MINUTE ITEM

This Calendar Item No. C41 was approved as Minute Item No. 41 by the California State Lands Commission by a vote of 2 to 0 at its 12-08-05 meeting.

CALENDAR ITEM
C41

A 70

S 35

12/08/05
PRC 8648 W 26126
J. Lucchesi

DREDGING LEASE

APPLICANT:

County of Orange
RDMD/WCRD
300 N. Flower Street
Santa Ana, CA 92702-4048

AREA, LAND TYPE, AND LOCATION:

Legislatively granted sovereign tide and submerged lands, with minerals reserved to the State, and ungranted sovereign tide and submerged lands located within Upper Newport Bay, city of Newport Beach, County of Orange.

AUTHORIZED USE:

Dredge a maximum of 2.4 million cubic yards of material from various locations within Upper Newport Bay, as part of the Upper Newport Bay restoration project.

A majority of the dredged material will be disposed of at the Army Corps approved LA-3 ocean disposal site. As is technically feasible, dredged material will be deposited on-site, to construct two California least tern nesting island restoration sites, and for beach nourishment at Newport Beach.

LEASE TERM:

Five years, beginning December 9, 2005.

CONSIDERATION:

No royalty will be charged as the project will result in a public benefit. The dredge material will not be sold.

OTHER PERTINENT INFORMATION:

1. Applicant is the Trustee of the legislatively granted sovereign tide and submerged lands pursuant to Chapter 526, Statutes of 1919, as amended, minerals reserved.

2. The ungranted sovereign tide and submerged lands in the Upper Bay are under lease to the California Department of Fish and Game (PRC 5091), with minerals reserved to the State. The Upper Newport Bay restoration project, other than the dredging component, is consistent with the terms of the lease.

3. The 752-acre Upper Newport Bay Ecological Reserve is one of the last remaining southern California coastal wetlands that continues to play a significant role in providing critical habitat for a variety of migratory waterfowl and shorebirds, as well as several endangered species of animals and plants.

4. The primary purpose of the Upper Newport Bay restoration project is to develop a long-term management plan to control sediment deposition in Upper Newport Bay in order to preserve the health of the Bay's habitats. The joint project, between the United States Army Corps of Engineers, the Department of Fish and Game, and the County of Orange, will protect and restore, where feasible, environmentally sensitive habitat, water quality, wetlands, rare, threatened and endangered species, and marine resources.

5. Sediments proposed for ocean disposal underwent full "Green Book" (USACE and USEPA, 1991) testing and the Corps determined them to be suitable for disposal at the LA-3 Ocean Dredged Material Disposal site. Materials proposed for placement as fill within Newport Bay and in the nearshore zone off Newport Beach were tested and found by Corps to be compatible with existing materials at those sites and suitable for unconfined disposal. In addition, the USEPA reviewed the sediment test data and concurred with the Corps suitability determination for dredged materials disposal at these locations.

6. An EIR and an Addendum were prepared and certified for this project by the County of Orange. The California State Lands Commission staff has reviewed such document and Mitigation Monitoring Program adopted by the lead agency. Findings made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, sections 15091 and 15096) are on file in the Sacramento Office of the State Lands Commission. A Statement of Overriding Considerations made in conformance with the State CEQA Guidelines (Title 14, California Code of

Regulations, section 15093) is on file in the Sacramento Office of the State Lands Commission.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Codes section 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.

APPROVALS OBTAINED:

United States Army Corps of Engineers; California Coastal Commission; California Department of Fish and Game; California Regional Water Control Board; County of Orange; and the city of Newport Beach.

EXHIBIT:

A. Site Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT AN EIR WAS PREPARED AND CERTIFIED FOR THIS PROJECT BY COUNTY OF ORANGE AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN. ADOPT THE FINDINGS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTIONS 15091 AND 15096 (h), ON FILE IN THE SACRAMENTO OFFICE OF THE STATE LANDS COMMISSION. ADOPT THE MITIGATION MONITORING PROGRAM, ON FILE IN THE SACRAMENTO OFFICE OF THE STATE LANDS COMMISSION. ADOPT THE STATEMENT OF OVERRIDING CONSIDERATIONS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15093 ON FILE IN THE SACRAMEMTO OFFICE OF THE STATE LANDS COMMISSION.

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTION 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE THE ISSUANCE OF A DREDGING LEASE TO THE COUNTY OF ORANGE BEGINNING DECEMBER 9, 2005, FOR A TERM OF FIVE YEARS, FOR DREDGING A MAXIMUM OF 2.4 MILLION CUBIC YARDS OF MATERIAL, ON THE LANDS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; SUCH PERMITTED ACTIVITY IS CONTINGENT UPON APPLICANT'S COMPLIANCE WITH APPLICABLE PERMITS, RECOMMENDATIONS, OR LIMITATIONS ISSUED BY FEDERAL, STATE AND LOCAL GOVERNMENTS; NO ROYALTY WILL BE CHARGED AS THE PROJECT WILL RESULT IN A PUBLIC BENEFIT; DREDGED MATERIAL WILL NOT BE SOLD.

NO SCALE

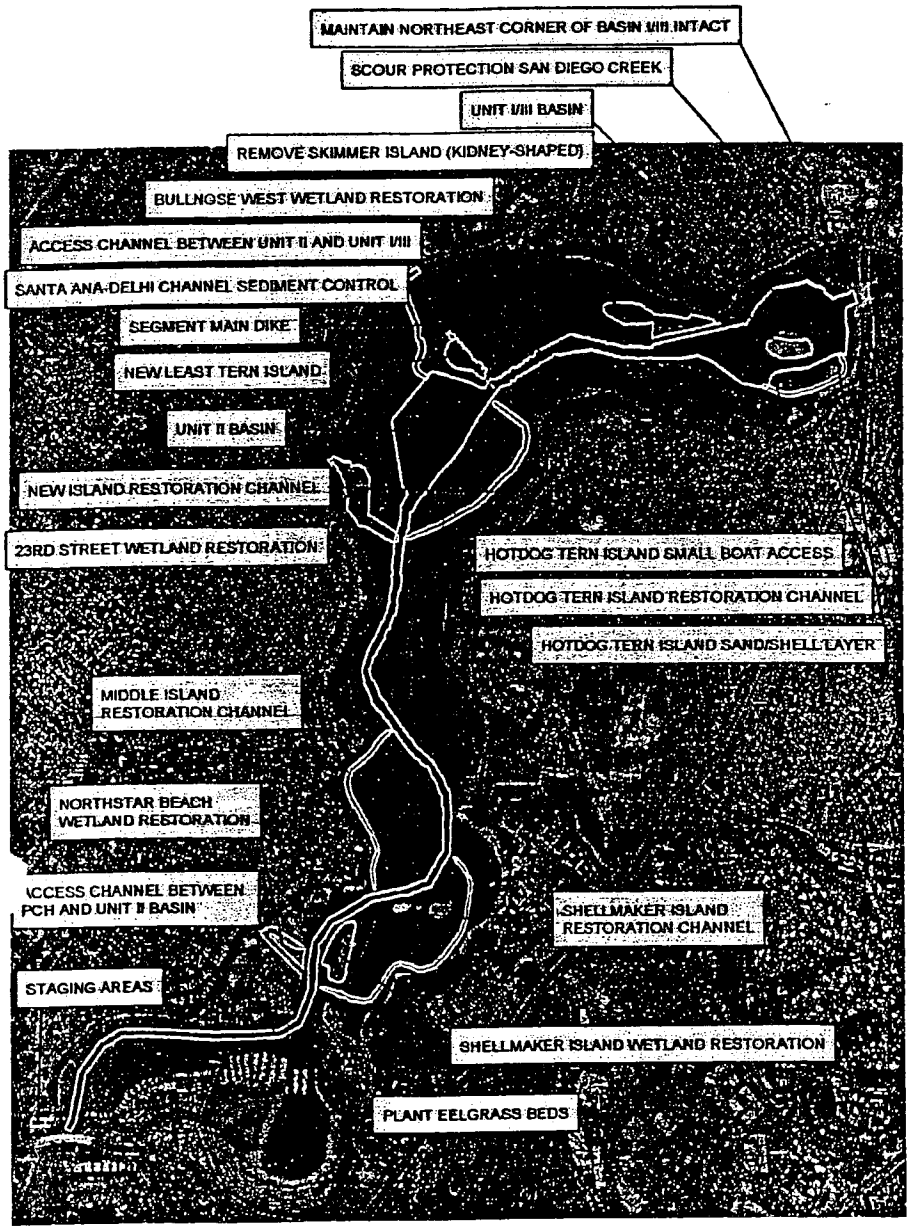

Figure 1. Upper Newport Bay Ecosystem Restoration Project

Dredge Footprint

Exhibit A
Location and Site Map

LOCATION AND SITE MAP
W26126
Dredging Lease
Upper Newport Bay
City of Newport Beach
County of Orange

This Exhibit is solely for purpose of generally defining the project area, is based on unverified information provided by lessee or other parties, and is not intended to be, nor shall it be construed as, a waiver or limitation of any state interest in the subject or any other property.

J.L. 12/08/05