CALIFORNIA COASTAL COMMISSION
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Th 3a

Filed: August 18, 2008
49th Day: October 6, 2008
180th Day: February 14, 2009
Staff: Doug Macmillan
Staff Report: January 16, 2009
Hearing Date: February 5, 2009
Commission Action:

ADMINISTRATIVE PERMIT

APPLICATION NO.: **2-08-011**

APPLICANT: **Marin County Department of Public Works**

PROJECT LOCATION: Mile Marker 25.00 (Sir Francis Drake Blvd. (SFDB)), Inverness, Marin County.

PROJECT DESCRIPTION: Removal of sediment from box culvert and excavation of approximately 415 linear feet of stream channel at Mile Marker 25.00 Sir Francis Drake Blvd. (SFDB) and associated channels to protect SFDB and Bear Valley Road (BVR) from flooding, accidents and potential closure.

EXECUTIVE DIRECTOR'S DETERMINATION: The Executive Director determines that the proposed development qualifies for approval through the issuance of an administrative permit pursuant to Public Resources Code Section 30624. The findings for this determination and for any special conditions follow.

NOTE: This permit shall not become effective until it is reported to the Commission at its next scheduled meeting. If one-third or more of the appointed Commissioners request, the Executive Director's permit issuance shall not be effective, and the application shall be set for public hearing at a subsequent Commission meeting.

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

DATE February 5, 2009
TIME: Meeting Begins at 9:00 a.m., Item Th3a
PLACE: Huntington Beach City Hall
City Council Chambers
2000 Main St.
Huntington Beach, CA
(562) 972-9854

IMPORTANT – Prior to commencement of any development authorized herein, the following must occur:

1. The permittee must sign the acknowledgement and acceptance of the permit and conditions on page 9 of this permit and return same to the Commission's offices; and
2. The permittee must receive the Notice of Permit Waiver Acceptance verifying that the Commission has concurred with the Executive Director's determination as stated above.

PETER DOUGLAS
Executive Director

By: Doug Macmillan
Title: Coastal Planner

I. FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION

A. Environmental Setting and Project Description

The project is located at Mile Marker 25.00 on Sir Francis Drake Blvd. (SFDB) near White House Pool Park, between Inverness and Point Reyes Station, in Western Marin County. The project area contains three stream channels that are tributaries of Tomales Bay: Lagunitas Creek, Old Bear Valley Creek channel, and Silver Hills Creek drainage ditches. The area along the Silver Hills Creek drainage ditches is within County of Marin roadside right-of-way. The area along Old Bear Valley Creek channel is owned by the State of California (APNs 119-040-07 and 119-040-08) and is managed by Marin County Parks and Open Space District.

The box culvert under SFDB is completely blocked and risks flooding the roadway. The application is for authorization to remove the sediment from the culvert and to excavate

approximately 415 linear feet of stream channel in Old Bear Valley Creek, from the culvert on SFDB almost to its confluence with Lagunitas Creek. An additional 435 linear feet of drainage ditch would be excavated along SFDB. In the drainage ditch at Silver Hills Creek, three small sediment retention basins (each approximately 10 feet long by 6 feet wide by 4 feet deep) would be created to make deeper areas to collect sediment coming off of the steep hillside and maintain continuous flow in the drainage ditch. A total of approximately 868 linear feet would be excavated, resulting in the removal of approximately 893 cubic yards of sediment from the creek channels and drainage areas.

The primary cause of blockage is the deposition of decomposed granite that emanates from the steep slopes of the surrounding hillsides. On-going maintenance is required to keep the culverts and drainages hydraulically functioning and to prevent flooding.

Old Bear Valley Creek would be temporarily de-watered at the active work sites via temporary cofferdams which will also protect water quality and aquatic species. Temporary pumps and pipes would divert water from the upstream side of the coffer dam to the downstream outfall on hard surfaces to limit streambed erosion. Pump intakes would be screened to protect fish and other species. Sediment/erosion controls such as sediment traps, silt fences, sandbags and hay bales will be used as necessary. A small, 6-foot wide by 4-foot high dozer would be placed in the creek channel to remove the sediment from the bottom of the channel. A gradeall excavator would dig out the accumulated sediment from the top of the bank or road to minimize erosion of the streambank. All excavated sediment would be removed to a legal, upland disposal site (Nicasio Corporation Yard or another legal upland disposal site).

The staging and operating of equipment along the Old Bear Valley Creek channel requires the removal of twelve riparian trees (willow and alder). The Applicant proposes replace those over six inches in diameter with local natives. The minimal freshwater marsh and riparian vegetation lost along with the dredged sediment is expected to reestablish naturally within a relatively short period of time.

Listed sensitive, threatened, and endangered species that potentially occur within the project area include California black rail, California freshwater shrimp, California red-legged frog, coho salmon, steelhead trout, Western pond turtle, and tidewater goby.

B. Alteration of Rivers and Streams

Section 30236 of the Coastal Act states:

> *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*. [Emphases added.]

1. Permissible Uses for Channelization and Substantial Alteration of Streams

Any proposed channelization or other substantial alteration of a river or stream may only be allowed only for three purposes enumerated in Section 30236, including "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."

The proposed development involves dredging of creek channels as a flood control project. The primary objective of the development is increase natural flow in the creek and drainage ditch channels in order to avoid damaging flooding, traffic accidents and road closures. (Restoring streamflow would have the added benefit of allowing passage of migratory salmonid species).

Thus, the substantial streambed alteration associated with the proposed flood channel maintenance program is allowable pursuant to Section 30235(2) of the Coastal Act provided: (a) there is no other feasible method for protecting existing structures in the floodplain; and (b) such protection is necessary for public safety or to protect existing development.

2. Availability of Other Feasible Methods for Protecting Floodplain Structures

One potential alternative to removing the sediment from the creek channels would be to raise the roadbed to avoid flood waters. However, it would be infeasible to elevate the road due to physical and financial limitations, and would result in far greater environmental impacts than would the proposed maintenance program. Construction to raise the roadbed would severely disrupt traffic on busy Sir Frances Drake Blvd., which is a major means of accessing the coast. It could also cause adverse environmental impacts such as leaching of asphalt constituents into adjacent channels and wetlands, exposing aquatic species to harmful pollutants and adversely impacting water quality. Elevating the roadbed would also simply force floodwaters into other areas, exacerbating the existing situation.

In addition, the "no project" alternative is not less damaging to the proposed development because flooding would continue to occur, threatening existing development and public safety. Neither alternative would provide the additional benefit of improving fish passage from Lagunitas Creek.

Thus, the Commission finds no other feasible, less environmentally damaging measures exist for protecting structures in the floodplain.

3. Necessity of Project for Public Safety and to Protect Existing Structures

Without the proposed maintenance to remove accumulated sediment and vegetation from the channels, they will continue to aggrade with sediment transported from the surrounding hillsides and become progressively more blocked, further reducing the hydraulic function and capacity of the channels, and increasing the risk of flooding, and damage to roads and property in the area.

Accordingly, the Commission finds that the protection to the project area that would be provided by the proposed project is necessary for public safety and the protection of existing development.

4. Feasible Mitigation Measures

The second test set forth by the stream alteration policy of the Coastal Act is whether best feasible mitigation measures have been provided to minimize the adverse environmental impacts of the subject alteration of the streams.

Because listed sensitive, threatened and endangered species may be present at the site, Staff recommends **Special Condition 1** which would require that all project activities be conducted during the low-flow period of June 15 through October 15. This timing will limit impacts to California freshwater shrimp, California red-legged frog, coho salmon, steelhead trout, Western pond turtle, tidewater goby, and their habitat. The Applicant has stated that the proposed activities would last approximately ten days and most likely be conducted in September when stream flows are lowest.

In order to protect those species during project activities, **Special Condition 2** would require a pre-project survey of the site and biological monitoring for the duration of activities. The loss of riparian trees is mitigated by **Special Condition 3** which requires that the Applicant to restore all disturbed areas to the state in which they existed prior to construction, and re-vegetated with an all-native plant palette.

To protect water quality, **Special Conditions 4 and 5** require that the minimum quantity of sediment and vegetation be removed, that no debris or construction–related materials be allowed to enter the adjacent waters, and that all debris and dredged material generated from the project be disposed of in an approved location, outside the coastal zone, thereby protecting water quality and sensitive species.

Because the County anticipates the need for on-going maintenance at the site approximately every two to four years, Staff recommends **Special Conditions 6 and 7** which would require on-going reporting of maintenance activity, and limit the authorization for development under this permit to six years, with the possibility of one six-year extension with the approval of the Executive Director provided that no conditions of the site or proposed development change.

Conclusion

The streambed alteration associated with the proposed project is allowable as a flood control project consistent with the limitations of Coastal Act Section 30236(2) because (a) there is currently no other feasible method for protecting existing structures in the floodplain; and (b) such protection is necessary for public safety or to protect existing development. Without the proposed project to remove accumulated sediment, the threat of flooding to adjacent roads and public safety will only increase.

Therefore, the proposed project, as conditioned, is consistent with Section 30236 of the Coastal Act.

II. Standard Conditions:

1. Notice of Receipt and Acknowledgment. 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. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
3. Assignment. 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.
4. Terms and Conditions Run with the Land. 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.

III. Special Conditions:

1. Seasonal Restrictions, Project Timing, and De-Watering

All project activities shall be conducted during the low-flow period of June 15 through October 15 in any given year. As proposed, prior to sediment removal, Old Bear Valley Creek shall be temporarily de-watered at the active work sites via temporary cofferdams. Temporary pumps and pipes shall divert water from the upstream side of the coffer dam to the downstream outfall on hard surfaces to limit streambed erosion. Pump intakes shall be screened to protect fish and other species.

2. Biological Surveying and Monitoring

Two weeks prior to the beginning of work, a qualified biologist shall conduct a survey of the site for the presence of California black rail, California freshwater shrimp, California red-legged frog, coho salmon, steelhead trout, Western pond turtle, and tidewater goby in accordance with USFWS and CDFG protocol. A qualified biological monitor experienced with all of these species shall be present at the site during all maintenance activities. The biological monitor shall complete daily monitoring reports that indicate the date and time of work, weather conditions, the monitoring biologist's name, project activity/progress, and any sensitive species observed. These reports shall be compiled

and submitted to the Executive Director upon completion of maintenance work. If any of these species (including adults, tadpoles, or egg masses) are found, all work in the area shall cease and the USFWS and CDFG shall be contacted to determine the appropriate action. The biologist shall have the authority to halt all maintenance activities as necessary to protect critical habitat, and to implement appropriate conservation measures, including the rescue or relocation of individual animals to suitable upstream or downstream habitat.

3. Restoration of Disturbed Areas

Large woody vegetation that currently exists on stream channel banks shall be left in place to the maximum extent feasible. Removal of riparian vegetation shall be done with hand tools. All disturbed areas shall be restored to the state in which they existed prior to construction (i.e., regraded to pre-project contours and re-vegetated with an all-native plant palette). Removal of vegetation shall not be done with bulldozers or backhoes, and the root zone of existing vegetation shall not be disturbed.

4. Sediment Removal and Disposal

Only the quantity of material necessary to restore hydraulic capacity to the affected culverts and stream channels shall be removed, and the method employed in this process shall be done in a manner that maintains the existing gradient of the stream. All debris and dredged material generated from the project shall be disposed of in an approved location, outside the coastal zone.

5. Water Quality

No debris, soils, silt, sand, cement, concrete, washings or other material related to construction such as waste, oil, petroleum products or organic or earthen material shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into adjacent waters. At the conclusion of operations, any excess material shall be removed from the work area and disposed of in an approved location outside of the coastal zone.

6. Reporting Requirements

Within sixty days of completion of the first sediment removal episode, Marin Department of Public Works shall submit to the Executive Director a report describing the amount (area and volume) of material removed, type of material removed, the method of removal, type and location of equipment used, and the location of the disposal site for excavated material. Every two years thereafter, Marin Department of Public Works shall submit similar reports describing each sediment removal episode that occurred within that two year period.

7. Length of Development Authorization

Development authorized by this permit is valid for six (6) years from the date of Commission approval (until February 5, 2015). One request for an additional six-year

period of development authorization may be accepted, reviewed, and approved by the Executive Director for a maximum total of twelve (12) years of development authorization (until February 5, 2021), provided that the request would not substantively alter the project description and/or require modifications of conditions due to new information or technology or other changed circumstances.

The request for an additional six-year period of development authorization shall be made prior to February 5, 2015. If the request for an additional six-year period would substantively alter the project description and/or require modifications of conditions due to new information or technology or other changed circumstances, an amendment to this permit will be required. All sediment removal operations proposed after February 5, 2015, or after February 5, 2021 if no additional six-year period of authorization has been granted by the Executive Director or amendment has been obtained, shall require a new coastal development permit.

IV. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements 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 effects, which the activity may have on the environment.

These findings on Coastal Act consistency are hereby incorporated by reference at this point as if set forth in full. The proposed project has been conditioned to be found consistent with the policies of the Coastal Act and to minimize or eliminate all significant adverse environmental effects. Mitigation measures have been imposed to (1) avoid adverse impacts to the sensitive biological resources of the area, (2) minimize any temporary impacts caused by the culvert cleaning and maintenance operations, and (3) properly dispose of and/or remove the debris and dredged material generated from the project in a manner that conforms to the resource protection policies of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impacts, which the development may have on the environment. Therefore, the proposed project can be found consistent with Coastal Act requirements to conform to CEQA.

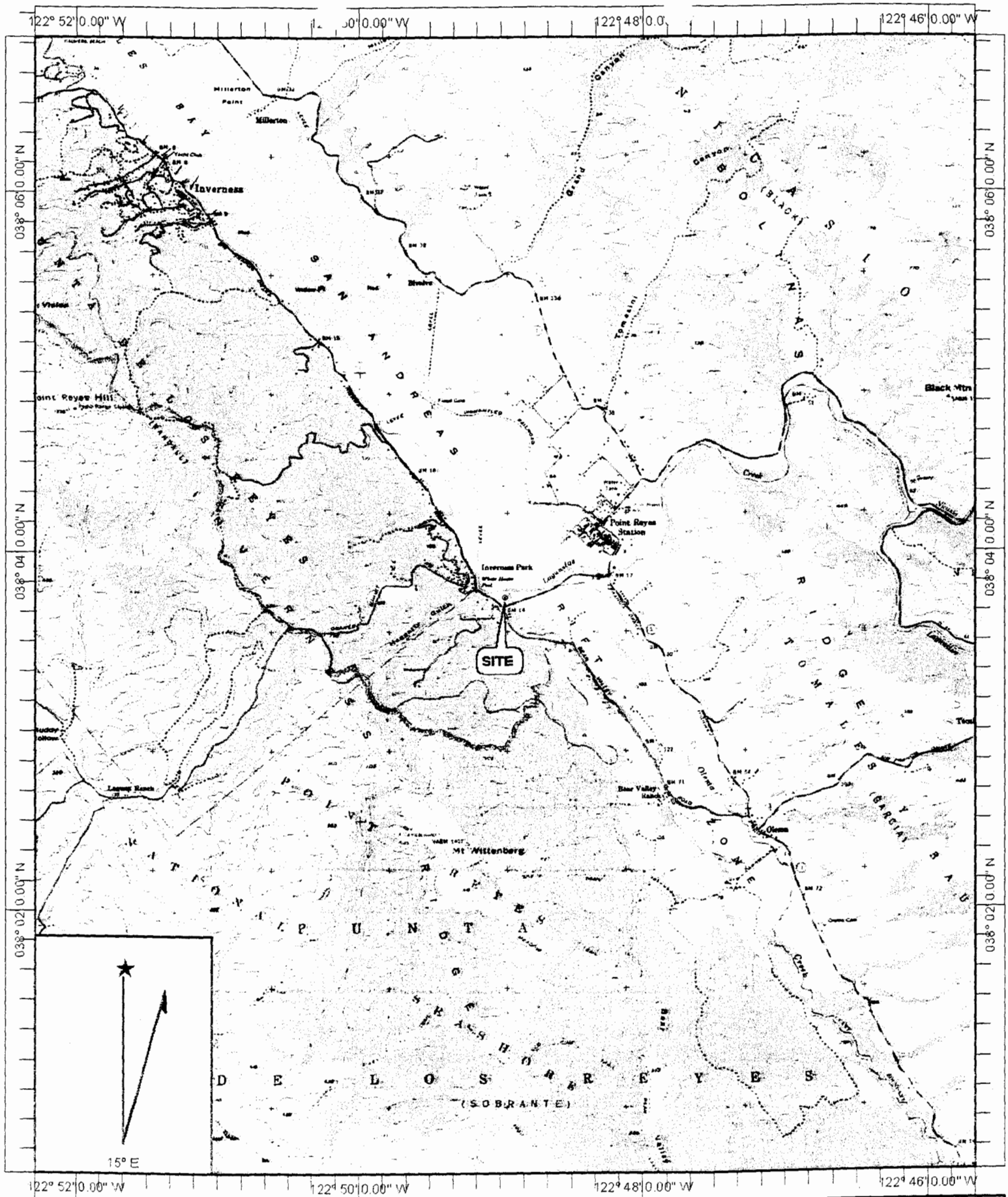
ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant Signature:_____ Date of Signing:_____

EXHIBITS:

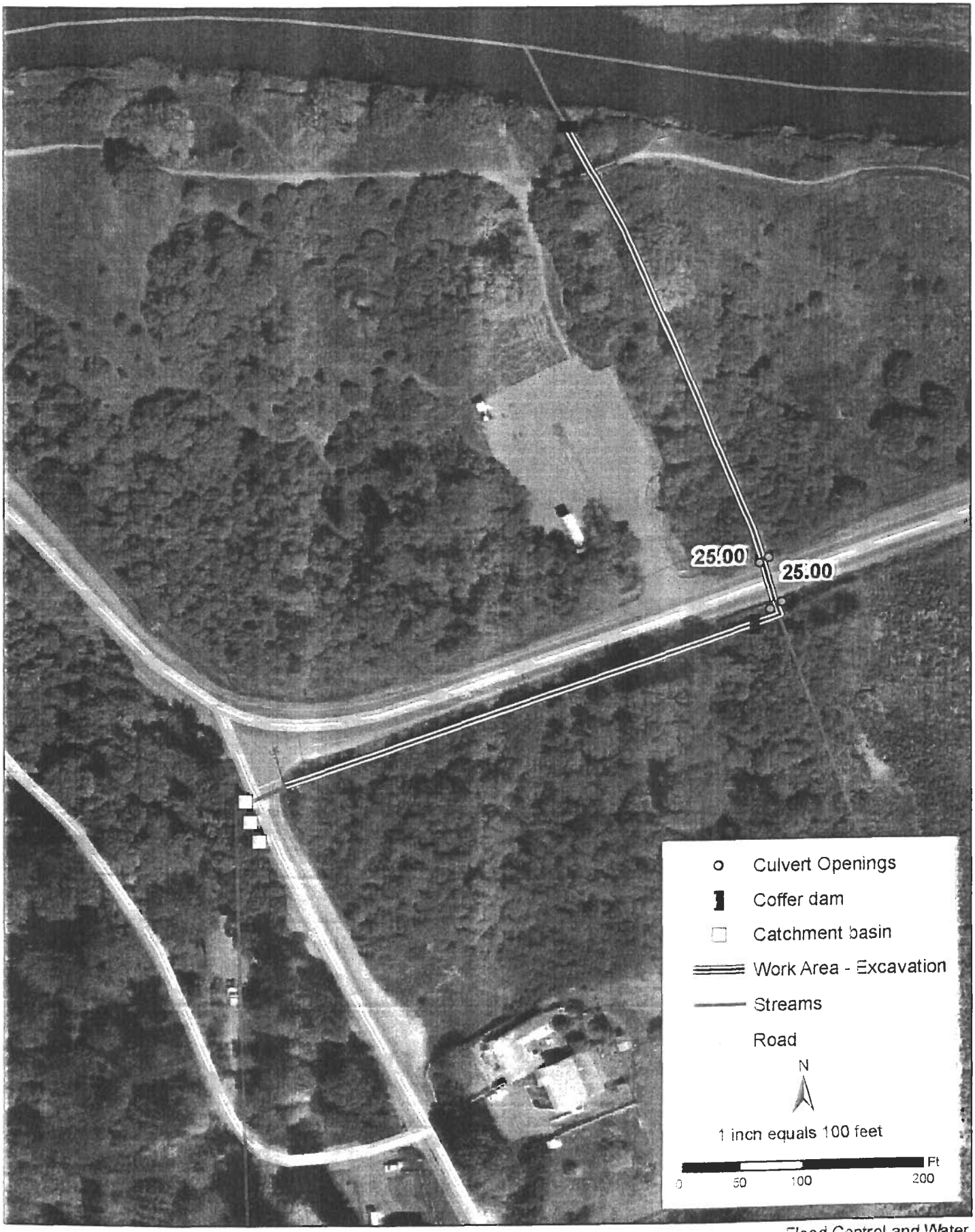
1. Vicinity Map
2. Project Plan



Name: INVERNESS
Date: 12/14/2004
Scale: 1 inch equals 4000 feet

Location: 038° 03' 41.95" N 122° 48' 58.90" W
Caption: White House Pool Site

Exhibit No. 1
2-08-011 Marin Co. DPW
Vicinity Map



Maintenance Cleaning of 47 Culverts and Drainages in West Marin County
Mile Marker: 25.00 Sir Francis Drake Blvd
Project Plan

Flood Control and Water Conservation District
Marin County
March 2008

Exhibit No. 2
2-08-011 Marin Co. DPW
Project Plan