

CALIFORNIA COASTAL COMMISSION

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Th 19b**STAFF RECOMMENDATION****ON CONSISTENCY DETERMINATION**Consistency Determination No. **CD-090-04**

Staff: MPD-SF

File Date: 12/2/2004

60th Day: 1/31/2005

75th Day: 2/15/2005

Extended to: 2/18/2005

Commission Meeting: 2/17/2005

FEDERAL AGENCY:**U.S. Fish and Wildlife Service****PROJECT****LOCATION:**Ellicott Slough National Wildlife Refuge, Santa Cruz Co.
(Exhibit 1)**PROJECT****DESCRIPTION:**Acquisition of and interim management plan for 289-acre
"Buena Vista" property addition to the Ellicott Slough National
Wildlife Refuge (Exhibit 2)**SUBSTANTIVE FILE****DOCUMENTS:**

See page 8.

EXECUTIVE SUMMARY

The U.S. Fish and Wildlife Service proposes to increase the area of the 170-acre Ellicott Slough National Wildlife Refuge through the acquisition and management of a 289-acre "Buena Vista" property, primarily to protect environmentally sensitive habitat for the Santa Cruz long-toed salamander. The project's purpose, the protection, management, and restoration of sensitive habitat, is consistent with Coastal Act goals and policies (Section 30240) for habitat protection. The property would also managed for limited public access, in a manner consistent with Coastal Act policies (Sections 30210 and 30214) balancing public access with habitat protection needs.

I. STAFF SUMMARY AND RECOMMENDATION:

A. Project Description. The Fish and Wildlife Service has submitted a consistency determination for the acquisition and management of a 289-acre addition to the 170-acre Ellicott Slough National Wildlife Refuge in southern Santa Cruz County. The 289-acre Buena Vista Property consists of three parcels (a 187-acre, 100-acre, and a 2-acre parcel), purchased by the Trust for Public Land in 2004 and then transferred to the California Department of Fish and Game (CDFG). Because CDFG has only limited resources to manage the property, the Fish and Wildlife Service (Service) proposes to accept donation of the 100-acre and 2-acre parcels from CDFG in fee title and to cooperatively manage the entire 289-acre property as a unit of the Ellicott Slough National Wildlife Refuge (Refuge) and State Ecological Reserve (Exhibit 2). CDFG would retain ownership of the 187-acre parcel and would enter into a Memorandum of Understanding with the Service for management of the Buena Vista property. (This relationship is similar to the current management arrangement at the Refuge, where the Service manages the entire area, including a 30-acre parcel owned by CDFG.)

The Buena Vista property consists of three parcels (APN 046-041-01, 046-041-03, and 046-051-24). Parcel 046-051-24 contains a caretaker's residence, shed, and trailer. The other two parcels are undeveloped and include oak woodland, maritime chaparral, riparian forest, freshwater marsh, seasonal wetlands Monterey pine and Douglas fir woodland, coastal scrub, and grassland. Other than existing habitat resources, the Buena Vista property does not support other coastal uses or resources. The site is publicly owned and is not open to any public access, recreation, or other uses.

The new unit of the Refuge would operate under interim management until a formal habitat management plan or Comprehensive Conservation Plan is in place. Interim management would include non-native vegetation control using chemical and mechanical means, habitat restoration with native plant species, endangered species surveys, law enforcement patrols, and limited environmental education and interpretation. Endangered species surveys of Santa Cruz long-toed salamander (SCLTS) and robust spineflower would occur annually.

The Buena Vista Unit would also serve as a site for environmental education/interpretive tours. Public access to the Refuge would only occur during Refuge staff-led interpretive tours and volunteer programs in order to protect the sensitive natural resources. These events would only be offered occasionally, approximately 2 to 4 times per year, and would be limited to groups of 20 people or fewer. Finally, the small caretaker's home on the property would be converted into a satellite office for Refuge staff, initially just the Refuge manager and Refuge biologist.

The purpose of the National Wildlife Refuge System is to protect, manage, and restore wildlife habitats for Federally listed endangered and threatened species. The Fish and Wildlife Service's stated interim goals are:

Endangered Species/Essential Habitats: To protect and enhance populations of the Santa Cruz long-toed salamander and other endangered, threatened, and rare species, and to promote their recovery by restoring and enhancing their habitats.

Biodiversity: To protect, restore, and enhance upland and wetland habitats to promote a natural diversity of native species.

Goals of the Refuge will be reviewed during the Comprehensive Conservation Plan process scheduled to begin in 2005.

The Fish and Wildlife Service describes its management focus for the Refuge as follows:

The key areas of initial focus for the Buena Vista Unit would be habitat and wildlife management, research, and wildlife-dependent recreational activities. The proposed new unit would operate under interim management until a formal habitat management plan or Comprehensive Conservation Plan is in place. Interim management would include non-native vegetation control using chemical and mechanical means, habitat restoration with native plant species, endangered species surveys, law enforcement patrols, and limited environmental education and interpretation. Buena Vista is relatively pristine, with few invasive non-native species. Much of Buena Vista has been left undisturbed and would not need active management.

B. 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 the Commission certified the LCP and incorporated it into the CCMP, the LCP can provide guidance in applying Chapter 3 policies in light of local circumstances. If the Commission has not incorporated the LCP into the CCMP, it cannot guide the Commission's decision, but it can provide background information. The Commission has certified Santa Cruz County's LCP, but it has not been incorporated into the CCMP.

C. Federal Agency's Consistency Determination. The U.S. Fish and Wildlife Service has determined the project to be consistent to the maximum extent practicable with the California Coastal Management Program.

D. Procedures: Phased Review. Section 930.36(d) of the regulations implementing the federal Coastal Zone Management Act (CZMA) provide that:

In cases where the Federal agency has sufficient information to determine the consistency of a proposed development project or other activity from planning to completion, the Federal agency shall provide the State agency with one consistency determination for the entire activity or development project. In cases where federal decisions related to a proposed development project or other activity will be made in

phases based upon developing information that was not available at the time of the original consistency determination, with each subsequent phase subject to Federal agency discretion to implement alternative decisions based upon such information (e.g., planning, siting, and design decisions), a consistency determination will be required for each major decision. In cases of phased decisionmaking, Federal agencies shall ensure that the development project or other activity continues to be consistent to the maximum extent practicable with the management program.

When the Commission reviews federal agency management plans it typically identifies activities that may not be fully described in the management plan but that will require additional consistency review as required by the above-quoted federal consistency regulation. In this case, the proposed management plan is an interim plan, pending preparation of a longer-term (anticipated to be a 15-year) management plan. While the Commission is not aware of specific activities under the interim plan that would trigger the need for further consistency review, in accordance with the above regulation, the Fish and Wildlife Service has committed to submitting its future, more permanent, management plan to the Commission for its review under the federal consistency procedures.

II. Staff Recommendation. The staff recommends that the Commission adopt the following motion:

MOTION: I move that the Commission concur with consistency determination CD-090-04 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).

STAFF RECOMMENDATION:

Staff recommends a YES vote on the motion. Passage of this motion will result in an agreement 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.

RESOLUTION TO CONCUR WITH CONSISTENCY DETERMINATION:

The Commission hereby **concurs** with consistency determination CD-090-04 by the U.S. Fish and Wildlife Service 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.

III. Findings and Declarations:

The Commission finds and declares as follows:

A. Environmentally Sensitive Habitat Areas. Section 30240 of the Coastal Act provides:

(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.

The Fish and Wildlife Service describes the environmentally sensitive resources on the proposed addition as follows:

*The Buena Vista site includes both breeding and aestivating habitat for both the Santa Cruz long-toed salamander, a federally and state listed endangered species, and the California tiger salamander, a federal candidate species and a California Species of Special Concern (Buena Vista County Club, Inc., 1995). Buena Vista Pond may support several hundred adult SCLTS, based on trapping studies conducted during 1995 (Jennings 1995). The habitat is contiguous with that of Ellicott Slough Refuge and another potential SCLTS breeding pond along Rancho Road. The Buena Vista site also contains one federally endangered plant species, robust spineflower, and three rare plant species (as identified by the California Native Plant Society, the California Department of Fish and Game, and the Service): (1) Hooker's Manzanita (*Arctostaphylos hookeri* ssp. *hookeri*); (2) California bottlebrush grass, (*Elymus californicus*); and (3) Kellogg's horkelia (*Horkelia cuneata* ssp. *sericea*) (Buena Vista Country Club, Inc., 1995).*

The vegetation of the Buena Vista site is a mosaic of 10 plant communities. Though some communities have been modified, directly or indirectly by human activity, much of the habitat is undisturbed. The plant communities on the site include: 1) San Andreas Coastal Live Oak Woodland; 2) San Andreas Maritime Chaparral; 3) Riparian Forest; 4) Freshwater Marsh; 5) Monterey Pine Woodland; 6) Seasonal Wetlands (including SCLTS pond); 7) Monterey Pine/Coastal Live Oak Woodland; 8) Douglas Fir Woodland; 9) Northern Coastal Scrub; and 10) Coastal Valley Grassland.

To provide a perspective on the significance of the habitat values, the Fish and Wildlife Service further states:

The Buena Vista property is extremely important to the survival of the Santa Cruz long-toed salamander (SCLTS) because of the small number of active breeding populations (11 known), and the limited amount of suitable habitat. In addition, acquisition and management of this site would benefit other rare species including the endangered robust spineflower (Chorizanthe robusta var. robusta) and the threatened California tiger salamander (Ambystoma californiense). Buena Vista supports one of only six known populations of the robust spineflower, and 135 acres of the property are included in the designated critical habitat (50 CFR 17 36822-36845). Other rare plants on the site include Hooker's manzanita (Arctostaphylos hookeri ssp. hookeri) (CNPS 1B), Kellogg's horkelia (Horkelia cuneata ssp. sericea) (CNPS 1B), and California bottlebrush grass (Elymus californicus) (CNPS 4).

To protect the site's habitat values, the Fish and Wildlife Service proposes interim measures including non-native vegetation control using chemical and mechanical means, habitat restoration with native plant species, and controlled access for environmental education and interpretive use. The Fish and Wildlife Service states:

The new unit of the Refuge would operate under interim management until a formal habitat management plan or Comprehensive Conservation Plan is in place. Interim management would include non-native vegetation control using chemical and mechanical means, habitat restoration with native plant species, endangered species surveys, law enforcement patrols, and limited environmental education and interpretation. Buena Vista is relatively pristine, with few invasive non-native species. However, there are some patches of non-natives including Acacia sp., Eucalyptus sp., and pampas grass (Cortaderia selloana and C. jubata). Non-natives would be controlled with Roundup™ (glyphosate), Rodeo™, or Garlon4™ (triclopyr). Mechanical means would also be used to remove pampas grass by the root systems and to remove non-native trees using chain saws. Areas that have undergone vegetation control would be revegetated with native species. Seeds from native plants would be collected on-site and grown in a greenhouse at the Refuge Headquarters in Fremont for later outplanting. Vegetation removal would occur primarily along the entrance road and around the residence, trailer, and breeding pond.

The Fish and Wildlife Service concludes that these measures will protect the area's environmentally sensitive habitat from significant disruption of habitat values. The Fish and Wildlife Service has also committed to submitting its future, more permanent, management plan to the Commission for its review and concurrence. The Commission

agrees with the Fish and Wildlife Service's conclusion that the proposed acquisition and interim management measures would protect the sensitive habitat values at the site and be consistent with Section 30240 of the Coastal Act.

B. Public Access and Recreation. Section 30210 of the Coastal Act provides for the maximization and protection of public access and recreation opportunities, consistent with resource protection needs:

Section 30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30214 further specifies that public access should be implemented in a manner taking into account several variables, among them the fragility of sensitive habitat; this Section provides:

Section 30214. (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

....

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area

The Fish and Wildlife Service notes that the property is not currently open to the public. However the Fish and Wildlife Service proposes limited future public access in its interim management plan, stating:

Under the proposed plan, Refuge staff and visitors would access the Buena Vista property through Fiesta Way and Rancho Road, and would use the current cleared area around the caretaker's house as parking. The internal road and parking area would be maintained to continue to allow access.

...

In order to protect endangered species and sensitive resources and because of limited staff, the area would initially be open to the public only through Refuge staff-led tours and volunteer programs. Group size would be limited to 20 people and groups would be supervised by Refuge staff to ensure that resources are protected. The Service may also allow limited access for scientific research and for study groups on a case-by-case basis through a special-use permit process. Research that is nondisruptive to wildlife or archaeological resources and compatible with refuge purposes and goals may be allowed. ...

Under Alternative A, Buena Vista would initially be open to limited staff-led public use, providing interpretative and educational opportunities during Refuge tours and volunteer events. There would also be the opportunity for the public to enjoy wildlife observation and photography during these on-site visits. Further, in 2005 the Service is scheduled to begin a long-term planning effort for Ellicott Slough National Wildlife Refuge. This Comprehensive Conservation Plan (CCP) effort will develop goals, objectives, and strategies for public use as well as resource management and will take several years to complete. The Service will involve the public to help develop this plan and participate in reviews of this plan as necessary. The Service will examine the potential for other compatible wildlife-oriented public use of the Refuge. Of any site at Ellicott Slough NWR, Buena Vista provides the greatest opportunity for environmental interpretation and education activities. Any public use allowed would be in strict conformance with applicable Federal and State statutes.

The Fish and Wildlife Service states that because public access will be managed based on 'the capacity of the site to sustain use' and taking into account 'the fragility of the natural resources,' it is consistent with Coastal Act public access policies. The Commission agrees and finds that the proposed interim plan for the Refuge will provide for public access recreational opportunities in manner that protects sensitive habitat and natural resources based on the information available at this time, and, further, that the Commission will have future review opportunities to assure any long term access proposals would provide for public access and recreation in a manner that achieves the same goals. Therefore, the Commission concludes that the proposed interim plan is consistent with the public access and recreation policies (Sections 30210-30214) of the Coastal Act.

IV. SUBSTANTIVE FILE DOCUMENTS

1. Consistency Determination No. CD-90-04, Ellicott Slough National Wildlife Refuge, Santa Cruz County, California, U.S. Fish and Wildlife Service, November 2004.
2. Conceptual Management Plan, Ellicott Slough National Wildlife Refuge, Santa Cruz County, California, U.S. Fish and Wildlife Service, November 2004.

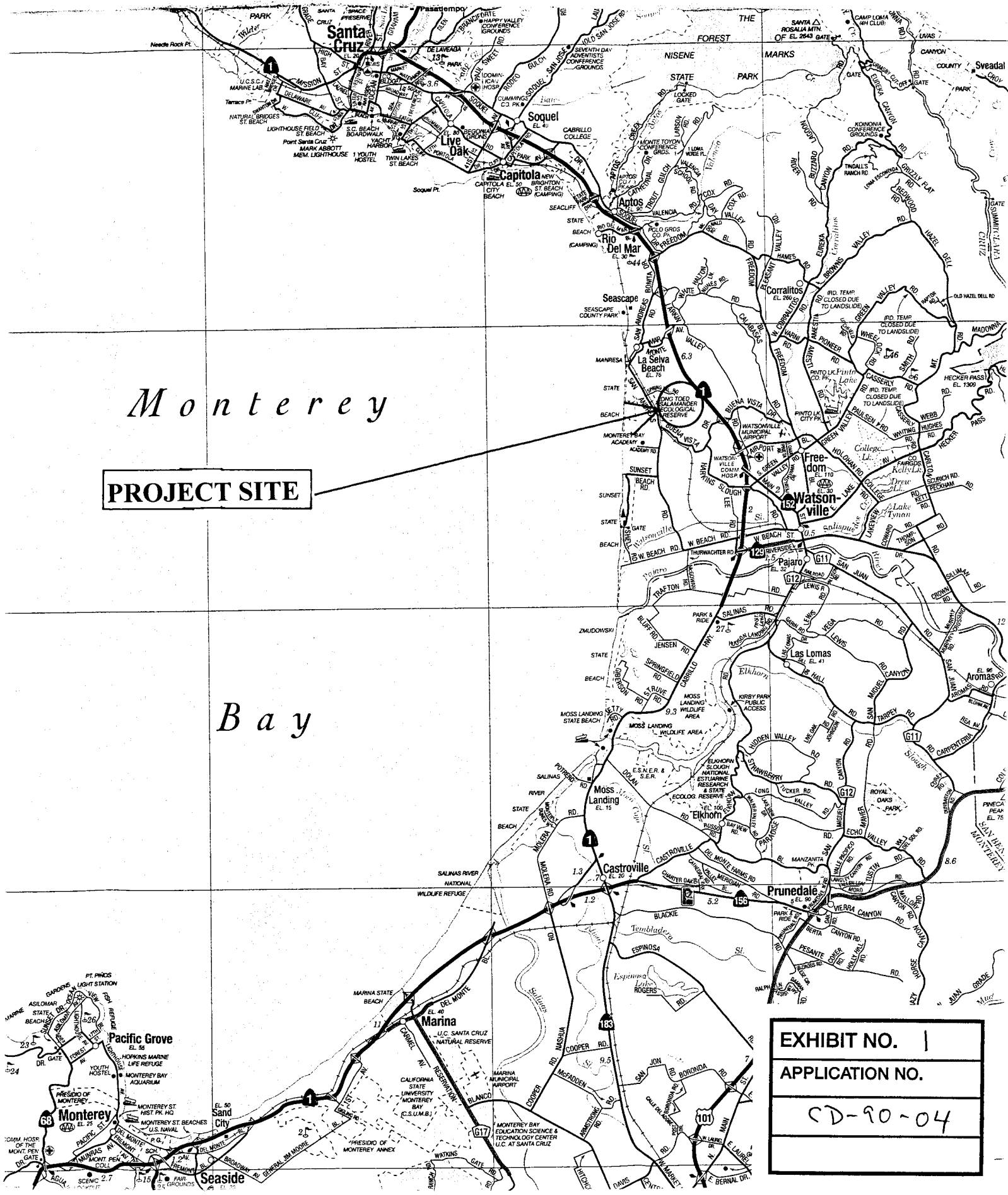
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4. Conceptual Management Plan, Ellicott Slough National Wildlife Refuge, Santa Cruz County, California, U.S. Fish and Wildlife Service, November 2004.
5. Environmental Assessment, Land Protection Plan and Conceptual Management Plan, Ellicott Slough National Wildlife Refuge, Proposed Buena Vista Addition, Santa Cruz County, California, U.S. Fish and Wildlife Service, November 2004.

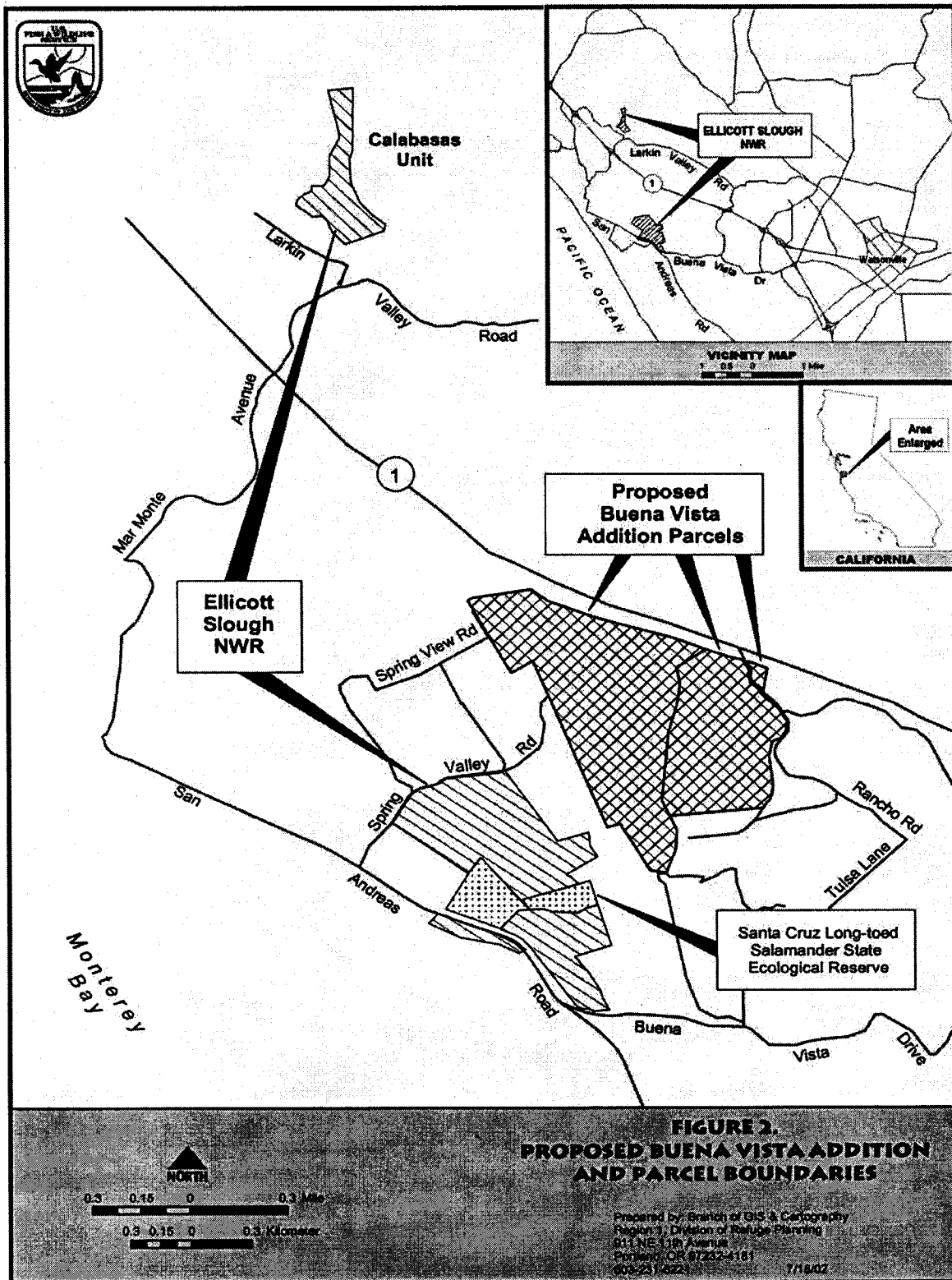


Monterey

PROJECT SITE

Bay

EXHIBIT NO.
APPLICATION NO.
CD-90-04



Ellicott Slough NWR

7

EXHIBIT NO. 2

APPLICATION NO.

CP-90-04