

## CALIFORNIA COASTAL COMMISSION

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# W 14a

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Staff: Melissa B. Kraemer  
Staff Report: January 23, 2009  
Hearing Date: February 4, 2009  
Commission Action:

## STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: **1-07-052**

APPLICANT: **California Department of Parks & Recreation  
(Attn: John E. Harris & Michelle Forsys)**

PROJECT LOCATION: Humboldt Lagoons State Park (Big Lagoon Beach, Dry Lagoon Beach & parking lot, and Stone Lagoon parking lot) and Patricks Point State Park (Agate Beach), approximately 8 miles north of the city of Trinidad and 6 miles south of the community of Orick, Humboldt County (APNs: 518-051-09, 518-071-01, 517-141-01, 516-121-05).

PROJECT DESCRIPTION: (1) Installation of regulatory and interpretive signs at key locations along beaches and parking lots; (2) ongoing repair and maintenance of existing parking lot barriers at Dry Lagoon and Stone Lagoon parking areas on a periodic basis as necessary; and (3) removal of approximately 130 linear feet of rock fill and a regulatory sign placed in Stone Lagoon without the benefit of coastal development permit authorization.

LUP DESIGNATION: Public Recreation (PR).

ZONING DESIGNATIONS: Public Recreation (PR) with Archaeological (A), Coastal Elk Habitat (E), Coastal Wetlands (W), Design Review (D), Beach and Dune (B), Flood Hazard Area (F), and Streams & Riparian Corridor Protection (R) Combining Zones.

SUBSTANTIVE FILE  
DOCUMENTS:

Humboldt Lagoons and Harry A. Merlo State Recreation  
Area General Plan (July 1986);  
CDP No. 1-99-009 (California State Parks);  
Humboldt County Local Coastal Program.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends approval with special conditions of the proposed development.

The proposed project is located along the beaches and two parking lots within Humboldt Lagoons State Park and on Agate Beach within Patricks Point State Park. The project area is located within an approximately 8-mile-long area in Humboldt County approximately eight miles north of the City of Trinidad and six miles south of the community of Orick (Exhibit No. 1). Among the most significant features of Humboldt Lagoons State Park (HLSP) are, from north to south, Stone Lagoon (which is 521 acres in size and is separated from the ocean by an approximately 1-mile-long, 600-foot-wide barrier beach), Dry Lagoon (actually a 280-acre freshwater marsh), and Big Lagoon (which is 1,470 acres in size and is separated from the ocean by a 3.2-mile-long, 700-foot-wide barrier beach). Agate Beach, which is named for the type of rock deposit commonly washed up on the shoreline, is within Patricks Point State Park (PPSP) located just south of Big Lagoon Beach (Exhibit No. 2).

The project involves three main components: (1) installation of regulatory and interpretive signs at key locations along beaches and parking lots; (2) on-going repair and maintenance of existing parking lot barriers at Dry Lagoon and Stone Lagoon parking areas; and (3) removal of approximately 130 linear feet of rock fill and a regulatory sign placed in Stone Lagoon without the benefit of coastal development permit authorization.

The project area provides habitat for an abundance of wildlife, including Roosevelt elk and other mammals and a wide variety of shorebirds, sea birds, passerines, raptors, and more. The federally threatened Western snowy plover (*Charadrius alexandrinus nivosus*) has been observed at Big, Dry, and Stone Lagoon beaches over the past two years. These diminutive shorebirds reside and nest on open beaches, and the plovers and their critical habitat are vulnerable to disturbance from humans, dogs, illegal vehicles, and other beach uses.

The proposed project would be located within or adjacent to ESHA (beach strand and Western snowy plover habitat) and wetlands or open coastal waters. Staff recommends Special Condition No. 2 to require the applicant to install "predator control devices" on the top of signs proposed to be placed within beach and dune areas to minimize perching by potential predators of the plovers. Additionally, staff recommends Special Condition No. 3, which would require that no signs be placed seaward of the farthest landward extent of the mean high tide line. The purpose of the proposed signs is to increase public awareness of existing regulations and assist State Parks enforcement efforts in protecting environmentally

sensitive habitat from illegal, indiscriminate uses (by the presence of horses, dogs, camping, vehicles, etc.). As such, the signs constitute a resource-dependent use within an environmentally sensitive habitat area which staff believes is allowable under Section 30240(a) of the Coastal Act. The proposed project would not result in a significant disruption to ESHA and would result in greater protection of habitat values by minimizing unauthorized uses on the beach strand above mean high tide.

The applicant proposes to maintain the parking lot barriers at Stone and Dry Lagoon beach parking lots in their existing footprints on an as-needed basis by uplifting sanded-in logs and rocks, importing additional large rocks to replace deteriorated barriers, and moving logs from nearby beach areas to replace and/or fill in between existing barriers. Work would be performed using an excavator, which, for the most part, would remain within the parking lot footprints. Although no heavy equipment would enter any body of water or wetland, the applicant does propose to spread excess sand that accumulates on the barriers on the upper wave slope below the mean high tide line so that it can be naturally redistributed along the shoreline.

The beach strand is an environmentally sensitive habitat area. Not only is it a type of intertidal wetland (i.e., the portion of the strand subject to tidal inundation), but also it provides critical habitat for the federally threatened Western snowy plover. Sand that is proposed to be deposited on the beach strand is sand that originated from the strand (that was blown over by the winds) and will serve to replenish the sand within the beach strand. Thus, staff believes that the proposed deposition of excess sand on the beach strand is for a use that will help restore the beach strand and is thus a use dependent on the resource consistent with Section 30240 of the Coastal Act. To ensure that sand spoils resulting from repair and maintenance activities authorized by CDP No. 1-07-052 are disposed of on State Parks property as proposed and outside of wetland areas and/or open coastal waters, staff recommends Special Condition No. 3 to require that that no sand spoils be placed seaward of the farthest landward extent of the mean high tide line. Staff further recommends Special Condition No. 4, which would restrict the project work window to prohibit vehicular beach access for repair and maintenance purposes during the Western snowy plover nesting season to avoid negative impacts to the plover due to wave slope access by vehicles and heavy equipment for the purpose of sand spoils disposal.

The applicant proposes development within a wetland to remove approximately 130 linear feet of rock fill and a regulatory sign from Stone Lagoon originally placed without the benefit of a coastal development permit. Staff believes that the proposed fill removal is consistent with the definition of restoration and constitutes dredging for restoration purposes consistent with Section 30233(a)(6). Staff recommends Special Condition No. 5, which would require the applicant to monitor the site. If site conditions do not naturally reestablish themselves within five years, the condition would require the applicant to prepare a plan for remediation and apply for a permit amendment for such remediation. Staff believes that the proposed project, as conditioned, represents the least environmentally damaging feasible alternative, as required by Section 30233(a). Staff recommends Special Condition No. 6 to require the applicant to undertake the development pursuant to certain construction responsibilities, and

Special Condition No. 7, which would prohibit the planting of problematic and/or invasive species and the use of anticoagulant-based rodenticides at the site. Staff believes that as conditioned, feasible mitigation measures have been provided to minimize adverse environmental effects consistent with Section 30233 of the Coastal Act.

Finally, staff believes that the proposal to place a rock barrier to block the problematic illegal vehicular access point at the north end of Stone Lagoon is consistent with Sections 30220 and 30224 of the Coastal Act because, by allowing for the portage of non-motorized boats through the area, the project as proposed protects water-oriented recreational activities on the lagoon, does not eliminate a designated public launching facility, and will not significantly affect the ability of boaters to launch boats into the lagoon.

**The motion to adopt the staff recommendation of approval with conditions is found on pages 4-5.**

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### **STAFF NOTES**

#### **1. Jurisdiction and Standard of Review**

The proposed project is located in the Commission's retained jurisdiction. The County of Humboldt has a certified LCP, but the site is within areas shown on State Lands Commission maps over which the state retains a public trust interest. Therefore, the standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.

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#### **I. MOTION, STAFF RECOMMENDATION, & RESOLUTION**

The staff recommends that the Commission adopt the following resolution:

**Motion:**

*I move that the Commission approve Coastal Development Permit No. 1-07-052 pursuant to the staff recommendation.*

**Staff Recommendation of Approval:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of the majority of the Commissioners present.

**Resolution to Approve Permit:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

**II. STANDARD CONDITIONS:** See Appendix A.

**III. SPECIAL CONDITIONS:**

**1. Length of Development Authorization**

Development authorized by this permit is valid for five (5) years from the date of Commission approval (until February 6, 2014). One request for an additional five-year period of development authorization may be accepted, reviewed, and approved by the Executive Director for a maximum total of ten (10) years of development authorization (until February 6, 2019), 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 five-year period of development authorization shall be made prior to February 6, 2014. If the request for an additional five-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 necessary. All repair and maintenance activities proposed after February 6, 2019, or after 2014 if either no additional five-year period of authorization has been granted by the Executive Director or no permit amendment has been obtained, shall require a new coastal development permit.

**2. Predator Control Devices on Signs**

Plastic, pointed predator control devices shall be installed on the tops of all signs located within the beach and dune areas to prevent creating perch sites for potential predators of the western snowy plover.

**3. Submittal of Final Plans**

**A. WITHIN 90 DAYS OF ISSUANCE OF COASTAL DEVELOPMENT PERMIT (CDP) NO. 1-07-052 AND PRIOR TO INITIATION OF ANY WORK AUTHORIZED BY CDP NO. 1-07-052,** the permittee shall submit, for the review and approval of the Executive Director, a final site and sign plan for placement of the signs authorized by CDP No. 1-07-052 and a final sand spoils disposal plan for sand

spoils associated with the repair and maintenance of parking lot barriers authorized by CDP No. 1-07-052.

1. The plans shall demonstrate that:
  - a. The signs shall be installed in dry sand areas landward of the farthest landward extent of the mean high tide, based on an analysis of aerial photographs, survey information provided by the State Lands Commission, and/or other credible evidence;
  - b. The locations, sizes, materials, and designs of the signs shall be in substantial conformance to the preliminary sign plans submitted with the application;
  - c. Plastic, pointed predator control devices shall be installed on the tops of all signs located within the vicinity of documented Western snowy plover habitat to prevent creating perch sites for potential plover predators;
  - d. Any sand spoils resulting from repair and maintenance activities authorized by this permit shall be disposed of in dry sand areas landward of the farthest landward extent of the mean high tide, based on an analysis of aerial photographs, survey information provided by the State Lands Commission, and/or other credible evidence;
  - e. Any vehicular access to the waveslope for the purpose of sand spoils disposal shall occur outside the breeding season of the Western snowy plover (i.e., no vehicular beach access for disposal purposes between February 15 and September 30); and
  - f. All construction staging areas shall be located within the existing lots and not on the adjacent beach strand.
2. The plans shall be accurate, drawn to scale, and include, at a minimum, the following components:
  - a. The height, dimensions, and materials proposed for each sign;
  - b. Detail views of the face of the signs showing the final wording and other markings, colors, and dimensions;
  - c. Detail views of pointed predator control devices to be installed on the tops of all signs;
  - d. Sea level and the farthest landward extent of the mean high tide;
  - e. The location of all signs, the farthest landward extent of the mean high tide, and other readily identifiable landmarks at the site marked on the plan;
  - f. The proposed location of staging areas, disposal sites for sand spoils accumulated during repair and maintenance activities authorized by this permit, and the access routes to the disposal sites;
  - g. The schedule for disposal of sand spoils; and

- h. A narrative discussion supplemented with necessary exhibits discussing how the location of the farthest landward extent of the mean high tide was determined.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**4. Timing of Repair & Maintenance Work**

Repair and maintenance activities associated with parking lot barriers that involve vehicles accessing the beach habitats shall occur outside the breeding season of the Western snowy plover and shall not commence before September 30 or extend beyond February 15.

**5. Monitoring Plan**

- A. **WITHIN 90 DAYS OF ISSUANCE OF COASTAL DEVELOPMENT PERMIT (CDP) NO. 1-07-052**, the permittee shall submit, for the review and approval of the Executive Director, a final monitoring plan for the natural recovery of the habitat affected by the rock fill in Stone Lagoon placed without benefit of a coastal development permit that includes the following provisions.
  - 1. A site plan detailing the restoration area including topographic features, high and low water level in the lagoon, limits of the rock fill area, boundaries of the proposed restoration area, and other relevant site features;
  - 2. A description of the habitat conditions prior to fill placement and target habitat conditions for the natural recovery of the area;
  - 3. Proposed criteria for determining the success of natural recovery;
  - 4. A proposed monitoring plan for ensuring the success of natural recovery;
  - 5. A proposed schedule for submittal of monitoring reports; and
  - 6. If the performance criteria have not been met at the end of three years following the completion of removal of the last of the rock fill, the applicant shall submit an amendment to the coastal development permit proposing additional mitigation to ensure all performance criteria are satisfied consistent with all terms and conditions of this permit.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**6. Construction Responsibilities:**

The permittee shall comply with the following Best Management Practices:

- A. No construction materials, debris, or waste shall be placed or stored where it may be subject to entering coastal waters or wetlands;
- B. Rock fill removal work shall occur only during periods of low water and above the water level of the lagoon;
- C. Any debris discharged into coastal waters shall be recovered immediately and disposed of properly;
- D. Any fueling and maintenance of construction equipment shall occur within upland areas outside of environmentally sensitive habitat areas or within designated staging areas. Mechanized heavy equipment and other vehicles used during the construction process shall not be stored or re-fueled within 100 feet of coastal waters; and
- E. Fuels, lubricants, and solvents shall not be allowed to enter the coastal waters or wetlands. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site, and a registered first-response, professional hazardous materials clean-up/remediation service shall be locally available on call. Any accidental spill shall be rapidly contained and cleaned up.

**7. Erosion Control Revegetation**

Any revegetation of disturbed habitats shall comply with the following standards and limitations:

- A. Only native plant species shall be planted. All proposed plantings shall be obtained from local genetic stocks within Humboldt County. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside of the local area may be used. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California, shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the governments of the State of California or the United States shall be utilized within the property.
- B. The use of rodenticides containing any anticoagulant compounds, including, but not limited to, Bromadiolone, Brodifacoum or Diphacinone shall not be used.

**8. State Lands Commission Review**

**WITHIN 90 DAYS OF ISSUANCE OF COASTAL DEVELOPMENT PERMIT (CDP)  
NO. 1-07-052 AND PRIOR TO ANY ADDITIONAL REMOVAL OF ROCK FILL**



**PLACED IN STONE LAGOON**, the permittee shall provide to the Executive Director a written determination from the State Lands Commission that:

- A. No State or public trust lands are involved in the development; or
- B. State or public trust lands are involved in the development and all permits required by the State Lands Commission have been obtained; or
- C. State or public trust lands may be involved in the development, but pending a final determination an agreement has been made with the State Lands Commission for the approved project as conditioned by the Commission to proceed without prejudice to that determination.

**7. Permit Expiration & Condition Compliance**

Because some of the proposed development has already commenced, this coastal development permit shall be deemed issued upon the Commission's approval and will not expire. Failure to comply with the special conditions of this permit may result in the institution of an action to enforce those conditions under the provisions of Chapter 9 of the Coastal Act.

**IV. FINDINGS & DECLARATIONS.**

The Commission hereby finds and declares the following:

**A. Environmental Setting & Background**

The proposed project is located along the beaches and two parking lots within Humboldt Lagoons State Park and on Agate Beach within Patricks Point State Park. The project area is located within an approximately 8-mile-long area in Humboldt County approximately eight miles north of the City of Trinidad and six miles south of the community of Orick (Exhibit No. 1). Among the most significant features of Humboldt Lagoons State Park (HLSP) are, from north to south, Stone Lagoon (which is 521 acres in size and is separated from the ocean by an approximately 1-mile-long, 600-foot-wide barrier beach), Dry Lagoon (actually a 280-acre freshwater marsh), and Big Lagoon (which is 1,470 acres in size and is separated from the ocean by a 3.2-mile-long, 700-foot-wide barrier beach). Agate Beach, which is named for the type of rock deposit commonly washed up on the shoreline, is within Patricks Point State Park (PPSP) located just south of Big Lagoon Beach (Exhibit No. 2).

The surface elevations of Stone and Big Lagoons vary during the year, depending on the quantity of freshwater inputs and the breaching of the barrier beaches (e.g., see Exhibit No. 4). Summer water levels are fairly stable, with freshwater runoff into the lagoons roughly equaling the water lost through evaporation and percolation through the barrier beaches (CDPR 1986). During winter with heavy rain in the watersheds, the water levels rise until the barrier beaches are overtopped. When breaching occurs, water levels drop, and the lagoons

remain open to the ocean for a few days to several weeks. Littoral sand movement eventually closes up the lagoons, and the cycle begins again. The two lagoons are completely independent of one another, and breaching of their barrier beaches occurs at different times and frequencies during the winter months (CDPR 1986).

The HLSP and PPSP offer a variety of recreational opportunities. Picnicking, beachcombing, surf fishing, hiking, nature study, view enjoyment, and general beach play occur on all the ocean beaches. Some swimming occurs in the lagoons in warmer water temperatures during the summer months. Stone and Big Lagoons support canoeing, kayaking, motorboating, sailing, fishing, and waterfowl hunting (from mid-October to mid-January each year). There are no trails in or around Dry Lagoon, so the freshwater marsh is relatively undisturbed. Instead, public recreation is centered around Dry Lagoon Beach, with its abundance of driftwood and view of Sharp Point to the north giving it a highly scenic character.

There is a primitive campground and parking area located at the north end of Stone Lagoon barrier beach. Dry Lagoon Beach is accessed by a day-use-only parking area at its southern end. Big Lagoon Beach is accessed from the Big Lagoon County Park parking area at the lagoon's southern end, from the old highway spur at the northern end, and by boat over Big Lagoon.

Both Stone Lagoon and Dry Lagoon parking areas are surrounded by large logs and boulder barriers to keep motorized vehicles from illegally accessing the beach strands (Exhibit Nos. 4 & 5). The 1986 General Plan for the HLSP prohibits motorized vehicles on the strands and calls for eliminating vehicle use altogether in the area. Vehicle use on the beaches is currently confined to the waveslope and restricted to a limited number of authorized permit holders (commercial fishermen and Yurok Native Americans) and emergency park personnel, as authorized under Coastal Development Permit No. 1-99-009 granted to the Department of Parks and Recreation by the Commission in May of 1999. Prior to approval of CDP No. 1-99-009, which permitted the installation of rock and log barriers and a metal gate at Stone Lagoon barrier beach parking lot, vehicles on the beach (primarily recreational all terrain vehicles), were severely impacting sensitive beach habitats and species (see Exhibit No. 3, photos). The Commission's approval of the permit in May of 1999 provided for limited and restricted vehicular beach access to protect the area's fragile dune vegetation and structure, Western snowy plover habitat, and naturally occurring, abundant driftwood deposits (the illegal harvest of which had been facilitated by rampant vehicular beach access).

The Commission's approval of CDP No. 1-99-009 did not authorize the installation of rock fill below the high water line of Stone Lagoon. In approximately 1999, large rocks were installed as far as 130-feet into the seasonally "dry" portion of Stone Lagoon (brackish mudflat habitat) during low water in an attempt to curtail illegal vehicular access to the beach strand during low water levels in the lagoon (see Exhibit No. 4). After the applicant was informed by Commission staff that the placement of the rock fill required coastal development permit authorization, all but one of the large rocks and the sign were removed. The applicant was unsuccessful at dislodging the uppermost (landward) boulder, which remains in place today.

Although the existing authorized parking lot barriers have been successful at curtailing unauthorized vehicular use of the beach strand, the barriers have become ineffective in some areas due to degradation and sand inundation. Over the past five years, the applicant has repeatedly documented illegal vehicle use and driftwood harvesting on the area beaches, thereby prompting the proposed repair and maintenance to existing parking lot barriers at Stone Lagoon and Dry Lagoon parking lots (described in more detail in Section IV-B below). Access to the beach strand through Stone Lagoon during low water levels has been curtailed by the placement of four large boulders along southeast margin of the Stone Lagoon parking lot (see Exhibit No. 4) at the end of the area where the rock fill that had been placed without benefit of a coastal development permit (described above) was installed and, for the most part, subsequently removed. The installation of these four boulders was not authorized under CDP No. 1-99-009 (described above), and the applicant is seeking after-the-fact authorization for their placement under this permit application (see below).

Boating access to Big Lagoon is available from Big Lagoon County Park on the southwest shore, where boat launching, picnicking, and camping facilities are located. Boating access to Stone Lagoon is available via a launch ramp on the eastern shoreline adjacent to the Visitor Center. Additionally, there is a take-out at the boat-in campground located on the south side of the lagoon, which has six campsites that are accessible by boat only. In the past there had been unofficial boat access that was not indicated or proposed in the HLSP General Plan (CDPR 1986) on the north end of Stone Lagoon (at the southeastern corner of the parking lot), which is currently blocked by the placement of the four boulders described above (see Exhibit No. 4). As discussed above and described below, the applicant is seeking after-the-fact authorization for the removal of rock fill within the lagoon and the placement of the four boulders blocking this access point. Non-motorized boaters (e.g., canoeists and kayakers) would still be able to portage their boats a short distance from the parking lot through this area for boating access to the lagoon.

Vegetation along the project area beaches is sparse. In many areas the beach strand consists mostly of sand and driftwood, which is naturally deposited in abundance in the area. Many native dune plants occur along the strand such as dunegrass (*Leymus mollis*), sand verbena (*Abronia latifolia*), beach bursage (*Ambrosia chamissonis*), and others. Various nonnative and ruderal herbaceous species also occur, especially around parking areas. No rare plant species are known or expected to occur within the proposed project area. The habitat where the rock fill was placed without the benefit of a coastal development permit is aquatic (lagoon) during periods of high water and brackish mudflat during low water periods vegetated by brackish-tolerant species such as salt grass (*Distichlis spicata*) (see Exhibit No. 3).

The project area provides habitat for an abundance of wildlife, including Roosevelt elk and other mammals and a wide variety of shorebirds, sea birds, passerines, raptors, and more. The federally threatened Western snowy plover (*Charadrius alexandrinus nivosus*) has been observed at Big, Dry, and Stone Lagoon beaches over the past two years. These diminutive

shorebirds reside and nest on open beaches, and the plovers and their critical habitat are vulnerable to disturbance from humans, dogs, illegal vehicles, and other beach uses.

## **B. Project Description**

The project involves three main components: (1) installation of regulatory and interpretive signs at key locations along beaches and parking lots; (2) on-going repair and maintenance of existing parking lot barriers at Dry Lagoon and Stone Lagoon parking areas; and (3) removal of approximately 130 linear feet of rock fill and a regulatory sign placed in Stone Lagoon without the benefit of coastal development permit authorization. Project details for each specific area where authorization is sought for this development are described below:

- **Agate Beach**: One sign would be installed on Agate Beach above the mean high tide line (see Exhibit No. 6). The sign is needed because the north end of Agate Beach, which is within Patricks Point State Park and managed by the applicant, is often accessed by visitors using Big Lagoon County Park (BLCP) to the north, which is managed by Humboldt County (see Exhibit No. 2 for reference). Dogs are permitted in BLCP but not PPSP, and there are no signs indicating any property boundaries. The sign would be installed in approximately the middle of Agate Beach, above the mean high tide line, so that beach visitors walking south from BLCP would be informed of the regulations and ownership of the area. The proposed sign would be approximately 1.8 m. high by 5.1 cm. wide by 2.55 cm. thick on a carsonite post (see Exhibit No. 6). The sign would indicate *No Dogs* and would measure 5.1 cm. by 5.1 cm. The carsonite post, which is flexible, would be placed in the ground to a depth of approximately 1.5 m. and would face north.
- **Big Lagoon Beach**: Three signs would be installed at the southern end of HLSP at the boundary between Big Lagoon Beach (managed by the applicant) and BLCP (managed by Humboldt County). Two of the signs would be placed facing southward on the east and west sides of the sand spit along the southern park boundary and would be similar to the Agate Beach sign described above except that additional 5.1 cm. by 5.1 cm. signs would be added to the posts indicating *No Vehicles*, *No Horses*, *No Dogs*, and *California State Parks* (CSP) property (see Exhibit No. 6). A third sign would be placed between the other two in the middle of the dunes indicating the unit identification (*Humboldt Lagoons State Park*) and regulations (*No Dogs*, *No Camping*, *No Vehicles*, and a CSP property sign). The unit sign would be approximately 61.2 cm. wide by 40.8 cm. long, and the regulatory signs immediately below it would be 17.9 cm. by 17.9 cm. These signs would be aluminum and placed on two 2.1 m. high by 5.1 cm. by 5.1 cm. corten steel posts placed in the ground to a depth of approximately 0.9 m (see Exhibit No. 6). All signs would be above the mean high tide line.
- **Dry Lagoon Beach**: The existing interpretive sign at the Dry Lagoon parking lot would be replaced by a wooden kiosk posting park information, a park map, park regulations, and a beach and dune habitat interpretive panel. The kiosk would have panels that allow for signs to be changed. South of the parking lot where the rock outcropping

begins, an aluminum sign (similar in size and post to the regulatory signs proposed for Big Lagoon Beach described above) would be installed indicating *Dogs allowed next 0.5-mile* and picturing a dog on leash (Exhibit No. 6). The post would be installed approximately 0.9 m. into the ground. Two additional signs would be installed on the south side of the rock outcropping near the breach area of Big Lagoon (see Exhibit No. 6). One sign would be placed on a carsonite post driven approximately 0.9 m. into the ground on the upper wave slope and would read the same as the posts proposed for Big Lagoon Beach described above (i.e., *No Vehicles, No Horses, No Dogs*, and *California State Parks* (CSP) property). The second sign would be aluminum and placed on a 2.1 m. high by 5.1 cm. by 5.1 cm. corten steel post driven approximately 0.9 m. into the ground along the dune-bluff line reading *No Dogs Past This Point* and would picture a dog with a red diagonal slash (Exhibit No. 6). All signs would be above the mean high tide line.

- Dry Lagoon Beach Parking Lot Barriers: The applicant seeks multi-year authorization to replace and/or add to the existing parking lot barriers when necessary to maintain the barriers to prevent illegal vehicle use and driftwood harvesting on the beach strand. The existing parking lot barriers consist of large boulders, drift wood logs, and bushes located on the north, west, and south sides of the parking lot (Exhibit No. 5). Some of the existing barriers have become degraded or sanded-in and no longer function to keep vehicles off of the sensitive beach strand habitats and to curtail illegal wood gathering. The Applicant proposes to maintain the barriers in their existing footprint on an as-needed basis by uplifting sanded-in logs and rocks, importing additional large rocks to replace deteriorated barriers, and moving logs from nearby beach areas to replace and/or fill in between existing barriers. Work will be performed using an excavator, which, for the most part, will remain within the parking lot footprints. No heavy equipment will enter any body of water or wetland. The applicant proposes to redistribute excess sand that accumulates on the barriers during repair and maintenance activities by spreading the spoils on the upper wave slope, below the mean high tide line so that it can be naturally redistributed along the shoreline.
- Stone Lagoon Beach Parking Lot Barriers: As with the parking lot barriers at Dry Lagoon Beach, the applicant seeks multi-year authorization to replace and/or add to the existing parking lot barriers when necessary to maintain the barriers to prevent illegal vehicle use on the beach and dunes. The existing parking lot barriers consist of large boulders and logs located on the west and south sides of the parking lot to prevent illegal off-road traffic from entering the beach (Exhibit No. 4). A 20-foot-wide locked metal gate is located on the southwest side of the parking lot, limiting vehicular beach access to emergency and park personnel, commercial beach fishermen, and Yurok Native Americans with authorized permits in accordance with Coastal Development Permit No. 1-99-009 (approved by the Commission in May 1999). The existing barriers have become inundated with sand, and some barriers are ineffective. The Applicant proposes to maintain the barriers in their existing footprint on an as-needed basis by uplifting sanded-in logs and rocks, importing additional large rocks to replace deteriorated barriers, and moving logs from nearby beach areas to

replace and/or fill in between existing barriers. Work will be performed using an excavator, which, for the most part, will remain within the parking lot footprints. No heavy equipment will enter any body of water or wetland. The applicant proposes to redistribute excess sand that accumulates on the barriers during repair and maintenance activities by spreading the spoils on the upper wave slope, below the mean high tide line so that it can be naturally redistributed along the shoreline. As discussed above, the applicant also seeks after-the-fact authorization for the placement of the four boulders at the southeastern margin of the parking lot, which were not permitted under CDP No. 1-99-009 and which have been effective at blocking a problematic illegal vehicular access point (which was also used informally in the past for motorized boating access to the lagoon). Also as discussed above, the applicant proposes to remove the illegally placed 130-foot-long rock barrier and a regulatory sign in the lagoon (the majority of which has already been removed), which was placed on mudflat habitat during a period of low water.

**C. Permit Authority, Extraordinary Methods of Repair & Maintenance**

Coastal Act Section 30610(d) generally exempts from Coastal Act permitting requirements the repair or maintenance of structures that does 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, for the following:

*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 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]*

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

*(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) Any repair or maintenance to facilities or structures or work located 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 within 20 feet of coastal waters or streams that include:

(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 project component that involves repairing and maintaining the existing parking lot barriers at Dry Lagoon Beach parking area and Stone Lagoon Beach parking area is a repair and maintenance project component because it does not involve an addition to or enlargement of the existing barriers. 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 barrier repair and maintenance involves the placement of construction materials and removal and placement of solid materials in a sand area and within 50 feet of the edge of an environmentally sensitive habitat area (e.g., the beach strand). The proposed repair and maintenance project component therefore requires a coastal development permit under Sections 13252(a)(1) 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.

The repair and maintenance of the Stone and Dry Lagoon parking lot barriers could have adverse impacts on coastal resources, in this case primarily beach strand habitats, if not properly undertaken with appropriate mitigation. The Applicant proposes to maintain the barriers in their existing footprint on an as-needed basis by uplifting sanded-in logs and rocks, importing additional large rocks to replace deteriorated barriers, and moving logs from nearby beach areas to replace and/or fill in between existing barriers. Work will be performed using an excavator, which, for the most part, will remain within the parking lot footprints. No heavy equipment will enter any body of water or wetland. The applicant proposes to dispose

of excess sand that accumulates on the barriers during repair and maintenance activities by spreading the spoils on the upper wave slope, below the mean high tide line so that it can be naturally redistributed along the shoreline.

The applicant has not proposed any mitigation measures as part of their proposal to avoid or minimize potential impacts of the repair and maintenance component of the project on water quality, wetlands, and environmentally sensitive habitat areas (ESHA). The applicant asserts that on-going repair and maintenance of the parking lot barriers as needed will benefit the area by preventing illegal off-road traffic through the beach strand habitats, thereby helping to protect snowy plover critical habitat and sensitive natural and cultural resources. Nevertheless, the Commission recommends various conditions to ensure that the project is consistent with Coastal Act policies protecting ESHA, wetlands, and water quality, as discussed in the following findings.

Finally, the Applicant has requested authorization to implement the repair and maintenance activities on an on-going basis as needed “indefinitely.” The Commission has, on various occasions, granted special districts multi-year permits for such activities in order to reduce both Commission and District staff workload associated with processing repetitive, routine coastal permits (e.g., CDP No. 1-07-041 Jacoby Creek bridge sediment management; CDP No. 3-04-72 Moss Landing Harbor District routine pier replacement; CDP No. 3-00-034 Santa Cruz Port District routine maintenance dredging; CDP No. 3-02-047 Monterey Harbor routine operations and maintenance; CDP No. 1-03-004 Reclamation District levee repair and maintenance; etc.). However, given the fact that circumstances can change over time and techniques for addressing maintenance needs can also evolve, the Commission chooses to grant an initial five year period of development authorization with a one-time ability to extend the period of development authorization for another five years for a maximum total of 10 years of development authorization if there are no changed circumstances that require review. This permit is conditioned accordingly with the attachment of Special Condition No. 1.

Therefore, as conditioned in these Findings, the Commission finds that the proposed project is consistent with PRC Sections 30230, 30231, 30233, and 30240.

**D. Environmentally Sensitive Habitat Areas (ESHA)**

1. Applicable Coastal Act Policies and Standards

Coastal Act Section 30240 states as follows:

- (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.*

Coastal Act Section 30107.7 defines “environmentally sensitive area” as:

*...any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

## 2. Consistency Analysis

The beach strand is an environmentally sensitive habitat area. Not only is it a type of intertidal wetland (i.e., the portion of the strand subject to tidal inundation), but also it provides critical habitat for the federally threatened Western snowy plover.

Western snowy plovers have been observed at Big, Dry, and Stone Lagoon beaches over the past several years. The small shorebird resides and breeds on open beaches, dunes, and gravel bars. Due to their size and cryptic coloring, the birds are highly susceptible to trampling and disturbance. Not only can humans, dogs, horses, and vehicles on the beach directly harm individual birds and nests, but also the presence of such disturbance during the nesting season (generally March to September) can cause birds to abandon nests and developing eggs or chicks to perish. In many areas with a high use intensity (e.g., Little River State Beach approximately two miles south of Trinidad), nesting plovers are protected by erecting fence enclosures around the nests to prevent disturbance and trampling by humans and unauthorized dogs, horses, and vehicles.

The proposed project is located within or adjacent to ESHA and wetlands or open coastal waters. The first two project components, including (a) the installation of regulatory and interpretive signs on the beach strand, and (b) the repair and maintenance of the existing parking lot barriers adjacent to the strand, are discussed separately below, and the third component (removal of approximately 130 linear feet of illegal rock fill from Stone Lagoon) is addressed in Finding IV-E (Restoration of Marine Resources, Protection of Coastal Waters, and Permissible Filling, Dredging, & Diking of Wetlands), as this development is subject to the wetland filling, diking, and dredging policies of Section 30233 of the Coastal Act.

### **(a) Installation of regulatory and interpretive signs at key locations along beaches and parking lots**

The proposed project involves, in part, installing seven signs at various beach locations as described above (see Exhibit No. 6). According to the project description submitted by the applicant, all signs will be installed using hand tools above the mean high tide line. Signs will be placed at most about 1.5 meters below ground level and will not require major vegetation removal or significant adverse impacts to beach strand vegetation.

As discussed above, vegetation along the project area beaches is sparse. In many areas the beach strand consists mostly of sand and driftwood. Many native dune plants occur along the strand such as dunegrass, sand verbena, beach bursage, and others. Various nonnative and ruderal herbaceous species also occur, especially around parking areas. No rare plant species are known or expected to occur within the proposed project area.

In the past, the U.S. Fish and Wildlife Service (FWS) has encouraged the State Parks to identify its boundaries and has expressed support of regulatory signage and increased enforcement to protect the plovers (e.g., see CDP No. 1-99-073, which authorized signage installation by California State Parks at Little River State Beach). However, the FWS has also indicated a concern that the increased signs could result in creating perch sites for birds that prey on Western snowy plovers. To eliminate this potentially significant impact to the plovers, the Commission attaches Special Condition No. 2. This condition requires the installation of “predator control devices” on the top of signs proposed to be placed within beach and dune areas to minimize perching by potential predators of the plovers. These devices are plastic points that essentially make an uneven surface to detour birds from perching atop the signs. The applicant has indicated that such devices are feasible for the proposed signage and has indicated its willingness to include this design feature.

Although the applicant does not propose doing so, the Commission notes that placing the signs below mean high tide would result in fill of coastal waters and associated impacts that are not considered under the proposed project. Section 30233 of the Coastal Act strictly limits the allowable uses for which fill can be placed, precludes any fill that is not the least environmentally damaging feasible alternative, and requires that adequate mitigation be provided for any adverse impacts of the fill. As the applicant has not proposed to place the signs within tidal areas, the Commission has not reviewed the conformance of the signs with the requirements of Section 30233, and Coastal Development Permit No. 1-07-052 does not authorize any fill in coastal waters for the signs. In addition, the western boundaries of the State Parks properties extend to the ambulatory mean high tide line, and the applicant does not possess the necessary property interest to place the signs seaward of that line. Therefore, to ensure that the signs are sited outside of wetland areas and on State Parks property as proposed, the Commission attaches Special Condition No. 3, which requires that no signs be placed seaward of the farthest landward extent of the mean high tide line. The special condition requires that the applicant submit final site and sign plans within 90 days of permit issuance and prior to installation of any signage demonstrating that the signs will be placed in dry sand areas landward of the farthest landward extent of the mean high tide based on an analysis of aerial photographs, survey information available from the State Lands Commission, and/or other reliable evidence.

The purpose of the proposed signs is to increase public awareness of existing regulations and assist State Parks enforcement efforts in protecting environmentally sensitive habitat from illegal, indiscriminate uses (by the presence of horses, dogs, camping, vehicles, etc.). As such, the signs constitute a resource-dependent use within an environmentally sensitive habitat area allowable under Section 30240(a) of the Coastal Act. The proposed project will

not result in a significant disruption to ESHA and will result in greater protection of habitat values by minimizing unauthorized uses on the beach strand above mean high tide.

**(b) Repair and maintenance of existing parking lot barriers at Dry Lagoon and Stone Lagoon parking areas on a periodic basis as necessary**

The proposed project involves, in part, repair and maintenance of existing parking lot barriers at Dry and Stone Lagoon parking areas on a periodic basis as necessary to prevent illegal vehicle use on the beach strand (see Exhibit Nos. 4 & 5). The parking lots themselves are not ESHA, as they are either paved (Dry Lagoon) or a mixture of hard-packed sand and pavement (Stone Lagoon). For the most part, vegetation immediately adjacent to the parking areas consists of ruderal, disturbance-oriented species, including many nonnative species. Additionally, snowy plovers have not been documented in the vicinity of parking areas, but instead tend to nest in the portions of the beach strand that are least susceptible to routine human disturbance.

As discussed above, the applicant proposes to maintain the parking lot barriers in their existing footprints on an as-needed basis by uplifting sanded-in logs and rocks, importing additional large rocks to replace deteriorated barriers, and moving logs from nearby beach areas to replace and/or fill in between existing barriers. Work will be performed using an excavator, which, for the most part, will remain within the parking lot footprints. Although no heavy equipment will enter any body of water or wetland, the applicant does propose to spread excess sand that accumulates on the barriers on the upper wave slope below the mean high tide line so that it can be naturally redistributed along the shoreline. The Commission notes that the sand that is proposed to be deposited on the beach strand is sand that originated from the strand that was blown over by the winds. The Commission further notes that the sand to be redeposited will serve to replenish the sand within the beach strand. Thus, the Commission finds that the proposed deposition of excess sand on the beach strand is for a use that will help restore the beach strand and is thus a use dependent on the resource, consistent with Section 30240 of the Coastal Act.

The Commission has not reviewed the conformance of the placement of the excess sand within tidal areas with the requirements of Section 30233, and Coastal Development Permit No. 1-07-052 does not authorize any fill in coastal waters for the placement of excess sand. In addition, the western boundary of the State Parks properties extends to the ambulatory mean high tide line, and the applicant does not possess the necessary property interest to place sand spoils seaward of that line. To ensure that sand spoils resulting from repair and maintenance activities authorized by CDP No. 1-07-052 are disposed of outside of wetland areas and on State Parks property as proposed, the Commission attaches Special Condition No. 3. As discussed above, this condition requires that no sand spoils be placed seaward of the farthest landward extent of the mean high tide line. The special condition requires that the applicant submit final site and disposal plans within 90 days of permit issuance and prior to undertaking any repair and maintenance activities demonstrating that sand spoils will be placed in dry sand areas landward of the farthest landward extent of the mean high tide based

on an analysis of aerial photographs, survey information available from the State Lands Commission, and/or other reliable evidence.

The Commission finds that the proposed project also could negatively impact Western snowy plovers due to wave slope access by vehicles and heavy equipment for the purpose of sand spoils disposal. Although snowy plovers are not typically found in close proximity to parking areas, the areas where vehicular access would occur does support plover critical habitat. Thus, Special Condition No. 3 requires that the final sand spoils disposal plan demonstrate that disposal activities shall not occur during the plover nesting season (February 15 through September 30) to avoid any potential disturbance to nesting birds from disposal activities on the beach strand. Additionally, Special Condition No. 4 restricts the project work window to prohibit vehicular beach access for repair and maintenance purposes during the plover nesting season.

**(c) Conclusion**

Therefore, the Commission finds that the proposed signage installation and parking lot barrier maintenance activities, as conditioned, are consistent with Section 30240 of the Coastal Act, as the portion of this development to be performed within the beach strand ESHA (a) involves restorative measures dependent on the beach strand ESHA, (b) the project will not result in a significant disruption to ESHA, and (c) the project will provide for the protection of the overall beach and dune system by minimizing unauthorized uses at the site by vehicles, dogs, horses, and campers.

**E. Restoration of Marine Resources, Protection of Coastal Waters, and Permissible Filling, Dredging, & Diking of Wetlands**

**1. Applicable Coastal Act Policies and Standards**

Coastal Act Section 30230 states as follows:

*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.*

Coastal Act Section 30231 states as follows:

*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.*

Coastal Act Section 30233 provides as follows, in applicable part:

(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:*

...

(6) *Restoration purposes*

...

(c) *In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary...*

## 2. Consistency Analysis

The one project component proposed by the applicant that involves development within a wetland is the proposed removal of approximately 130 linear feet of rock fill and a regulatory sign from Stone Lagoon originally placed without the benefit of a coastal development permit.

Coastal Act Sections 30230 and 30231 require in part that marine resources and coastal wetlands be maintained and enhanced. These policies also call for restoration of marine resources, coastal waters, streams, wetlands, and estuaries where feasible. When read together as a suite of policy directives, Sections 30230, 30231, and 30233 set forth a number of different limitations on what types of projects may be allowed in coastal wetlands. For analysis purposes, the limitations applicable to the subject project can be grouped into four general categories or tests. These tests require that projects that entail the dredging, diking, or filling of wetlands demonstrate that:

- a. That the purpose of the filling, diking, or dredging is for one of the seven uses allowed under Section 30233;
- b. That the project has no feasible less environmentally damaging alternative;
- c. That feasible mitigation measures have been provided to minimize adverse environmental effects; and
- d. That the biological productivity and functional capacity of the habitat shall be maintained and enhanced where feasible.

Each category is discussed separately below.

### a. Permissible Use for Fill

The first test set forth above is that any proposed filling, diking, or dredging in wetlands must be for an allowable purpose as specified under Section 30233 of the Coastal Act. The relevant category of use listed under Section 30233(a) that relates to the proposed project is subcategory (6), “restoration purposes.”

The project proposes to restore Stone Lagoon to its original habitat conditions by removing approximately 130 linear feet of rock fill and a sign that was placed in approximately 1999 without the benefit of a coastal development permit below the high water line of the lagoon in brackish mudflat habitat in an effort to curtail illegal vehicular access to the beach strand at low water levels (see Exhibit No. 4). The majority of rock fill and the sign were removed in approximately 2003, and the applicant is seeking after-the-fact authorization for the past fill removal and for the remaining fill to be removed. The areas in the lagoon where rock has been removed have largely been recolonized by native vegetation such as salt grass and other species common to brackish habitats. It is expected the remaining areas where rock is proposed to be removed will similarly recolonize with native vegetation. The project involves excavation of rock fill from mudflat areas and placement of the rock “spoils” within the existing Stone Lagoon parking lot barrier footprint as necessary to improve its effectiveness at preventing unpermitted vehicles from accessing the beach strand.

The dictionary defines “restoration” in terms of actions that result in returning an article “back to a former position or condition,” especially to “an unimpaired or improved condition.”<sup>1</sup> The proposed restoration will reestablish the mudflat habitat that existed in the area prior to the rock fill placement. Therefore, the Commission finds that the proposed fill removal is consistent with the definition of restoration and constitutes dredging for restoration purposes consistent with Section 30233(a)(6).

This finding that the proposed project constitutes “restoration purposes” is based, in part, on the assumption that the proposed project will be successful in restoring wetland habitat values. To ensure that the affected area returns to its former condition, Special Condition No. 5 requires the applicant to monitor the site. If site conditions do not naturally reestablish themselves within five years, the applicant is required to prepare a plan for remediation and apply for a permit amendment for such remediation.

Therefore, the Commission concludes that the proposed work within lagoon mudflat habitat as conditioned is permissible under Section 30233(a)(6) for “restoration purposes.”

**b. Alternatives Analysis**

The second test set forth by the Commission’s dredging and fill policies is that the proposed project must have no feasible less environmentally damaging alternative. Coastal Act Section 30108 defines “feasible” as follows:

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<sup>1</sup> Merriam-Webster’s Collegiate Dictionary, Tenth Edition

*“Feasible” means capable of being accomplished in a successful manner within a reasonable time, taking into account economic, environmental, social, and technological factors.*

The only identifiable alternative to the proposed project is the “no project” alternative. This alternative would leave a 130-foot-long rock barrier and sign in the lagoon, which would be submerged at high water levels and below the lagoon’s seasonal low water level. The rock barrier would be apparent during low water periods as an unnatural feature in an otherwise highly scenic, natural environment and would detract from the visual quality of the area (see Exhibit No. 3, photos). Additionally, as an unnatural feature in the lagoon environment, the rocks could pose a boating hazard when submerged. Although there are large boulders that occur naturally along the lagoon’s eastern shore, large rocks of the sort that occur in the unauthorized rock barrier are not a natural feature or configuration of the lagoon habitats and serve no identifiable ecological function (e.g., haul out area for marine mammals). In addition, the rock and sign fill displaces the natural mudflat habitat that provides habitat for invertebrates, birds, and other organisms. Finally, the applicant’s property boundary excludes the lagoon itself below the high water level, and the applicant does not possess the necessary property interest to leave the rock fill in place. Accordingly, taking into consideration the economic, environmental, and social factors, the no project option is not a feasible less environmentally damaging alternative than the proposed project, as conditioned.

Therefore, the Commission finds that there is no less environmentally damaging feasible alternative to the development as conditioned, as required by Section 30233(a).

**c. Feasible Mitigation Measures**

The third test set forth by Section 30233 is whether feasible mitigation measures have been provided to minimize adverse environmental impacts. The development will be located within and around coastal waters and wetlands. Overall, the project would restore wetland habitat values and would produce generally only beneficial environmental effects. However, depending on the manner in which the proposed project is conducted, the significant adverse impacts of the project may include (1) impacts to fish and wildlife habitat from water pollution in the form of sedimentation or debris entering coastal waters and wetlands; (2) introduction through re-planting of exotic invasive plants species that could compete with native vegetation and negate the habitat improvement they would provide; (3) use of certain rodenticides that could deleteriously bio-accumulate in predator bird species

**(1) Sedimentation Impacts to Aquatic Habitat & Water Quality**

The proposed rock fill removal is being undertaken to benefit the lagoon environment. Potential adverse impacts to lagoon and adjacent wetland water quality could occur in the form of sedimentation or other pollutants or debris from removal of the illegal rock fill using heavy equipment in and around sensitive habitats. The project could also, if not properly undertaken, impact sensitive fish and other aquatic life inhabiting the lagoon.

Although the majority of the rock fill has already been removed and the applicant is seeking after-the-fact approval for its removal, some rock fill still remains, and no measures have been specifically proposed to avoid or minimize potential adverse impacts to lagoon and adjacent wetland water quality. To ensure that adverse impacts to water quality and the lagoon environment do not occur from rock removal activities, Special Condition No. 5 requires that rock fill removal work occur only during periods of low water and above the water level of the lagoon. Additionally, Special Condition No. 6 requires the applicant to undertake the development pursuant to certain construction responsibilities. These include, but are not limited to, the following: (a) no construction materials, debris, or waste are to be placed or stored where they may enter coastal waters, (b) rock fill removal work shall occur only during periods of low water and above the water level of the lagoon, (c) any debris discharged into coastal waters shall be recovered immediately and disposed of properly, (d) any fueling and maintenance of construction equipment shall occur within upland areas outside of environmentally sensitive habitat areas or within designated staging areas, (e) fuels, lubricants, and solvents shall not be allowed to enter the coastal waters or wetlands, hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site, and any accidental spill shall be rapidly contained and cleaned up, and other specifications.

## **(2) Introduction of Exotic Invasive Plants**

The use of non-invasive plant species adjacent to environmentally sensitive habitat areas (ESHAs) is critical to protecting such areas from disturbance. If invasive species are planted adjacent to an ESHA they can displace native species and alter the composition, function, and biological productivity of the ESHA.

Although the applicant has not proposed any revegetation as part of the proposed project, to assure that no invasive plant species are seeded in the project area for erosion control or other purposes, Special Condition No. 7 prohibits the planting of any plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California, shall be employed or allowed to naturalize or persist on the site. Furthermore, no plant species listed as a “noxious weed” by the governments of the State of California or the United States are to be utilized in the revegetation portion of the project.

## **(3) Use of Anticoagulant-based Rodenticides**

To help in the establishment of vegetation, rodenticides are sometimes used to prevent mice, moles, voles, and other similar small animals from eating the new plantings. Certain rodenticides, particularly those utilizing blood anticoagulant compounds such as brodifacoum, bromadiolone and diphacinone, have been found to pose significant primary and secondary risks to non-target wildlife present the area. As the target species are preyed upon by raptors or other environmentally sensitive predators and scavengers, these compounds can bioaccumulate in the animals that have consumed the rodents to concentrations toxic to the ingesting non-target species. To avoid this potential cumulative impact to environmentally



sensitive wildlife species, Special Condition No. 6 contains a prohibition on the use of such anticoagulant-based rodenticides.

Conclusion:

The Commission finds that, as conditioned, feasible mitigation measures have been provided to minimize adverse environmental effects consistent with Section 30233 of the Coastal Act.

**d. Maintenance & Enhancement of Biological Productivity & Functional Capacity**

The fourth general limitation set by Section 30233 and 30231 is that any proposed dredging or filling in coastal wetlands must maintain and enhance the biological productivity and functional capacity of the habitat, where feasible.

As discussed above, the conditions of the permit will ensure that the project will not have significant adverse impacts on the water quality of any of the coastal waters in the project area and will ensure that the project construction will not adversely affect the biological productivity and functional capacity coastal waters or wetlands. Therefore, the Commission finds that the project, as conditioned, will maintain the biological productivity and functional capacity of the habitat consistent with the requirements of Sections 30233, 30230, and 30231 of the Coastal Act.

**F. Boating Access**

1. Applicable Coastal Act Policies and Standards

Coastal Act Section 30220 states as follows:

*Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Coastal Act Section 30224 states as follows:

*Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.*

2. Consistency Analysis

As discussed above in Finding IV-A, boating access to Big Lagoon is available from Big Lagoon County Park (managed by Humboldt County) on the southwest shore, where boat launching, picnicking, and camping facilities are located. Boating access to Stone Lagoon is

available via a launch ramp on the eastern shoreline adjacent to the Visitor Center. Additionally, there is a take-out at the boat-in campground located on the south side of the lagoon, which has six campsites that are accessible by boat only.

One proposed project component involves after-the-fact authorization for the installation of a rock barrier, which blocks an illegal vehicular access point on the north end of Stone Lagoon near the southeastern end of the parking area (see Exhibit No. 4). In the past, this illegal vehicle access point had also been used as an informal launching area for motorized boats, though the Park's 1986 General Plan does not recognize or plan for a formal launching facility in this location. The applicant, in approximately 2002 or 2003, placed four large rocks in front of this informal boating access point in an effort to curtail the illegal vehicular use of the beach strand in the area. At low water levels in the lagoon, which occur on a more or less annual basis (or less) after the lagoon breaches, vehicles can traverse the "dry" portion of the lagoon (which is brackish mudflat habitat) to illegally access the beach strand. Illegal vehicles on the beach strand adversely impact dunes and other beach habitats, including critical habitat for Western snowy plover. In the years since this illegal access point has been blocked, instances of illegal vehicles on the dunes have dramatically decreased, according to the applicant, and the habitat areas previously degraded by the illegal vehicles have recovered (see Exhibit No. 3).

As discussed above, the proposed project does not close a designated public launching facility; instead it blocks an area where vehicles had for decades been degrading wetland and beach habitats by taking advantage of low water levels in the lagoon to illegally drive across a wetland area for the purpose of illegal beach access. Because this illegal access point was not blocked by any barriers, vehicles with boat trailers also could use this area to access the lagoon and launch motorized boats at higher water levels. However, as discussed above, this unofficial, informal boating access was not addressed or planned for in the Park's General Plan (CDPR 1986). Thus, the proposed project does not in any way decrease any of the lagoon's designated public launching facilities (*i.e.*, the one on the lagoon's eastern shoreline or the "take-out" at the boat-in campground on the lagoon's south shore). In addition, boaters will still have the opportunity to launch boats on trailers using the main launch ramp off Highway 101 on the lagoon's eastern shoreline, which is a centrally-located concrete ramp that is adjacent to the visitor's center and immediately accessible from the highway. There is no evidence of such high demand for use of this main ramp that lengthy delays in boat launching are occurring. Furthermore, non-motorized boaters (e.g., canoeists and kayakers) are still able to portage their boats a short distance from the parking lot through this blocked illegal access point for boating access to the lagoon.

Therefore, the Commission finds that the proposal to place a rock barrier to block the problematic illegal vehicular access point at the north end of Stone Lagoon is consistent with Sections 30220 and 30224 because, by allowing for the portage of non-motorized boats through the area, the project as proposed protects water-oriented recreational activities on the lagoon, does not eliminate a designated public launching facility, and will not significantly affect the ability of boaters to launch boats into the lagoon. The Commission further finds that the project's proposal to remove an approximately 130-foot-long rock barrier that juts out

into Stone Lagoon from the northern parking area is consistent with Section 30220, as the project will protect water-oriented recreational activities by removing a potential hazard to boats.

**G. Public Access**

Coastal Act Sections 30210, 30211, and 30212 are summarized as follows:

Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. Coastal Act Section 30210 requires in applicable part that maximum public access and recreational opportunities be provided when consistent with public safety, private property rights, and natural resource protection. Section 30211 requires in applicable part that development not interfere with the public's right of access to the sea where acquired through use (i.e., potential prescriptive rights or rights of implied dedication). Section 30212 requires in applicable part that public access from the nearest public roadway to the shoreline and along the coast be provided in new development projects, except in certain instances, such as when adequate access exists nearby or when the provision of public access would be inconsistent with public safety. In applying Sections 30211 and 30212, the Commission is 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 existing or potential public access.

2. Consistency Analysis

Humboldt Lagoons State Park (HLSP) was acquired, in part, by the Department of Parks and Recreation in 1931 with an initial acquisition of 763 acres. Since then, through a number of separate acquisitions, the park has expanded to its present size. The majority of the 625-acre Patricks Point State Park (PPSP) was acquired by the State in 1929-1931.

Existing regulations for each Park prohibit dogs on State beaches "*except in portions of units designated for dogs*" and anywhere on State Park property in general "*beyond the limits of campgrounds, picnic areas, parking areas, roads, structures or in posted portions of units...*" pursuant to California Code of Regulations, Title XIV, Division 3, Chapter 1, Section §4312, which states as follows (emphasis added):

§ 4312. *Control of Animals*

(a) *No person shall permit a dog to run loose, or turn loose any animal in any portion of a unit, except upon written authorization by the District Superintendent.*

(b) *No person shall keep an animal in any unit except under his/her immediate control.*

*(c) No person shall keep a noisy, vicious, or dangerous dog or animal or one which is disturbing to other persons, in any unit and remain therein after he/she has been asked by a peace officer to leave.*

*(d) No person shall permit a dog or a cat to remain outside a tent, camper, or enclosed vehicle during the night.*

*(e) No person shall bring a dog into, permit a dog to enter or remain, or possess a dog in units under control of Department of Parks and Recreation unless the dog is on leash of no more than six feet in length and under the immediate control of a person or confined in a vehicle.*

*(f) No person shall bring a dog into, permit a dog to enter or remain, or possess a dog:*

*1) beyond the limits of campgrounds, picnic areas, parking areas, roads, structures or in posted portions of units except as provided elsewhere in this section.*

*2) on any beach adjacent to any body of water in any unit except in portions of units designated for dogs.*

*(g) In state recreation areas open to hunting pursuant to Public Resources Code, Section 5003.1, dogs may be used to assist in hunting. Such dogs shall not be permitted to pursue or take any wildlife other than that being hunted.*

*(h) Subsections e) and f) shall not apply to trained "seeing eye," "signal," or "service" dogs used to guide a physically impaired person there present, or dogs that are being trained to become "seeing eye," "signal," or "service" dogs.*

*(g) Grazing. No person shall graze, herd or permit livestock to enter or remain inside a unit without specific written authorization of the Department, except for grazing by animals used for riding or packing under direct control of visitors or concessionaires.*

Existing regulations for HLSP and PPSP prohibit dogs from almost all the area beaches. Dogs are permitted on the beach at Big Lagoon County Park, which is managed by Humboldt County and is sandwiched between State park properties. The proposed project to install regulatory signs at key locations along the area beaches would not only inform visitors where dogs are and are not permitted in the various Park areas, but also it would expand beach access for dogs in the area by permitting leashed dogs to access (1) the northern half of Agate Beach, where current Park regulations prohibit dogs; and (2) a half-mile of beach extending south from Dry Lagoon parking area to the north end of Big Lagoon, where current Park regulations prohibit dogs.

Unauthorized access and uses of beaches by dogs, horses, vehicles, and campers has occurred on the area beaches, and such illegal and indiscriminate uses at the site has posed a threat to sensitive resources in the area, including the Western snowy plover, which resides and nests in exposed beach areas. Due to limited staff resources and enforcement funding, the regulations prohibiting these use on State beaches have only been sporadically enforced. The proposed project will help clarify State Park property boundaries and post areas closed to these uses.

The project does not propose any new restrictions regarding public access or change any allowable use at the site, but rather would only assist in enforcing existing regulations on permitted uses in the various Park areas. Because existing regulations have prohibited dog access and other uses on State beach property since at least 1971, the proposed project does not limit any public access that is currently legally permitted.

Therefore, the Commission finds that the proposed project will not have a 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, and 30212.

## **H. Protection of Visual Resources**

### **1. Applicable Coastal Act Policies and Standards**

Section 30251 of the Coastal Act states that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance and requires, in applicable part, that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas.

### **2. Consistency Analysis**

The signs proposed to be placed on the beach will be compatible in their size, design, and color with signs common to other state parks and beaches. The seven proposed signs are approximately 1.8 m. high by 5.1 cm. wide by 2.55 cm. thick on carsonite posts (at Agate Beach and Big and Dry Lagoon beaches) and 61.2 cm. wide by 40.8 cm. long placed on two 2.1 m. high by 5.1 cm. by 5.1 cm corten steel posts (at Big and Dry Lagoon beaches) and will be installed up to seven feet above ground level (see Exhibit No. 6). A wooden kiosk is also proposed for Dry Lagoon Beach parking area to replace the existing interpretive sign.

The proposed signage and new kiosk will not result in an alteration of natural land forms, as no grading is proposed or required along the beach or dunes to install the signs. The signs are mostly small placards attached to narrow posts, and even the larger signs (e.g., at Big Lagoon Beach) still are relatively small. In addition, the area is characterized by expansive, flat to gently sloping, sandy beaches, and the installation of signs at locations relatively far (hundreds of feet) apart across the two Park properties will not significantly degrade the scenic values of the beaches and dunes in the area.

The proposed repair and maintenance of the existing parking lot barriers at Stone Lagoon and Dry Lagoon parking areas will not significantly change the visual character of the areas. In fact, the proposed signage and barrier improvements will help deter illegal uses on the beach strand (e.g., dogs, horses, camping, vehicles, etc.), and a decrease in such uses in the area will improve the visual quality of the area (e.g., there will be a decrease in vehicles and habitat-degrading tire tracks in the area). Finally, as discussed above, removal of the illegally placed

130-foot-long rock barrier in Stone Lagoon as proposed will improve the visual quality of the area by removing an unnatural feature from an otherwise highly scenic, natural environment.

Therefore, the Commission finds that the proposed project is consistent with Coastal Act Section 30251 as the development would not block views to and along the coast, will not involve any alteration of land forms, and would be visually compatible with the character of surrounding areas.

**I. Public Trust Lands**

A portion of the project site (namely the waters of Stone Lagoon) is located in an area subject to the public trust. Therefore, to ensure that the applicant has the necessary authority to undertake all aspects of the project on these public lands, the Commission attaches Special Condition No. 8, which requires that the project be reviewed and where necessary approved by the State Lands Commission within 180 days of issuance of CDP No. 1-07-052 and prior to removal of the illegal rock fill in Stone Lagoon authorized by this coastal development permit.

**J. California Environmental Quality Act (CEQA)**

The California Department of Parks and Recreation served as the lead agency for the purposed of CEQA review. The Department filed a Notice of Exemption for the project on November 27, 2007. The project was deemed Categorical Exempt (Classes 1 & 3) pursuant to CEQA Sections 15301 and 15303.

Section 13906 of the Commission's administrative regulation requires Coastal Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, is 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 any feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission 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 be consistent with the policies of the Coastal Act. The 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. As specifically discussed in these above findings, which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no other feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

**V. EXHIBITS:**

1. Regional Location Map
2. Vicinity Map
3. Photos of Stone Lagoon Illegal Vehicular Beach Access Point
4. Stone Lagoon Site Plan
5. Dry Lagoon Parking Area Site Plan
6. Signage Plans

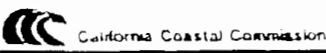
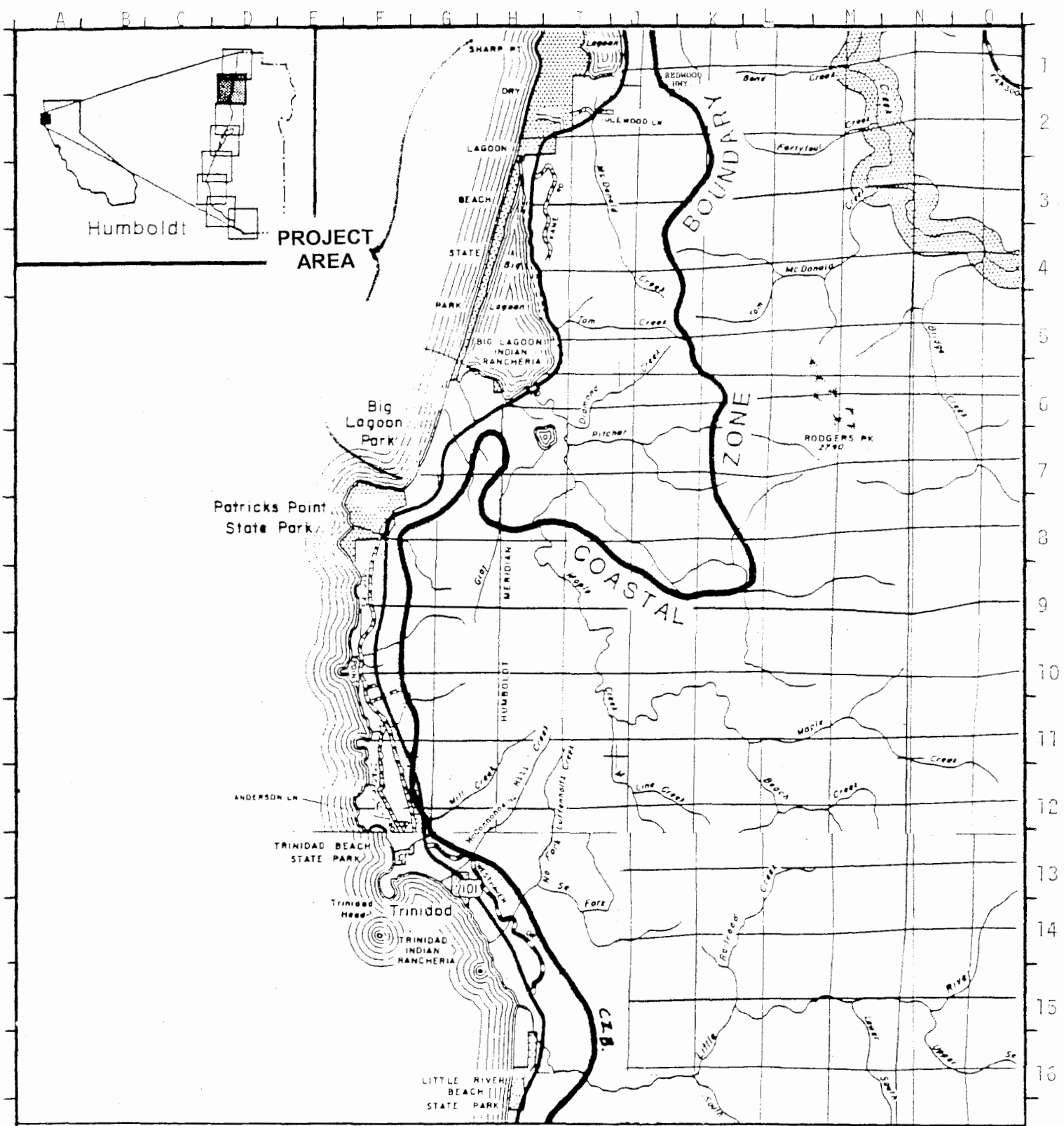
## APPENDIX A

### **STANDARD CONDITIONS**

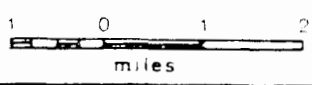
1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director of 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.







# LOCATION MAP



County of Humboldt

2 of 2

Figure 1.0. Vicinity Map

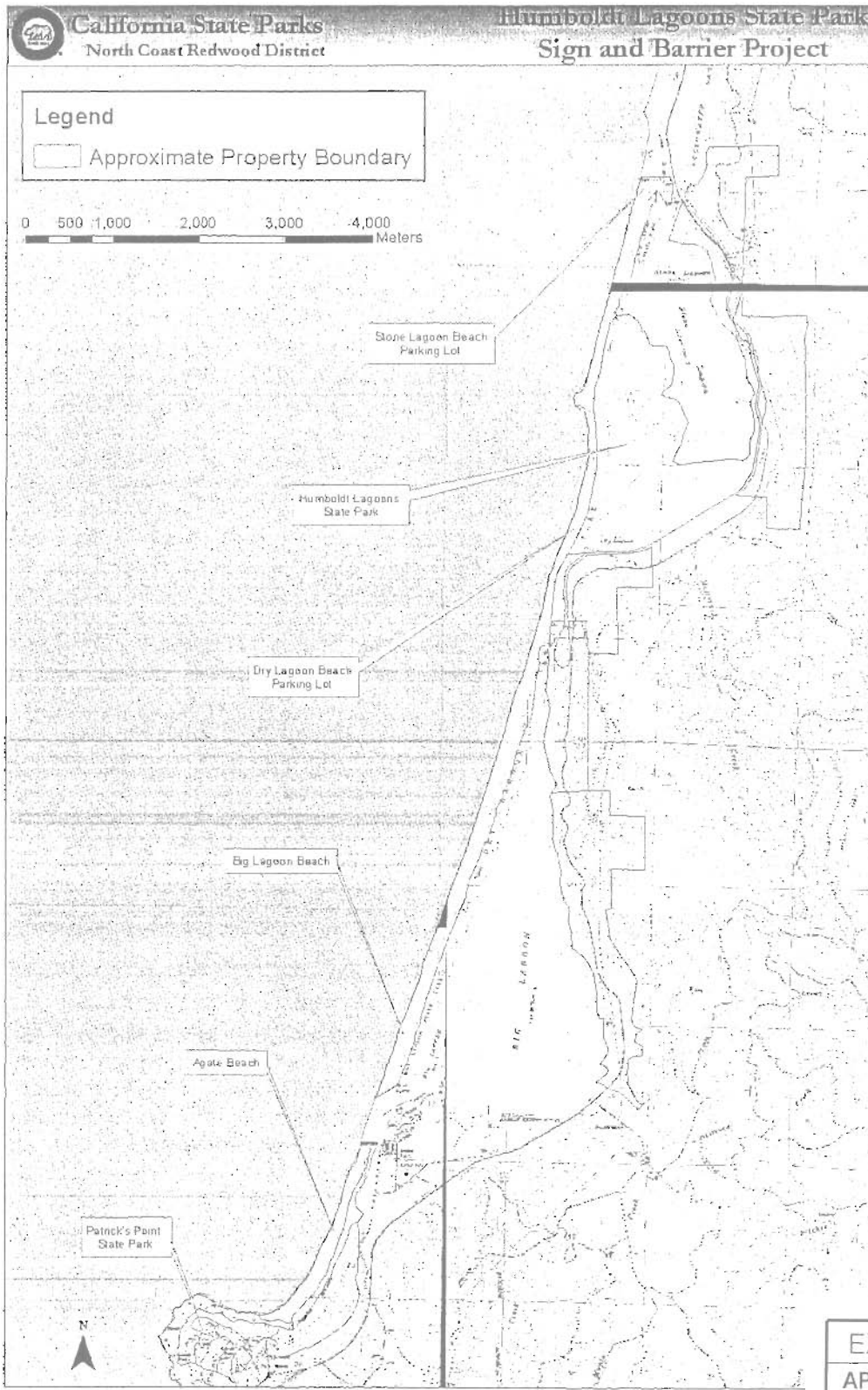


EXHIBIT NO. 2  
APPLICATION NO.  
1-07-052  
DEPT. OF PARKS & REC.  
VICINITY MAP

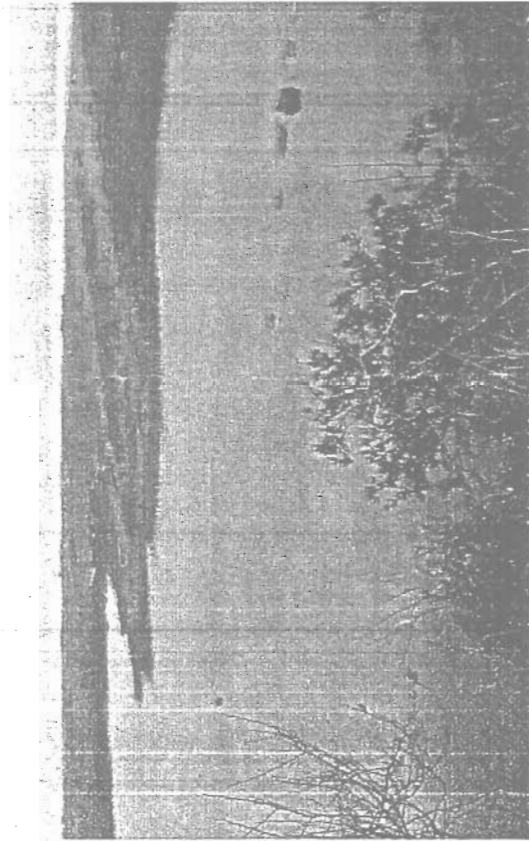
EXHIBIT NO. 3

APPLICATION NO.

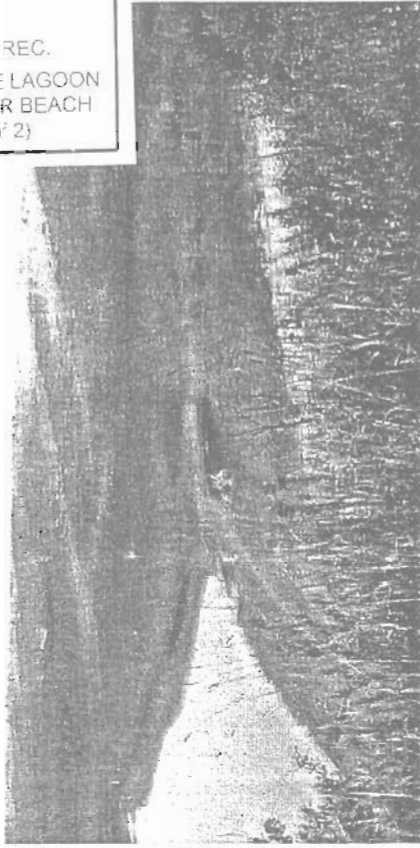
1-07-052

DEPT. OF PARKS & REC.

PHOTOS OF STONE LAGOON  
ILLEGAL VEHICULAR BEACH  
ACCESS POINT (1 of 2)



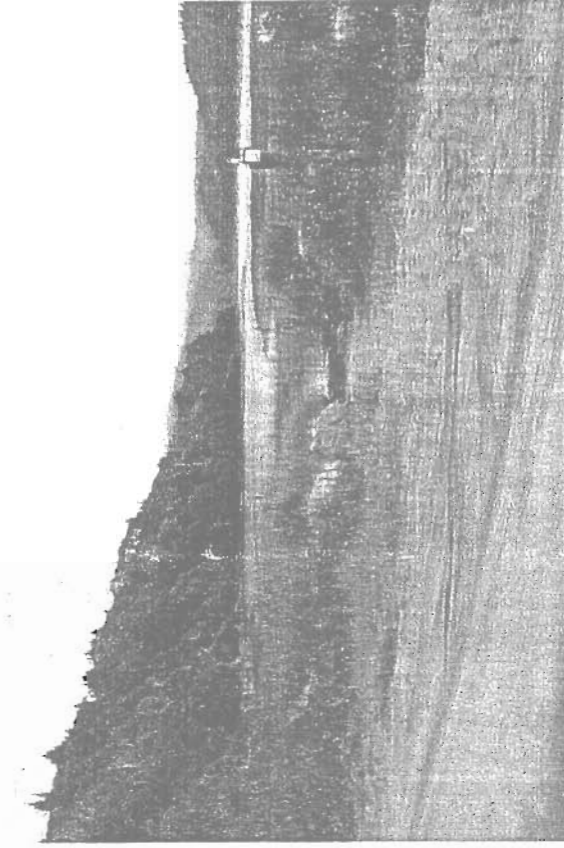
Stone Lagoon at high water level.



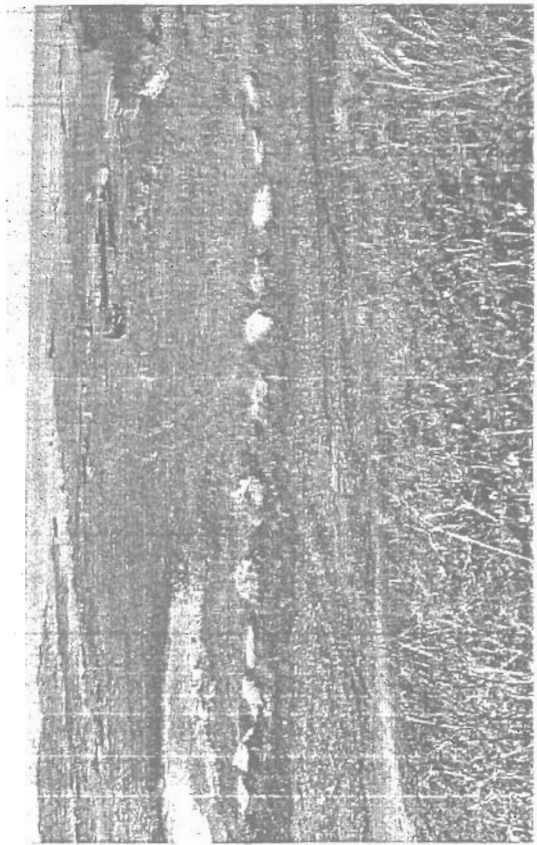
Current conditions at Low Water Level



Illegal vehicle access to edge of Stone Lagoon.



Current conditions at illegal access point (after barriers installed).



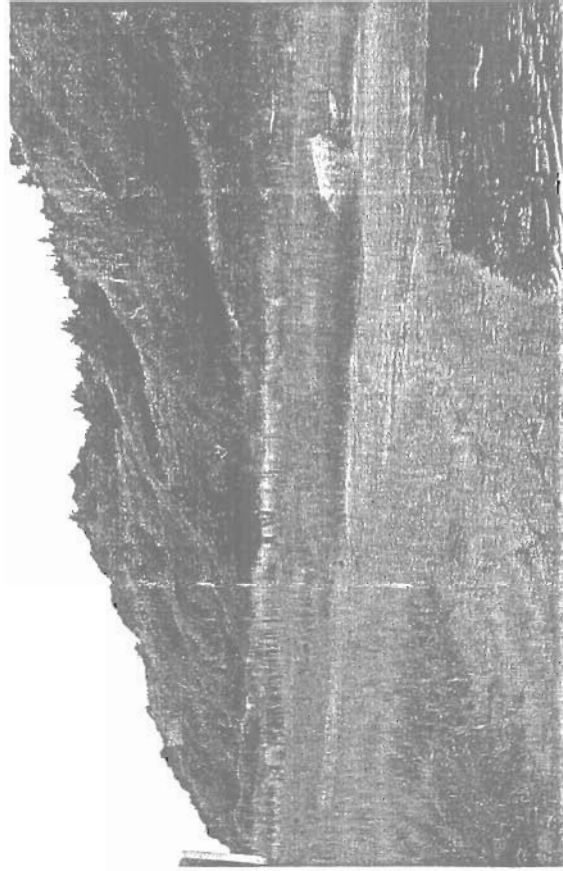
Illegal vehicle access into Stone Lagoon and onto dune habitat.



Current conditions at illegal access point (after rocks removed & barriers installed).

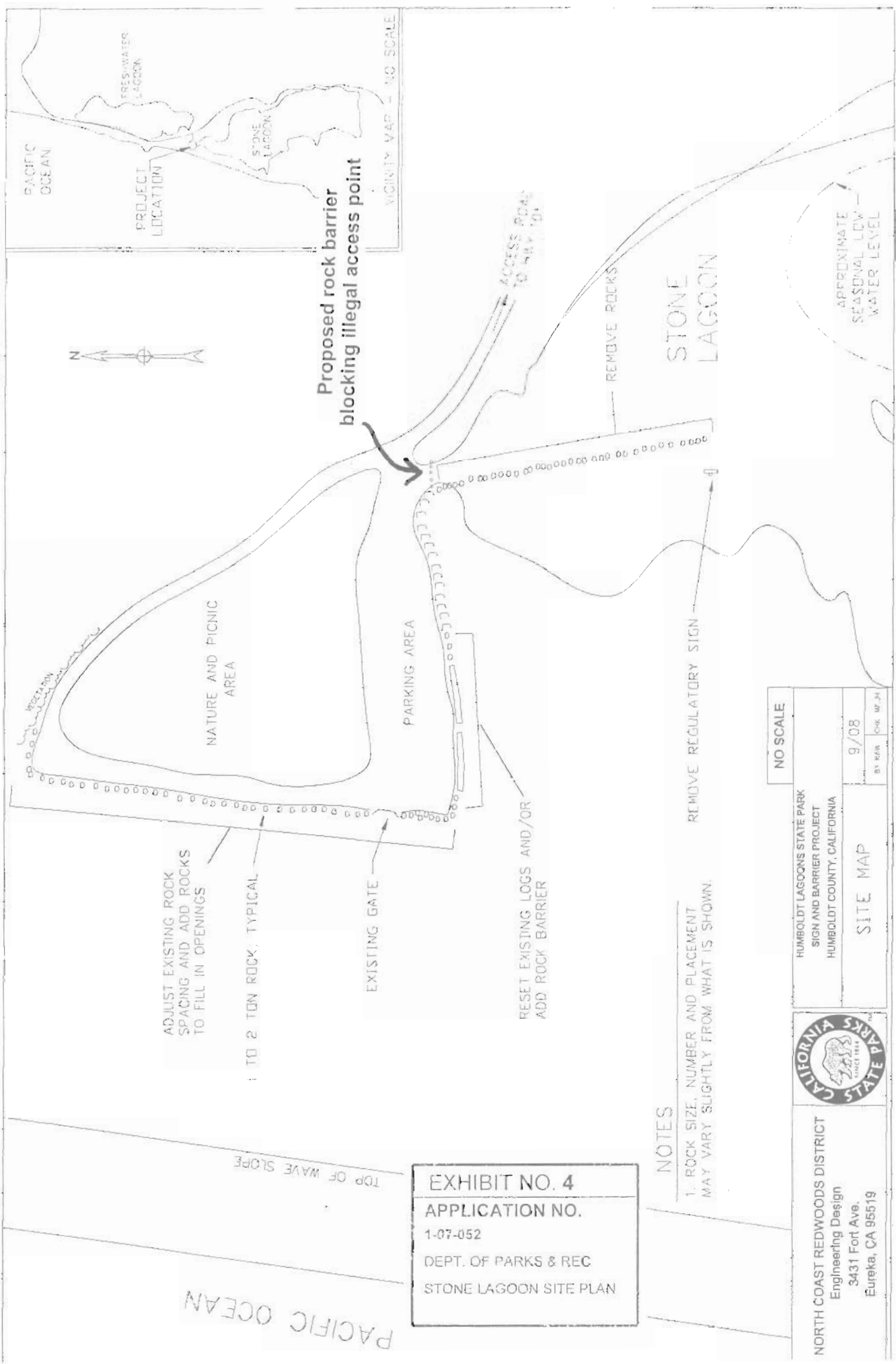


Illegal vehicle access onto dune habitat and damage to dunes.



Current conditions at illegal access point (after barriers installed).

2 of 2



**EXHIBIT NO. 4**  
**APPLICATION NO.**  
 1-07-052  
 DEPT. OF PARKS & REC  
 STONE LAGOON SITE PLAN

**NOTES**  
 1. ROCK SIZE, NUMBER AND PLACEMENT  
 MAY VARY SLIGHTLY FROM WHAT IS SHOWN.

NO SCALE	
HUMBOLDT LAGOONS STATE PARK SIGN AND BARRIER PROJECT HUMBOLDT COUNTY, CALIFORNIA	
SITE MAP	
BY: RAY	CHK: W.P.J.
9/08	



**NORTH COAST REDWOODS DISTRICT**  
 Engineering Design  
 3431 Fort Ave.  
 Eureka, CA 95519





**Legend**

-  Interpretative Sign
-  Parking Area
-  Vegetation
-  Restroom
-  Barriers

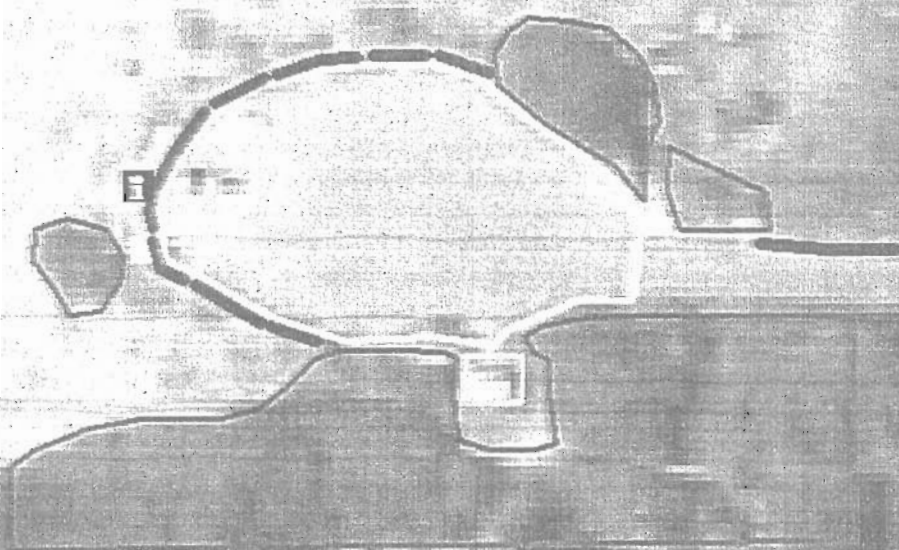


EXHIBIT NO. 5

APPLICATION NO.

1-07-052

DEPT. OF PARKS & REC.

DRY LAGOON PARKING AREA  
SITE PLAN



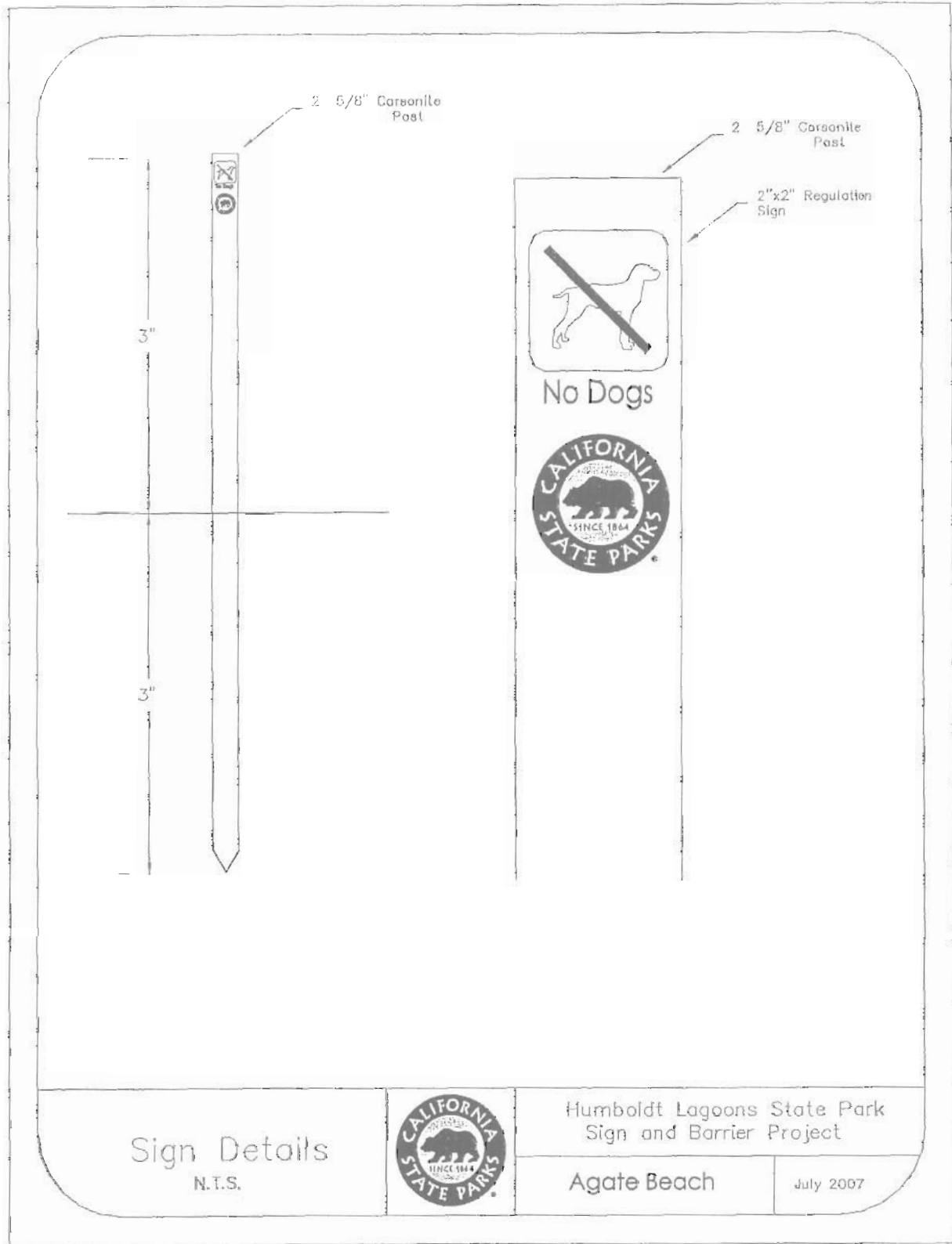
**Dry Lagoon Day Use Parking Area**

Figure 3.0. Agate Beach Sign Plan.



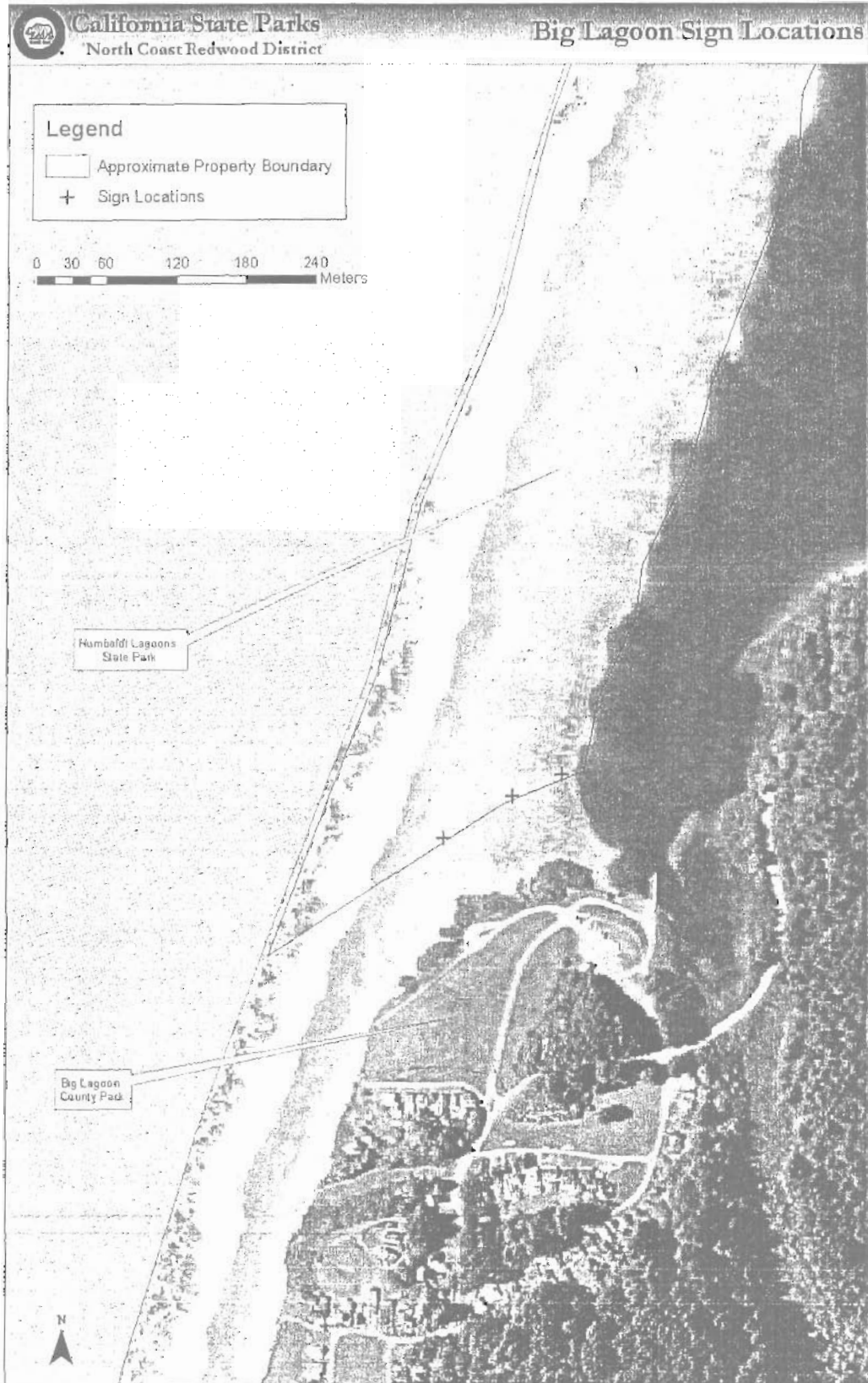


APPENDIX B. AGATE BEACH SIGNS



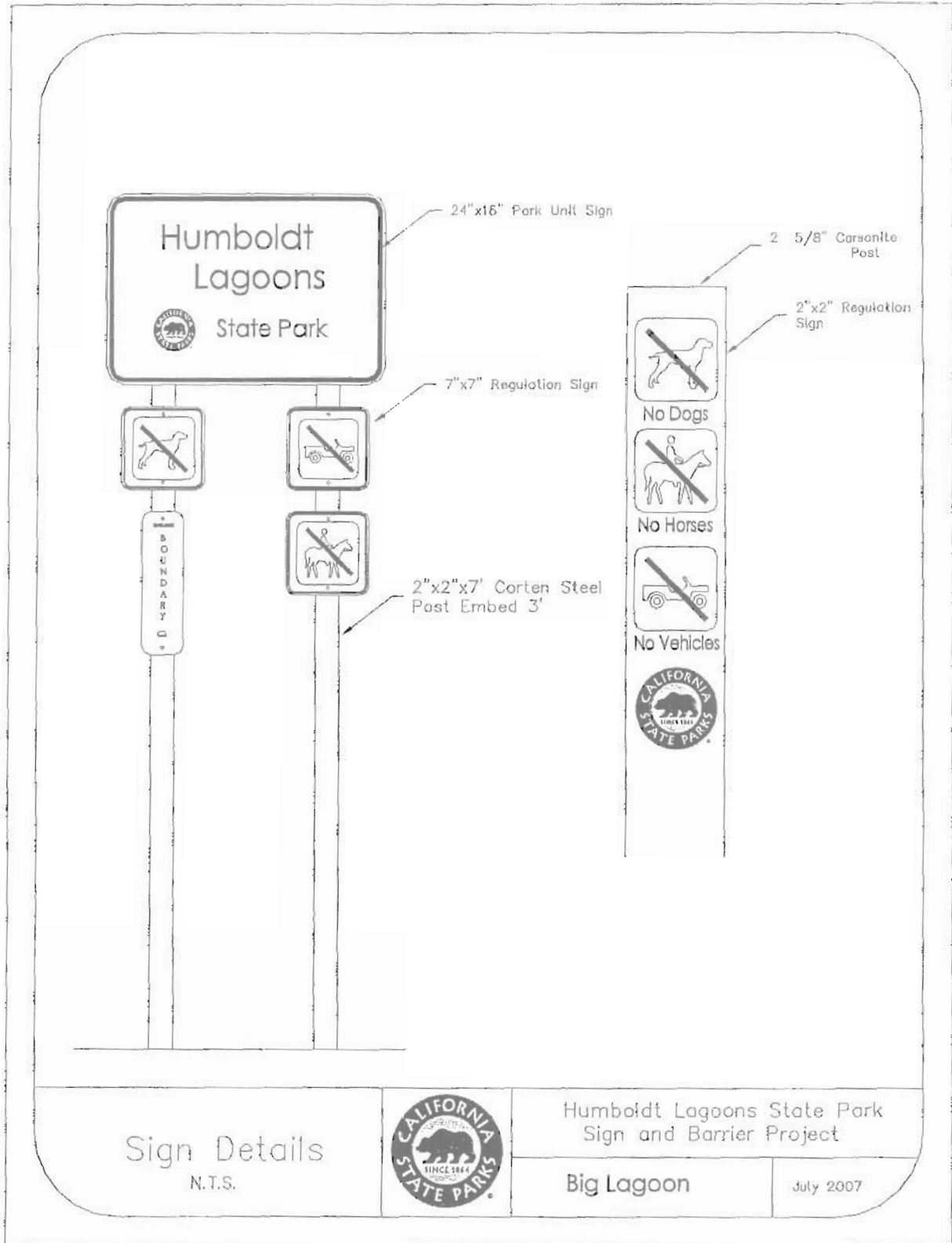
2 of 6

Figure 4.0. Big Lagoon Beach Sign Plan.



3 of 6

APPENDIX C. BIG LAGOON BEACH SIGNS



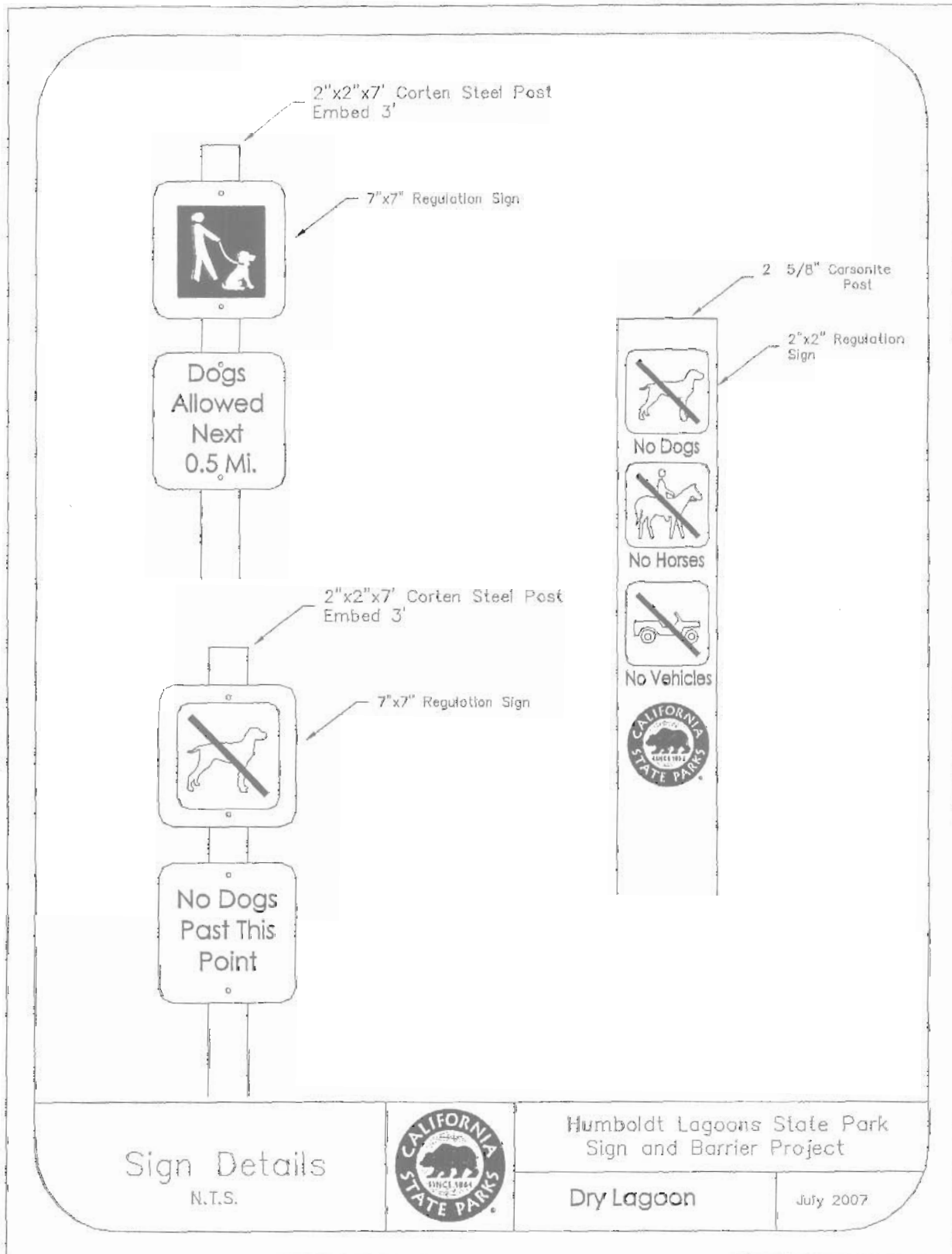
4 of 6

Figure 5.0. Dry Lagoon Beach Sign Plan.



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APPENDIX D. DRY LAGOON BEACH SIGNS



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