

## DEPARTMENT OF THE ARMY PERMIT

**Permittee:** Cabrillo Power I LLC

**Project Name:** Agua Hedionda Lagoon - Outer Lagoon Maintenance Dredging and Beach Nourishment

**Permit Number:** SPL-2001-00328-RRS

**Issuing Office:** Los Angeles District

Note: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

**Project Description:** To dredge approximately 500,000 cubic yards (cy) in any single dredging event of accumulated sediment from the Outer Lagoon of Agua Hedionda Lagoon including the inlet, as routine maintenance, within defined dredge limits shown in the attached drawings, and place any suitable sand on the North, Middle, and South Carlsbad State Beaches per the attached drawings. The sediment would be dredged with a pipeline or suction dredge from the lagoon bottom to ensure adequate flow of cooling water to the Encina Power Station located on the edge of the outer lagoon. Dredged material would be discharged with a pipeline to the intertidal zone with a berm to control turbidity at the beach discharge site. The entire project area is 59.1 acres and includes a 32.4 acre dredging area of navigable waters in the Outer lagoon and 26.7 acres of nearby beach nourishment (6.7 acres of intertidal beach navigable waters of the U.S. with 20 acres of adjacent upland beaches). The 32.4-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 approximately 5800 feet (ft.) and 50 ft. beach width with impacts to 6.7 acres of navigable waters of the U.S. functioning as sandy beach.

To construct structures and/or conduct dredging work (32.4 acres of navigable waters) in or affecting "navigable waters of the United States" pursuant to Section 10 of the Rivers and Harbors Act of 1899,

To permanently discharge fill into 6.7 acre(s) of waters of the U.S. pursuant to Section 404 of the Clean Water Act of 1972,

The authorized work is in association with the Agua Hedionda Lagoon - Outer Lagoon Maintenance Dredging and Beach Nourishment Project as shown on the attached drawings.

Specifically, you are authorized to:

Dredge approximately 500,000 cubic yards (cy) per single dredge event of accumulated sediment from the Outer Lagoon of Agua Hedionda Lagoon including the inlet, as routine maintenance, within defined dredge limits shown in the attached drawings, and place any suitable sand on the North, Middle, and South Carlsbad State Beaches per the attached drawings and as permitted in the California Coastal Commission Coastal Development Permit dated October 9, 2014 and the City of Carlsbad's Special Use Permit. The sediment would be dredged 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 entire project area is 59.1 acres and includes a 32.4 acre dredging of navigable waters (per Figure 2) area in the Outer lagoon and 26.7 acres of nearby beach nourishment (6.7 acres of beach navigable waters of the U.S. with 20 acres of adjacent upland beaches). The 32.4-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 and sandy beach.

**Project Location:** The Outer Lagoon of Agua Hedionda Lagoon and Carlsbad State Beach (North, Middle, and South) San Diego, California. Latitude: 33.1413889 degrees; Longitude: -117.3411111 degrees.

**Permit Conditions:**

**Dredging Plans:**

1. Prior to initiating construction in waters of the U.S., the Permittee shall submit to the Corps Regulatory Division a complete set of final detailed grading/construction plans showing all work and structures in waters of the U.S. All plans shall be in compliance with the Final Map and Drawing Standards for the South Pacific Division Regulatory Program dated August 6, 2012 (<http://www.spd.usace.army.mil/Portals/13/docs/regulatory/standards/map.pdf>). All plan sheets shall be signed, dated, and submitted on paper no larger than 11x 17 inches. No work in waters of the U.S. is authorized until the Permittee receives, in writing (by letter or e-mail), Corps Regulatory Division approval of the final detailed grading/construction plans. The Permittee shall ensure that the project is built in accordance with the Corps-approved plans.

**Dredging:**

2. For this permit, the term dredging operations shall mean: navigation of the dredging vessel at the dredging site, excavation of dredged material within the project boundaries, and placement of dredged material via a barge or pipeline.

3. Dredging authorized in this permit shall be limited to the areas defined in Figure 2 only. No more than 500,000 cubic yards of dredged material are authorized for dredging from the Outer Lagoon by the Permittee per dredging event. No dredging is authorized in any other location under this permit. This permit does not authorize the placement or removal of buoys.

4. For this permit, the maximum dredging design depth (also known as the project depth or grade) shall be -22 ft. feet below mean lower low water (MLLW), with a maximum allowable overdredge depth of 2 feet below MLLW. No dredging shall occur deeper than -24 feet below MLLW (dredging design depth plus overdredge depth) or outside the project boundaries.

5. The Permittee is prohibited from dredging and disposing material in navigable waters of the U.S. that has not been tested and determined by the Corps Regulatory Division, in consultation with the Environmental Protection Agency Region IX (EPA), to be both clean and suitable for disposal in ocean waters. Re-testing of previously tested or dredged areas is required after three years from the date of sediment sampling. This time limit is subject to shortening given the occurrence of any event that may cause previously determined clean material to become suspect, at the discretion of the Corps Regulatory Division. Prior to each dredging episode, the Permittee must demonstrate that the proposed dredged materials are chemically and physically suitable for disposal in ocean waters according to the provisions of the Inland Testing Manual or Ocean Disposal Manual as appropriate. If the material does not meet the physical and chemical criteria for unconfined disposal in ocean waters, the dredged material shall be disposed in an upland disposal area. The Permittee shall submit to the Corps Regulatory Division and EPA a draft sampling and analysis plan (SAP). Sampling may not commence until the SAP is approved, in writing, by the Corps Regulatory Division, in consultation with EPA. The Corps and EPA have approved the SAP for the dredging and disposal cycle starting in late 2014/2015.

6. At least 15 calendar days before initiation of any dredging operations authorized by this permit, the Permittee shall send a dredging and disposal operations plan to the Corps Regulatory Division and EPA, with the following information:

- A) A list of the names, addresses and telephone numbers of the Permittee's project manager, the contractor's project manager, the dredging operations inspector, the disposal operations inspector and the captain of each tug boat, hopper dredge or other form of vehicle used to transport dredged material to the designated disposal site.
- B) A list of all vessels, major dredging equipment and electronic positioning systems or navigation equipment that will be used for dredging and disposal operations, including the capacity, load level and acceptable operating sea conditions for each disposal barge or scow to assure compliance with special conditions on dredging and disposal operations.
- C) The results of a detailed analysis of all material to be dredged pursuant to an approved SAP.
- D) A detailed description of the dredging and disposal operations authorized by this permit. Description of the dredging and disposal operations should include, at a minimum, the following:
  - i) Dredging and disposal procedures for all dredged material determined by the Corps and EPA Region IX to be unsuitable for ocean disposal .
  - ii) Dredging and disposal procedures for up to 500,000 cubic yards to be dredged from the Permittee's Outer Lagoon.
  - iii) A schedule showing when the dredging project is planned to begin and end.

E) A pre-dredging bathymetric condition survey (presented as a large format plan view drawing), taken within thirty (30) days before the dredging begins, accurate to 0.5-foot with the exact location of all soundings clearly defined on the survey chart. The pre-dredge survey chart shall be prepared showing the following information:

i) The entire dredging area, the toe and top of all side-slopes and typical cross sections of the dredging areas. To ensure that the entire area is surveyed, the pre-dredge condition survey should cover an area at least 50 feet outside the top of the side-slope or the boundary of the dredging area, unless obstructions are encountered.

ii) The dredging design depth, overdredge depth and the side-slope ratio.

iii) The total quantity of dredged material to be removed from the dredging areas and the side-slope areas.

iv) Areas shallower than the dredging design depth shall be shaded green, areas between the dredging design depth and overdredge depth shall be shaded yellow, and areas below overdredge depth that will not be dredged shall be shaded blue. If these areas are not clearly shown, the Corps may request additional information.

v) The pre-dredging survey chart shall be signed by the Permittee to certify that the data are accurate and that the survey was completed within thirty (30) days before the proposed dredging start date.

F) A debris management plan to prevent disposal of large debris at all disposal locations. The debris management plan shall include: sources and expected types of debris, debris separation and retrieval methods, and debris disposal methods.

7. The Permittee shall not commence dredging operations unless and until the Permittee receives a Notice to Proceed, in writing, from the Corps Regulatory Division.

8. The Permittee shall maintain a copy of this permit on all vessels used to dredge, transport and dispose of dredged material authorized under this permit.

9. The Permittee shall ensure that the captain of any tug or other vessel used in the dredging and disposal operations, is a licensed operator under USCG regulations and follows the Inland and Ocean Rules of Navigation or the USCG Vessel Traffic Control Service. All such vessels, hopper dredges or disposal barges or scows, shall have the proper day shapes, operating marine band radio, and other appropriate navigational aids.

10. The Permittee's contractor(s) and the captain of any dredge covered by this permit shall monitor VHF-FM channels 13 and 16 while conducting dredging operations.

11. Upon request, the Permittee and its contractor(s) shall allow inspectors from the Corps Regulatory Division, EPA, and(or) the USCG to inspect all phases of the dredging and disposal operations.

12. Upon request, the Permittee and its contractor(s) retained to perform work authorized by the permit or to monitor compliance with this permit shall make available to inspectors from the Corps Regulatory Division, EPA, and(or) the USCG the following: dredging and disposal operations inspectors' logs, the vessel track plots and all disposal vessel logs or records, any analyses of the



characteristics of dredged material, or any other documents related to dredging and disposal operations.

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

14. If a violation of any permit condition occurs, the violation shall be reported by the Permittee to the Corps Regulatory Division within twenty-four (24) hours. If the Permittee retains any contractors to perform any activity authorized by this permit, the Permittee shall instruct all such contractors that notice of any violations must be reported to the Permittee immediately.

15. The Permittee shall use an electronic positioning system to navigate at the dredging site. The electronic positioning system shall have a minimum accuracy and precision of +/- 10 feet (3 meters). If the electronic positioning system fails or navigation problems are detected, all dredging operations shall cease until the failure or navigation problems are corrected. Any navigation problems and corrective measures shall be described in the post-dredging completion.

16. The Permittee shall submit a post-dredging completion report to the Corps Regulatory Division within 30 calendar days after completion of each dredging project to document compliance with all general and special conditions defined in this permit. The report shall include all information collected by the Permittee, the dredging operations inspector and the disposal operations inspector or the disposal vessel captain as required by the special conditions of this permit. The report shall indicate whether all general and special permit conditions were met. Any violations of the permit shall be explained in detail. The report shall further include the following information:

- A) Permit and project number.
- B) Start date and completion date of dredging and disposal operations.
- C) Total cubic yards disposed at the Carlsbad State Beaches (North, South, Middle).
- D) Mode of dredging.
- E) Mode of transportation.
- F) Form of dredged material.
- G) Frequency of disposal and plots of all trips to the North, South, and Middle Beaches.
- H) Tug boat or other disposal vessel logs documenting contact with the USCG before each trip to the dredging site
- I) Percent sand, silt and clay in dredged material.
- J) A certified report from the dredging site inspector indicating all general and special permit conditions were met. Any violations of the permit shall be explained in detail.
- K) A detailed post-dredging hydrographic survey of the dredging area. The survey shall show areas above the dredging design depth shaded green, areas between the dredging design depth and overdredge depth shaded yellow, areas below overdredge depth that were not dredged or areas that were deeper than the overdredge depth before the project began as indicated on the pre-dredging survey shaded blue, and areas dredged below the overdredge depth or outside the project boundaries shaded red. The methods used to prepare the post-dredging survey shall be the same methods used in the pre-dredging condition survey. The survey shall be signed by the Permittee certifying that the data are accurate.

L) The post-dredging report shall be signed by a duly authorized representative of the Permittee. The Permittee's representative shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Beach Nourishment:

Pre-discharge requirements:

17. Discharges of fill material into waters of the U.S. authorized in this permit shall be limited to the volume and grain size distribution specified on a case-by-case basis. Non-traditional materials, such as materials derived from upland sources or materials deviating from Corps general practice (requiring beach nourishment material be at least 75% sand with no more than a 10% difference in sand content between material at the source and discharge sites), are likely to require additional, unique, site-specific testing, to be determined on a case-by-case basis, beyond traditional testing methods in order to ensure compliance with the 404(b)(1) guidelines. No discharge of fill material into waters of the U.S. is authorized for any single proposed project until the Corps Regulatory Division has provided a Final notification to proceed (NTP) according to the requirements below.

A) The applicant is required to concurrently submit to the Corps Regulatory Division and EPA and receive written approval (by letter or e-mail) from the Corps for a sampling and analysis plan (SAP) for each proposed use of this permit. The SAP will be in accordance with standard tiered testing procedures and will include testing at the source and proposed discharge site (one of the sites approved under this permit). The SAP would also address sieve (grain size) analysis, as well as the potential for adverse impacts involving aesthetics and compaction directly related to characteristics of the proposed source material and the receiving beach material.

B) The results of the approved SAP (SAPr) will be submitted to the Corps Regulatory Division, EPA, and appropriate Regional Water Board for review and approval. The Corps and EPA have approved the SAPr for the dredging and disposal cycle starting in late 2014/2015.

18. If ocean or nearshore disposal is to be proposed, separate Corps authorization will be required.

19. A detailed, pre- and post-project monitoring plan will be submitted for Corps Regulatory Division review and approval at least 2-3 calendar days prior to work in waters of the U.S. No work in waters of the U.S. is authorized until the permittee receives written approval (by letter or e-mail) of the plan from the Corps Regulatory Division. The plan shall identify monitoring protocol, reporting protocol, and contingency operations to evaluate potential changes in turbidity/sedimentation, water quality, coverage of coastal aquatic resources, and biology within the proposed discharge site and the adjacent offshore area. The monitoring plan and surveys would be required to identify and delineate coastal habitat types: including eelgrass beds, high-relief reef and low-relief vegetated reefs (with indicator species including giant and feather boa kelp, large sea fans, sea palms, and surf-grass), immediately adjacent upcoast, and downcoast of the proposed discharge, with potential to be impacted by the proposed discharge and if impacts to the above

coastal habitat types, eelgrass beds, high and/or low relief vegetated reefs (with indicator species including giant and feather boa kelp, large sea fans, sea palms, and surf-grass) occur the Corps may require immediate remedial measures and/or mitigation for such impacts in consultation with NMFS. In addition, pre-project monitoring shall include surveys to evaluate beach suitability for California grunion (*Leuresthes tenuis*) activity. In the event that beach nourishment operations would extend beyond March 1 through August (the grunion spawning season), and if surveys indicate that beach conditions are found to be suitable for grunion activity or grunion activity is detected at any time, the permittee shall refrain from work and immediately notify the Corps Regulatory Division (within 24 hours). After coordination with NOAA Fisheries, to ensure that impacts to California grunion and/or are minimized to the greatest extent possible, then the Corps Regulatory Division may authorize the permittee to proceed.

20. A detailed sediment budget analysis will be submitted for Corps Regulatory Division review and approval at least 30 calendar days prior to work in waters of the U.S unless otherwise approved by the Corps for every cycle of work. No work in waters of the U.S. is authorized until the permittee receives written approval (by letter or e-mail) of the plan from the Corps Regulatory Division. The plan will be based on (1) pre-project sediment budget analysis or (2) known sediment budget data for the receiving beach from a reasonably recent study. The permittee should be able to demonstrate a net loss of sediment deposition over the project area, and thus that local beach profiles reflect these conditions and show the effects of erosion.

21. A detailed description of the transport and discharge operations authorized by this permit will be submitted to the Corps Regulatory Division at least 2-3 calendar days prior to work in waters of the U.S. Description of the transport and discharge operations should include, at a minimum, the following:

A) Transport and discharge procedures for all sediment, including all material unsuitable for beach nourishment discharge.

B) A schedule showing when the beach nourishment project is planned to begin and end.

C) A debris management plan to prevent disposal of large debris at all beach discharge locations. The debris management plan shall include: sources and expected types of debris, debris separation and retrieval methods, and debris disposal methods.

D) The plan shall include the volume of material to be excavated and discharged.

E) The plan shall list previous discharges by site, date, and volume, as well as the total volume of material which has been excavated and discharged to date, using this Permit.

22. The Permittee shall not commence beach nourishment operations unless and until the Permittee has submitted the information required in Special Conditions 19 through 21 above and receives a signed Notice to Proceed from the Corps Regulatory Division.

Post-discharge special conditions:

23. If a violation of any permit condition occurs during discharge operations, the Permittee shall report such violations to the Corps Regulatory Division within twenty-four (24) hours after the violation occurs. If the Permittee retains any contractors to perform any activity authorized by this permit or to monitor compliance with this permit, the Permittee shall instruct all such contractors

that notice of any permit violations must be provided to the Permittee immediately so the Permittee can report the violation as required.

24. The Permittee shall maintain a copy of this permit on all vehicles used to transport and discharge of fill material authorized under this permit.

25. The Permittee shall send one (1) copy of the post-discharge report to the Los Angeles District's Regulatory Division documenting compliance with all general and special conditions defined in this permit. The post-discharge report shall be sent within 30 calendar days after completion of the discharge operations authorized in this permit. The report shall include:

A) All information collected by the permittee as required by the special conditions of this permit. The report shall indicate whether all general and special permit conditions were met. Any violations of the permit shall be explained in detail.

B) The post-discharge report shall include the following information:

i) Corps permit number.

ii) Identify source of material.

iii) Total cubic yards disposed at each discharge site.

iv) Modes of transportation and discharge.

v) Form of discharged material and percent sand, silt and clay in the dredged material.

vi) Actual start date and completion date of transport and discharge operations.

vii) Monitoring results.

26. The applicant will submit the results of post-project monitoring, as required, within 30 calendar days of the discharge. Based on pre- and post-project monitoring results, the Corps Regulatory Division will determine the level of impact and if additional resource monitoring is warranted. If additional monitoring is required, the Corps Regulatory Division will notify the Permittee of this requirement and the Permittee shall submit a supplemental monitoring plan for Corps review and approval within 30 calendar days of notification by the Corps and shall conduct the additional monitoring as approved. If the Corps Regulatory Division determines there have been no impacts, the monitoring program may be terminated at that time. If additional monitoring is required, the conditions of the original monitoring plan remain in effect until the supplemental plan is completed and approved by the Corps Regulatory Division.

27. This permit does not authorize adverse impacts to aquatic resources. Based on pre- and post-project monitoring results, the Corps Regulatory Division will determine if impacts to aquatic resources have occurred and if mitigation is required. Any required mitigation would be the responsibility of the Permittee and failure to implement Corps-specified mitigation could result in enforcement proceedings.

28. The Permittee shall implement all appropriate, standard Best Management Practices to ensure that toxic materials, silt, debris, or excessive eroded materials do not enter waters of the U.S. due to beach nourishment operations.

29. The applicant will establish a safety flag perimeter of the beach nourishment area during disposal activities, and monitor the premises to protect the general public from construction hazards and equipment.

30. No maintenance, storage, or fueling of heavy tracked equipment or vehicles will occur within 500 feet of the high tide line of waters of the U.S unless otherwise approved by the Corps.

31. No ocean disposal or nearshore disposal of dredged material is authorized by this permit.

32. Creosote treated pilings shall not be placed in navigable waters unless all of the following conditions are met:

A) The project involves the repair of existing structures that were originally constructed using wood products;

B) The creosote treated pilings are wrapped in plastic;

C) Measures are taken to prevent damage to plastic wrapping from boat use. Such measures may include installation of rub strips or bumpers;

D) The plastic wrapping is sealed at all joints to prevent leakage; and

E) The plastic material is expected to maintain its integrity for at least ten years, and plastic wrappings that develop holes or leaks must be repaired or replaced in a timely manner by the Permittee.

33. No other modifications or work shall occur to the structure permitted herein.

34. A pre-construction survey of the project area for *Caulerpa taxifolia* (*Caulerpa*) shall be conducted in accordance with the *Caulerpa* Control Protocol (see <http://swr.nmfs.noaa.gov/hcd/caulerpa/ccp.pdf>) not earlier than 90 calendar days prior to planned construction and not later than 2 calendar days prior to construction. The results of that survey shall be furnished to the Corps Regulatory Division, NOAA Fisheries, and the California Department of Fish and Wildlife (CDFW) at least 15 calendar days prior to initiation of work in navigable waters. In the event that *Caulerpa* is detected within the project area, the Permittee shall not commence work until such time as the infestation has been isolated, treated, and the risk of spread is eliminated as confirmed in writing by the Corps Regulatory Division, in consultation with NOAA Fisheries and CDFG.

35. FOR DREDGING PROJECTS WITH THE POTENTIAL TO IMPACT EELGRASS (eelgrass is present within or just outside of project footprint): Prior to construction, a pre-project eelgrass survey should be conducted in accordance with the Southern California Eelgrass Mitigation Policy (SCEMP) (<http://swr.nmfs.noaa.gov/hcd/eelpol.htm>). If the pre-project survey demonstrates eelgrass presence within the project vicinity, a post-project survey should be conducted and impacts to eelgrass mitigated in accordance with the SCEMP.

36. The Permittee shall discharge only clean construction materials suitable for use in the oceanic environment. The Permittee shall ensure no debris, soil, silt, sand, sawdust, rubbish, cement or concrete washings thereof, oil or petroleum products, from construction shall be allowed to enter into or placed where it may be washed by rainfall or runoff into waters of the United States. Upon

completion of the project authorized herein, any and all excess material or debris shall be completely removed from the work area and disposed of in an appropriate upland site.

37. The Permittee shall notify the Corps Regulatory Division of the date of commencement of operations not less than 2-3 calendar days prior to commencing work and shall notify the Corps of the date of completion of operations at least five calendar days prior to such completion.

38. To ensure navigational safety, the Permittee shall provide appropriate notifications to the U.S. Coast Guard as described below:

Addresses:

Commander, 11th Coast Guard District (dpw)  
Coast Guard Island, Building 50-2  
Alameda, CA 94501-5100  
ATTN: Local Notice to Mariners (LNM)  
TEL: (510) 437-2970, (510) 437-2986  
FAX: (510) 437-3423  
Email: [d11lnm@uscg.mil](mailto:d11lnm@uscg.mil)

U.S. Coast Guard  
Sector San Diego, Attn: John Bannon  
2710 N. Harbor Dr.  
San Diego, CA 92101  
Attn: Ports and Waterways Division  
TEL: (619) 278-7262  
FAX: (619) 278-7279  
Email: [John.E.Bannon@uscg.mil](mailto:John.E.Bannon@uscg.mil)

A) The Permittee shall notify the U.S. Coast Guard, Commander, 11th Coast Guard District (dpw) and the U.S. Coast Guard, Sector LA-LB (COTP) (contact information shown above), not less than 3 calendar days prior to commencing work and as project information changes. The notification shall be provided by e-mail with at least the following information, transmitted as an attached Word or PDF file:

- 1) Project description including the type of operation (i.e. dredging, diving, construction, etc).
- 2) Location of operation, including Latitude / Longitude (NAD 83).
- 3) Work start and completion dates and the expected duration of operations. The Coast Guard needs to be notified if these dates change.
- 4) Vessels involved in the operation (name, size and type).
- 5) VHF-FM radio frequencies monitored by vessels on scene.
- 6) Point of contact and 24 -hour phone number.
- 7) Potential hazards to navigation.
- 8) Chart number for the area of operation.
- 9) Recommend the following language be used in the LNM: Mariners are urged to transit at their slowest safe speed to minimize wake, and proceed with caution after passing arrangements have been made.

B) The Permittee and its contractor(s) shall not remove, relocate, obstruct, willfully damage, make fast to, or interfere with any aids to navigation defined at 33 C.F.R. chapter I, subchapter C, part 66. The Permittee shall ensure its contractor notifies the Eleventh Coast Guard District in writing, with a copy to the Corps Regulatory Division, not less than 30 calendar days in advance of operating any equipment adjacent to any aids to navigation that requires relocation or removal. Should any



federal aids to navigation be affected by this project, the Permittee shall submit a request, in writing, to the Corps Regulatory Division as well as the U.S. Coast Guard, Aids to Navigation (AON) office (contact information provided above). The Permittee and its contractor are prohibited from relocating or removing any aids to navigation until authorized to do so by the Corps Regulatory Division and the U.S. Coast Guard.

C) Should the Permittee determine the work requires the temporary placement and use of private aids to navigation in navigable waters of the U.S., the Permittee shall submit a request in writing to the Corps Regulatory Division as well as the U.S. Coast Guard, Aids to Navigation office (contact information provided above). The Permittee is prohibited from establishing private aids to navigation in navigable waters of the U.S. until authorized to do so by the Corps Regulatory Division and the U.S. Coast Guard.

D) The COTP may modify the deployment of marine construction equipment or mooring systems to safeguard navigation during project construction. The Permittee shall direct questions concerning lighting, equipment placement, and mooring to the appropriate COTP.

39. Within 30 calendar days of completion of the project authorized by this permit, the Permittee shall conduct a post-project survey indicating changes to structures and other features in navigable waters. The Permittee shall forward a copy of the survey, as well as a copy of this permit, to the Corps Regulatory Division (via e-mail at: [Regulatory.SPL@usace.army.mil](mailto:Regulatory.SPL@usace.army.mil)) and to the National Oceanic and Atmospheric Administration for updating nautical charts (via e-mail at: [john.whiddon@noaa.gov](mailto:john.whiddon@noaa.gov)). Post-project surveys/as-built plans should be provided electronically in two formats: .pts (xyz) and one of, .pdf, CAD, or GIS. Include the following header metadata: project name, surveyor's name and company, area surveyed (acres), type of survey method, date of survey, geographic control points (for example: latitude/longitude, plane coordinates), geographic coordinate system (use NAD83), geographic projection, units (use US Survey Feet), and tide gage location. For all subsurface structures and dredge projects include elevation (z coordinate) datum indicated as a negative below MLLW, and also indicate the survey system and bin sizes as appropriate.

40. The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the Corps of Engineers Regulatory Division, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

#### Cultural Resources:

41. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify the Corps' Archeology Staff within 24 hours (John Killeen at 213-452-3861). The Permittee shall immediately suspend all work in any area(s) where potential cultural resources are

discovered. The Permittee shall not resume construction in the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. section 800.13.

Essential Fish Habitat (EFH) and Endangered Species Act Comments for Green Sea Turtle (GST):

42. The Permittee shall implement and abide by Conservation Recommendations within the EFH programmatic consultation letter dated November 14, 2014 from the National Marine Fisheries Service (NMFS) under the EFH General Recommendations and the Endangered Species Act comments for GST as approved by the Corps in further consultation with NMFS per Corps email dated December 3, 2014. Note that compliance with this special condition may require further coordination with NMFS, CDFW, CCC, and the City of Carlsbad once the 2014/2015 dredging and disposal cycle is completed and monitoring data and the monitoring report are available. Monitoring data may require for adjusting the dredging volumes at the North, South, and Middle beaches due to impacts to any coastal habitat resources. Currently the approved dredging volumes of the annual dredging amount are per the City of Carlsbad's Special Use permit 06-10x1 and are as follows: 24% on the North Beach and 52% on the Middle Beach and 24% on the South Beach.

Section 401 Water Quality Certification:

43. The Permittee shall implement and abide by the Section 401 Water Quality Certification Notice of Applicability Waste Discharge Requirements No. 96-32 (WDR) dated December 12, 2014 as prepared by the Regional Water Quality Control Board – San Diego Region (File No. 204663).

Coastal Zone Management Act Federal Consistency/Coastal Development Permit (CDP):

44. The Permittee shall implement and abide by the California Coastal Commission (CCC) Coastal Development Permit (6-14-1128) dated October 9, 2014 as prepared by the California Coastal Commission – San Diego Coast District Office. Subsequent dredging and beach nourishment cycles after the 2014/2015 cycle may require the issuance of a new CDP or amended CDP by the CCC in order for the Corps 5 year permit to remain valid.

**General Conditions:**

1. The time limit for completing the authorized activity ends on December 19, 2019 (See special conditions for requirements of other agency permits). If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification from this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. A conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.

**Further Information:**

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.


b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.


6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give you favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

  
\_\_\_\_\_  
PERMITTEE  
JOHN CHILLEM  
PRESIDENT  
CABILLO POWER I, LLC

12/18/14  
\_\_\_\_\_  
DATE

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

  
\_\_\_\_\_  
Robert R. Smith  
Senior Project Manager, South Coast Branch  
Regulatory Division

12/19/14  
\_\_\_\_\_  
DATE

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

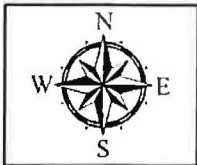
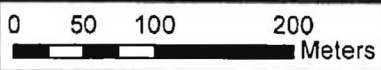
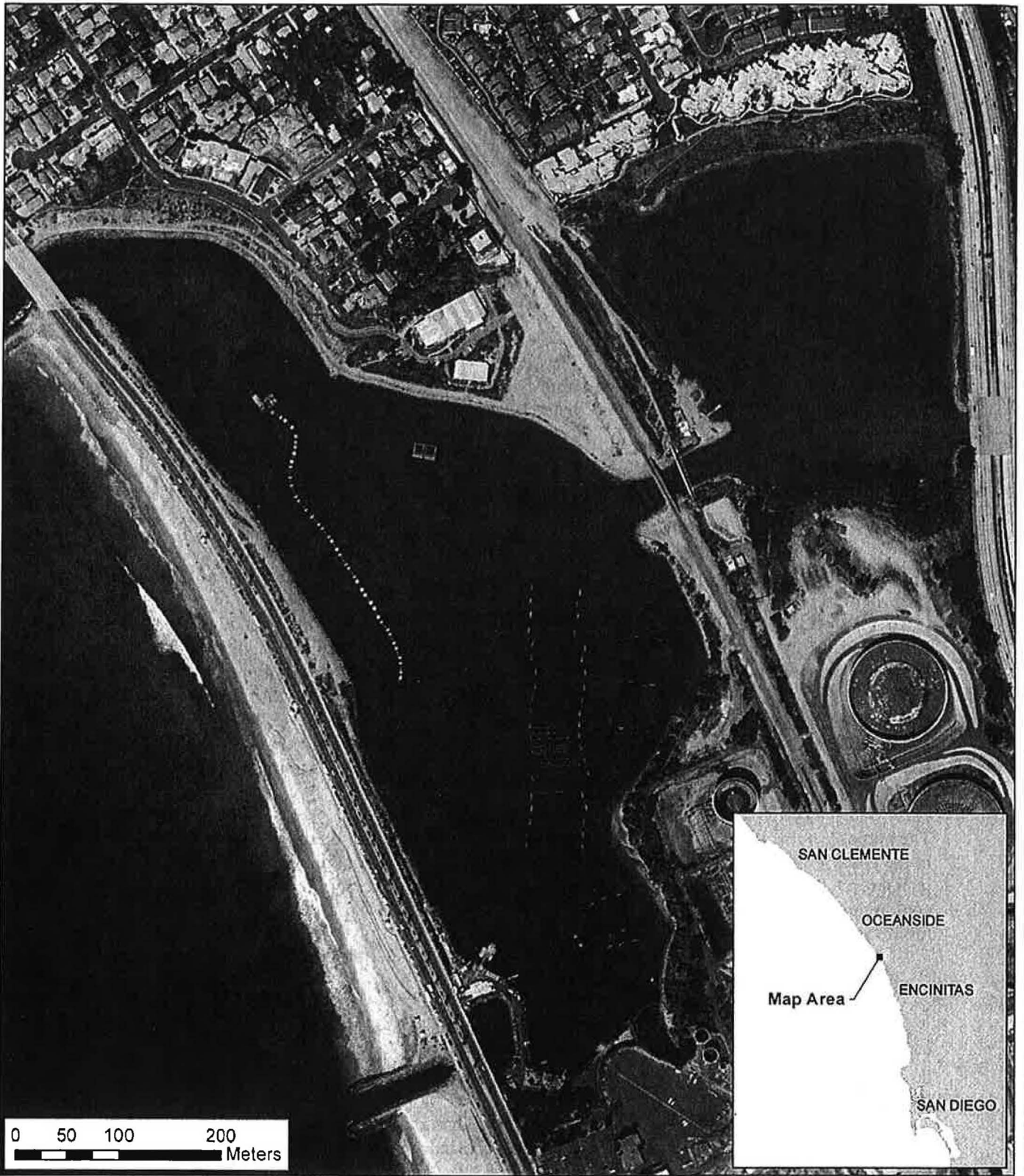
\_\_\_\_\_  
TRANSFEEE

\_\_\_\_\_  
DATE



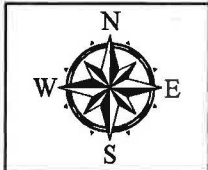
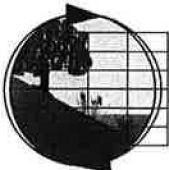






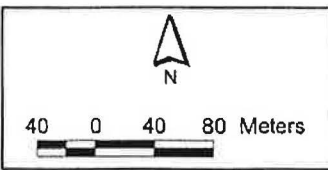
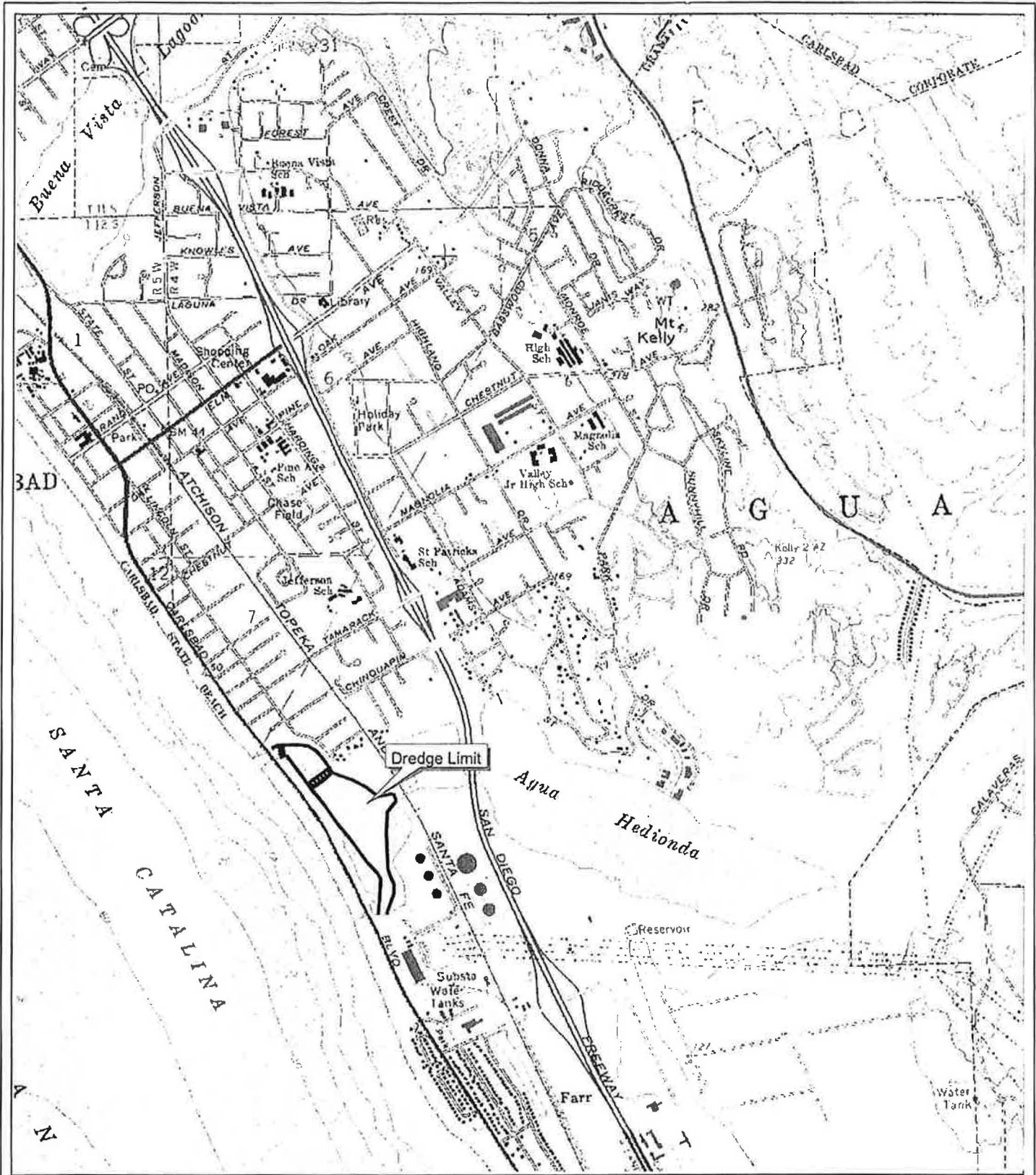
**Project Vicinity Map**  
Encina Power Station  
2010/2011 Agua Hedionda Lagoon Maintenance Dredging

**Figure 1**



**2014 Pre-dredge Eelgrass Survey**  
Encina Power Station - Agua Hedionda Lagoon  
2014 Agua Hedionda Lagoon Maintenance Dredging

**Figure 2**

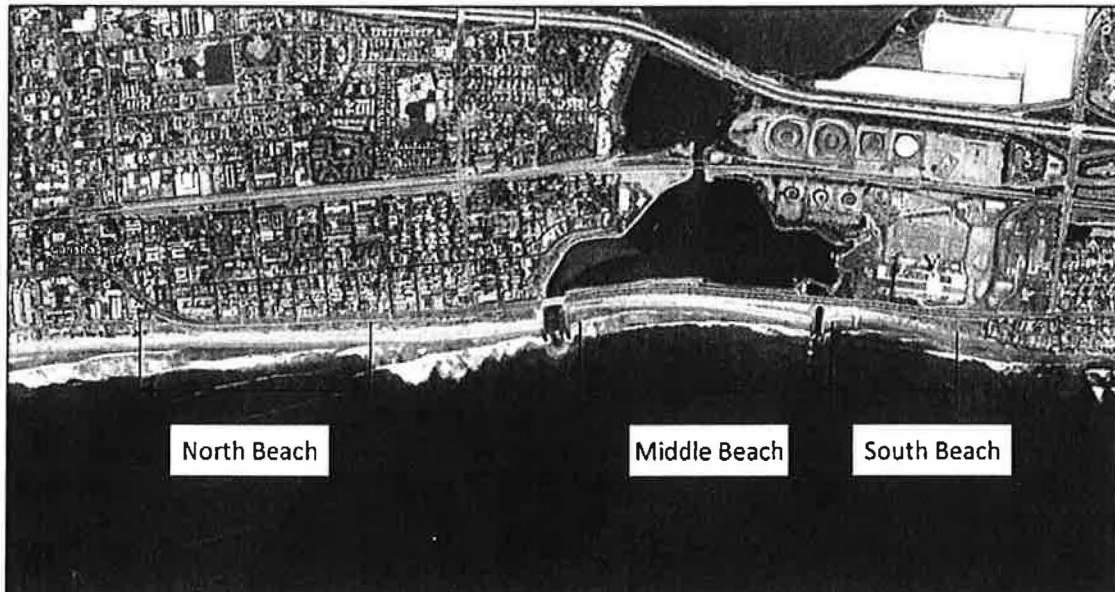


**Project Vicinity Map**  
 Agua Hedionda Lagoon Pre-Dredge Eelgrass Survey  
 Image Source: USGS San Luis Rey, CA 7.5' Quadrangle

**Figure 1**



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.



**DEPARTMENT OF THE ARMY**  
**U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT**  
**CARLSBAD FIELD OFFICE**  
**5900 LA PLACE CT., SUITE 100**  
**CARLSBAD, CA 92008**

August 3, 2020

**SUBJECT: Time Extension of Standard Individual Permit for Agua Hedionda Lagoon - Outer Lagoon Maintenance Dredging and Beach Nourishment (Permit No. SPL-2001-00328-RRS)**

Eric Leuze  
Cabrillo Power I, LLC  
4600 Carlsbad Blvd.  
Carlsbad, California 92008

Dear Mr. Leuze

Please reference your request dated December 18, 2019 to extend your Department of the Army permit for the Agua Hedionda Lagoon - Outer Lagoon Maintenance Dredging and Beach Nourishment (project) (Permit No. SPL-2001-00328-RRS). This permit authorized you to dredge suitable material from the Outer Lagoon of Agua Hedionda Lagoon and to discharge the dredged material onto the three beaches adjacent to the Pacific Ocean.

Under the provisions of 33 Code of Federal Regulations 325.6(d), the Corps is provisionally extending from December 18, 2019, to December 18, 2024. The terms and conditions of Permit No. SPL-2001-00328-RRS, except as changed herein, remain in full force and effect. The Corps is provisionally extending the permit conditional on compliance with the newly added special condition number 45 below:

45. This permit is contingent upon the issuance of a Coastal Zone Management Act (CZMA) consistency certification from the California Coastal Commission and a Section 401 Water Quality Certification (WQC) from the San Diego Regional Water Quality Control Board (RWQCB). The Permittee shall abide by the terms and conditions of the CZMA consistency certification and Clean Water Act Section 401 WQC. The Permittee shall submit the CZMA consistency certification and Section 401 WQC to the Corps Regulatory Division (preferably via email) within two weeks of receipt from the issuing state agency. The Permittee shall not proceed with construction until receiving an email or other written notification from Corps Regulatory Division acknowledging the CZMA consistency certification and Clean Water Act 401 WQC has been received, reviewed, and determined to be acceptable. If the RWQCB fails to act on a request for certification within 60 days after receipt of a complete application, please notify the Corps so we may consider whether a waiver of water quality certification is warranted pursuant to 33 CFR 325.2(b)(1)(ii). If the California Coastal Commission fails to act on a request for concurrence with your certification within six months after receipt, please notify the Corps so we may consider whether to presume a concurrence pursuant to 33 CFR 325.2(b)(2)(ii).

Thank you for participating in the Regulatory Program. If you have any questions, please contact me at (760) 602-4831 or via e-mail at Robert.R.Smith@usace.army.mil. Please help me to evaluate and improve the regulatory experience for others by completing the customer survey form at [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=regulatory\\_survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey).

Sincerely,

Robert Revo Smith Jr.  
Senior Project Manager

Enclosures