CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE MAILING ADDRESS: 710 E STREET • SUITE 200 EUREKA. CA 95501-1865 VOICE (707) 445-7833 FACSIMILE (707) 445-7877

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Application No.: 1-06-035 **Date:** June 22, 2007

ADMINISTRATIVE PERMIT

SIMPSON TIMBER COMPANY **APPLICANT**:

Repair and protect approximately 1,700 feet of eroded levee . PROJECT DESCRIPTION:

PROJECT LOCATION: Along the eastern shoreline of Humboldt Bay, at 5151 North

Highway 101, Eureka, Humboldt County (APN 017-081-001

and 404-141-004).

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

July 13, 2007 9:00 a.m. **Embassy Suites Hotel** 333 Madonna Road San Luis Obispo, CA

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all

conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgment and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

PETER DOUGLAS
Executive Director

By: Robert S. Merrill

Title: North Coast District Manager

STANDARD CONDITIONS:

- 1. <u>Notice of Receipt and Acknowledgement</u>. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. <u>Expiration</u>. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable amount of time. Application for extension of the permit must be made prior to the expiration date.
- 3. <u>Interpretation</u>. Any questions of intent of interpretation of any condition will be resolved by the Executive Director of the Commission.
- 4. <u>Assignment</u>. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. <u>Terms and Conditions Run with the Land</u>. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an administrative permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:

1. Project and Site Description

The subject property is the Simpson Timber Company Brainard Remanufacturing Facility located along the eastern shoreline of Humboldt Bay, at 5151 North Highway 101, between Arcata and Eureka in Humboldt County. The property was diked off from the bay and filled for use as a lumber mill decades prior to adoption of the Coastal Act. The property fronts on to Highway 101 and is surrounded on its other three sides by the waters of Humboldt Bay. The application seek authorization for repairs to the perimeter levee that had been badly damaged by an unusual storm event on December 31, 2005, when extreme high winds associated with a major Pacific storm occurred during a seasonal high tide causing severe storm surge that overtopped and badly eroded the bay front levee. The levee was left in a condition that was highly vulnerable to further levee breaching and tidal inundation. The portions of the levee involved in the repair do not support significant vegetation because all of the repair areas were heavily scoured and eroded by the storm erosion.

The proposed project includes the following two elements:

a. Follow-up Permit for Emergency Repair of Portion of Bay front Levee: The first project element involves a request for permanent authorization of work performed under the temporary authorization of emergency permits for the repair of approximately 1,600 linear feet of bay front levee. The emergency repairs were authorized originally on a temporary basis under Emergency Permit No. 1-06-006-G, issued on February 8, 2006, and then reauthorized by Emergency Permit No. 1-06-030-G issued on May 16, 2006. The second emergency permit for the work was granted because the applicant could not secure needed permits from other agencies in time to do the work before Emergency Permit No. 1.06-006-G expired. The work was completed in the spring of 2006.

The specific work authorized under the emergency permits for which the applicant is now seeking permanent authorization includes: (1) grading a 1,600-foot-long portion of the existing levee top and the bayward face of the levee to establish a uniform slope; (2) laying woven geotextile fabric on the graded soil slope with a fabric anchor at the top and toe keyway at the bottom of the place fabric; and (3) placing a total of approximately 1,333 cubic yards of ½ to ½ ton local and quarry rock on the fabric to a thickness of approximately 2 feet at the top of slope to 3 feet at the toe of the keyway. The work did not expand the footprint of the levee. All of the work was performed above the mean high tide line within the envelope of the levee as it existed prior the December 31, 2005 storm event. As reconstructed, the bayward face of the levee is less steep than it was before (reconstructed at a maximum slope of 2:1) and the levee top is now approximately 5-10 feet narrower than it was prior to December 31, 2005.

b. Authorization for Supplemental Repair Work: The project also includes proposed supplemental repairs of five other portions of the levee totaling approximately 110 feet in length, and involving the placement of minor volumes of rock above the mean high tide line in a manner that would not expand the footprint or envelope of the levee (See Exhibits 3 and 5). This supplemental repair work is designed to address minor erosion damage from the December 31, 2005 storm event in discrete locations that was not severe enough to warrant repair on an emergency basis. The specific development proposed includes: (1) performing minor grading at the edge of the existing levee to provide a uniform slope no steeper than 1:1 upon which to lay the rock; (2) excavating a 2-foot deep toe trench with a portion of the existing levee to secure the new rock; (3) placing a total of approximately 86 cubic yards of ½ to ½ ton local and quarry rock to a thickness of 2-3 feet. The rock will be joined to the existing revetment in an interlocking and integrated fashion to insure stability.

2. Permit Authority, Extraordinary Methods of Repair and Maintenance

As discussed above, the proposed project involves the repair and maintenance of an existing levee along Humboldt Bay.

Coastal Act Section 30610(d) generally exempts from Coastal Act permitting requirements the repair or maintenance of structures that do not result in an addition to, or enlargement or expansion of the structure being repaired or maintained. However, the Commission retains authority to review certain extraordinary methods of repair and maintenance of existing structures that involve a risk of substantial adverse environmental impact as enumerated in Section 13252 of the Commission regulations.

Section 30610 of the Coastal Act provides, in relevant part:

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas: . . .

(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that <u>if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter. [Emphasis added]</u>

Section 13252 of the Commission administrative regulations (14 CCR 13000 *et seq.*) provides, in relevant part:

- (a) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:...
- (3) <u>Any repair or maintenance to facilities or structures or work</u> <u>located</u> in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or <u>within 20 feet of coastal waters</u> or streams <u>that include</u>:
- (A) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials;
- (B) The presence, whether temporary or permanent, of mechanized equipment or construction materials.

All repair and maintenance activities governed by the above provisions shall be subject to the permit regulations promulgated pursuant to the Coastal Act, including but not limited to the regulations governing administrative and emergency permits. The provisions of this section shall not be applicable to methods of repair and maintenance undertaken by the ports listed in Public Resources Code section 30700 unless so provided elsewhere in these regulations. The provisions of this section shall not be applicable to those activities specifically described in the document entitled Repair, Maintenance and Utility Hookups, adopted by the Commission on September 5, 1978 unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views to the ocean....
[Emphasis added.]

The proposed repairs to the existing levee along Humboldt Bay are considered repair and maintenance because the work does not involve an addition to or enlargement of the levee. Although certain types of repair projects are exempt from CDP requirements, Section 13252 of the regulations requires a coastal development permit for extraordinary methods of repair and maintenance enumerated in the regulation. The proposed levee repair involves the placement of construction materials and removal and placement of solid materials within 20 feet of coastal waters. Thus, the project requires a coastal development permit under Section 13252(a)(3) of the Commission regulations.

In considering a permit application for a repair or maintenance project pursuant to the above-cited authority, the Commission reviews whether the proposed *method* of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act. The Commission's evaluation of such repair and maintenance projects does not extend to an evaluation of the conformity with the Coastal Act of the underlying existing development.

3. Water Quality

Section 30231 of the Coastal Act states:

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.

The proposed repair and maintenance work would take place on an existing levee located immediately adjacent to Humboldt Bay. The project involves soil disturbance which could increase sedimentation in Humboldt Bay. Therefore, there is a potential for adverse impacts to the water quality and biological productivity of Humboldt Bay.

Coastal Act Section 30231 protects the quality of coastal waters, streams, and wetlands through, among other means, controlling runoff. Grading and soil disturbance can result in the discharge of sediment into site runoff, which upon entering coastal waters, increases turbidity and adversely affects fish and other sensitive aquatic species. Sediment is considered a pollutant that affects visibility through the water, and affects plant productivity, animal behavior (such as foraging) and reproduction, and the ability of animals to obtain adequate oxygen from the water. In addition, sediment is the medium

by which many other pollutants are delivered to aquatic environments, as many pollutants are chemically or physically associated with the sediment particles.

Analysis

a) Emergency Repair of Portion of Bay front Levee

The proposed project involves follow-up authorization for levee repairs that were authorized under Emergency Permit Nos. 1-06-006-G and 1-06-030-G. The emergency work involved the repair of approximately 1,600 linear feet of bay front levee (See Exhibit 3-4)

The levee repair project was conditioned under both emergency permits to be conducted in a manner that would protect the biological productivity and water quality of Humboldt Bay consistent with Coastal Act Section 30231. Both emergency permits granted for the project included conditions which required among other things, that (a) all new revetment material to be used consist of clean quarry rock that is free of waste and debris, (b) that the revetment material be no greater than three feet in any one direction or smaller than one cubic foot in size, (c) heavy equipment be operated from the inboard side or top of the levee and not within tidal waters, (d) all construction debris be removed from the site and disposed of only at an authorized disposal site, (e) no debris be side-cast in the bay, (f) and (g) no equipment fueling occur along the levee to avoid the accidental discharge of fuel into the stream. The work was completed in the spring of 2006.

Performing the emergency levee repair work as authorized and conditioned under the emergency permit would minimize erosion and the amount of sediment, fuel, and debris potentially entering Humboldt Bay. Therefore, the Commission finds that the emergency levee repair work is consistent with Section 30231 of the Coastal Act, as the proposed repair work would protect the biological productivity and water quality of Humboldt Bay.

b) <u>Supplemental Levee Repair</u>

Implementation of the proposed supplemental repair of five discrete sections of the levee would involve the placement of fill material on the portion(s) of the levee to be maintained, the use of vehicles, stockpiling of materials, and the staging of equipment to be used for the repairs. Unless appropriate protocols are followed, these activities could result in adverse impacts on the biological productivity and water quality of Humboldt Bay.

For example, work performed during rainy periods is much more likely to result in the discharge of sediment into the adjacent waters because the fill would be saturated and rainy conditions increase the likelihood for sediment to be entrained in storm water runoff from exposed soils. Additionally, the use of heavy equipment in tidal areas or the temporary or permanent placement of construction materials or debris in tidal areas would have an adverse impact on water quality. Moreover, spills of equipment fuels and

lubricants on the levee could result in the discharge of contaminants into sensitive tidal areas.

The Executive Director therefore attaches Special Condition No. 1 which requires that certain measures to protect water quality be incorporated in the proposed supplemental levee repairs. Special Condition No. 1 requires, in applicable part, that: (a) all new revetment material to be used consist of clean quarry rock that is free of debris and waste materials (vegetation, asphalt, concrete, etc.); (b)heavy equipment be operated from the inboard side or top of the levee and no such equipment or levee repair materials be allowed to enter tidal or submerged areas of Humboldt Bay; (c) all construction debris shall be removed from the site and disposed of only at an authorized disposal site; (d) silt fences or equivalent devices be installed along the perimeter of each repair site prior to the placement of any fill materials and maintained during construction to reduce the discharge of fill materials and sediment laden runoff into Humboldt Bay; (e) specific measures be taken to prevent and address spills of equipment fuels, lubricants, and similar materials; (f) repair and maintenance activities authorized by this permit only be performed during the dry season (April 15 to October 15); (g) the applicant ensure that the Contractor understands and agrees to observe the standards for work outlined in this permit; and finally (i) repair and maintenance activities be monitored by a qualified Civil Engineer, or equivalent expert, to ensure that work performed under this permit is consistent with the terms of the permit.

Therefore, the Executive Director finds that as conditioned, the proposed supplemental levee repair work is consistent with Coastal Act Section 30231.

Special Condition No. 3 requires the applicant to provide Commission staff the ability to verify condition compliance at the site with regard to all aspects of the approved development and thereby ensure that the mitigation measures imposed by the applicable special conditions are fully implemented.

Therefore, the Executive Director finds that the project as conditioned will maintain biological productivity and quality of coastal waters consistent with Sections 30230 and 30231 of the Coastal Act.

4. Public Access

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from over use. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby. Section 30211 requires that development not interfere with the public's right to access gained by use or legislative authorization. Section 30214 of the Coastal Act provides that the public access policies of the Coastal Act shall be implemented in a manner that takes into

account the capacity of the site and the fragility of natural resources in the area. In applying Sections 30210, 30211, 30212, and 30214 of the Coastal Act, the Commission is also limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on public access.

The proposed project is located on a levee adjacent to Humboldt Bay. The levee is within a secured area of the Simpson Timber Company Brainard Remanufacturing Facility where no public access is allowed. Therefore the levee repairs will not affect any existing public access use. Furthermore, the proposed project has not created any new demand for public access or otherwise created any additional burdens on public access.

Therefore, the Executive Director finds that the proposed project does not have any significant adverse effect on public access, and that the project as proposed without new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, 30212, and 30214.

5. Other Agency Approval

The project requires review and approval by the U.S. Army Corps of Engineers. Pursuant to the Federal Coastal Zone Management Act, any permit issued by a federal agency for activities that affect the coastal zone must be consistent with the coastal zone management program for that state. Under agreements between the Coastal Commission and the U.S. Army Corps of Engineers, the Corps will not issue a permit until the Coastal Commission approves a federal consistency certification for the project or approves a permit. To ensure that the project ultimately approved by the Corps is the same as the project authorized herein, the Executive Director attaches Special Condition No. 4 which requires the applicant to submit to the Executive Director evidence of approval of the project by the U.S. Army Corps of Engineers prior to the commencement of construction. The conditions require that any project changes resulting from the Corps approval not be incorporated into the project until the applicant obtains any necessary amendments to this coastal development permit.

6. <u>California Environmental Quality Act</u>

Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit application to be supported by findings showing that the application, as modified by any conditions of approval, is consistent with any applicable requirement of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Executive Director incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed project has been conditioned to achieve

consistency between the proposed project and the requirements of the applicable policies of the Coastal Act. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. Mitigation measures that will minimize or avoid all significant adverse environmental impact have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity would have on the environment. Therefore, the Executive Director finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

SPECIAL CONDITIONS:

1. Standards for Supplemental Levee Repair Work.

The permittee shall conduct the supplemental levee repair work consistent with the proposed project description titled, "Supplemental Erosion Repair Work," dated July 27, 2006 and the following standards:

- a. <u>Fill Material</u>: All new revetment material to be used shall consist of clean quarry rock that is free of debris and waste materials (vegetation, asphalt, concrete, etc.). The revetment materials shall not be greater than three feet in any one direction or smaller than one cubic foot in size.
- b. <u>Use of Heavy Equipment and Placement of Materials</u>: Heavy equipment shall be operated from the inboard side or top of the levee and no such equipment shall be operated within tidal waters. Levee repair materials shall not be placed on the in tidal or submerged areas of Humboldt Bay.
- c. <u>Disposal of Excess Material</u>: All construction debris shall be removed from the site and disposed of only at an authorized disposal site. Side casting of such material or placement of any such material within Humboldt Bay or any wetland area is prohibited.
- d.. <u>Installation of Silt Fences</u>: Silt fences or equivalent devices shall be installed along the perimeter of each repair site prior to the placement of any fill materials to reduce the discharge of fill materials and sediment laden runoff into Humboldt Bay. The installed silt fences or equivalent devices shall be maintained during project construction and removed upon completion of the project.
- e. <u>Spill Prevention</u>: To prevent and address spills of equipment fuels, lubricants, and similar materials, the repair work shall incorporate the following measures: (a) no equipment fueling shall occur anywhere

along the levee; (b) all equipment used during construction shall be free of oil and fuel leaks at all times; (c) oil absorbent booms and/or pads shall be on site at all times during project construction and deployed if necessary in the event of a spill; and (d) all spills shall be reported immediately to the appropriate public and emergency services response agencies.

- f. Wet Season Work Prohibited: Repair and maintenance activities authorized by this permit shall only be performed during the dry season (April 15 to October 15).
- g. No Wetland Fill: No permanent or temporary fill of Humboldt Bay is allowed by this permit, including the stockpiling of levee repair materials or equipment. Temporary stockpiling of levee repair materials and equipment is permitted only in areas inboard of the levee.
- h. <u>Pre-construction Contractor Training</u>: Prior to the commencement of any repair and maintenance activities authorized by this permit, the applicant shall ensure that the Contractor understands and agrees to observe the standards for work outlined in this permit.
- i. <u>Monitoring</u>: Repair and maintenance activities shall be monitored by a qualified Civil Engineer, or equivalent expert, to ensure that work performed under this permit is consistent with the terms of the permit. The Monitor shall have the authority to stop work and to recommend remediation of ongoing work in order to comply with the terms and conditions of this permit.

2. Assumption of Risk

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

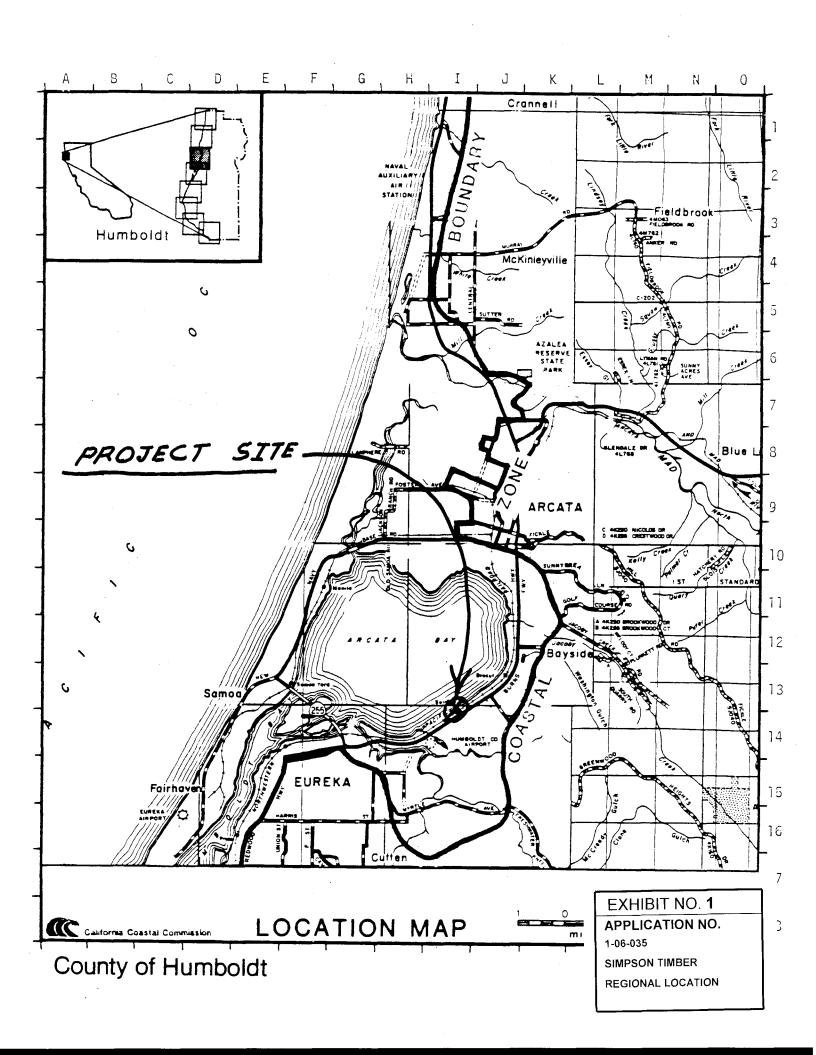
3. <u>Permission to Inspect</u>

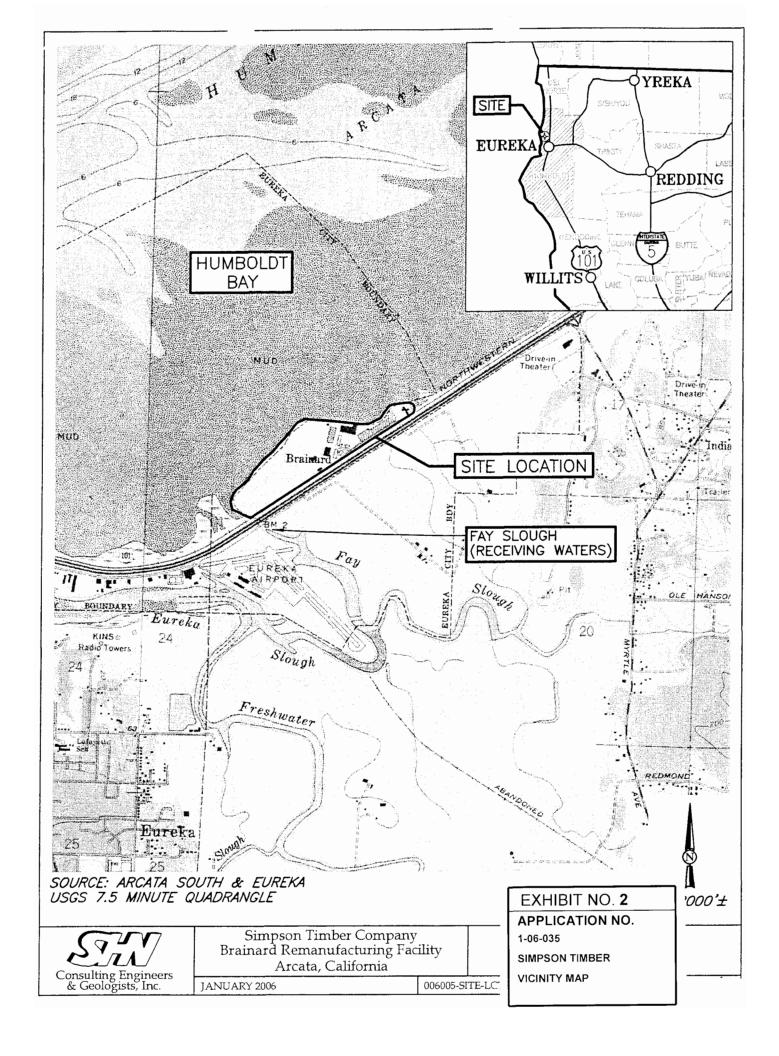
The Coastal Commission staff shall have the right, upon 24-hours notification to the permittee, to enter and inspect the premises for the purpose of determining compliance with Coastal Development Permit No. 1-06-035.

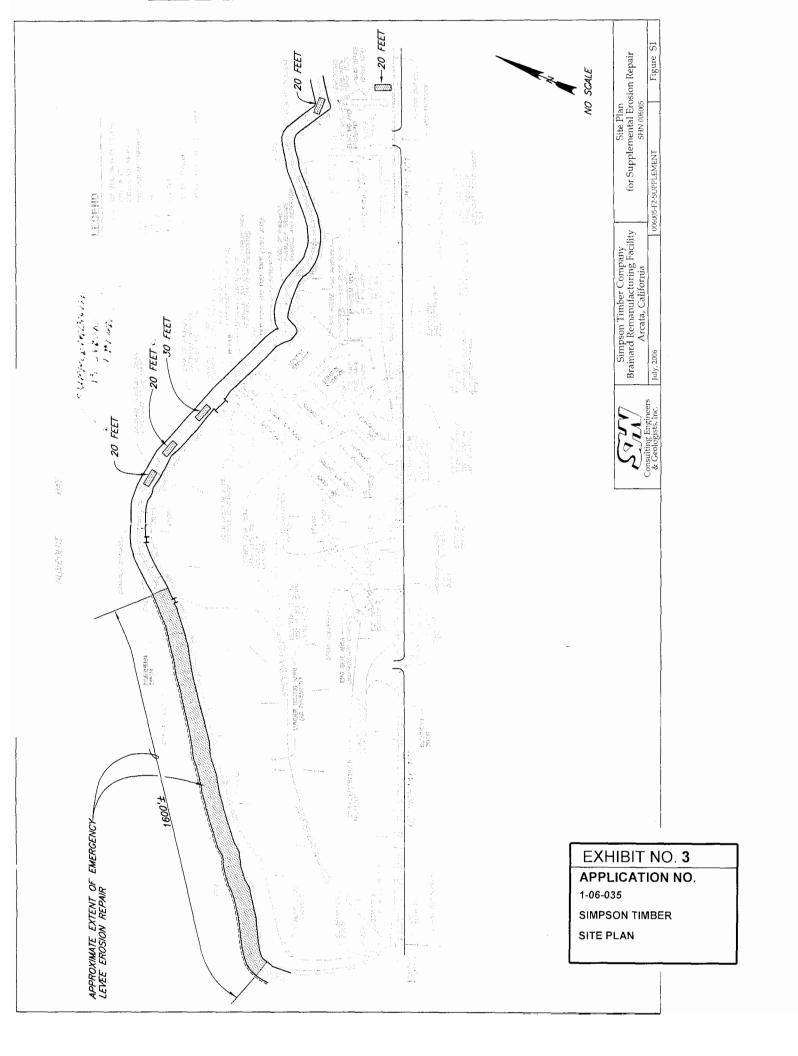
4. U.S. Army Corps of Engineers Approval

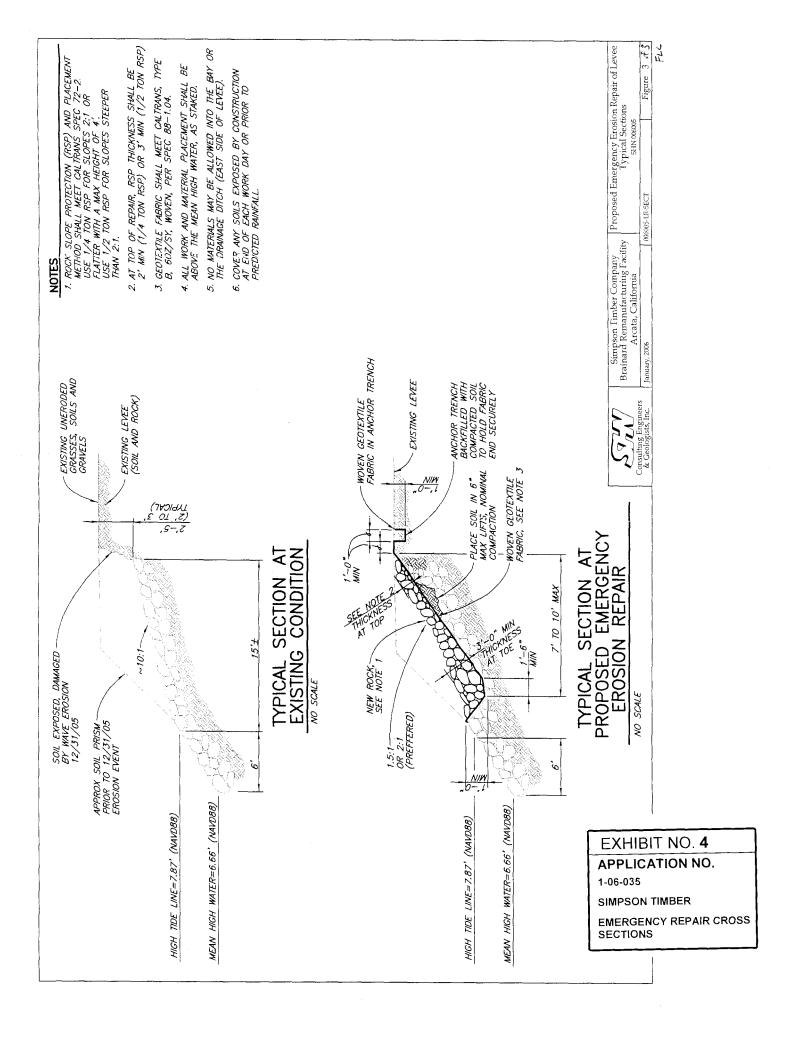
PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE SUPPLEMENTAL LEVEE REPAIR WORK, the permittee shall provide to the Executive Director a copy of a permit issued by the U.S. Army Corps of Engineers, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the U.S. Army Corps of Engineers. Such changes shall not be incorporated into the project until the applicant obtains an amendment to this coastal development permit, unless the Executive Director determines that no amendment is required.

	ECEIPT/ACCEPTANCE OF CONTENTS:
I/We acknowledge that I/we have received a including all conditions.	a copy of this permit and have accepted its contents
Applicant's Signature	Date of Signing









2. AT TOP OF REPAIR, RSP THICKNESS SHALL BE 2' MIN (1/4 TON RSP) OR 3' MIN (1/2 TON RSP) 4. NO MATERALS MAY BE ALLOWED TO MOVE DOWN-SLOPE FROM THE WORK AREA DURING OR AFTER CONSTRUCTION. 1. ROCK SLOPE PROTECTION (RSP) AND PLACEMENT METHOD SHALL MEET CALTRANS SPEC 72—2. USE 1/4 TON TO 1/2 TON RSP. Proposed Supplemental Erosion Repair Typical Sections 3. ALL WORK AND MATERAL PLACEMENT SHALL BE ABOVE THE HIGH TIDE LINE. Simpson Timber Company Brainard Remanufacturing Facility Arcata, California EXISTING LEVEE SUPPLEMENTAL N REPAIR EROSION PROPOSED **YPICAL** OR FLATTER NO SCALE

MEAN HIGH WATER=6.66' (NAVD88)

EXHIBIT NO. 5
APPLICATION NO.

SIMPSON TIMBER

SUPPLEMENTAL REPAIR CROSS SECTIONS

1-06-035

HIGH TIDE LINE=7.87' (NAVD88)