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Gray Davis, Governor

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STAFF RECOMMENDATION
ON CONSISTENCY DETERMINATION

Consistency Determination No.	**CD-096-01**
Staff:	JRR-SF
File Date:	October 3, 2001
60th Day:	December 2, 2001
75th Day:	extended to March 31, 2002
Commission Meeting:	March 5, 2002

FEDERAL AGENCY: **NATURAL RESOURCES CONSERVATION SERVICE**

LOCATION: Salinas River Watershed, Monterey County (Exhibit 1)

DESCRIPTION: A five-year general consistency determination by the Natural Resources Conservation Service for the implementation of its Salinas River Watershed Project. This project involves the construction/installation of Best Management Practices (BMPs) for the control of runoff from agricultural lands, enhancing erosion control, pesticide and nutrient management, irrigation water management, wetland conservation and restoration, wildlife habitat protection, flood control, and stabilization of streambanks. Specific development activities include the construction/installation of diversions, filter strips, grade stabilization structures, grassed waterways, sediment basins, streambank protection, stream channel stabilization, underground outlets, and water and sediment control basins.

SUBSTANTIVE FILE DOCUMENTS:

(See Attachment A)

EXECUTIVE SUMMARY

The Natural Resources Conservation Service (NRCS) submitted a general consistency determination for the Salinas River Watershed Permit Coordination Program. This project is designed to control erosion and restore habitat on private agricultural land within the Salinas River Watershed, which drains into the Monterey Bay National Marine Sanctuary. In addition to improving coastal water quality, this project will maintain the prime and unique agricultural soils that are characteristic of this watershed. Therefore, the project is consistent with the marine resources, habitat, and agricultural policies of the California Coastal Management Program (CCMP).

To address potential cumulative impacts to sensitive habitats and coastal water quality associated with the construction and installation of the selected BMPs, the project includes environmental safeguards. These protections will ensure that the project conforms to the policies of the Coastal Act protecting environmentally sensitive habitats and the quality and biological productivity of coastal waters.

In addition, NRCS proposes to notify the Coastal Commission of each individual project at least ten working days prior to implementation. This notice will include a description of the project, its location, and any mitigation measures. The notice will also provide the Commission with an opportunity to confirm that each individual project conforms to this General Consistency Determination. NRCS will also provide an annual report that: (1) lists participating landowners; (2) describes each project, area affected, and biological enhancements; (3) lists conservation benefits and any net gains in wetland and riparian areas; and (4) provides photo documentation of before and after site conditions.

STAFF SUMMARY AND RECOMMENDATION:

I. Staff Note/Procedures

The NRCS submitted a general consistency determination for a program to reduce polluted runoff in the Salinas River Watershed, and therefore, the Commission is reviewing general types of activities rather than a specific project.

NRCS has made this consistency determination pursuant to the federal regulations implementing the Coastal Zone Management Act (CZMA). These regulations provide that:

> *In cases where Federal agencies will be performing repeated activity other than a development project* (e.g., *ongoing maintenance, waste disposal) which cumulatively has an effect upon any coastal use or resource, the Federal agency may develop a general consistency determination, thereby avoiding the necessity of issuing separate consistency determinations for each incremental action controlled by the major activity. A Federal agency may provide a State agency with a general consistency determination only in situations where the incremental actions are repetitive and do not affect any coastal use or resource when performed separately. A Federal agency and State agency may mutually agree on a general consistency determination for de minimis activities* (see *§930.33(a)(3)) or any other repetitive activity or category of activity(ies). If a Federal agency issues a general consistency determination, it shall thereafter periodically consult with the State agency to discuss the manner in which the incremental actions are being undertaken.*[1]

A Commission concurrence with this consistency determination will allow the NRCS to construct and install the proposed BMPs for the control of sedimentation within the Salinas River Watershed, without further formal review by the Coastal Commission. The NRCS has, however, agreed to notify Commission staff of each individual project before its

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[1] 15 CFR §930.36(c).

implementation, so that it can be reviewed for compliance with this consistency determination. Any activities that do not fall within the scope of the Salinas River Watershed project and this consistency determination will be subject to normal regulatory review processes.

The proposed project is coordinated among the NRCS, the Resource Conservation District of Monterey County (RCD), Sustainable Conservation (a non-profit organization), and private land owners, lessees, and managers on whose property the BMPs will be installed. These BMPs are based upon federal recommendations for the control of polluted runoff, called for by federal legislation. NRCS has established specific guidelines and procedures for the installation and maintenance of the BMPs to ensure that project development activities, implemented with the assistance of the RCD and landowner/operator, are consistent with federal objectives and comply with all applicable state and federal regulations, as further discussed below.

The RCD, as the local project sponsor, supports the NRCS by providing the technical assistance available under this project. Funding for the technical assistance is provided by the federal entity (NRCS) under the authority of the federal Watershed Protection and Flood Prevention Act. Cost share funding, which can be up to 75% of the total project cost, is provided through the federal Farm Bill under the Environmental Quality Incentive Program. The remaining project costs are borne by the participating landowner/operator. In most instances, this contribution is provided in the form of in kind labor.

The NRCS and RCD act as a technical assistance team to assist growers and landowners on the development of practices to reduce erosion and sediment yields from lands in the drainage basin. Activities include baseline identification, outreach and marketing, local participation, on-farm testing and delivery, institutional strengthening, and monitoring and evaluation. All works of improvement must be installed, operated, and maintained in accordance with specified terms, conditions, and stipulations. NRCS staff periodically inspects project installation and maintenance to ensure compliance with these provisions. This framework ensures that all project activities undertaken by non-federal entities will be fully consistent with the federally specified project objectives and procedures referenced in the submitted consistency determination, which are described and analyzed in subsequent sections of this staff report.

Due to the specific nature of the proposed development, and the clearly defined process by which the BMPs will be implemented and maintained, the role of non-federal project participants is ministerial; activities undertaken by the participating non-federal entities must comply with the standards and specifications used by the NRCS. Given this fact, and in light of the federal goals that will be achieved with significant federal funding and oversight, the participation of non-federal entities in carrying out this federal project does not trigger the need for separate coastal development permits. Nevertheless, any coastal development activities undertaken by the RCD, landowner, or operator outside of the specific parameters of the Salinas River Watershed project and associated consistency determination will require separate coastal development permit review by Monterey County and/or the Coastal Commission.

Federal consistency review is therefore an appropriate way for the Commission to evaluate the Chapter 3 consistency of this federal project, which is exempt from CDP requirements. Commission concurrence with this federal consistency determination will satisfy all coastal development review requirements for this federal project both within the CDP jurisdiction of Monterey County as well as within the Commission's original jurisdiction. As noted above, any development activities that are not specifically authorized by this consistency determination will be subject to normal CDP requirements if located within the coastal zone.

II. Status of Local Coastal Program

The standard of review for federal consistency determinations is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal Program (LCP) of the affected area. If an LCP that the Commission has certified and incorporated into the California Coastal Management Program (CCMP) provides development standards that are applicable to the project site, the LCP can provide 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. The County of Monterey's LCP has been certified and incorporated into the CCMP.

III. Project Description

The NRCS is requesting Commission concurrence for the construction and installation of sixteen BMPs for the control of erosion, sedimentation, and other discharges into the Salinas River Watershed. These practices are described below.

Table 1, Proposed BMPs for the Salinas River Watershed Project

1. ACCESS ROADS	Improve existing routes for moving livestock, produce, and equipment and providing access to property for the purpose of controlling runoff, preventing erosion, and improving water quality.
2. CRITICAL AREA PLANTING	Plant native vegetation to reduce damage from sediment and runoff, protect wildlife habitat, and improve visual resources. Planting materials include trees, shrubs, vines, grasses, or legumes on highly erodible or critically eroding areas (this does not include tree planting mainly for wood products).
3. DIVERSION	Construct an earth channel across the slope with a supporting ridge on the lower side to slow and redirect surface flow. This practice results in the reduction of sheet and rill erosion. Sediment may also be reduced by the elimination of gullies.
4. FENCE	Construct a barrier to limit the passage of livestock or wildlife into aquatic areas. Fences are not needed where natural barriers will serve the purpose. This practice is usually applied in conjunction with other practices to improve resource conditions.
5. FILTER STRIP	Plant a strip or area of vegetation to remove sediment, organic matter, and other pollutants from runoff and wastewater. Filter strips may also reduce erosion on the area on which they are implemented. This practice is used on cropland at the lower edges of fields adjacent to streams, ponds, and lakes. Installation often requires soil manipulation to remove surface irregularities and prepare for planting. Pesticides and nutrients may be removed from runoff through infiltration, absorption, adsorption, decomposition, and volatilization.

Table 1, Proposed BMPs for the Salinas River Watershed Project (continued)

6. GRADE STABILIZATION STRUCTURE	Build a structure into a channel bottom to control the grade and prevent head cutting. Where possible, designs rely on biotechnical solutions. However, some projects may require rock or concrete to control the rate of flow or water level in channels. Stream velocities will be reduced above and below the structure resulting in reduced erosion and decreased yield of sediment and attached pollutants. Structures that trap sediment will also improve downstream water quality.
7. GRASSED WATERWAY	Plant grass to reduce erosion in concentrated flow areas. A channel is shaped or graded to stabilize substrate and improve conveyance of runoff. Grassed waterways may be used to move runoff from agricultural lands into riparian or wetland areas. This may result in the reduction of sediment and substances delivered to receiving waters.
8. IRRIGATION REGULATING RESERVOIR	Construct a small storage reservoir to regulate or store water for irrigation. This practice improves management of irrigation water and livestock watering by providing short-period storage.
9. PIPELINE	Reduce bank erosion, sediment yield and manure in waterways by supplying water to off-stream watering locations, such as troughs, livestock are diverted away from stream and lakes.
10. SEDIMENT BASINS	Construct sediment basins to trap sediment and other debris and to prevent undesirable deposition into aquatic areas. Basins are generally located at the base of agricultural lands adjacent to natural drainage or riparian areas. The practice does not treat the source of sediment but provides a barrier to reduce degradation of surface water downstream. Basins may also increase groundwater recharge. The design of spillways and outlet works will include water control structures to prevent scouring at discharge point into natural drainage.
11. SPRING DEVELOPMENT	Improve the distribution of water or increase the quantity of water for livestock and wildlife by fencing out livestock, excavating, cleaning, and capping springs, or providing collection and storage facilities. Water bearing soil and rocks are developed and piping is installed to a trough or tank away from the spring. Developing sources of water away from riparian areas and water bodies may reduce the impacts of livestock on those areas as well. Development is confined to springs or seepage areas that can furnish a dependable supply of water. Water flow from the spring or seep may be temporarily reduced during the construction period. Spring development uses an excavation process that does not result in the placement of fill in or around spring areas.
12. STREAM BANK PROTECTION	Stabilize and protect stream banks using vegetation or structures to protect against scouring and erosion. Bank protection reduces sediment loads, which can cause downstream damage. This practice improves the stream for fish and wildlife habitat and protects adjacent land from erosion. The streambed grade must be controlled before placement of bank protection.
13. STREAM CHANNEL STABILIZATION	Stabilize the channel with suitable structures for streams undergoing damaging that cannot be controlled with upstream practices. The design and installation of stream channel stabilization structures shall result in a stable streambed favorable to wildlife and riparian growth.
14. TANK OR TROUGH	Provide watering facilities for livestock at selected locations, allowing for proper distribution of grazing, better grassland management for erosion control, and reduced usage of streams by livestock.
15. UNDER-GROUND OUTLETS	Install a conduit beneath the ground to collect surface water and convey it to a suitable outlet. Excess surface water generated by farmland on steep terrain can be collected and conveyed to a sediment basin, which trap suspended sediments before releasing water into natural drainages.
16. WATER AND SEDIMENT CONTROL BASIN	Construct earthen embankment or a combination ridge and channel across the slope and minor watercourses to form a sediment trap and water detention basin. This practice traps and removes sediment and sediment-attached substances from runoff. Salts, soluble nutrients, and soluble pesticides will be collected with the runoff and will not be released to surface waters. Often located alongside riparian or wetland environments to buffer impact of upslope runoff and sediment before release to natural drainage. Basins can be used to reduce concentrated off-site flow and associated erosion by metering out runoff following large storm events.

The NRCS will select and implement these BMPs using a cooperative approach between the NRCS and the participating landowner. At the request of the landowner or operator, NRCS reviews the particular problems and needs of the site, and recommends appropriate conservation practices that are then selected by the farmer. NRCS oversees the site-specific design of the practices, applying appropriate mitigation measures to ensure that the project will not have an adverse impact on environmental resources. NRCS then monitors the implementation and maintenance of the practices to assure successful performance and resource protection. In addition to technical support, NRCS may finance up to 75% of the cost of the project. The participating landowner has the option of financing the remaining 25% cost by providing in-kind labor.

In order to protect sensitive resources, the NRCS has incorporated several environmental protections into the proposed project. The following table identifies these environmental protections.

Table 2, Environmental Commitments

Training and Education of Staff, Client, and Contractor	• Existence and identification of listed species in the project area; • A brief overview of the species' natural history; and • The specific protective measures to be followed.
Temporal Limitations on Construction	• Limit construction to July 1 through October 15 if activity may affect listed species, unless approved Resource Agencies and completed prior to first winter rains; and • Avoid construction during the bird-nesting season – March 1 through July 31.
Limitations on Grading	• Work only in dry channel unless specific conditions are met; • Limit disturbances to project site from access routes; • Placement of all roads, staging areas, and other facilities shall avoid disturbance to habitat; • No more than .25 acres of native vegetation may be removed from the stream; • There shall be no removal of native trees six inches or greater; • Implementation of practices shall minimize contributions of sediment to waterways; • Excess excavated material will be removed; • Slope protection of all disturbed sites will be provided prior to November 1 through a vegetative treatment, mulching, geotextiles, and/or rock; • Only native plant species or non-invasive/persistent grass species will be used; and • Finished grades will not exceed 2:1 side slopes.
Limitations on Construction Equipment	• Prevent the release of petroleum materials into waters of the state; • Fuel and maintain equipment at least 50 feet from aquatic habitat; • Inform workers on importance of preventing spills and of response measures; • Avoid use of heavy equipment in flowing or standing water, except for access to site; • Use existing ingress or egress points and/or work from the top of the creek banks; • Avoid use of heavy equipment in channels with rocky or cobbled substrate; • Use rubber-tired vehicles to access the site through aquatic areas with rocky or cobbled substrate and minimize the amount of time this equipment is within the creek bed; and • Avoid disturbance of woody debris and vegetation on banks and in channels outside of the project.

Table 2, Environmental Commitments (continued)

Revegetation and Removal of Exotic Plants	• Restored project area to pre-construction conditions; • Revegetate soil exposed from project using live planting, seed casting, or hydroseeding; • Revegetate using native trees, shrubs, and/or grasses (that are similar to plants in the local area) prior to November 1st of the project year; • Minimize the spread of exotic plants by avoiding areas with native vegetation, restoring disturbed areas with native species, and post-project control of exotic species; • Remove invasive species using mechanical equipment and revegetate at the same time; • Use non-invasive, grasses (i.e. barley grass) as nurse crops or for temporary erosion control; and • Annual inspections for assessing the survival and growth of revegetated areas and the presence of exposed soil shall be conducted for two years following the end of project.
Conditions for Erosion Control	• Projects will incorporate erosion control and sediment detention devices; • Isolate work site from flowing water to prevent sedimentation and turbidity; • Prior to construction activities, install sandbag cofferdams, straw bales, silt fences, culverts or visquen (diversions) to divert streamflow around workspace; • Dewatering will include pumping water to an upland site or filtering it; • Restored project sites to pre-construction condition or better; and • All debris removed from the aquatic areas shall be disposed of in a manner that avoids discharges into aquatic areas.
Limitations on Work in Streams and Permanently Ponded Areas	• Isolated work in flowing streams to prevent sedimentation and turbidity; • Install sandbag cofferdams, straw bales, silt fences, culverts or visquen (diversions) to divert streamflow away from or around project site and maintain downstream flows during construction; • Prohibited excavation of channels for isolating workspace from flowing water; • Maintain adequate water depth and channel width to allow for fish passage; • Upon project completion, remove barriers to flows in a manner that minimizes disturbance to the substrate; • Utilized filter fabric fence, fiber rolls and/or hay bales when implementing or maintaining a critical area planting above the high water to prevent discharges into adjacent water; • Avoid activities that result in sediment covering cobbles, gravel and small stones; • Remove debris, sediment, rubbish, vegetation or other material from the aquatic areas; • Avoid discharges of petroleum products chemicals, silt, fine soils, and any substance or material deleterious to fish, plant, or bird life into the waters of the State; and • Avoid discharges from the construction and maintenance of Sediment Basin, Underground Outlet, Diversion and Grassed Waterway that increases turbidity (as measured by NTU) of more than 10 percent of upstream background.
Limitations on use of Herbicides	• Except as noted below, avoid the use of pesticides or fertilizers in streams; • Use organic amendments to ensure successful establishment of restored vegetation; • If organic amendments will not be affective, use application rates for chemical fertilizers based on soil nutrient testing and slow release or split applications to minimize leaching into water bodies; • Use fertilizers above normal high water mark; • Use hand labor to control exotic vegetation; • Only use herbicides to control established stands of non-native species and apply according to registered label; and • Apply herbicides directly to plants and avoid discharges into water.

In addition to these environmental commitments, the NRCS proposes to limit the scale of the projects authorized by this program. Project limits are described in the table below.

Table 3, Project Limits

Conservation Practice	Maximum length (Feet)	Maximum Dimensions (Acres)	Maximum Volume (Cubic Yards)
Access Roads	Max:1 mile Average: 0.5	Max:2.5 Average: 1.25	Max:1,500 Average: 750
Critical Area Planting	Max:2,000 Average: 500	Max: 1 Average: .25	Max: 500 Average: 500
Diversions (upland application only)	Max:2,000 Average: 1,000	Max: 2 Average: 1	Max:1,500 Average: 1,500
Fence (when installed in Corps jurisdictional areas)	Not applicable	Not applicable	Not applicable
Filter Strip	Max: 2,500 (along waterways) Average: 500	Max: 1 (along waterways) Average: 0.5	Max:1500 Average: 500
Grade Stabilization Structure	Max: 4-10 structures per 200 feet Av. :2 structures per project	N/A	Max: 30 cubic yards per structure Average: 100 cubic yards total
Grassed Waterway	Max: 2,000 Average: 1,000	Max: 2 Average: 1	Max:1,500 Average: 750
Irrigation Regulating Reservoir	N/A	Max: 1 Average: 1	Max:1,500 Average: 1,500
Pipeline (when passing through Corps jurisdictional areas)	Max: 50 Average: 25	Max: 0.25 Average:0.12	Max: 50 Average: 25
Sediment Basin	N/A	Max: 1 Average: 1	Max:1,500 Average: 1,500
Spring Development	N/A	Max: 0.05 Average: 0.05	Max: 50 Average: 50
Stream Channel Stabilization	Max: 2,000 Average: 1,000	Max: 2 Average: 1	Max:1,500 Average: 750
Streambank Protection (with hard structures)	Max: 300 Average: 300	Max:0.14 Average: 0.14	Max: 300 cubic yards of placed material Average: 300
Streambank Protection (vegetation only)	Max: 2,000 Average: 1,000	Max: 3 Average: 1.5	Max:1,500 Average: 1,500
Tank or Trough	N/A	Max: 0.4 Average: 0.2	Max: 1,000 Average: 500

Table 3, Project Limits

Underground Outlet (energy dissipater at outlet)	N/A	Max: 10 feet x 15 feet Av.: 10 feet x 15 feet	Max: 20 Average: 20
Water and Sediment Control Basin	N/A	Max: 1 Average: 0.5	Max:1,500 (compacted embankment) Average: 1,500

IV. Project Location

The Salinas River Watershed covers approximately 4,600 square miles of San Luis Obispo and Monterey counties. The program covers all portions of the Salinas River watershed that lie within Monterey County (Exhibit 1). The watershed includes the Salinas River and its primary tributaries, the Arroyo Seco, Nacimiento, and San Antonio rivers. The waterways that may be affected under this program include:

- Alisal Slough
- Arroyo Seco River (and its tributaries Reliz Creek, Willow Creek, Piney Creek, Sand Creek, Tassajara Creek, Paloma Creek, and Santa Lucia Creek)
- Chalone Creek
- Gabilan Creek (and its tributaries Mud Creek)
- Las Tablas Creek
- Nacimiento River
- Natividad Creek
- Salinas River (and its tributaries, including Big Sandy Creek, Chualar Creek, Hames Creek, Johnson Creek, Limekiln Creek, Monroe Creek, Pancho Rico Creek, Pine Creek, Quail Creek, San Lorenzo Creek, Toro Creek)
- San Antonio River
- San Marcos Creek
- Santa Rita Creek
- Temladero Slough (and its tributaries)
- Towne Creek
- Vaqueros Creek

V. Federal Agency's Consistency Determination

The NRCS has determined the proposed Salinas River Watershed Regulatory Coordination and Permit Streamlining Program to be consistent to the maximum extent practicable with the California Coastal Management Program.

VI. Staff Recommendation

A. Motion

I move that the Commission concur with consistency determination CD-096-01 that the project described therein is fully consistent, and thus is consistent to the maximum extent practicable, with the enforceable policies of the California Coastal Management Program (CCMP).

B. Staff Recommendation

Staff recommends a **YES** vote on the motion. Passage of this motion will result in a concurrence with the determination and adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is required to pass the motion.

C. Resolution To Concur With Consistency Determination

The Commission hereby concurs with the consistency determination by NRCS, on the grounds that the project described therein is fully consistent, and thus is consistent to the maximum extent practicable, with the enforceable policies of the CCMP.

VII. Findings and Declarations

The Commission finds and declares as follows:

A. Environmentally Sensitive Habitats. The following policies of the Coastal Act protecting Environmentally Sensitive Habitat areas (ESHAs) are applicable to this consistency determination:

Section 30240

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Analysis

The sensitive riverine, estuarine, marine, wetland and riparian habitat values of the Salinas River Watershed and the Monterey Bay National Marine Sanctuary are jeopardized by the

impacts of sedimentation, which smothers aquatic habitats, decreases water quality, and can introduce contaminants into the food chain. One of the primary purposes of this project is to protect environmentally sensitive habitat areas from further degradation by reducing sedimentation and erosion caused adjacent agricultural development. Because the protection and enhancement of the sensitive resources of the watershed are dependent upon the implementation of such improvements, the program is consistent with Coastal Act Section 32040(a).

The Commission previously authorized a program similar to the proposed project for the Elkhorn Slough watershed (CD-051-98). In that consistency determination, the Commission concurred with a program that allowed the NRCS to work with farmers and landowners to implement BMPs to reduce runoff and sedimentation into Elkhorn Slough. In its consistency determination for program as follows:

> *Eighteen cooperators participated in the program and, with NRCS assistance, designed and implemented 27 projects. To date, an estimated 25,000 tons of sediment have been prevented from washing downstream into the sensitive wetlands of Elkhorn Slough and the Monterey Bay National Marine Sanctuary.*

The Commission incorporates, by reference, into this report the concurrence findings for the Elkhorn Slough Watershed Program, CD-051-98.

Similar to the Elkhorn Slough project, the proposed Salinas River Watershed Project will result in improved control of agricultural runoff and reduce sedimentation and pollution of coastal waters, which adversely affect environmentally sensitive habitat areas. This project will protect, enhance, and restore environmentally sensitive habitat areas that have been adversely affected by increased sedimentation and the associated loss of aquatic habitats and degradation of coastal water quality. In addition, some of the BMPs (e.g., Stream Channel Stabilization) involve the removal accumulated sediment from dry creek beds, which will increase the number of deep pools required by aquatic animals to survive the long, dry California summers. Other practices (e.g. critical area planting, and streambank protection) will provide shelter from predators, breeding, foraging and roosting sites for the sensitive, rare, and endangered wildlife species of the watershed. These practices will also improve fish habitat by stabilizing banks and increasing shading.

Other habitat benefits that will result from this project include: providing greater connectivity of habitat areas (e.g., revegetating unvegetated section of streambanks); and improved buffering of sensitive habitat areas (e.g., separating agricultural areas from habitat areas with filter strips). Furthermore, implementation of this project will improve general knowledge regarding the implementation and effectiveness of BMPs for the control of polluted runoff, and thus provide valuable insight as to how these practices can be best applied throughout the State to restore and enhance ESHAs. Exhibit 2 depicts the NRCS' estimated benefits of this program. Since the purpose of this program is to protect and restore ESHAs, it is dependent on the sensitive resource it protects. Therefore, it is consistent with the resource dependent test of Section 30240(a) of the Coastal Act.

Even though this program will benefit ESHAs, its implementation, which in many instances will be within or near wetlands, riparian, or other sensitive habitats, has the potential to have temporary adverse impacts on these resources. These potential impacts include temporary

disturbance of habitat, harassment of individual animals, and in certain cases, the mortality of individual special status plant or animal species. Project components that could result in such impacts include: soil excavation or grading, preparation of the ground for seeding and mulching, grade and stream stabilization, channel excavation, construction of earthen embankments, placement of fill, vegetation removal and trampling or crushing of vegetation.

To protect these environmentally sensitive habitats, the proposed practices have been customized in time and manner of implementation after consultations with the U.S. Fish and Wildlife Service, the California Department of Fish and Game, and Coastal Commission staff. The environmental commitments are described above in **Table 2, Environmental Commitments.** These measures are designed to minimize impacts to sensitive species and reduce discharges into the Salinas River and its tributaries. In addition, the NRCS' commitments provide for the restoration of areas disturbed by projects authorized by this program and provide for measures to reduce the spread or introduction of exotic species. The NRCS proposes limits to the size and scale of the projects implemented under this program. These limits are described in **Table 3, Project Limits** above. With these environmental commitments and size limitations, the program will not significantly disrupt or degrade ESHAs.

Conclusion

The above mitigation/management measures will ensure that the localized short-term impacts on sensitive habitats that could result from the project will not have a significant adverse affect on environmentally sensitive habitats. The long-term benefits of the project will enhance riparian vegetation and bank stability, provide additional habitat areas for foraging, breeding, and shelter, and control erosion and pesticides from agricultural fields improving water quality and aquatic habitats. The Commission finds that the project is consistent with Section 30240 of the Coastal Act, and thus is consistent with the ESHA protection policies of the CCMP.

B. Marine Resources/Water Quality. The following Coastal Act policies regarding the Marine Environment apply to the subject consistency determination:

Section 30230

> *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231

> *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff,*

preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Section 30233

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

... (7) Restoration purposes.

Section 30236

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (l) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

Analysis

As previously discussed, the project is designed to improve the control of agricultural runoff, that can contain sediments and pesticides that are detrimental to marine resources and coastal water quality. Soil eroded from cropland as sediment usually contains a high percentage of fine textured clay particles. These lighter soil particles are more likely to bind to pollutants than coarser grained sediments, and therefore, transport higher concentrations of nitrogen, phosphorous, and pesticides. The discharge of such materials into the marine environment results in increased turbidity, covering of existing benthic and intertidal habitats, water and sediment pollutants, and growth of algae, which can reduce the amount of available oxygen. The improved control of agricultural sediments and associated pesticides will therefore benefit marine resources and coastal water quality, consistent with the above Coastal Act policies.

Implementation of the BMPs, however, may have short-term impacts on these resources. For example, during activities associated with the installation of Critical Area Plantings or Grassed Waterways (e.g., grading, seedbed preparation, seeding, and mulching), quantities of sediment and associated chemicals could be washed into surface waters prior to plant

establishment. In addition, use of herbicides may be necessary to control invasive non-native vegetation within project planting, and thus some pesticides and herbicides could enter surface runoff.

To address these potential impacts, the project has incorporated the following mitigation/monitoring measures:

- When implementing or maintaining the Critical Area Planting practice, the NRCS will use filter fabric, fence and hay bales when needed to keep soil from flowing into adjacent waterbodies. The NRCS will maintain these measures until revegetation is sufficiently mature to provide effective erosion control;

- The NRCS will restore work area to a natural state through seeding or replanting with native species of trees, shrubs, and grasses as soon as possible upon completion of the project, but in no case beyond 30 days during the wet season (November 1 through June 15) and within one month prior to the wet season when work occurs in the dry season (June 15 through November 1);

- Where it is necessary to use herbicides to control exotic vegetation, the NRCS will apply them according to registered label conditions. In situations where organic amendment will not be adequate, the NRCS will use application rates for chemical fertilizers based on soil nutrient testing and slow release or split applications to minimize leaching or runoff into water bodies;

- All petroleum products, chemicals, silt, fine soils, and any substance deleterious to fish, plant, or bird life shall not be allowed to pass into, or be placed where it can pass into, waters of the state;

- When implementing or maintaining a sediment basin, increases in suspended sediment turbidity at the basin outlet shall be kept below 10% of background; and

- All practices installed will be annually inspected to ensure affective functioning and to resolve any problems.

In addition to the mitigation/monitoring measures identified above, the project includes the following measures for any grading that will occur adjacent to or within creeks, streams, wetlands, and sloughs:

- The NRCS will work in a dry or non-flowing channel, between June 15 and November 1;

- The NRCS will limit disturbance to existing grades and vegetation to the actual site of the management practice and necessary access route;

- The NRCS will not store equipment within 50 feet of a stream channel;

- The NRCS will not use finished grades that exceed 2:1 side slopes;

- Upon completion of grading, the NRCS will protect all disturbed slopes through of vegetative treatment, mulching, geotextiles, and/or rock; and,

- The NRCS will install energy dissipaters to protect the channel bottom or sides from water discharges emanating from erosion control structures.

With these mitigation measures, the project has been designed to avoid potential adverse impacts that could result from the discharge of sediments during the implementation of the practices, consistent with Coastal Act Sections 30230, 30231, and 20232.

In addition to the requirements to protect the quality and biological productivity of the marine environment through, among other means, controlling the discharge of hazardous substances and polluted runoff, Sections 30233 and 30236 of the Coastal Act places limitations upon the construction of erosion control structures, flood control facilities, or any other structure that results in the diking, filing, or dredging of marine, riverine, estuarine, and wetland environments. This is in recognition of the fact that such structures can diminish the biological productivity of such areas, and that the control of sediment can reduce the sand supply of local beaches. BMPs included within the project that may involve in-stream structures, such as Grade Stabilization Structures, Streambank Protection, and Stream Channel Stabilization must be analyzed for conformance with these policies.

Section 30233 of the Coastal Act allows for the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes for restoration purposes. Similarly, Section 30236 authorizes channelizations, dams, or other substantial alterations of rivers and streams in developments where the primary function is the improvement of fish and wildlife habitat. As previously discussed, the primary purpose of this project is to improve the control of agricultural runoff, in order to restore, protect, and enhance the sensitive environmental resources of the Salinas River Watershed. Therefore, the project qualifies as a restoration project that will improve fish and wildlife habitat and is consistent with Coastal Act Sections 30233 and 30236.

As required by these Coastal Act policies, such activities must be limited to situations where there is not a feasible, less environmentally damaging alternative and where the best mitigation measures feasible have been provided to minimize adverse environmental effects. With respect to the requirement that these activities be undertaken when there are no feasible, less environmentally damaging alternatives, the NRCS designed the project to address streambank protection by controlling the streambed grade before more permanent, and potentially more damaging, types of engineered bank protection is installed. The NRCS has committed to only using such structures if they are the least damaging alternative (Exhibit 3). Regarding the need to minimize adverse affects on environmental resources to the greatest degree feasible, the aforementioned mitigation/monitoring measures that have been incorporated within the project appropriately satisfy this requirement. With these mitigation/monitoring measures, the potential short-term adverse impacts to marine resources will be avoided and the project will have a long-term benefit to the biological productivity of the marine environment and the quality of coastal waters.

Conclusion

Consistent with Coastal Act Sections 30230, 30231, and 30232, the project is designed to maintain, restore, and enhance the biological productivity and quality of coastal waters. Because it is a restoration project, and because appropriate and feasible mitigation measures have been incorporated into the project to ensure that it will not have a significant adverse impact on marine resources, is it also consistent with Section 30233 and 30236 of the Coastal Act, and therefore, the Commission finds that the program is consistent with the water quality and habitat resource policies of the CCMP.

C. Agricultural Resources. The following Coastal Act policies, requiring the protection of agricultural resources, apply to this consistency determination:

Section 30241

> *The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas agricultural economy ....*

Section 30242

> *All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible; or, (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such conversion shall be compatible with continued agricultural use on surrounding lands.*

Section 30243

> *The long-term productivity of soils and timberlands shall be protected, and conversions of coastal commercial timberlands in units of commercial size to other uses or their division into units of noncommercial size shall be limited to providing for necessary timber processing and related facilities.*

Consistent with these Coastal Act policies, the project will help maintain the long-term agricultural productivity of agricultural soils in the watershed, primarily by reducing the loss of valuable top soil that may otherwise be lost through erosion. In addition, by improving the compatibility between agriculture land uses and the protection of sensitive habitat areas, the project will assist in preserving the long-term viability of both of these important resources.

There is the potential, however, that some small amounts of agricultural land, including prime agricultural soils, may need to be taken out of production in order to accommodate the proposed BMPs. This is not, however, considered a conversion to non-agricultural use, as these facilities serve the agricultural purpose of controlling erosion. In addition, the beneficial impact of retaining significant amounts of soil on site that would otherwise be lost to erosion will greatly outweigh the minor loss in areas of production. Therefore, the Commission finds that the project is consistent with CCMP policies protecting agricultural resources.

D. Archaeological Resources. The following policies of the Coastal Act requiring the protection of archaeological resources are applicable to the subject consistency determination:

Section 30244

> *Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

Native American archaeological sites occur within the project area. In most cases, however, the BMPs will take place on lands that have been previously cultivated, and will not exceed the depth, extent, or kind of previous agricultural activities that have already been undertaken. In instances where BMPs will be installed in areas that have not been cultivated, they typically do not involve any ground disturbance. Therefore, the project will not have a significant impact on archaeological or paleontological resources.

Nevertheless, according to the submitted consistency determination, NRCS is responsible for complying with the cultural resources provisions contained in the Programmatic Agreement (PA) between the Advisory Council on Historic Preservation and the National Council of State Historic Preservation Officers. NRCS actions qualify as an "undertaking" by the PA, triggering the need to review the cultural resources data from the Northwest Information Center of the California Historical Resources File System, at Sonoma State University, and complete a field inspection to relocate previously known cultural resources and/or possible locate previously undiscovered cultural resources. All NRCS field personnel participating in this project will complete the Natural Cultural Resources Training Program required by the PA.

The consistency determination also states that if unanticipated cultural resources are discovered, or it is determined that cultural properties will be affected in a previously unanticipated manner, then NRCS will protect such resources from damage to the fullest extent possible by halting actions affecting the resource, and notifying the NRCS Cultural Resources Coordinator. The consistency determination further states that if human remains are uncovered, the NRCS will follow procedures established by the Native American Heritage Commission, which includes the immediate cessation of work in the area and notifying the County coroner.

With these measures, the Salinas River Watershed project includes reasonable mitigation measures for the protection of archaeological and paleontological resources, and the Commission therefore finds the project consistent with Section 30244 of the Coastal Act.

Attachment A:

SUBSTANTIVE FILE DOCUMENTS:

1. Monterey County certified Local Coastal Program;

2. Salinas River Watershed Regulatory Coordination and Permit Streamlining Program, Monterey County Resource Conservation District and the Natural Resources Conservation Service, September 27, 2001;

3. CD-051-98, Natural Resources Conservation Service, Elkhorn Slough Watershed.

FIGURE 1: PROJECT AREA FOR THE SALINAS RIVER WATERSHED PERMIT COORDINATION PROGRAM

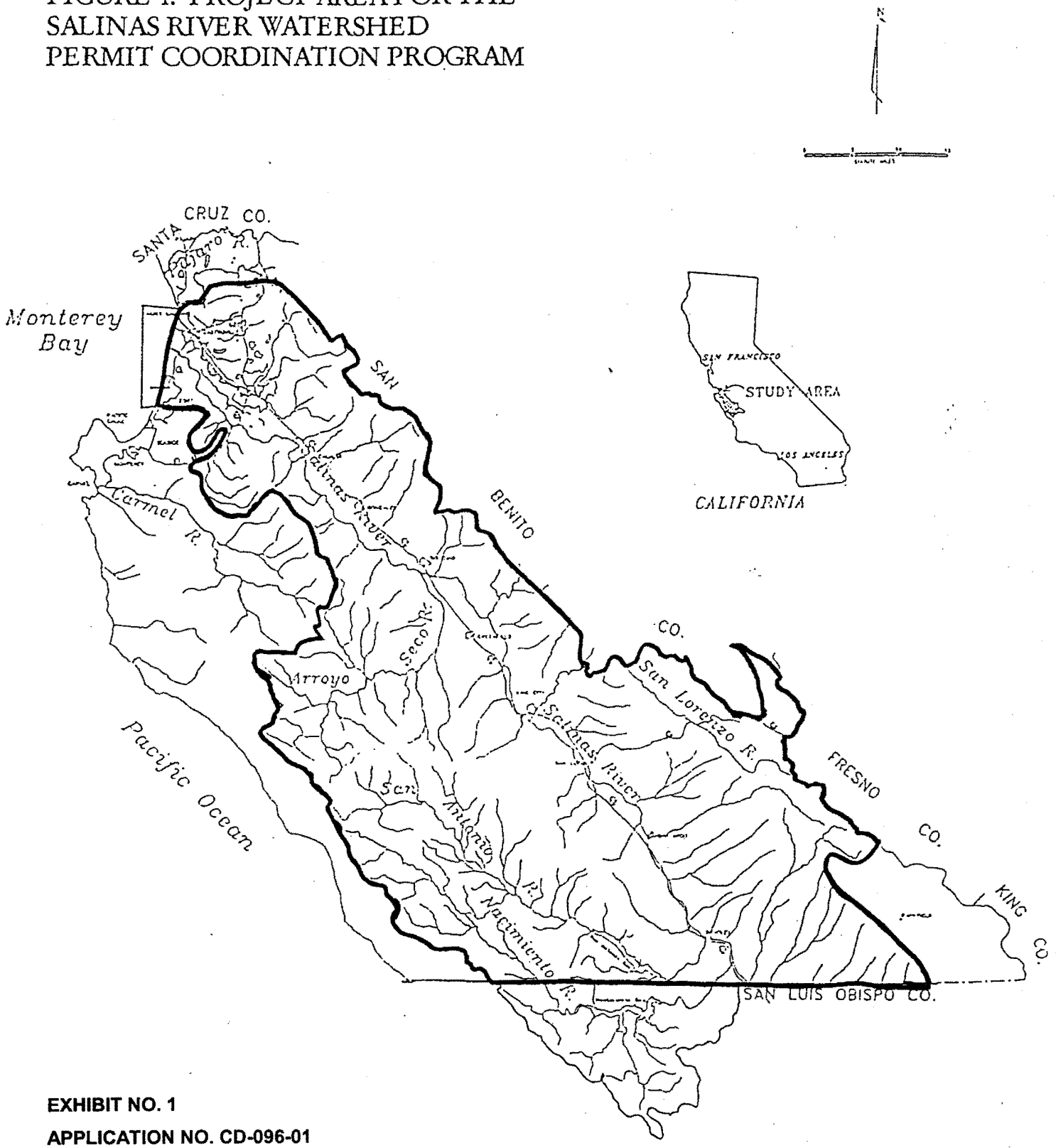


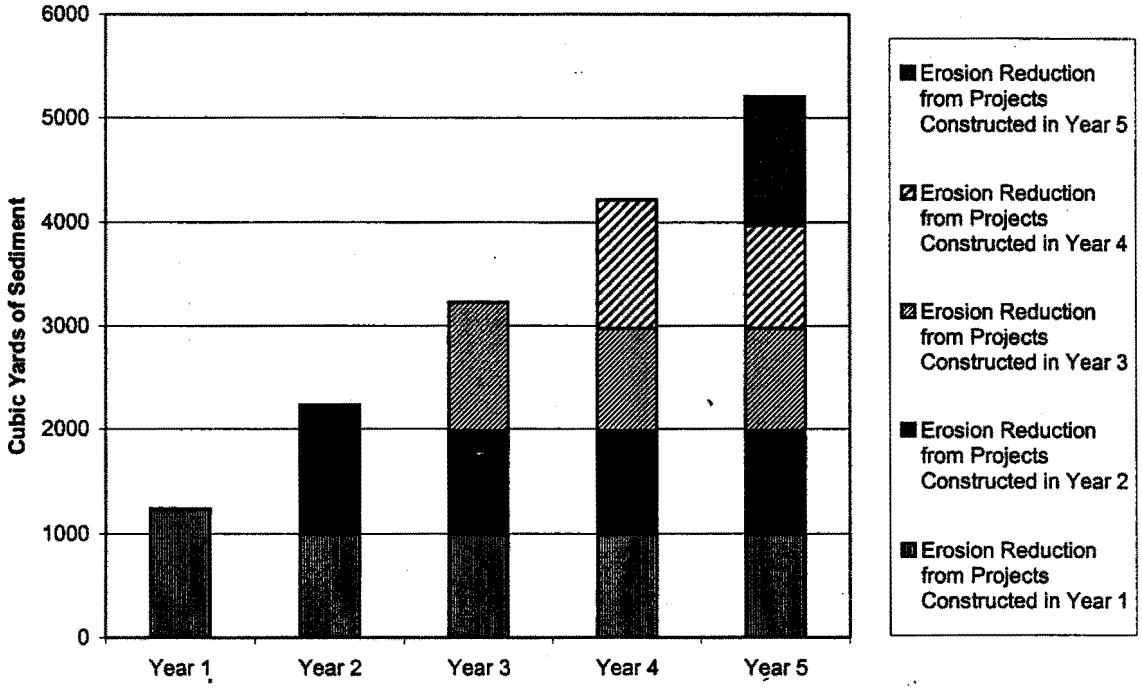
EXHIBIT NO. 1

APPLICATION NO. CD-096-01

California Coastal Commission

Map Source: Monterey County Water Resources Agency

Salinas River Watershed Permit Coordination Program: Projected Reduction in Sediment in the Salinas River Watershed over 5 Years



Salinas River Watershed Permit Coordination Program: Comparison of Project Impacts to Project Benefits over a 5-year Period

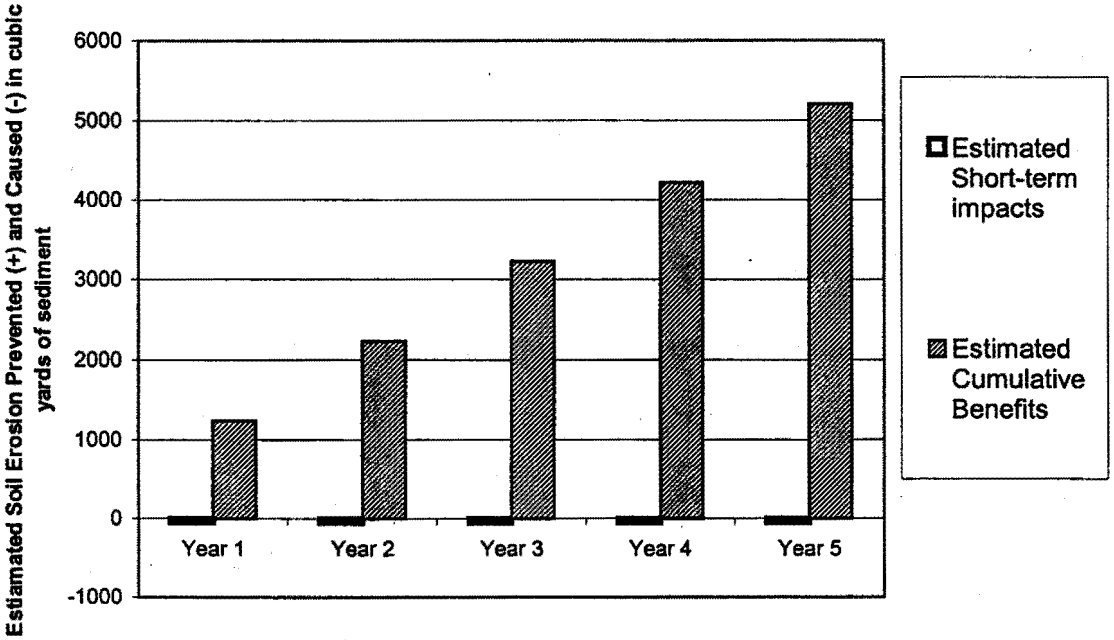


EXHIBIT NO. 2

APPLICATION NO. CD-096-01

California Coastal Commission

SustainableConservation

January 15, 2001

Mr. James R. Raives
Federal Consistency Review Coordinator
California Coastal Commission
45 Fremont Street, Suite 1900
San Francisco, CA 94105-2219

Dear Mr. Raives:

The following language should now be included in the project description of the Salinas River Permit Coordination Program, which is currently under your review.

> "If an instream project within the boundary of the Coastal Zone uses rip-rap, rock, or other hard surface, the NRCS will, upon the request of the Coastal Commission, verify that the project has been designed to keep environmental impacts to a minimum."

Please feel free to contact me at 415. 977.0380 x. 302 if you have further questions.

Sincerely,

Carolyn Remick

Carolyn Remick
Senior Project Manager
Carolyn Remick

Cc: Danny Marquis, NRCS
Daniel Mountjoy, NRCS

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EXHIBIT NO. 3

APPLICATION NO. CD-096-01