



PUBLIC NOTICE

**U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT**

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**APPLICATION FOR PERMIT
Agua Hedionda Lagoon Dredging/Beach Nourishment 5 Year Renewal**

Public Notice/Application No.: SPL-2001-00328-RRS

Project: Agua Hedionda Outer Lagoon Maintenance Dredging and Beach Nourishment Project

Comment Period: October 7, 2014 through November 10, 2014

Project Manager: Robert Smith; 760-602-4831; Robert.R.Smith@usace.army.mil

Applicant

Cabrillo Power I LLC
Encina Power Station
Matthew Pistner, Vice President
& Sheila Henika
4600 Carlsbad Blvd.
Carlsbad, CA 92008
(760) 268-4000
matthew.pistner@nrgenergy.com

Contact

Same as Applicant

Location

At the Agua Hedionda Outer Lagoon and the North, South, and Middle Carlsbad State Beaches within the city of Carlsbad, San Diego County, CA (at: Latitude- 33.6, Longitude -117.3388).

Activity

This is a reissuance of several expired Corps permits. Three Corps permits (File No. 802016000-SK, 872017100-DZ, and 2001003288-SKB) were issued in 1981, 1987, and 2002 respectively for similar activities as described below.. To dredge approximately 500,000 cubic yards (cy) of accumulated sediment from the Outer Basin (Lagoon) of Agua Hedionda Lagoon including the inlet, as routine maintenance, in any single dredging event within defined dredge limits shown in the attached drawings, and place any beach-quality sand on the North, Middle, and South Carlsbad State Beaches per the attached drawings. The sediment would be removed from the lagoon bottom to ensure adequate flow of cooling water to the Encina Power Station located on the edge of the outer lagoon. The 35.5-acre dredge footprint in the lagoon would be deepened to a maximum design depth of -22 feet mean lower low water (MLLW) plus an additional 2-foot allowance for over-depth dredging. The beach nourishment at the three State beaches would impact a total length of roughly 5800 feet (ft.) and 50 ft. beach width with impacts to 6.7 acres of navigable waters of the U.S. and cobble sandy beach. The Corps previously approved the dredge footprint in the 1987 Corps permit. The Corps further approved a substantially similar footprint from 2002 to 2014 with slight widening and deepening from station 101+50 to 103+50 bringing this section to the same dimensions as the remainder of the channel, increasing the total area to be dredged to 35.5 total acres of impacts to sandy lagoon substrate within navigable waters. For more information see page 5 of this notice.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). We invite you to review today's public notice and provide views on the proposed work. By providing substantive, site-specific comments to the Corps Regulatory Division, you provide information that support the Corps' decision-making process. All comments received during the comment period become part of the record and will be considered in the decision. This permit will be issued, issued with special conditions, or denied under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act.

Comments should be mailed to:

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
ATTN: Robert Smith
Carlsbad Field Office
5900 La Place Ct., Suite 100
Carlsbad, CA 92008

Alternatively, comments can be sent electronically to: Robert.R.Smith@usace.army.mil

The mission of the U.S. Army Corps of Engineers Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable water and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps considers the views of other Federal, state and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the United States. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem system functions and services.

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

Water Quality- The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board – San Diego Region (CRWQCB). Section 401 requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance. The previous Corps permit expired on October 21, 2012 and was covered under a General Waste Discharge Order 96-32 and the applicant is now coordinating with the CRWQCB in regards to securing authorization under Section 401 of the Clean Water Act.

Coastal Zone Management- The applicant has certified that the proposed activity would comply with and would be conducted in a manner that is consistent with the approved State Coastal Zone Management Program. For those projects in or affecting the coastal zone, the Federal Coastal Zone Management Act requires that prior to issuing the Corps authorization for the project, the applicant must obtain concurrence from the California Coastal Commission that the project is consistent with the State's Coastal Zone Management Plan. The District Engineer hereby requests the California Coastal Commission's concurrence or non-concurrence.

Essential Fish Habitat (EFH)- The Corps of Engineers preliminary determination indicates that the proposed activity may adversely affect EFH. Pursuant to Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Los Angeles District hereby requests initiation of EFH consultation for the proposed project. This notice initiates the EFH consultation

requirements of the Act. In order to comply with the Magnuson-Stevens Fishery Conservation and Management Act (MSA), pursuant to 50 CFR 600.920(e)(3), I am providing, enclosing, or otherwise identifying the following information:

1. Description of the proposed action: See project description on page 5 of this public notice.
2. On site inspection information: See baseline information on page 5 of this public notice.
3. Analysis of the potential adverse effects on EFH: The Corps completed EFH consultation with the National Marine Fisheries Service (NMFS) per NMFS' letter dated August 23, 2012 and will adopt the previous NMFS conservation recommendations for construction and operations notifications and grunion mitigation measures from this previous EFH determination.
4. Proposed minimization, conservation, or mitigation measures: See Item 3 for EFH conservation recommendations. Also note that *Caulerpa taxifolia* has been found in the Inner Basin of Aqua Hedionda Lagoon. To minimize the spread and introduction of this species and other potentially invasive species the permittee shall comply with the current *Caulerpa Control Protocol* (Version 1.1, adopted July 3, 2002) as modified in the future with Corps review and approval. Also eelgrass surveys were done in 2010 and the dredging footprint and beach nourishment will avoid direct impacts to any eelgrass.
5. Conclusions regarding effects of the proposed project on EFH: Based on the project description and EFH assessment provided by the applicant, the proposed project would result in disturbance of approximately 35.5 acres of substrate from dredging and beach nourishment. Furthermore, the affected substrate would likely consist of soft-bottom sediments and existing sandy beach areas, with little or no hard rock substrate affected.

Therefore, it is my initial determination the proposed activity may adversely affect EFH or federally managed fisheries in California waters. My final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NOAA Fisheries. If I do not receive written comments (regular mail or e-mail) within the 30-day notification period, I will assume concurrence by NMFS that the previous EFH determination is still valid.

Cultural Resources- The latest version of the National Register of Historic Places has been consulted and this site is not listed. This review constitutes the extent of cultural resources investigations by the District Engineer, and he is otherwise unaware of the presence of such resources.

Endangered Species- Preliminary determinations indicate that the proposed activity would not affect federally-listed endangered or threatened species, or their critical habitat. The permittee shall not perform in-water work during the California least tern (*Sterna antillarum browni*; *CLT*) nesting season and avoid impacts to *CLT*. Therefore, formal consultation under Section 7 of the Endangered Species Act does not appear to be required at this time.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required

Basic Project Purpose- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the applicant's project is water dependent (i.e., requires access or proximity to or siting within the special aquatic site to fulfill its basic purpose). Establishment of the basic project purpose is necessary only when the proposed activity would discharge dredged or fill material into a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs). Because no fills are proposed within special aquatic sites, identification of the basic project purpose is not necessary. The basic project purpose for the proposed project is dredging and beach nourishment. The project is water dependent.

Overall Project Purpose- The overall project purpose serves as the basis for the Corps' 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose for the proposed project is to perform maintenance dredging and beach nourishment at the Agua Hedionda Outer lagoon and nearby State beaches in the City of Carlsbad, CA.

Additional Project Information

Baseline information- Cabrillo Power I LLC is a fossil-fueled steam electric power generating station that has been conducting maintenance dredging and beach nourishment in the outer lagoon at Aqua Hedionda since the plant opened in 1954. Agua Hedionda lagoon is a 235-acre estuary located within the City of Carlsbad, in northern San Diego County, CA and is comprised of three basins, the Inner Basin, the Middle Basin, and the Outer Basin. The lagoon is subject to sediment deposition transported along the Carlsbad shoreline into the lagoon, primarily in the Outer Basin, through the inlet entrance and routine dredging and beach nourishment is required for a healthy lagoon and an adequate water supply to the power plant. The lagoon has been maintained by the applicant for many decades and the dredged sands were reused to replenish three surrounding Carlsbad beaches: North beach located between Cherry St. and Oak St., Middle beach between the lagoon inlet and the north jetty of the used-water discharge channel, and South Beach located immediately south of the discharge channel. Dredging and beach nourishment cycles occurred from 1980 to 2002, and in 2004, 2006, 2008, and 2010. Also eelgrass surveys were done in 2010 and the dredging footprint and beach nourishment will avoid impacts to any eelgrass.

Proposed Mitigation- The proposed mitigation may change as a result of comments received in response to this public notice, the applicant's response to those comments, and/or the need for the project to comply with the 404(b) (1) Guidelines. In consideration of the above, the proposed mitigation sequence (avoidance/minimization/compensation), as applied to the proposed project is summarized below:

Avoidance: The proposed project is a renewal of an expired maintenance dredging and beach nourishment permit that will not impact any eelgrass or other special aquatic sites. The areas to be dredged have been dredged previously in 2002-03 (336,857 cy), 2004-05 (348,151 cy), 2006-07 (333,373 cy), 2008-09 (299,326 cy), and 2010-11 (226,026 cy) and are largely clean sands and the beach nourishment and disposal of dredged material shall comply with the Inland Testing Manual (ITM). Per Regional Guidance Letter 93-02 the Corps should vary the analysis to reflect the seriousness of the potential for adverse impacts on the aquatic ecosystems posed by specific dredged or fill material discharge activities. The Corps has previously completed a Section 404(b) (1)

alternatives analysis for the expired permit and has completed a compliance review of the previous work. Since no aquatic sites are to be impacted and the action is largely a routine maintenance dredging and beach nourishment action with similar historic permitted dredging impacts that have occurred in the project area that are not substantially adverse the Corps is proposing not to require a strenuous alternatives analysis and is soliciting comments on our sequencing approach. Impacts to the State beaches where dredged material was placed have helped restore the shoreline with beneficial sand deposits with no adverse down-coast or up-coast erosion and no impacts to any hard reef structures or marine vegetation impacts.

Minimization: The Corps has performed compliance under the previous Corps permits for each dredging and beach nourishment event since 2002 and the work was compliant with the Corps permit requirements that included minimization measures as the applicant has maintained a monitoring program for every dredging event in Agua Hedionda lagoon. The monitoring program has minimized impacts to eelgrass, wetlands, turbidity, bacterial pollution, endangered species, and marine aquatic resources. All turbidity impacts complied with the CRWQCB Waste Discharge Requirements Order Nos. 96-32. Any direct or indirect eelgrass impacts were assessed from 2002-2010 by Merkel and Associates based on the pre-construction and post-construction eelgrass surveys submitted to the Corps in September 2012 and the dredging footprint largely avoids the 13 mapped eelgrass beds but dredging in 2008 did indirectly impact 147 square meters of eelgrass. The overall eelgrass distribution though from 2002-2010 increased as a result in improved circulation in the outer lagoon from dredging events and was responsible for up 3,836 square meters of eelgrass expansion. Also the presence of the invasive alga, *Caulerpa taxifolia*, was previously detected in the inner basin in June 2000 but due to ongoing surveys and eradication efforts Agua Hedionda lagoon was officially declared a *Caulerpa* free zone by the Southern California *Caulerpa* Action Team (SCCAT) in July 2006.

Compensation: Due to ongoing Corps permit compliance reviews from 2002-2014 the Corps has not required any mitigation for impacts to eelgrass, wetlands, or water of the United States as no direct impacts have occurred and any indirect impacts have been offset by the beneficial impact of improved lagoon circulation from dredging and beach restoration from the disposal of cleaned dredged sands from the Outer lagoon.

Proposed Special Conditions

No special conditions are proposed at this time.

For additional information please call Robert Smith of my staff at 760-602-4831 or via e-mail at Robert.R.Smith@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.



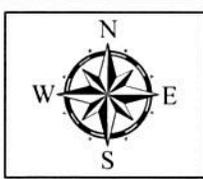
Regulatory Program Goals:

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

**DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS**

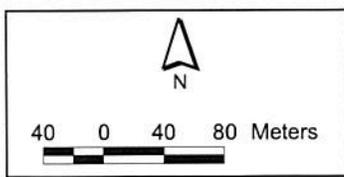
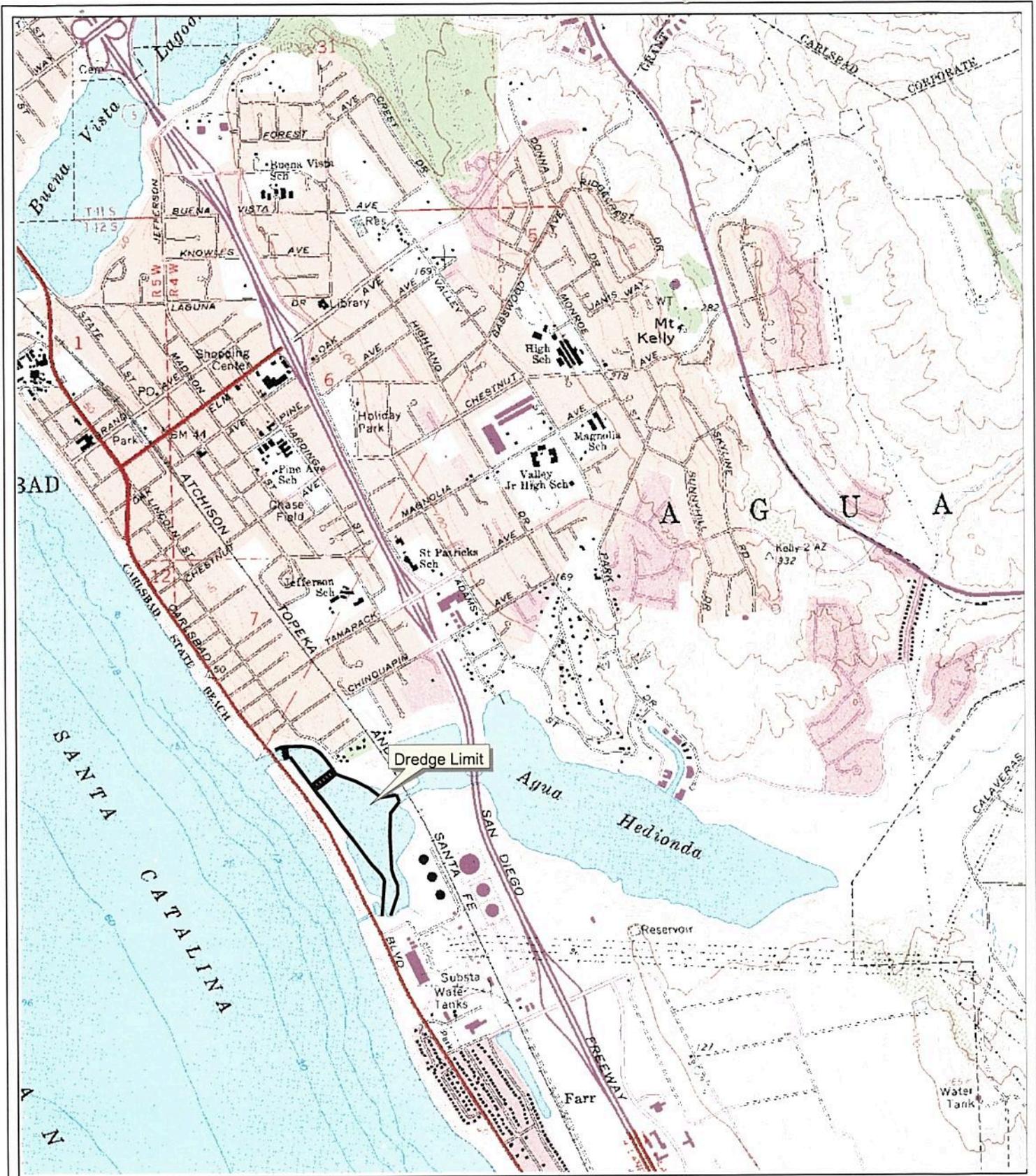
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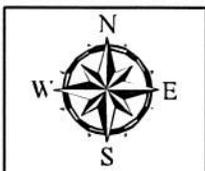
Project Vicinity Map
Encina Power Station
2010/2011 Agua Hedionda Lagoon Maintenance Dredging

Figure 1



Project Vicinity Map
 Agua Hedionda Lagoon Pre-Dredge Eelgrass Survey
 Image Source: USGS San Luis Rey, CA 7.5' Quadrangle

Figure 1



**Pre and Post-dredge Eelgrass Resources
Agua Hedionda Lagoon**
November 26, 2008 and April 22, 2009

Figure 2



Source: M&A, 2010a

Figure 7. Beach and Lagoon Sampling Locations

4.1 2002-2003 Maintenance Dredging Cycle

Core samples within the dredging and placement areas at Agua Hedionda Lagoon were collected on October 16, 2002 and their results were presented in the "Field Investigations for Outer Lagoon Dredging" (dated October 2002) that was prepared by MEC Analytical Systems,

the following volume percent distribution: 30% on the North Beach and approximately 70% on the Middle and South Beaches.



Source: Google Earth

Figure 2. Beach Disposal Sites

With the expiration date on October 21, 2012 approaching, Cabrillo Power I LLC (Cabrillo) has inquired about the process for a renewal of the existing permit. It was requested by the U.S. Army Corps of Engineers (Corps) to include documentation of permit compliance for all dredging events under the previously issued permit (Permit Number 200100328-SKB). A total of five dredging events were respectively conducted in the winter-spring months of 2002-2003, 2004-2005, 2006-2007, 2008-2009, and 2010-2011. The following report documents these five sand dredging and placement activities and their conformance pertaining to the general and special permit conditions. The special conditions are listed below:

1. The permittee must take the actions required to record this permit with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title or interest in real property.
2. The permittee shall post a copy of this permit on the dredge barge used for the activity authorized by this permit including all general and special conditions herein at all times during the dredging activities.
3. The permittee shall allow the dredging area and equipment to be inspected by Corps staff upon request.
4. The permittee shall not perform in-water work during the California least tern (*Sterna antillarum Browni*) nesting season from April 15 to September 15. This condition is necessary to avoid potential impacts to this federally-listed-as-endangered species, which is mostly known to utilize habitat in the vicinity of Agua Hedionda Lagoon.