



DUPLICATE ORIGINAL

THE CITY OF SAN DIEGO

February 13, 2003

Files: Property File L-010-1

Job: 223342

Land Designation/Zone: RR-1 (County)

Benevolent and Protective Order of Elks
Santee Lodge #2698
11633 Woodside Avenue
Lakeside CA 92040

Attention: Dave McKie

Reference: Right of Entry Permit - Water Department Parcel / APN 382-210-01

Dear Mr. McKie:

The City of San Diego ("City") hereby grants permission to Elks Lodge #2698 ("Permittee") to enter upon the above-referenced City-owned property ("Permit Area"), as delineated on the attached Exhibit "A," upon the following terms and conditions:

1. Use and Permit Area. Permittee shall have exclusive use of the Permit Area for overflow parking for Elk's Lodge and for no other purpose whatsoever. Permittee's use of Permit Area is further conditioned upon full compliance with the requirements as stated in the attached Exhibit "B".
2. Permit Fee. Consideration to City for granting this Permit shall be a \$360.00 nonrefundable processing fee, the installation and operation of an overhead security light, installation of a gravel surface, replacement of the wooden footbridge, installation of a chainlink fence, providing enhanced security of the Permit Area to deter illegal dumping and off-road activities, and a general clean-up of the Permit Area, including weeds and previously illegally dumped materials.
3. Effective Date. This Permit shall be in effect upon execution by City and Permittee and approval by the City Attorney ("Effective Date") and shall expire on December 31, 2005.
4. Insurance. Prior to entry onto the Permit Area, Permittee shall deliver to City a policy of public liability and property damage insurance, in which "the City of San Diego" is named as an additional insured, has been secured in an amount of not less than \$2 million combined single limit liability with an occurrence claims form and that the



Real Estate Assets

1200 Third Avenue, Suite 1700, MS 51A • San Diego, CA 92101-4199

Tel (619) 236-6020 Fax (619) 236-6706

policy shall be kept in force for the duration of this Permit. A certificate of the insurance shall be filed with the City Real Estate Assets Department upon execution of this Permit.

5. Hold Harmless. Permittee agrees to defend, indemnify, protect, and hold the City, its agents, officers, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to Permittee's employees, invitees, guests, agents, or officers, which arise out of or are in any manner directly or indirectly connected with the grant of this Permit to the Permittee, the development or operation of the Permit Area or the work and operations to be performed under this agreement, and all expenses of investigating and defending against same; provided, however, that Permittee's duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of the City, its agents, officers, or employees.
6. No Discrimination. Permittee shall not discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in Permittee's use of the Permit Area, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.
7. Permittee's Risk. All risks in connection with Permittee's use of the Permit Area and any damages to the improvements thereon, thereunder, or in the vicinity thereof shall be borne in full by Permittee.
8. Nuisance. Permittee shall not use the Permit Area in any manner which, in the opinion of the City Manager, creates a nuisance or disturbs the quiet enjoyment of persons in the surrounding area.
9. Revocable Permit. This Permit is not a lease. It is a license to use City property, revocable at any time by the City of San Diego. It is mutually agreed that the City of San Diego shall not be obligated for any loss, financial or otherwise, which may be incurred by Permittee as a result of termination of this Permit, and, further, that Permittee expressly waives any claim for expense or loss which Permittee might incur as a result of termination of this Permit. City shall have and maintain the right at all times to enter upon the Permit Area in the City's sole discretion.
10. Possessory Interest Tax. Permittee recognizes and understands that this Permit may create a possessory interest subject to property taxation and that Permittee may be subject to the payment of property taxes levied on such interest. Such tax payment

shall not reduce any fee paid the City of San Diego under this Permit. Permittee shall pay any tax or assessment before it becomes delinquent.

11. Compliance with Laws. Permittee shall at its sole cost and expense comply with all the requirements of all municipal, state, and federal authorities now in effect or which may hereafter be in effect, which pertain to the Permit Area.
12. Deposit. Deposit is hereby waived. Upon expiration or earlier termination of this Permit, Permittee shall at its sole cost remove all materials and repair and/or restore the Permit Area to its original condition, including any hazardous or toxic waste remediation, to the satisfaction of the City Manager.
13. No Assignment. Permittee shall not assign any rights granted by this Permit nor any interest therein without the prior written approval of the City Manager. Approval of any such proposed assignment may be withheld in the sole and absolute discretion of the City Manager. Any assignment by operation of law shall automatically terminate this Permit.
14. Signs. No signs shall be displayed on the Permit Area without the prior written consent of the City Manager.
15. Encumbrances. Permittee shall keep the Permit Area free from all encumbrances and liens of any nature during the term of the Permit. Permittee shall defend, hold harmless and indemnify the City from and against any and all such encumbrances and/or liens and from and against any claim, liability, cost or expense (including all costs and attorneys fees), which may be filed or instituted against the Permit Area (including without limitation the Permittee's failure or the failure of any contractor or subcontractor hired by Permittee) to pay any person or persons referred to in Section 3181 of the California Civil Code or other applicable sections.
16. Maintenance of the Permit Area. Permittee shall be solely responsible for maintaining the Permit Area in a decent, safe, healthy and sanitary condition at all times during the entire term of this Permit.
17. Grading. Grading and compaction operations shall be done in such a manner that the existing surface drainage pattern will not be disrupted and the final grades will not interfere with the existing flow pattern.
18. Governmental Approvals. By the granting of this permit, neither City nor the Council of City is obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to development or operation of the premises. Discretionary action includes but is not limited to

Page 4

rezonings, variances, environmental clearances, or any other governmental agency approvals which may be required for the development and operation of the Permit Area.

Please acknowledge your agreement to the foregoing terms and conditions on the enclosed copy of this letter and return it to the City Real Estate Assets Department, together with your insurance certificate and check for \$360.00 made payable to the "City Treasurer," within 10 days from receipt hereof.

If you should require additional information or have any questions, please call Bert Gaudio, Property Agent, at (619) 236-6063.

Very truly yours,



Tim C. Rothans, Deputy Director
Real Estate Assets Department

ACG/b

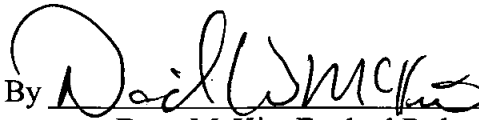
Attachments

cc: County Assessor

THE ABOVE IS ACKNOWLEDGED AND ACCEPTED THIS 28th DAY OF April, 2003.

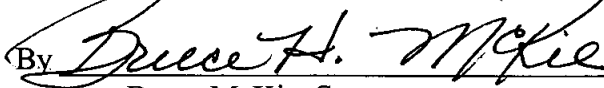
Elks Santee Lodge #2698

By



Dave McKie, Exalted Ruler (President)

By



Bruce McKie, Secretary

The City of San Diego as Responsible Agency under CEQA has reviewed and considered the Third Party Beneficiary Statement Certificate of Inclusion, dated March 17, 2003, covering this activity, prepared by the County of San Diego Department of Planning and Land Use.

ENVIRONMENTAL ANALYSIS SECTION
ENVIRONMENTAL CLEARANCE:

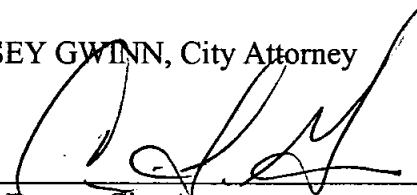
By



APPROVED AS TO FORM AND LEGALITY

CASEY GWINN, City Attorney

By



Deputy City Attorney

4/28/03

SR-67 NB SR-67 RA

SR-67 NB SR-67 RA

WOOL

38221001

PERMIT
AREA

Legend



EXHIBIT A



1:1293

Vicinity Map



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Plot Date: 10/07/02

EXHIBIT B

The following conditions must be met, or in force within thirty days of the date of Permit execution by the City:

1. Installation and operation of a dusk-to-dawn security light on the utility pole nearest the northeast corner of the Permit Area;
2. Installation of a chain-link fence to comply with the Permit Area drawing, Exhibit A. The fence posts must be above-ground, or limited to a maximum of 18 inches of surface penetration. Utmost care must be taken not to damage subsurface pipes;
3. Minor grading (not to affect drainage patterns), and removal of illegal dumped materials from site;
4. Installation of a parking lot surface consisting of gravel or rock within the Permit Area;
5. Replacement of the wooden footbridge with a safer, more substantial footbridge which complies with all applicable codes and ordinances;
6. Security for the Permit Area in order to deter illegal dumping, which is currently taking place;
7. Removal and prevention of weeds and other noxious growth and debris within the Permit Area.



RECEIVED
CITY OF SAN DIEGO
DIRECTOR
(858) 694-2962

03 APR -2 PM 2:17

County of San Diego

SAN MARCOS OFFICE
338 VIA VERA CRUZ - SUITE 201
SAN MARCOS, CA 92069-2620
(760) 471-0730

EL CAJON OFFICE
200 EAST MAIN ST. - SIXTH FLOOR
EL CAJON, CA 92020-3912
(619) 441-4030

DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666

INFORMATION (858) 694-2960

TOLL FREE (800) 411-0017

March 28, 2003

Randy Torres
Benevolent and Protective Order of Elks
Santee Lodge # 2698
Fax: (619) 334-5290

USE OF ASSESSOR'S PARCEL NUMBER 382-210-01-00 FOR OVERFLOW PARKING

Dear Mr. Torres;

This letter is in response to your inquiry regarding use of property adjacent to the Elks facility for periodic use as overflow parking. According to information you have provided the site is owned by the City of San Diego and used for a Water District pumping station.

The Water District may install a parking lot on their site for their use. Further, the district may choose to allow the Elks to use the parking facility on a periodic basis for overflow parking. If you have additional questions regarding the parking lot please call me at (858) 694-3743.

Sincerely,

ROSE M. BLAKE
Regional Planner



COUNTY OF SAN DIEGO • DEPARTMENT OF PLANNING AND LAND USE
MSCP DIVISION

Dear Applicant:

The County of San Diego has a number of animals and plants that have been listed as Rare or Endangered by the State and Federal Governments. The effect of these listings is that the Federal and/or State Wildlife Agencies must issue a permit before these species can be impacted. These permits can be very time consuming and expensive and would be the responsibility of the landowner to obtain. The County, however, has adopted the Multiple Species Conservation Program (MSCP) for the area where you are planning to clear and has received a "blanket permit" to impact 85 species in this area from the Federal and State governments (to view a list of the 85 MSCP Species visit the County's Web Site: <http://www.co.san-diego.ca.us/cnty/cntydepts/landuse/planning/specieslist.pdf>).

As a result, you, as a property owner, may legally clear up to **5 acres** of land on the parcel listed below and impact any of the species or habitats covered by the MSCP as a result of actions directly associated and authorized with your parcel. However, this does not imply that you may clear within an open space easement or land otherwise restricted. In addition, **this certificate does not authorize take of species inhabiting wetlands under federal jurisdiction, nor does it in any way denote compliance with applicable state and federal regulations regarding impacts to wetlands or associated riparian habitat.** This certificate may not be issued retroactively and does not provide protection under the Endangered Species Act for any clearing or grading which may have been completed prior to issuance of this certificate. Please note that clearing for future subdivisions, use permits or other County required discretionary actions is not permitted under this certificate.

The paragraphs that follow are an official recognition of this permission. We suggest you keep this form in your records.

THIRD PARTY BENEFICIARY STATEMENT

CERTIFICATE OF INCLUSION

**FOR CLEARING OF FIVE (5) ACRES OF HABITAT ON PARCELS
INSIDE THE MULTIPLE SPECIES CONSERVATION PROGRAM
AND
OUTSIDE PRE-APPROVED MITIGATION AREA**

In consequence of the County of San Diego having complied with the terms of the Section 10(a)(1)(B) Permit issued pursuant to the Federal Endangered Species Act, the Section California Endangered Species Act/Natural Communities Conservation Program (CESA/NCCP) Permit issued pursuant to the California Endangered Species Act, the applicant, as a beneficiary of the San Diego County Multiple Species Conservation Program (MSCP) Implementing Agreement is permitted to clear up to five acres, which may result in a legally permitted take of State Protected Species and Federally Protected Species which are listed in the County's Section 10(a)(1)(B) and CESA/NCCP Permits.

The five-acre area to be cleared is located outside of any Pre-Approved Mitigation Area. It is considered too small to pose a potential impact to the assembly of a preserve system and because it is located outside of the Pre-Approved Mitigation Area is not considered to be critical for preserve assembly.

The area exempted is restricted to that shown on the project plot plan for the Assessor's Parcel listed below. If the parcel is five acres or smaller in size a map is not necessary.

Assessor's Parcel Number: 382-210-01 Date: March 17, 2003

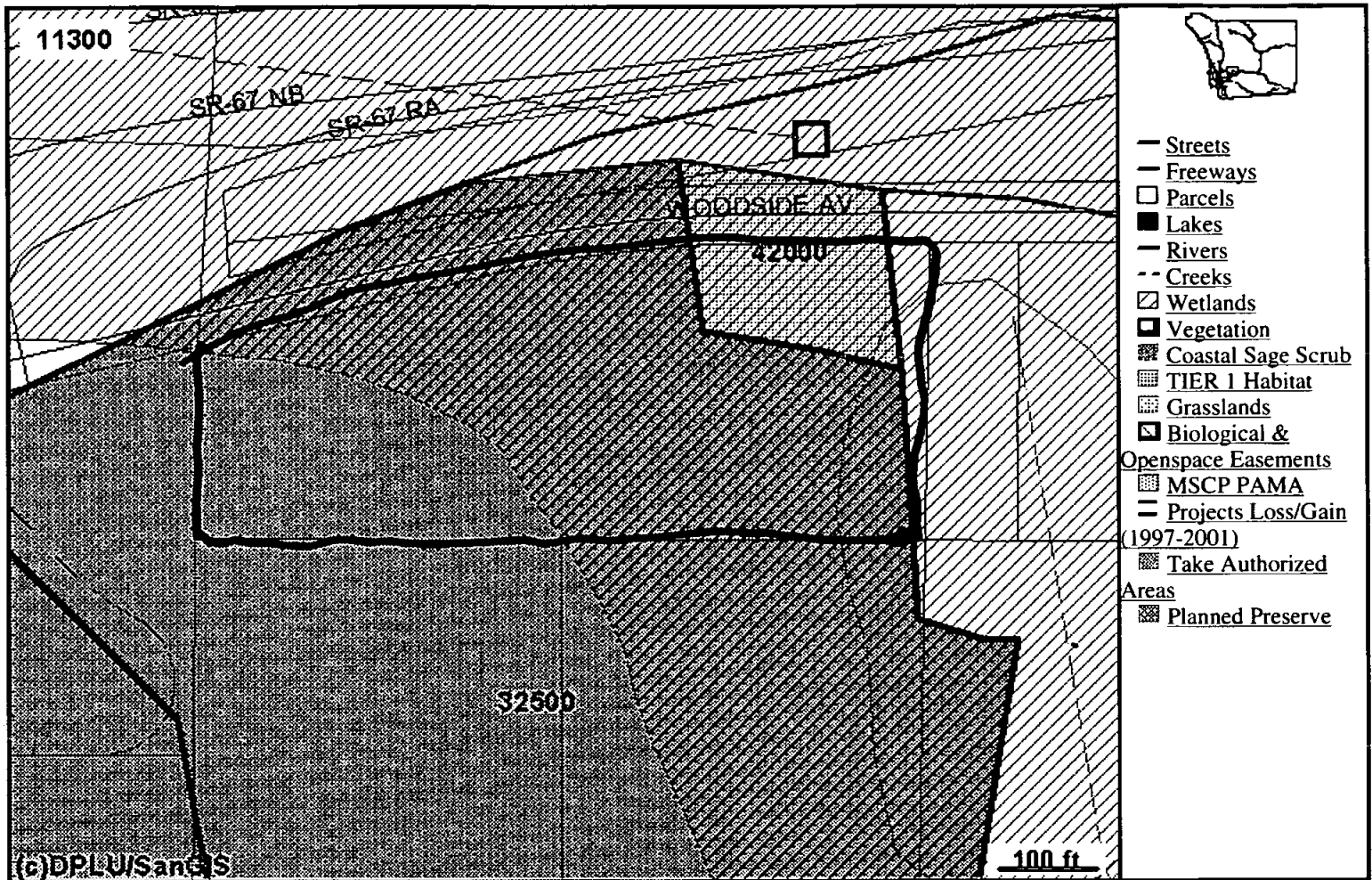
Approved by: Mindy Fogg, Environmental Management Specialist/Biologist

DPLU #608E (Revised 2/20/01) City of San Diego COI – Does not authorize take within Wetlands or Wetland Habitats

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CA 92123-1666 • (858) 694-2960 • (800) 411-0017

Title: 382-210-01

Current Date: 03/17/2003 Time: 09:23



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