

EXHIBIT B

STATEMENT OF OVERRIDING CONSIDERATIONS

SAN ELIJO LAGOON RESTORATION PROJECT

SCH: 2011111013

February 2016

Background

Pursuant to Section 21081 of the California Environmental Quality Act (CEQA) and Section 15091 of the State CEQA Guidelines, as explained in Exhibit A Findings Regarding Significant Effects, the County of San Diego (County) found that mitigation for several of the significant impacts under Alternative 1B – Refined of the San Elijo Lagoon Restoration Project (SELRP) (Visual Resources, Traffic and Circulation, Air Quality, and Global Climate Change and Greenhouse Gas Emissions) would not fully mitigate impacts to below a level of significance or would be infeasible (Biological Resources and Noise).

Biological Resources

Despite the implementation of all feasible and reasonable mitigation, restoration activities associated with implementation of Alternative 1B-Refined would result in greater than 50 percent temporal loss of sensitive habitats including open water and tidal mudflats. Because the temporal loss of these habitats may threaten local populations of sensitive resident species, this short-term direct impact is considered significant under Criterion A, as described in the Preface and Section 3.6 of the EIR/EIS, Biological Resources. Potential mitigation measures to minimize this impact were found infeasible. Consideration was given to phasing the project over a longer period of time to avoid impacting any more than 50 percent of a given habitat type within a basin. However, several challenges were presented with this phasing concept, including the inability to conduct wet construction; substantial earthwork to create “cells” to limit impacts to areas within a given basin; substantial increases in the overall length of the project, which could result in greater impacts to habitats and species; and substantially increased construction costs. For these reasons, this specific approach to phasing was determined to be more impactful and not feasible. Because mitigation is not available to eliminate or reduce these impacts, they would remain significant and unavoidable.

Despite the implementation of all feasible and reasonable mitigation, significant and unavoidable short-term noise impacts to sensitive bird species would occur as a result of restoration activities. When in proximity to wildlife, the effects of dredge and other construction noise may disrupt sensitive bird foraging or breeding behavior. The dredge and other earth-moving equipment would be slow and would be operating in one basin at a time; as such, most birds could relocate to quieter habitat. However, relocation during the breeding season is not feasible for nesting birds and, even with the numerous project design features to reduce noise levels, this is considered a significant and unavoidable impact. Potential mitigation measures considered included the use of an electric dredge in place of a diesel dredge, but it was found that the noise generated is not substantially different between the dredge types; thus, noise reduction would not be achieved. The use of temporary noise walls was considered but eliminated because the wet environment makes construction difficult, the constant movement of construction equipment creates a dynamic and ever-changing noise condition, the size of walls required to be effective would be substantial both in length and height, and wildlife movement obstruction that would result from the construction of noise walls is biologically undesirable. These issues all create additional impacts and reduce the effectiveness of a noise wall as noise mitigation, rendering this measure infeasible. An alternative work schedule was considered requiring work to be conducted outside of the bird nesting season, but that would extend the overall construction duration from 3 to 6 years and the longer duration would result in greater impacts than temporary construction noise during the breeding season, in part because the dredge or other construction equipment would be mobile. Furthermore, this measure would lengthen the amount of time the overall lagoon would need for habitat recovery by at least 2 years, and thus was determined to be biologically undesirable and therefore infeasible. No additional measures have been identified that could reduce this impact. Because mitigation is not feasible to eliminate or reduce this impact, it would remain significant and unavoidable under Criterion C of the Biological Resources analysis.

Visual Resources

Despite the implementation of all feasible and reasonable mitigation, significant and unavoidable temporary visual impacts would result from the change in visual quality and character of the lagoon for key viewers during restoration of the SELRP. Vegetation would be removed from a large portion of the central basin and substantial landform alteration would occur along with the presence of construction equipment and lighting. Such activities would be temporary but highly visible because of the contrast in color and texture with vegetation being replaced by exposed soil. Alterations in the project have been required that avoid or substantially lessen this impact. As required by Mitigation Measure Visual-1, the use of screening on fences surrounding construction staging areas would reduce the intrusiveness of the construction equipment in the visual setting as the equipment would be mostly concealed and obscured. While screening

material would blend as much as possible with the surrounding landscape and eliminate or minimize the aesthetically unpleasing views of parked or stored equipment, it would not reduce the overall visual impact of construction equipment operating within and around the lagoon. Implementation of this mitigation measure will reduce temporary construction-related visual impacts but would not fully eliminate the impact and it would remain significant and unavoidable.

Traffic and Circulation

Despite the implementation of all feasible and reasonable mitigation, bridge retrofitting activities would result in a significant temporary direct and cumulative traffic impact. These impacts would occur due to capacity reductions causing traffic operations to degrade from LOS A to LOS F on a segment of Coast Highway 101, south of Chesterfield Drive and causing traffic operations to degrade from LOS E to LOS F on a segment of Lomas Santa Fe Drive from Solana Hills Drive to Interstate 5. These impacts would be temporary, occurring only during retrofitting activities that require lane closure on the roadway. Traffic would return to normal operating conditions once all four lanes of traffic were fully operational. Alterations in the project have been required that avoid or substantially lessen this impact. As required by Mitigation Measure Traffic-1, traffic control plans would be designed and implemented and Traffic-2 would require advance notice to motorists of delays and traffic congestion. Other traffic mitigation options were considered but are not feasible due to the limited roadway options in the area and inability to temporarily modify Coast Highway 101. Thus, no additional mitigation measures are feasible. Implementation of the proposed mitigation measures will reduce temporary construction-related traffic impacts, but would not fully eliminate the impacts and they would remain significant and unavoidable.

Air Quality

Despite the implementation of all feasible and reasonable mitigation, significant and unavoidable temporary construction-related air quality impacts would result during restoration activities. Construction-generated reactive organic gases and oxides of nitrogen emissions would exceed applicable mass emission thresholds, resulting in a significant impact to regional air quality. Feasible mitigation is included but would not reduce the impact to less than significant. Mitigation Measures AQ-1 through AQ-4 would limit and minimize construction equipment emissions through advanced emission control technology and alternative fueled equipment. Additionally, Mitigation Measure AQ-5 would minimize generation of fugitive dust through actions such as watering, surface suppression and stabilization, and covering haul materials during transport. No additional feasible measures are available to further reduce air quality emissions. Implementation of the proposed mitigation measures will reduce the temporary

construction-related air quality impacts, but would not fully eliminate the impact and it would remain significant and unavoidable.

Noise

Despite the implementation of all feasible and reasonable mitigation, significant noise impacts have been identified during both lagoon restoration activities and materials placement activities due to nighttime dredging and materials placement activities.. Design features have been incorporated into the project to minimize equipment noise during construction at nearby residences, including housing exposed engines and ensuring equipment has effective mufflers. At materials placement sites, construction would be limited to 3 consecutive nights within a distance that could disturb sleep at a given residence (100 feet). No additional potential mitigation measures are feasible to minimize this impact. The use of noise walls was considered as an option for noise reduction, but the expanse of the lagoon and the continually moving dredge make the placement of noise walls less effective, and many noise-sensitive receptors located on the bluffs and hillsides surrounding the lagoon would not receive beneficial noise reduction from a noise wall located at lower elevations. At beach placement sites, active work areas on the beach shift approximately 100 to 200 feet per day and the use of noise walls is not efficient when left in place for a very short time before needing to be removed and relocated to another location. Limiting dredging and materials placement activities to daytime hours was also considered. However, if such limits were implemented, the overall construction time to implement the SELRP would be extended substantially. Additionally, the sequential nature of beach placement means that if activity is limited to daytime hours only a single placement cycle could occur within a typical 8-hour workday as opposed to four to five placement cycles with continuous dredging/placement activities. Extending the schedule would also require longer periods of inundation within the lagoon, resulting in potentially higher impacts to vegetation, noise-sensitive species, and trails and recreational amenities. For these reasons, these potential measures are not considered feasible. Because mitigation is not available to eliminate or reduce this impact, it would remain significant and unavoidable.

Global Climate Change and Greenhouse Gas (GHG) Emissions

Despite the implementation of all feasible and reasonable mitigation, significant GHG emissions would result during restoration activities associated with the SELRP. Emissions would result from restoration activities including mobilization/demobilization, site preparation, construction equipment and on-road vehicles, dredging, and materials disposal. The emissions estimated would exceed the threshold of 900 MT CO₂e per year. Alterations in the project have been required that avoid or substantially lessen this impact. The volume of GHG emissions generated by the project would be reduced with Mitigation Measures GHG-1 through GHG-3, which are

aimed at reducing those conditions that result in high vehicular emission of GHG. Generation of GHG emissions would also be reduced through the use of high-efficiency equipment and protocols for turning off energy-consuming equipment when not in use as dictated by Mitigation Measure GHG-4. Mitigation Measures AQ-1 through AQ-3 could also result in a reduction in GHG emissions. Beyond these measures, no additional feasible mitigation measures have been identified to further reduce GHG emissions. Implementation of these mitigation measures will reduce the GHG emissions resulting from the project, but would not fully eliminate the impact and it would remain significant and unavoidable.

Statement of Overriding Considerations

Pursuant to Section 15093 of the State CEQA Guidelines, when the lead agency approves a project that may result in the occurrence of significant effects that are identified in the Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS), but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the EIR/EIS and/or other information in the record.

The County has adopted Findings Regarding Significant Effects for the above project (Alternative 1B- Refined), which identify that certain significant effects of implementing the project are unavoidable even after incorporation of any feasible mitigation measures. The County finds that the remaining unavoidable significant effects are acceptable due to each of the specific economic, legal, social, technological, or other benefits that will result from approval and implementation of Alternative 1B-Refined , as listed below. All of these benefits are based on the facts set forth in the Findings Regarding Significant Effects, the EIR/EIS, and the record of proceedings for this project. Each of these benefits is a separate and independent basis that justifies approval of the project, so that if a court were to set aside the determination that any particular benefit will occur and justifies approval of Alternative 1B-Refined, the County determines that it would stand by its determination that the remaining benefit(s) is or are sufficient to warrant project approval.

Overriding Benefits

The County finds that the SELRP (Alternative 1B- Refined) would have the following substantial overriding benefits:

1. Increased Water Quality

The SELRP would provide a long-term water quality improvement throughout the lagoon by removing nutrient-rich sediments, increasing circulation, and enhancing tidal exchange.

The lagoon is currently identified by the Regional Water Quality Control Board on the Section 303(d) list as water quality impaired for sedimentation, nutrients, and bacteria. Implementation of the SELRP would address these water quality impairments by increasing the ability of the lagoon to drain fluvial sediments and bacteria, as well as removing historically accumulated nutrients bound into the sediments. Drainage patterns and circulation within the lagoon would be altered, but would benefit the lagoon overall with respect to biological resources and water quality, in particular. Hydrologic improvements would improve existing constrictions within the lagoon restricting water flow and circulation. The project would also improve the ability of the lagoon to drain freshwater currently impounded in the east basin and improve tidal influence throughout the basins. Water residence time of the east basin would be reduced from 15 days to 8 days. Though changing existing drainage patterns, the SELRP would result in a beneficial impact on circulation and surface drainage patterns.

2. Beneficial Reuse of Material

The SELRP would involve overexcavation in the central basin so that poor-quality material (e.g., fine-grained) could be buried in an “overdredge” pit and covered with a sand cap. The good-quality (e.g., larger-grained) material from the overdredge pit in the central basin would then be available for beneficial reuse. It is anticipated that approximately 920,000 cubic yards of material would be exported for reuse for the initial implementation of the SELRP.

Social and Economic Effects

The social and economic effects of material placement would be beneficial. The potential reuse of material would provide beaches with wider and larger sand areas, and beaches with exposed cobblestones would be covered with sand. Expansive sandy beaches provide greater recreational opportunities and opportunity for public access, and enhance tourism in the region. Public property and infrastructure would have additional protection from wave action and storm events while sand remains at the reuse/placement locations as the material placement would serve to protect against the undercutting or erosion of cliffs or other areas subject to wave-induced erosion, thus resulting in the beneficial outcome of reducing slope instability and landslide potential.

Grunion Spawning

Materials placement has the potential to enhance or increase persistence of sandy beach habitat at erosive beaches. This would be beneficial for grunion at placement sites where either dense cobble or narrow beach width limits spawning habitat under existing conditions. Monitoring after the 2001 Regional Beach Sand Project demonstrated that

beach nourishment enhanced sandy beach habitat functions at several beaches, most noticeably at beaches that transitioned from either cobble-covered beaches supporting few biological resources or beaches with highly seasonal periods of productivity coincident with seasonal sand accretion and erosion. The primary benefit was to increase the persistence of sandy beach habitat across seasons such that habitat was suitable early in the season to support the onset of the grunion spawning season and invertebrate recruitment period. This enhancement resulted in increased invertebrate diversity earlier in the season, increased bird use across tide conditions, and enhanced habitat for grunion spawning (e.g., increased beach width and reduction in cobble surface). Similar beneficial impacts would be anticipated after implementation of the SELRP.

3. Improved Fish Habitat

The SELRP would result in long-term beneficial impacts to Essential Fish Habitat by creating additional areas of open water, tidal channels of various degrees, and mudflat habitat. The conditions of existing subtidal habitat would also be enhanced by increasing tidal influence within the lagoon. This additional habitat would support local fish populations and benefit Essential Fish Habitat within the project area.

4. Improved Avian Habitat

Following restoration, improved water quality conditions would result in higher productivity in restored mudflat areas over the long term and would have direct benefits to foraging birds, such as the federally listed threatened western snowy plover and state and federally listed endangered California least tern. The condition of foraging habitat is also expected to improve as a result of restoration due to improved tidal exchange and sediment/water quality. The improved tidal circulation and restoration to appropriate habitat elevations would enhance environmental conditions for the prey communities that both birds feed on.

Similarly, tidal circulation would improve environmental conditions for the fish community, which would benefit California least tern and other diving birds. The restoration project would directly benefit species that regularly use the lagoon for foraging and roosting, by increasing foraging habitat in both quantity and quality. Similarly, the improved hydrologic and water quality conditions are expected to have a positive effect on the fish community, which is the primary food of California least tern.

Improved hydrology would enhance tidal flushing and freshwater export, which would facilitate the drying of high-marsh habitat used for ground nesting species, such as Belding's savannah sparrow. In addition, restoring tidal flushing and salt water exposure

to the existing salt marsh habitat in the northeast portion of the lagoon may also improve habitat structure.

5. Sea Level Rise Adaptation and Flood Control

Implementation of the SELRP and the associated adaptive maintenance and monitoring plan would serve to improve the ability of the lagoon to adapt to anticipated future sea level rise. An example is placement of dredged material into wetland to create upland transitional areas to supplement existing natural transitional areas located around the lagoon perimeter. This helps increase the lagoon's resiliency to sea level rise in the future. The project aims to create a more resilient ecosystem that can accommodate future climate change scenarios, including sea level rise. The lagoon would benefit from continued opening of the existing inlet and annual maintenance, allowing additional opportunity to respond to long-term climate change impacts. Specific to sea level rise and extreme events, the proposed project would provide a benefit by maintaining and enhancing tidal exchange with the ocean. Better tidal exchange between the lagoon and ocean increases tidal range in the lagoon and enhances its ability to slowly adapt to changes in sea level over time. Additionally, lower flood elevations would provide additional resiliency against floods, other extreme events, and sea level rise.

6. Vector Control

Increased tidal action resulting from implementation of the SELRP would result in benefits for mosquito abatement, including increased salinity, which reduces the ability of these vectors to reproduce; quick draw-down, which prevents establishment of stagnant ponds on the lagoon edges; and habitat conversion with less emergent plant growth in the east basin, resulting in better circulation of water, improved access for San Diego County Vector Control staff, and improved effectiveness of vector control measures.

7. Trail Connectivity and Lagoon Access

Implementation of the SELRP would include the construction of a new trail in the central basin. This trail would establish an east-west connection from the North Rios Avenue Trail that parallels the North County Transit District railroad to the Nature Center Loop. This enhancement would also provide for additional north-south access via this trail from the Nature Center Loop to the North Rios trailhead. This would add 0.25 mile of trails to the current system and would provide a link between the south and north sides of the central basin.

8. Employment Opportunity

Implementation of the SELRP would generate new construction employment opportunities over the multi-year construction period. Employment opportunities would continue during project operation with the annual maintenance. This would provide an economic benefit to the community, and potentially the region as a whole.

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