, California 92009-1576

AREA, TYPE LAND AND LOCATION:
3.5± acres of tide and submerged lands located in Batiquitos Lagoon.

LAND USE:
Construction of a Least Tern nesting site including removal of vegetation, placement of sand cover and construction of fencing.

BACKGROUND:
The Commission is a party to an MOA signed in November 1987, between the Commission, the City of Carlsbad, the Port of Los Angeles and various state and federal wildlife agencies which provides for the restoration of Batiquitos Lagoon (Lagoon) to a tidal wetlands. As part of this restoration project the City and the Port secure a permit from the Commission for the construction of the overall project in the near future after all property rights for the project have been acquired and transferred to the Commission as sovereign lands. The start of construction of the restoration project is scheduled for later in 1994. However, the wildlife agencies and environmental groups are concerned that construction activities may interfere with the coming nesting season of the endangered Least Tern and desire that, before the start of the Least Tern nesting season, an area be set aside that is protected from the impacts of future construction activities.

CURRENT SITUATION:
The City wishes to construct a Least Tern nesting island immediately so that a site will be available for the coming nesting season which starts in April. This site will be located on what will be a permanent Least Tern nesting island after completion of the restoration project. The temporary site will be fenced to protect the area from encroachment by the public and local predators. This site is removed from the area of the Lagoon that will be impacted by the start of construction of the restoration project. Other Least Tern nesting sites will be constructed before the next nesting season and before this site is impacted by any construction activities. This is a temporary measure to ensure that a protected nesting site is available during the initial phases of the restoration project construction. This site will subsequently become one of the several permanent nesting sites upon completion of the restoration project.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.

B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

AB 884:
N/A

OTHER PERTINENT INFORMATION:

1. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

2. This site is included within the interior boundaries of a Wetlands Restoration Project for Batiquitos Lagoon. This site will ultimately be constructed as a permanent Least Tern nesting island pursuant to plans which have been reviewed under an EIR/EIS prepared and circulated by the City of Carlsbad (SCH #88080328). The EIR/EIS for the restoration project has been adopted by the City, as Lead Agency, together with a Statement of Overriding Considerations. Staff has reviewed the EIR/EIS and the Statement of Overriding Considerations and concurs with the City's findings.

3. Staff is in the process of preparing a permit for the construction phase of this restoration project. This permit will cover major dredging, construction of offshore groins, beach replenishment and other construction activities involved in the overall restoration project. This permit and the construction activities authorized by it will not be issued in time to provide Least Tern nesting sites prior to the Least Tern nesting season that begins in April. Therefore, this site needs to be constructed independently of the overall restoration project in order to provide a nesting site for the current year nesting season.

4. Staff recommends that the Commission adopt the environmental findings of the City of Carlsbad, including the Statement of Overriding Considerations, for the Batiquitos Lagoon Restoration Project as contained in Exhibit "C" attached hereto.

EXHIBITS:

A. Location Map
B. Least Tern Nesting Site Plan
C. Certification of City of Carlsbad and Statement of Overriding Consideration

IT IS RECOMMENDED THAT THE COMMISSION:

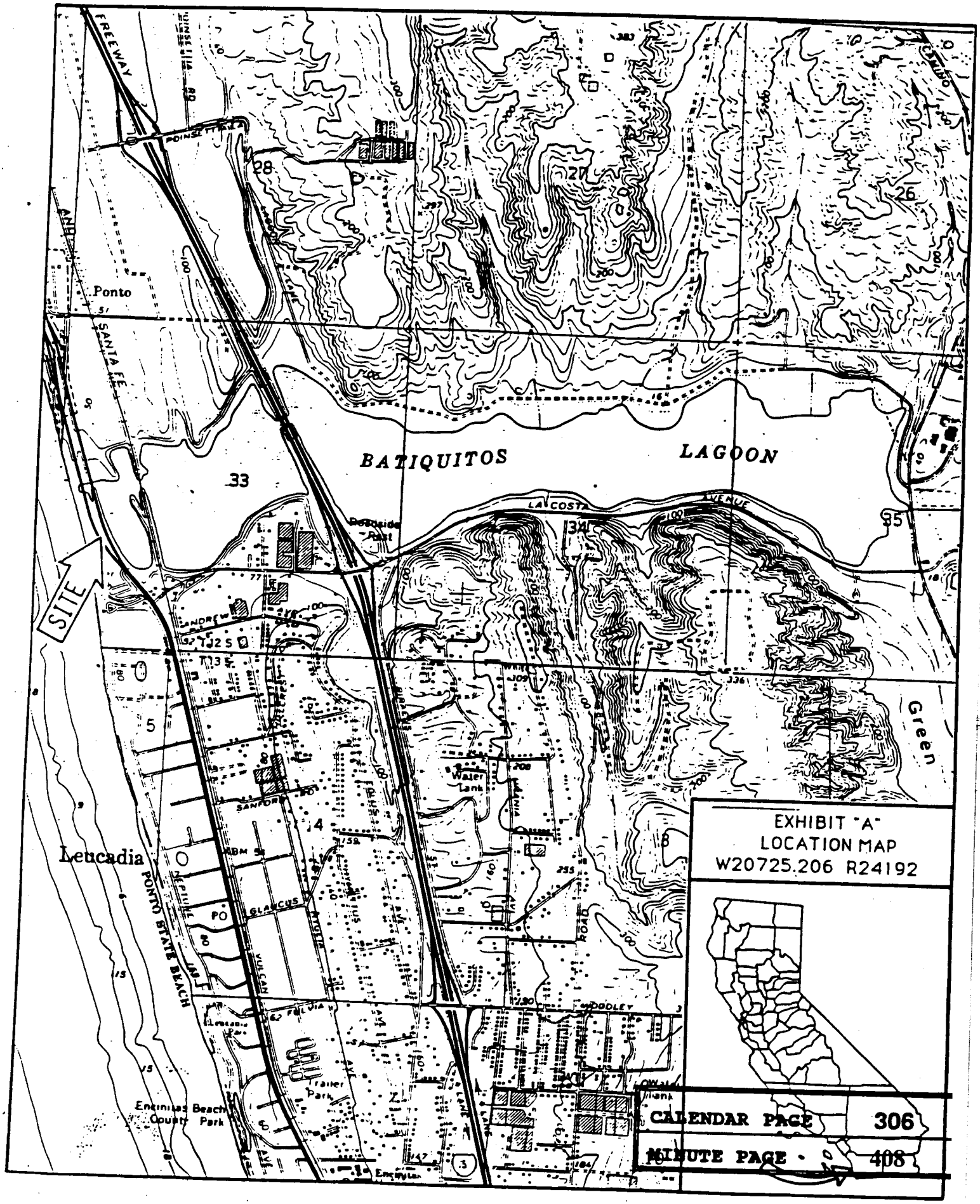
1. FIND THAT AN EIR WAS PREPARED AND CERTIFIED FOR THIS PROJECT BY THE CITY OF CARLSBAD, STATE CLEARINGHOUSE NUMBER 88080328 AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

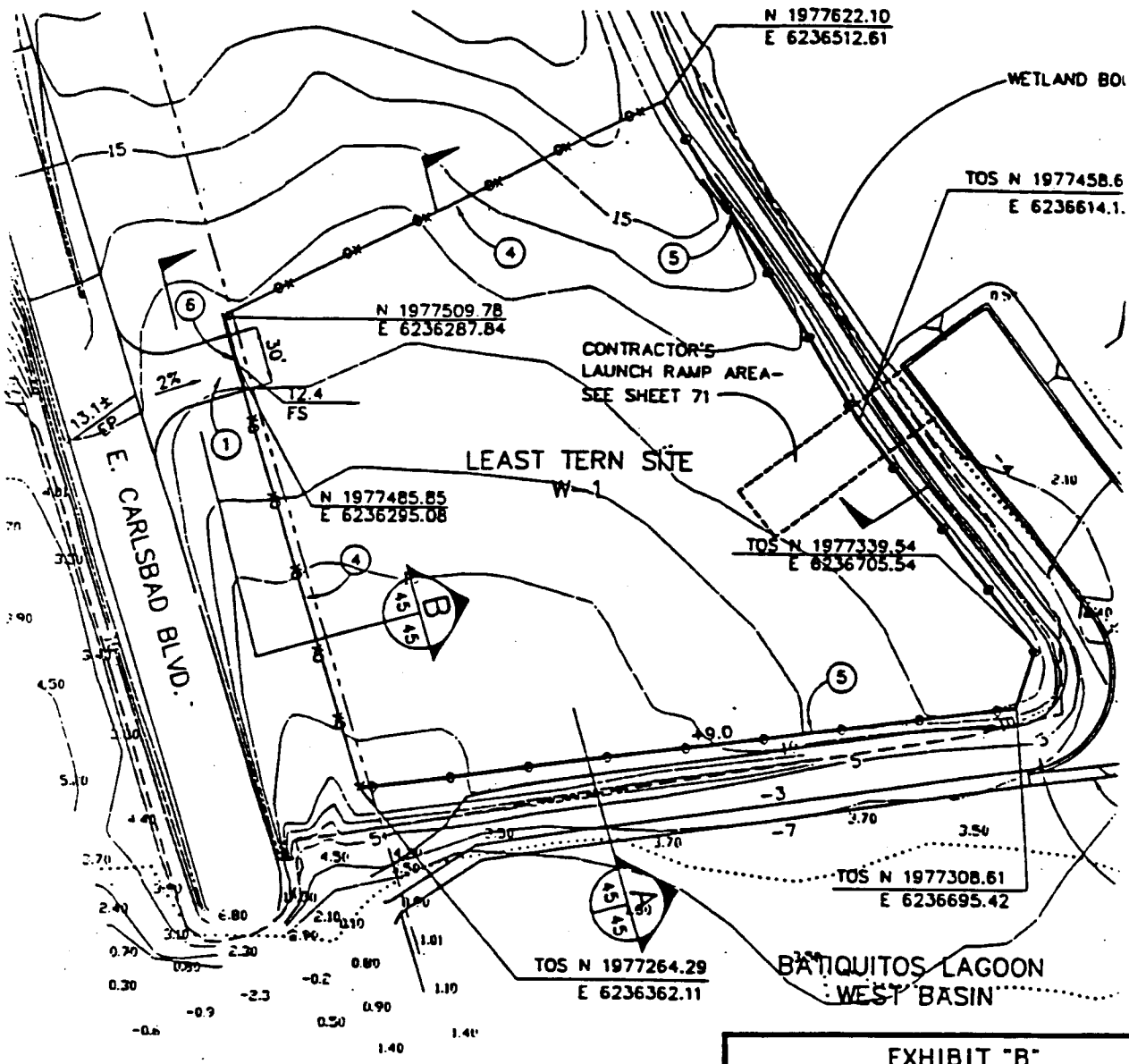
2. ADOPT THE FINDINGS AND THE STATEMENT OF OVERRIDING CONSIDERATIONS MADE IN CONFORMANCE WITH SECTION 15096(h) AND SECTION 15093 OF THE STATE CEQA GUIDELINES, AS CONTAINED IN EXHIBIT "C", ATTACHED HERETO.

3. ADOPT THE MITIGATION MONITORING PLAN, AS CONTAINED IN EXHIBIT "C", ATTACHED HERETO.

4. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 6370, ET SEQ. THE ACTIVITY IS A COMPONENT OF A RESTORATION PROJECT FOR THE REESTABLISHMENT OF A TIDAL LAGOON AT THE SITE OF A DEGRADED COASTAL WETLANDS.

5. AUTHORIZE THE STAFF TO ISSUE A LETTER PERMIT FOR THE CONSTRUCTION BY THE CITY OF CARLSBAD OF A LEAST TERN NESTING SITE IN ACCORDANCE WITH THE PLAN ATTACHED AS EXHIBIT "B" HERETO.


FREEWAY
Ponto
SANTA FE
BATIQUITOS
LAGOON
LA COSTA
AVENUE
SITE
Leucadia
PONTO STATE BEACH
Encinitas Beach
County Park
Trailer
Park
Water
Tank
Green
EXHIBIT "A"
LOCATION MAP
W20725.206 R24192



LEAST TERN S
1"=50'

EXHIBIT "B"
LEAST TURN NESTING SITE PLAN
W20725.206 R24192

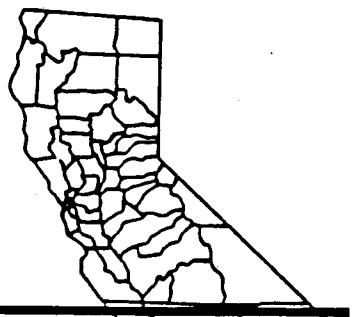


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EXHIBIT "C"

W 20725.206

RESOLUTION NO. 90-297

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, CERTIFYING ENVIRONMENTAL IMPACT REPORT, EIR 86-5, FOR A PROJECT GENERALLY INCLUDING RESTORATION OF TIDAL FLUSHING TO BATIQUITOS LAGOON THROUGH DREDGING AND CONSTRUCTION OF A TIDAL INLET STRUCTURE.
CASE NAME: BATIQUITOS LAGOON ENHANCEMENT PROJECT.
APPLICANT: PORT OF LOS ANGELES
CASE NO: EIR 86-5

WHEREAS, pursuant to the provisions of the Municipal Code, the Planning Commission did, on July 18, 1990, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, and considering any written comments received, the Planning Commission considered all factors relating to the Master Plan; and

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Carlsbad as follows:

1. That the above recitations are true and correct.

2. That the findings and conditions of the Planning Commission Resolution No. 3072, including a statement of overriding consideration and supportive findings on file with the City Clerk and incorporated herein by reference constitute the findings of the City Council in this matter and that the Environmental Impact Report, EIR 86-5, is certified and approved, except as follows:

...

EXHIBIT "C"

W 20725.206

The City Council of Carlsbad, California selects Alternative Mitigated A as the preferred enhancement alternative for permit application purposes for the following reasons:

1. Mitigated A has a greater potential to maintain a continuously tidal inlet than does Mitigated B.

2. Mitigated A retains the existing wildlife habitat values.

3. Mitigated A maximizes the aerial extent of water surface at all tidal conditions therefore it creates a visual resource that is desired by the community.

4. Mitigated A maximizes the amount of dredged sand that would be available for nourishment of the regions severely eroded coastline.

If during permit review by either the Corps of Engineers of the California Coastal Commission it is determined that alternative Mitigated A cannot be permitted, then the City Council finds that Mitigated Alternative B is also environmentally acceptable and that it shall be approved for implementation as recommended by the Planning Commission without the need for further review by the City Council. Subject to the foregoing, Section D of Planning Commission Resolution No. 3072 is amended to replace "Mitigated B" with "Mitigated A."

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Carlsbad, California, on the 14th day of August, 1990, by the following vote, to wit:

AYES: Council Members Lewis, Kulchin, Larson, Mamaux and Pettine

NOES: None

ABSENT: None

Claude A. Lewis

CLAUDE A. LEWIS, Mayor

ATTEST:

Aletha L Rautenkranz

ALETHA L. RAUTENKRANZ, City Clerk

(SEAL)

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PLANNING COMMISSION RESOLUTION NO. 3072

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARLSBAD, CALIFORNIA, RECOMMENDING CERTIFICATION OF ENVIRONMENTAL IMPACT REPORT, EIR 86-5, FOR A PROJECT GENERALLY INCLUDING RESTORATION OF TIDAL FLUSHING TO BATIQUITOS LAGOON THROUGH DREDGING AND CONSTRUCTION OF A TIDAL INLET STRUCTURE.
CASE NAME: BATIQUITOS LAGOON ENHANCEMENT PROJECT
CASE NO.: EIR 86-5

WHEREAS, a verified application for certain property to wit:

> Batiquitos Lagoon as bounded by El Camino Real on the east, La Costa Avenue and the shoreline on the south, the shoreline on the north and the Pacific Ocean on the west.

has been filed with the City of Carlsbad and referred to the Planning Commission; and

WHEREAS, said verified application constitutes a request as provided by Title 21 of the Carlsbad Municipal Code; and

WHEREAS, the Planning Commission did, on the 18th day of July, 1990, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to the project and;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission as follows:

A) That the FOREGOING recitations are true and correct.

B) That the Environmental Impact Report EIR 86-5 will be amended to include the comments and documents of those testifying at the public hearing and responses thereto hereby found to be in good faith and reason by incorporating a copy of the minutes of said public hearings into the report.

C) That the Environmental Impact Report EIR 86-5 as so amended and evaluated, and attached errata sheets dated May 16, 1990 are recommended for acceptance and certification as the final Environmental Impact Report and that the final Environmental Impact Report as recommended is adequate and provides reasonable information on the project and all reasonable and feasible alternatives thereto, including no project.

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004873

D) That among the alternatives evaluated, it is recommended that Mitigated Alternative B (the "Agency Preferred" and Environmentally Preferred" alternatives), which incorporates mitigation measures as discussed below, be approved for implementation.

Findings:

1. That the Planning Commission finds and determines that the Environmental Impact Report EIR 86-5 has been completed in conformance with the California Environmental Quality Act, the state guidelines implementing said Act, and the provisions of Title 19 of the Carlsbad Municipal Code and that the Planning Commission has reviewed, considered and evaluated the information contained in the report.

2. That with the exception of impacts identified in 3) below, each and every significant environmental impact identified in the Environmental Impact Report would be overruled or counterbalanced by changes or alteration in the project which would mitigate against said adverse impacts or, in certain circumstances, that mitigation of such adverse impacts would not be feasible under the circumstances and under the economic and social needs objectives and concerns in providing the improvements if the project were to be approved, would be included as conditions of approval of the project.

3. That, while the project has been mitigated to the extent possible with regard to biology, water quality and recreation by the conditions to be included in project approvals, significant adverse impacts will still exist. With regard to these items, the Planning Commission finds there are overriding considerations which are as follows:

   A. Biology - That, the unavoidable short-term loss of existing benthic resources, is overridden by the long-term project benefit of replacement of these species by marine resources which would establish following tidal restoration.

   B. Water Quality - That, the unavoidable short-term impacts to water quality within the lagoon during project construction/dredging, is overridden by the long-term project benefits of enhanced water quality following tidal restoration.

   C. Recreation - That, the unavoidable, short-term impacts to recreational use of the beach during construction/beach nourishment, is overridden by the importance of the lagoon enhancement and the longer term benefits of increased recreational opportunities due to beach nourishment.

Conditions:

1. Refer to attached Exhibit A (Mitigation Measures) for all conditions, mitigation measures, and monitoring programs applicable to development of the Batiquitos Lagoon Enhancement Project.

...

...

...

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Carlsbad, California, held on the 18th day of July, 1990, by the following vote, to wit:

AYES: Chairperson Schramm, Commissioners: McFadden, Ervin, Holmes, Schlehuber, Marcus & Hall.

NOES: None.

ABSENT: None.

ABSTAIN: None.

SHARON SCHRAMM, Chairperson
CARLSBAD PLANNING COMMISSION

ATTEST:

MICHAEL J. HOLZMILLER
PLANNING DIRECTOR

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Section 4
MITIGATION MEASURES

MITIGATION PLAN

This mitigation plan is designed to be implemented in conjunction with the mitigation monitoring plan presented at the end of this section. Its purpose is to identify mitigation measures that are available for implementation as part of the alternative projects for enhancement of Batiquitos Lagoon.

The mitigation plan describes the measures that will be employed in order to minimize or eliminate each impact resulting from project implementation. These mitigation measures apply to all of the alternatives considered in this Final EIR/EIS except the No Action Alternative. Modifications to these mitigation measures might be made for the alternative that is ultimately selected.

The mitigation measures in this plan address the three stages of project construction:

- Preconstruction planning and site preparation
- Construction activities
- Post-construction activities associated with termination of construction

The level of detail of this plan is consistent with the present level of detail of the project construction plans, which are still being developed. As construction plans are made final, site-specific modifications to this plan might be warranted.

As the lead agency, the City of Carlsbad will be responsible for managing implementation of the mitigation plan. The City will exercise its responsibility through a Mitigation Monitoring Group. The Mitigation Monitoring Group will implement the plan and will be responsible for its monitoring and documentation in accordance with the mitigation monitoring plan described in this section of this Final EIR/EIS.

The Draft EIR/EIS identified significant or potentially significant impacts in nine general resource areas. Table 4-1 lists the resource areas and summarizes the relevant impacts. The mitigation measures associated with each impact are identified by number in Table 4-1 and described in detail in the text of this plan.

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Table 4-1
Summary of Impacts and Mitigation

Resource Area/Phase	Impact	Mitigation[a]	Effectiveness	Residual Impact
FISH AND WILDLIFE	Loss of Coastal Salt Marsh	21,22	Salvaging wetlands vegetation is a new, experimental approach; success is not guaranteed. To the extent that transplantation is successful, the impact of construction on the avian marsh habitat will be minimal.	Residual impact is not significant.
	Lagoon Aquatic Resources	5,6	Suspended solids will continue to have a local impact on water quality and lagoon aquatic resources.	Residual impact is not significant and is unavoidable and short-term.
	Disturbance of Lagoon Fauna	21,23, 24,25	These measures will minimize, but not eliminate, impacts of construction-related disturbances. There will still be a significant impact on the wildlife of the lagoon.	Residual impact is not significant and is short-term.
California Least Tern	Disturbance of Nesting Behavior	26,27, 28,29	Disturbance of California least tern nesting activities and foraging success should be minimal.	No residual impact.
	Loss of Nesting Habitat	27,28, 30,31,32	These measures should minimize the chance that tern nesting habitat will be unavailable or unattractive to the terns during any of the nesting seasons over the course of construction.	No residual impact.
Western Snowy Plover	Loss of Nesting Habitat	31	The creation of the nesting sites for terns will mitigate the loss of existing snowy plover nesting area and provide an area of high-quality, protected nesting habitat.	No residual impact.
Belding's Savannah Sparrow	Disturbance of Nesting Behavior	33	Disturbance to Belding's savannah sparrow nesting behavior will be minimized.	No residual impact.
	Loss of Nesting Habitat	21,22	Dredging and grading disturbance boundaries will avoid existing pickleweed and other vegetated areas. Loss of habitat will be small and should therefore have an insignificant effect on the population.	Residual impact is not significant.

[a]Numbers refer to mitigation measures described in the text of this section.

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Table 4-1
Summary of Impacts and Mitigation

Resource Area/Phase	Impact	Mitigation[a]	Effectiveness	Residual Impact
	Ocean and Lagoon Water Quality Hazards	45,46,47	If lagoon water is contaminated, release of the water from the lagoon to the ocean cannot be inhibited and contamination of local ocean water will occur. Adherence to the mitigation measures will determine the extent of and will protect beach users.	No residual impact.
	Restriction of Lateral Access	41	Implementation of the mitigation measures will significantly reduce the access issues and provide for emergency access along the beach.	No residual impact.
	Small-Craft Safety	48	These measures will effectively reduce the potential hazard to small boats.	No residual impact.
	Hazardous Surf Conditions Near Jetties	49	Posting the area near the channel and lifeguard enforcement will reduce the incidence of unsafe water activities.	No residual impact.
POST-CONSTRUCTION RESTORATION AND VERIFICATION		50,51, 52,53	The visual and environmental impacts of construction staging, fuel storage, and access areas will be virtually eliminated.	No residual impact.

[a]Numbers refer to mitigation measures described in the text of this section.

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- **Construction Zones.** Staging areas, access roads, and fuel storage and transfer areas will be identified. Topsoil stockpiling techniques will be developed and implemented, road and staging or storage area surfaces will be delineated, and berms, dikes, and retention basin locations will be determined.

CONSTRUCTION ACTIVITIES

Measures to be followed during project construction will minimize impacts caused by equipment operation, removal of existing elements (e.g., soils and vegetation), and other alterations to existing conditions (e.g., beach nourishment activities). Some mitigation measures are used more than once.

Structural Impacts

Impact: Hazards to Bridge Foundations and Gas Pipeline. Dredging around the footings of the three bridges across the lagoon and near the existing gas pipeline under the West Basin could threaten the integrity of those structures. Erosion from water movement past newly exposed foundations could also threaten the bridges.

Mitigation

1. Protective measures shall be implemented to minimize the risk of failure of structures and utilities within the project area. Specific measures include:

   A. The I-5 bridge foundations shall be protected from erosion by rock protection and liners pursuant to the requirements of Caltrans.

   B. The AT&SF railroad bridge pilings shall be reinforced with lateral bracing and the pilings protected pursuant to requirements of the owner.

   C. The West Carlsbad Boulevard bridge (southbound) shall be replaced.

   D. The East Carlsbad Boulevard bridge (northbound) shall be protected from erosion by rock protection and liners pursuant to the requirements of the City of Carlsbad.

2. Dredging and construction in the vicinity of the bridges shall be monitored and inspected by qualified personnel to provide early warning of potential threats to those structures.

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6. Dredging operations shall employ silt curtains (a sheet of fabric suspended from a floating boom) whenever they will effectively reduce excess turbidity. Other methods recommended by the U.S. Army Corps of Engineers to limit sediment resuspension may also be employed (see Raymond, 1984).

Effectiveness

The impacts on dissolved oxygen and turbidity from dredging will be considerably less than would occur without these measures. Low dissolved oxygen and excess turbidity will not be eliminated, and suspended solids will continue to have an impact on water quality and the appearance of the lagoon. That impact will be temporary; the water quality will improve upon opening of the tidal inlet. A residual, unavoidable, short-term adverse impact on lagoon water quality is expected. This impact is considered significant.

Impact: Lagoon Water Level Fluctuations. Hydraulic dredging involves the pumping of dredged material out of the lagoon in a slurry of lagoon water and sediment. This could lower the water level in the lagoon and thereby intensify changes in water quality. Hydraulic dredging of the East Basin might also require raising the water level for dredge access. This could inundate existing Belding's savannah sparrow nesting habitat.

Mitigation

7. Water levels in the lagoon shall be maintained by pumping seawater into the lagoon to replace the water removed in the dredge slurry and, possibly, by a water control structure, such as a weir. The required water level elevations shall be determined in coordination with appropriate resource agencies.

8. Water levels in the East Basin shall not exceed 6 feet MLLW during Belding's savannah sparrow nesting (March through July).

Effectiveness

This measure will maintain appropriate water levels in the lagoon. No residual significantly adverse impact is expected.

Impact: Soil Erosion. Slope grading could increase turbidity and dissolved solids in the lagoon water as a result of surface water runoff or fugitive dust from exposed soils. These increases could adversely affect water quality, birds, aquatic organisms, and the visual quality of the lagoon.

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15. All storage and transfer sites for fuels and lubricants shall be surrounded by berms capable of containing the entire volume being stored, shall be paved with an appropriate surface to prevent spills from contaminating local groundwater, and shall have adequate cleanup facilities onsite.

16. The construction contractor shall develop and receive approval from appropriate agencies for a traffic control plan for the delivery of fuels and lubricants to the construction site.

Effectiveness

Proper storage, maintenance, and operations procedures will minimize the likelihood of spills of fuels and lubricants, and implementation of the contingency plan is expected to minimize the risk and impact of accidental spills that might occur. Residual impacts are not expected to be significant.

Impact: Nearshore Ocean Turbidity. Dewatering of beach nourishment material could increase the turbidity of nearshore ocean water.

Mitigation

17. Sand and cobble dikes and berms around the sand discharge area shall be used as a means of controlling the direct discharge of suspended fine sediments into the ocean. Other measures required by the California Regional Water Quality Control Board shall be implemented.

Effectiveness

The measures taken to control runoff will minimize excess turbidity in ocean waters. Residual effects on ocean turbidity are short-term and are not expected to be significant.

Impact: Encina WWTP Compliance Status. Increased nearshore turbidity could affect the Encina WWTP's monitoring program and permit compliance status. Baseline conditions have been established by the WWTP's existing long-term water quality monitoring program.

Mitigation

18. Suspended solids concentrations in the nearshore ocean shall be monitored during beach nourishment operations. Deviations from the baseline conditions that can be attributed to the nourishment operation shall be documented.

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Effectiveness

Proper storage, maintenance, and operations procedures will minimize the likelihood of spills of fuels and lubricants and will minimize the risk and impact of spills that do occur. Residual impacts are not expected to be significant.

Air Quality

Impact: Equipment Air Emissions. Air emissions (exhaust) will be generated by construction equipment such as diesel-fueled pumps and dredges, generators, graders, and workers' vehicles.

Mitigation

19. The project will be required to obtain an Authority to Construct Permit and other required permits from the San Diego County Air Pollution Control District (SDAPCD). The permit process will identify the project's potential air pollution sources and will include recommendations for control technology to achieve compliance with regulations of the SDAPCD and applicable air quality standards. Specific mitigation measures required by the SDAPCD will be incorporated into the project.

Effectiveness

Compliance with the SDAPCD's permit conditions will minimize the air quality impacts from pollutant emissions. Residual impacts are not expected to be significant.

Impact: Fugitive Dust Emissions. Construction activities will generate fugitive dust in the project vicinity.

Mitigation

20. Onsite fugitive dust shall be controlled through the use of the following techniques:

    - Access roads shall be covered with compacted gravel or another appropriate surface.
    - Unpaved construction areas shall be adequately watered to control dust.
    - Vehicle wheels shall be washed to prevent tracking of mud offsite.

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Mitigation

5. Hydraulic dredging, which produces less suspended solids than does mechanical dredging, shall be employed throughout the lagoon as feasible.

6. Dredging operations shall employ silt curtains (a sheet of fabric suspended from a floating boom) whenever they will effectively reduce excess turbidity. Other methods recommended by the U.S. Army Corps of Engineers to limit sediment resuspension may also be employed (see Raymond, 1984).

Effectiveness

Water quality impacts from dredging will be reduced considerably below what would occur without these measures. Low dissolved oxygen and excess turbidity will not be eliminated, and poor water quality might continue to have an impact on existing aquatic resources and the wildlife that use them. This impact will be short-term and localized near the area of dredging; the water quality will improve upon opening of the tidal inlet. This impact is not considered to be significantly adverse because the existing aquatic species and infauna will be subject to removal upon restoration of tidal action and the reintroduction of marine water to the lagoon. The removal of these species is unavoidable.

Impact: **Disturbance of Lagoon Fauna.** The noise, vibration, and activity of humans and machines will have an adverse effect on some of the lagoon's animals, notably vertebrates. Sensitive birds might be discouraged from using the areas of the lagoon in and near construction activities. In particular, the potential exists for the disruption of nesting activities by birds.

Mitigation

21. Areas of existing vegetated wetlands shall be avoided to the greatest extent feasible during project construction, and construction shall not disturb more than 10 acres of vegetated wetlands.

23. Lights located on equipment or on project lands shall be shaded and directed to specific work areas. Stray light to nonwork areas shall be minimized by shading.

24. Construction equipment and personnel shall be confined to the staging areas and active construction areas, and all staging areas and access roads shall be as small as feasible. Construction-related access roads shall have locked gates to discourage public access.

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28. If California least tern nests are found outside the designated nesting sites, all work in the immediate area shall be halted, and the least tern biologist shall be notified immediately. An appropriate buffer zone and protection shall be specified by the biologist in coordination with CDFG and USFWS.

29. During the construction period, an area of the lagoon at least equal to the size of the West and Central Basins shall be available and suitable for foraging by the least tern between April 1 and September 1. Breaching of the lagoon, or other acceptable means of introducing ocean water to the foraging area, shall be carried out prior to each nesting season.

Effectiveness

Scheduling the dredging and grading activities to avoid the nesting season, continuous monitoring of nesting colonies, reducing turbidity effects, and maintaining relatively constant water levels will minimize the disturbance to California least tern nesting activities and effects on foraging success. No residual impacts are anticipated.

Impact: Loss of Nesting Habitat for California Least Tern. The two sites currently used by California least terns will be removed by dredging (the west site) and grading (the east site), and three of the five nesting sites to be created might be used as a construction staging area for part of the construction phase.

Mitigation

30. A minimum of 20 acres of California least tern nesting sites shall be constructed and available for nesting between April 1 and September 1. These sites shall include one or both of the sites located in the West Basin. Least tern nesting sites may be released for other temporary construction-related uses prior to September 1 if nesting activity has ceased and upon concurrence of CDFG and USFWS.

31. The loss of existing nesting areas shall be mitigated by the creation of a minimum of 32 acres of nesting area above 10.0 feet MLLW in five sites, each with side slopes no steeper than 1:10. Use of any of these sites for construction purposes shall not occur during the nesting season. Before the nesting season starts, all construction equipment and materials, berms, vegetation, and construction surfaces shall be removed, and the site shall be covered with suitable material to a depth specified by CDFG and USFWS.

32. The California least tern nest sites shall be constructed in a manner to ensure proper dewatering so that subsequent subsidence and surface

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Effectiveness

The establishment of a 100-foot-wide buffer zone will effectively reduce the potential for disturbing Belding's savannah sparrows during breeding and nesting season. No residual adverse impacts and anticipated.

Impact: Loss of Habitat for Belding's Savannah Sparrow. Belding's savannah sparrows currently use the pickleweed stands and shrubby hillsides in the Batiquitos Lagoon study area. Some areas of pickleweed would be disrupted as a result of construction.

Mitigation

21. Areas of existing vegetated wetlands shall be avoided to the greatest extent feasible during construction, and construction shall not disturb more than 10 acres of vegetated wetlands.

22. A wetlands restoration specialist, approved by CDFG and USFWS, shall attempt to salvage the pickleweed on project-affected areas and transplant the plant materials to suitable areas that have been dredged, graded, or otherwise directly disturbed by project construction activities.

Effectiveness

To the extent that transplantation is successful, the short-term impact of construction on Belding's savannah sparrow habitat will be minimized; a short-term impact resulting from disturbing up to 10 acres of pickleweed-dominated vegetation is unavoidable. This impact is not considered significant because the areas to be affected were not heavily used by sparrows in the past.

Cultural Resources

Impact: Loss of Paleontological Resources. Construction of access roads and staging areas and dredging in the lagoon could disturb or destroy potentially significant paleontological resources.

Mitigation

34. A paleontologic resource management program shall be developed by a qualified paleontologist. The program will be based on the final engineering and ground staking of construction locations, combined with site surveys where potential impacts on highly sensitive areas might occur. The following measures shall be included in the program:

    - Any ground-disturbing activities that occur in the areas underlain by formations of moderate or high importance, or that occur in

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are found to be significant, site-specific mitigation plans shall be developed by a qualified archaeologist.

Effectiveness

These measures will effectively avoid or minimize potential project impacts on cultural resources. No residual impacts are anticipated.

Recreation

Impact: Temporary Disruption of Recreational Use of the Lagoon. Dredging and grading will have visual and noise impacts on the natural setting enjoyed by recreational users of Batiquitos Lagoon. Birdwatching, in particular, might be adversely affected by the noise and activity of construction.

Mitigation

36. Construction equipment shall have noise suppressors.

37. A public information and education program shall be developed to inform the public about the enhancement project, the construction schedule, and other related activities. The information program may include publication of brochures, news releases to local media, posting of signs in the lagoon and beach vicinity, and telephone access between the public and the environmental monitor (see Mitigation Monitoring Plan, below) for questions and observations about the project.

Effectiveness

Dredging and grading will have an insignificant short-term impact on regional birdwatching, but a significant, short-term, unmitigated visual impact will remain. Residual short-term visual impacts (i.e., water turbidity) are expected to be significant and unavoidable, but will diminish after project construction.

Impact: Temporary Disruption of Beach Use. Beach nourishment activities at Batiquitos and Encina Beaches will interfere with beach use and water sports. The new beaches might alter the local wave climate for surfing and beach use. Beach users, swimmers, and surfers will be restricted from the tidal inlet structure area and water intake structure during construction and maintenance dredging.

Mitigation

38. A public information and education program shall be developed to inform the public about the enhancement project, the construction schedule, and other related activities. The information program may include

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The transport option would create a significant traffic impact on roadways along the truck route, especially if hauling occurs during peak traffic periods. The duration of the impact would extend approximately 6 months and would depend on dredge phasing, the number of trucks used in a shift, and the quantity of materials to be disposed.

Traffic circulation on Carlsbad Boulevard might become congested during the replacement and rehabilitation of the West and East Carlsbad Boulevard bridge(s).

Mitigation

42. A traffic safety plan for truck travel along the haul route and for construction activities associated with replacement and rehabilitation of the West and East Carlsbad Boulevard bridge(s) shall be developed in consultation with appropriate agencies. The program might include the following elements:

- Signalization of intersections
- Traffic control personnel
- Cleanup of dredge material spills
- Appropriate signage

Effectiveness

These mitigation measures will reduce truck transport and traffic circulation impacts, but truck travel on roadways still might interfere with normal vehicular travel. The residual effects associated with trucking of dredge materials are considered significant because they might create local traffic congestion and delays. This impact is considered to be of a short-term nature.

Circulation and traffic effects associated with bridge construction are considered not significant.

Noise

Impact: Noise Generated by Project Construction Activities. The use of diesel-driven dredges would increase local noise levels. Noise policy guidelines would be exceeded in the short term. Occasional long-term noise impacts would be caused by maintenance dredging of the West Basin channel. Dredging of material from the Central Basin will require the use of pumping equipment to move the material to the beach nourishment site, and loaders to place the material on the beach after pumping. If dredged materials are trucked to onshore disposal sites, sensitive receptors might be affected because of the need for staging areas for truck loading. In addition, trucks along the haul route would increase noise levels.

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Mitigation

44. Public access to the tidal inlet and jetty area shall be limited during construction. This shall be accomplished by posting signs and fencing the area to prevent access into secured areas.

Effectiveness

Public access to construction and staging sites will be limited, thereby minimizing potential public health and safety impact. No residual impact is expected.

Impact: Ocean and Lagoon Water Quality Hazards. Sewer line leaks have affected water quality in Batiquitos Lagoon in the past. Should a similar leak occur during project construction, sewage-contaminated water could be present in the lagoon and drain to the ocean following opening of the lagoon tidal channel. This would be a short-term impact affecting local water quality and public use of the local beach.

Mitigation

45. Prior to lagoon opening, lagoon water samples shall be taken and analyzed for total and fecal coliform concentrations.

46. If receiving water coliform criteria are exceeded, signs warning of possible short-term health hazards due to discharge of lagoon water shall be posted near the inlet and on adjacent beaches. Local waters will be sampled and tested by a qualified laboratory to determine whether water near the beaches is contaminated.

47. Continued testing shall be conducted until the water quality is acceptable for body contact use. Notification of any water quality hazard shall be made to responsible public health and water quality officials.

Effectiveness

If the lagoon water is contaminated and release of the water from the lagoon to the ocean during construction cannot be prevented, contamination of local ocean water might occur. Adherence to the mitigation measures will determine the extent of contamination and will protect public health. No residual effect is expected.

Impact: Restriction of Lateral Access. The new inlet structures will restrict lateral access along the beach and, possibly, access to the end of the jetties, thus restricting the movement of emergency personnel, vehicles, and lifeguards.

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POST-CONSTRUCTION ACTIVITIES

Post-construction mitigation will consist of measures to allow areas disturbed by short-term construction activities to be restored to conditions approximating their natural states. These measures will help to ensure that the mitigation measures that were employed during construction are effective and will determine whether further action is required. Sites used as staging areas, access roads, and fuel storage and transfer areas shall be restored to the original conditions.

The following mitigation measures shall be implemented.

50. **Construction Staging Area Restoration.** Staging areas shall be regraded to original contours, except for the areas to be converted to California least tern nesting sites and to permanent maintenance access for CDFG personnel. Any artificial surfacing and temporary erosion control materials shall be removed, disposed in suitable locations, and replaced by soil cover appropriate to the area (sand at the beach sites, sand and shell at the nesting sites, lagoon soils at the other lagoon sites). Soil modification and revegetation shall be performed prior to completion of site restoration activities, with soil additives and plant species selected in consultation with the CDFG.

51. **Access Road Restoration.** Artificial surfacing and temporary erosion control materials shall be removed, disposed in suitable locations, and replaced by appropriate soil cover. The road areas shall be graded to conform to the natural contours of the surroundings. Upland areas shall be revegetated with appropriate native species; tidal areas shall be allowed to revegetate naturally.

52. **Fuel Storage Area Restoration.** Berms, dikes, and artificial surfacing shall be removed and disposed in suitable locations. The areas shall be tested for contamination. If no remedial action is necessary, the areas shall be regraded, covered with stockpiled topsoil, given soil additives, and replanted with appropriate native vegetation. If remedial action is indicated, post-construction mitigation shall include site cleanup.

53. **Inspection and Certification.** All post-construction mitigation measures shall receive final inspection and certification of completion by the City of Carlsbad. Field testing might be required to assure project completion.

Effectiveness

With implementation of these measures, no residual impact is expected.

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- Construction contractor
- Environmental consultant
- Environmental monitor

The Mitigation Monitoring Group will be responsible for ensuring that the mitigation measures identified in the mitigation plan are implemented, for documenting that they are completed, and for reporting the activities of the group to the parties interested in this project. Most of the mitigation measures will directly involve the environmental monitor, construction manager, and construction contractor. Some measures will involve the environmental consultant and various technical specialists (for example, paleontologists, archaeologists, California least tern biologist, and water quality laboratory services).

As the lead agency, the City of Carlsbad will be responsible for the management and activities of the Mitigation Monitoring Group (Figure 4-1). The Port of Los Angeles, as the project sponsor, and appropriate resource agencies will provide advisory consultation services to the monitoring group as needed or required by the mitigation plan. The City will have agreements with and will supervise the construction manager, the environmental consultant, and the environmental monitor.

The construction manager will be responsible for ensuring that the construction contractor is aware of and responsive to the requirements of the mitigation plan and any other conditions imposed on project construction by individual federal, state, or local permitting agencies. The construction manager will serve as liaison between the construction contractor, the City, and the environmental monitor and will be responsible for initiating any corrective actions requiring the use of construction equipment or personnel. The construction manager, or designated site representative, retains the authority to terminate or modify construction activities in response to recommendations of the other members of the Mitigation Monitoring Group.

The construction contractor will be responsible for ensuring that construction personnel, including subcontractors, understand their responsibility to notify the construction contractor and the environmental monitor of unexpected events and discoveries. The construction contractor will instruct the construction personnel of the role and authority of the environmental monitor.

The environmental consultant will provide overall management services for the monitoring program and will be under direct contract with the City of Carlsbad. The environmental consultant will be responsible for providing the environmental monitor with logistical support and additional resources in terms of technical specialists and equipment as needed. The environmental consultant will also advise and assist the City on issues that might arise regarding the implementation or monitoring of mitigation measures.

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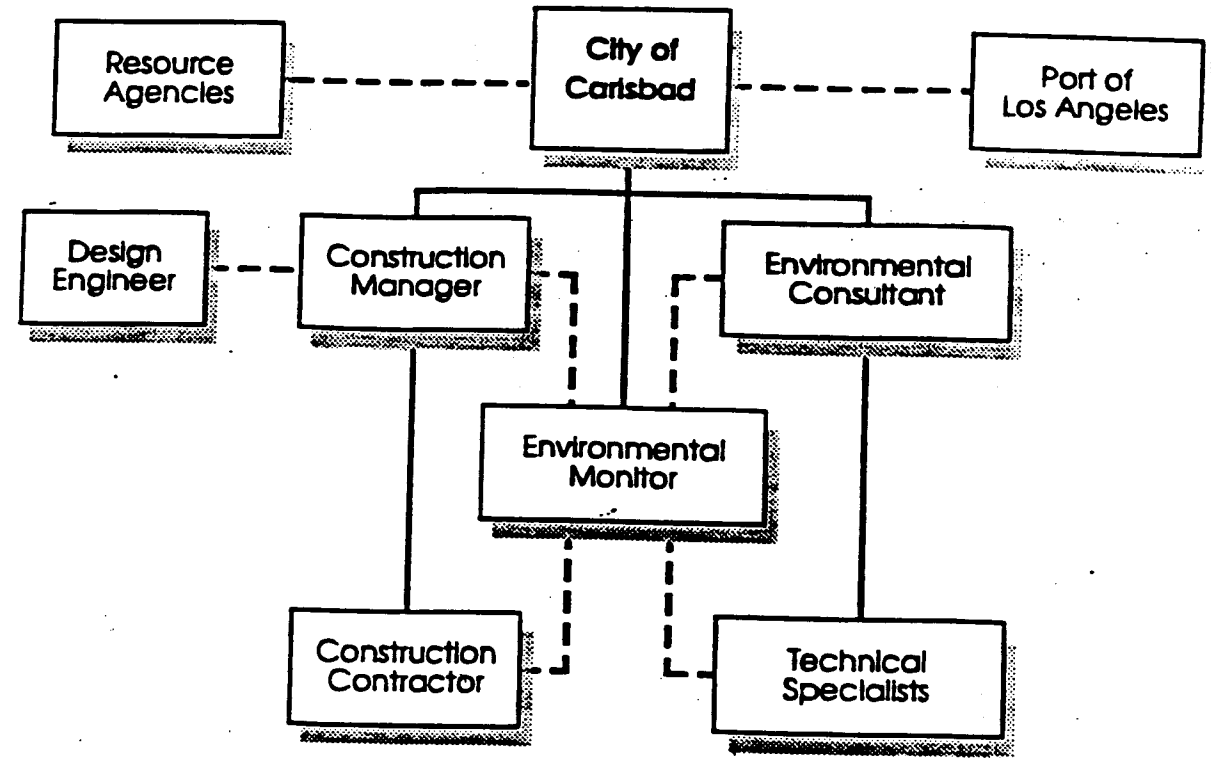

FIGURE 4-1
Organization of Mitigation Monitoring Group

Sampling. The environmental monitor will sample water quality on a weekly basis in the lagoon, at several points in the nearshore ocean, and at the outlets of drainage ditches and retention and dewatering basins. Temperature and dissolved oxygen will be measured with a portable meter, and if an oil sheen or similar observance is noted, samples will be collected for the analysis of suspended solids, oil, and grease.

Noise will be measured monthly at four to six receptors at established sensitive locations. The measurements will be made during each shift.

Inspections. Construction support facilities, including staging areas, traffic control facilities, fuel transfer and storage areas, vehicle service areas, sanitary facilities, and fencing and signs for the beach nourishment and inlet construction areas, will be inspected when they are installed, and weekly thereafter. The inspections will verify that the facilities are installed according to specifications and are maintained as planned.

Construction equipment, including dredges, graders, trucks, and pumps will be inspected weekly to verify that air emission equipment is in place and functional, and that there are no obvious leaks of fuel or lubricant. Dredge fueling operations will be inspected as they occur in order to verify the use of spill containment equipment.

Erosion control and drainage facilities will be inspected biweekly and after storm events to ensure that retention basins, drainage ditches, and other prescribed measures are kept in working order and are functioning as planned.

Observations. The environmental monitor will continuously observe the construction site to ensure that construction activities do not encroach upon areas designated to be left undisturbed. These areas will be staked, and in some cases taped, to facilitate the observations. The presence of blowing dust from the construction area will prompt the environmental monitor to recommend appropriate dust control. The environmental monitor will observe periodic activities such as dust-suppression watering and retention basin cleanout to ensure that the activities conform to the mitigation plan.

Special Monitoring

The environmental monitor will observe and document the reactions of California least terns to construction activities during the period April through August. This person will be onsite during the time recommended by the California Department of Fish and Game, will be wholly dedicated to least tern monitoring, and will possess any required permits to study the terns.

Deviations

From time to time, situations will arise that can be considered deviations from the mitigation plan. Two types of situations are anticipated. One type includes planned deviations from the established mitigation procedures. Planned deviations would occur

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Reporting

The environmental monitor and the construction manager will jointly submit a weekly monitoring summary to the City. This report will consist of copies of the forms along with a brief progress report.

The environmental monitor, construction manager and, if appropriate, environmental consultant will also submit monthly reports to the City. These reports will consist of a summary of the elements monitored and the results of the monitoring, a description of any deviations and the actions taken, and an overview of actual or potential problems encountered.

The environmental monitor will maintain and update the mitigation completion forms. Completed forms will be submitted to the City.

PROPOSED ARMY CORPS OF ENGINEERS PERMIT CONDITIONS

During coordination among the City of Carlsbad, the U.S. Army Corps of Engineers (COE), and other participating resource management agencies after distribution of the Draft EIR/EIS, the COE proposed that the following conditions be included in a Department of the Army Permit if the project is approved. These conditions are presented for information purposes only and are subject to modification at the discretion of the COE. Interested members of the public can provide comments on these and other conditions to the COE during its review of the Final EIR/EIS and prior to the decision on the pending Department of the Army Permit application to enhance Batiquitos Lagoon.

The following conditions are proposed for inclusion in the Section 404(b)(1) Permit which would be issued if the project is approved.

1. That the permitted activity shall not interfere with the public's right to free navigation on all navigable waters of the United States.

2. That the permittee shall advise this office, in writing, at least two weeks prior to the initiation of maintenance dredging activities under the authority of this permit.

3. That this permit is not valid until the California Coastal Commission concurs that this project is consistent with the State of California's Coastal Zone Management Program.

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BATIQUITOS LAGOON ENHANCEMENT PROJECT

CONSTRUCTION MITIGATION MONITORING RESULTS

Mitigation Measure: _____ **Analysis/Observation:** _____

Date: _____ **Environmental Monitor:** _____

Results:

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FIGURE 4-3
Mitigation Monitoring Results Form
BATIQUITOS LAGOON
ENHANCEMENT PROJECT EIR/EIS

City of Carlsbad
U.S. Army Corps of Engineers

4. That the permittee shall notify the Commander (OAN) Eleventh Coast Guard District, Union Bank Building, 400 Ocean Gate, Long Beach, California 90822, (213)499-5410 at least 2 weeks prior to start of the activity and 30 days if buoys are to be placed, and that the permittee shall advise the Aids to Navigation Branch of any hazard to navigation, so that appropriate information can be published in the Local Notice to Mariners. The notification shall include the following information: (a) The location of the work site; (b) The size and type of equipment that will be performing the work; (c) Name and radio call signs for working vessel, if applicable; (d) Telephone number for on-site contact with project engineers; (e) The schedule for completing the project. A copy of the post survey drawings shall be sent to the National Ocean Service for chart updating to the following address: Director; Charting and Geodetic Services; ATTENTION: N/CG22; National Ocean Service, NOAA; Rockville, Maryland 20852-3806.

5. That a minimum of twenty acres of California least tern nesting site(s) shall be constructed and available for nesting between April 1 and September 1.. These sites shall include one or both of the proposed West Basin sites. Least tern nesting sites may be relinquished for other temporary construction-related uses prior to September 1 if nesting activity has ceased and upon concurrence of CDFG and USFWS. These sites shall be prepared and available again prior to the next nesting season.

6. That during the construction period, an area of the lagoon at least equal to the West and Central Basins shall be available/suitable, as determined by CDFG and USFWS, for foraging by the least tern between April 1 and September 1. Breaching of the lagoon, or some other acceptable means of introducing ocean waters to the foraging area, shall be carried out prior to each nesting season.

7. That no pile driving associated with bridge construction or upgrades shall be allowed during the least tern nesting season.

8. That least tern sites shall be constructed in a manner to ensure proper dewatering so that subsequent subsidence and surface cracking does not occur, and so that the site can withstand loads of maintenance vehicles.

9. That least tern sites shall be constructed to allow vehicular access for maintenance purposes except for the southern East Basin site which shall be isolated and accessed by foot or boat.

10. That the least tern sites constructed shall be flat, surfaced with light colored sand, with side slopes of 10:1, and must be cleaned of vegetation, as required by CDFG and USFWS, by the permittee prior to each nesting season during the construction period.

19. That there shall be no Incidental Take of the California least tern (adults, chicks, or eggs) or California brown pelican. The permittee shall immediately cease all work and make notifications, as specified below, if any incidental take of these Federally listed endangered species occurs. The permittee shall immediately report by telephone to the Corps of Engineers Regulatory Branch (213)894-5605 and the Fish and Wildlife Service (714)643-4270 if incidental take occurs. The permittee shall prepare a written report, to be submitted to the Corps of Engineers and Fish and Wildlife Service, which shall include the date, locations, and circumstances surrounding the taking and the dispositions of the individuals taken. An endangered species injured or killed as a result of the permitted activity shall be retrieved for scientific purposes or rehabilitation, and shall be turned over to the California Department of Fish and Game.

20. That the permittee shall conduct a long term biological monitoring program at Batiquitos Lagoon. The permittee may contract out these responsibilities, or upon approval of the Corps, may assign the responsibility in order to optimize the monitoring plan. Monitoring will not be used to reevaluate the HEP for Batiquitos Lagoon or to recalculate habitat credits differently from those determined through the tidal monitoring study to be carried out following project construction. As part of the monitoring program:

    a. The permittee(s) shall be responsible for costs up to $250,000 (present dollar value) which will be adjusted for inflation over the life of the 10 year monitoring program.

    b. The permittee shall have an approved (by the Regulatory Branch, Los Angeles District Corps of Engineers in consultation with the appropriate agencies) monitoring plan prior to completion of project construction.

    Unless otherwise approved by the District Engineer, biological monitoring shall be conducted annually for a minimum of three years and again at year 5 and year 10, and will assess the mitigation effectiveness in terms of birds, fish, invertebrates, and vegetation. The response of the organisms shall be evaluated in terms of regional as well as local factors. Where possible, the overall monitoring plan shall be sufficiently flexible to incorporate collected data and unusual events into each successive year's specific monitoring schedule. An annual monitoring report shall be provided to the District Engineer, CDFG, USFWS, NMFS, and EPA.

    The permittee shall consult with the Corps, USFWS, NMFS, CDFG, and other representatives of the scientific community in developing the monitoring plan.

21. That the permittee shall avoid impacts to all previously identified archeological sites.

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