

CALIFORNIA COASTAL COMMISSION

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REVISED PROPOSED FINDINGS
ON COMBINED CONSISTENCY CERTIFICATION
AND COASTAL DEVELOPMENT PERMIT APPLICATION

7-0 approved
 5/13/93

Consistency Certification No.	CC-63-92
Application No.	5-92-232
Staff:	MPD-SF
Cons. Cert. File Date:	6/30/92
Permit Applic. File Date:	10/20/92
49th Day:	Waived
180th Day:	4/18/93
3 Months:	Extended
6 Months:	12/30/93
Commission Vote:	11/18/92
Hearing on Findings	5/11-14/93

APPLICANT:

Transportation Corridor Agencies (TCA)

DEVELOPMENT LOCATION:

Between existing Route 73 in the City of Newport Beach and the connection with Interstate 5 (I-5) in San Juan Capistrano, Orange County (Exhibits 1 and 2)

DEVELOPMENT DESCRIPTION:

Construction of the San Joaquin Hills Transportation Corridor (SJHTC) (also referred to as "Corridor") (Exhibits 2-10)

PREVAILING COMMISSIONERS:

Commissioners Calcagno, Cervantes, Doo, Malcolm, Moulton-Patterson, Neely, Rick, and Wright

SUBSTANTIVE FILE DOCUMENTS:

See Page 58

EXECUTIVE SUMMARY:

On June 30, 1992, the applicant (TCA) submitted a combined coastal development permit and consistency certification for the construction of the San Joaquin Hills Transportation Corridor (SJHTC), a 17.5 mile tollway between existing State Route 73 in the City of Newport Beach and the connection with Interstate 5 (I-5) in San Juan Capistrano, Orange County. Two small components of this tollway are physically within the coastal zone: (1) approximately 2/3 of a mile in Newport Beach (the San Diego Creek bridge crossings, and two habitat

identified, and legislatively mandated in Coastal Act Section 30169(g), as "development...permitted consistent with the provisions of this division under Section 30254.

Thus, TCA asserts that under 30169(g) (quoted in full in Exhibit 24), the Commission is mandated to authorize the SJHTC as "infrastructure necessary and appropriate to serve development within the portions of the Aliso Viejo Planned Community..." The Commission disagrees, and finds that the SJHTC project cannot be construed as infrastructure for the Aliso Viejo Planned Community. The applicant's FEIS clearly establishes this road as a major regional transportation corridor serving all of coastal Orange County. Exhibit 5, showing the Area of Benefit, and Exhibit 3, showing employment centers served, clearly establish the project to serve areas significantly larger than the Aliso Viejo Planned Community. Moreover, if the SJHTC is not constructed, the grading that has already occurred in the Aliso Viejo community that would have become the roadbed for the SJHTC will be transposed to become a roadbed for a local road that would constitute infrastructure for the Aliso Viejo community. Thus, the fact that this grading has already occurred meets the test of 30169 that infrastructure for this community be allowed to occur. The Commission therefore is not bound under the provisions of Section 30169 to authorize the SJHTC by virtue of its being considered "infrastructure necessary and appropriate to serve ...the Aliso Viejo Planned Community..."

E. Status of Local Coastal Program. The standard of review for the federal consistency certification in this case is the policies of Chapter 3 of the Coastal Act. If an LCP has been certified by the Commission and incorporated into the CCMP, it provides guidance in applying Chapter 3 policies in light of local circumstances. If the LCP has not been incorporated into the CCMP, it cannot be used to guide the Commission's decision, but it can be used as background information. In this situation, the City of Newport Beach's LCP has not been certified by the Commission. The County of Orange's LCP has been certified by the Commission, but has not been incorporated into the CCMP. Therefore neither of these LCPs can be relied upon to guide the Commission's decision for federal consistency purposes, although they can be used as background information.

In reviewing the coastal development permit, as with the consistency certification, Chapter 3 of the Coastal Act, and not the LCP, is the standard of review (because Newport Beach's LCP has not been certified). However the Commission must also analyze in reviewing the permit whether approval of the permit would prejudice LCP preparation for Newport Beach (see page 56-57 of this staff report for that analysis).

F. Applicant's Consistency Certification. TCA has certified that the proposed activity complies with California's approved coastal management program and will be conducted in a manner consistent with such program.