CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

W 12b

ADDENDUM

DATE: March 8, 2009

TO: Commissioners and Interested Parties

FROM: South Central Coast District Staff

SUBJECT: Agenda Item 12b, Application No. 4-09-068 (Santa Barbara County Flood Control District) Atascadero Creek, Goleta, Santa Barbara County, Wednesday, March 10, 2010

The purpose of this addendum is: (1) to modify the project description and summary of staff recommendation in order more accurately describe the project proposed by the Santa Barbara County Flood Control District, and (2) provide further clarification of maintenance timing in order to minimize impacts to avian species.

Note: ~~Strikethrough~~ indicates text to be deleted from the February 24, 2010 staff report and <u>underline</u> indicates text to be added to the February 24, 2010 staff report.

1.) The project description on Page 1 of the staff report shall be revised as follows:

PROJECT DESCRIPTION: Implement an annual desilting program for a 1.4 mile reach of Atascadero Creek that will include removal of 2,000–30,000 cu. yds of sediment on an <u>as-needed</u> ~~annual~~ basis, discing in late fall, and application of herbicide in spring/summer. The program also includes <u>potential</u> placement of ~~all~~ suitable excavated material in the surfzone at Goleta Beach County Park. Excavated material will be temporarily stockpiled adjacent to the creek approximately 30 to 100 ft. in distance from the top of the bank.

2.) The Summary of Staff Recommendation on Page 1 of the staff report shall be revised as follows:

The proposed project is for the implementation of an annual desilting program for a 1.4-mile long reach of Atascadero Creek for a term of 5 years. The proposed program includes dredging/removal of 2,000–30,000 cu. yds. of sediment~~/year~~ <u>on an as-needed basis</u> and annual maintenance activities. Desilting/dredging activities involve the use of a crane rigged with a clamshell bucket that is operated from the adjacent stream bank. All dredged material will be stockpiled in designated areas adjacent to the creek where it is allowed to dewater. Stockpiles will be set back a minimum of 30 ft. from the top edge of the stream bank. The program also includes <u>potential</u> placement of ~~all~~ suitable excavated material in the surfzone at Goleta Beach County Park…

3.) The project description on Page 16 of the staff report shall be revised as follows:

-Page 16, 1st paragraph:

The proposed project is for the implementation of an annual desilting program for a 1.4-mile long reach of Atascadero Creek for a term of 5 years. The proposed program includes dredging/removal of 2,000–30,000 cu. yds. of sediment/year on an as-needed basis and annual maintenance activities. Maintenance activities proposed within the streambed would involve discing in late fall and application of herbicide in spring/summer. The program also includes potential placement of ~~all~~ suitable excavated material in the surfzone at Goleta Beach County Park.

-Page 16, 4th paragraph:

Desilting/Dredging

The proposed annual desilting/dredging activities are implemented on an as-necessary basis. ~~The applicant has indicated that excavation/dredging is currently necessary with at least 3,000 cu. yds. of material to be removed.~~ Additionally, dredging of the subject reach of Atascadero Creek may be necessary at an undetermined future point in time in the event that the channel becomes overly sedimented…

4.) Special Condition One (1) on Page 6 of the staff report shall be revised as follows:

1. Timing of Operations

A. Except as provided in Sections D. and E. below, all project maintenance operations, including desilting/dredging activities, shall occur only during the period between September 15 through December 15, unless additional time is granted by the Executive Director for good cause.

…

E. Channel clearing of target emergent vegetation by use of hand tools or mower may be conducted ~~in~~ one-time only during spring/summer during the bird breeding and nesting season (March 15 through August 31). Such activity may also occur in spring/summer outside of the identified bird breeding/nesting season.

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Item W12b

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-09-068

APPLICANT: Santa Barbara County Flood Control District

AGENTS: Seth Shank and Beth Ford

PROJECT LOCATION: Atascadero Creek, Goleta; Santa Barbara County.

PROJECT DESCRIPTION: Implement an annual desilting program for a 1.4 mile reach of Atascadero Creek that will include removal of 2,000–30,000 cu. yds of sediment on an annual basis, discing in late fall, and application of herbicide in spring/summer. The program also includes placement of all suitable excavated material in the surfzone at Goleta Beach County Park. Excavated material will be temporarily stockpiled adjacent to the creek approximately 30 to 100 ft. in distance from the top of the bank.

MOTION & RESOLUTION: Page 5

SUMMARY OF STAFF RECOMMENDATION

The proposed project is for the implementation of an annual desilting program for a 1.4-mile long reach of Atascadero Creek for a term of 5 years. The proposed program includes dredging/removal of 2,000–30,000 cu. yds. of sediment/year and annual maintenance activities. Desilting/dredging activities involve the use of a crane rigged with a clamshell bucket that is operated from the adjacent stream bank. All dredged material will be stockpiled in designated areas adjacent to the creek where it is allowed to dewater. Stockpiles will be set back a minimum of 30 ft. from the top edge of the stream bank. The program also includes placement of all suitable excavated material in the surfzone at Goleta Beach County Park. Excavated material unsuitable for beach disposal will be disposed of at an appropriate location outside the Coastal Zone. The proposed desilting would occur on as-needed basis because high sediment laden flows can result in excessive sedimentation of Atascadero Creek that may result in increased flood hazard to adjacent developed areas. The proposed project also includes annual maintenance activities involving: (1) discing of the channel in late fall using a bulldozer with a blade attached to uproot vegetation and (2) mowing and/or herbicide application in the channel in spring/summer.

Staff recommends **APPROVAL** of the proposed project **with eleven (11) special conditions** regarding: (1) Timing and Operational Constraints, (2) Southwestern Pond Turtle Habitat and Enhancement Program, (3) Sediment Analysis, Monitoring, and Deposition, (4) Operations and Maintenance Responsibilities, (5) Stockpile Sites, (6) Herbicide Use, (7) Project Monitoring Responsibilities, (8) Public Access Program, (9) Required Approvals, (10) Assumption of Risk, and (11) Duration of Permit.

The stated purpose of the program is to maintain existing flood water carrying capacity in the upper Atascadero Creek area to reduce potential flooding of adjacent residential areas and the Santa Barbara City Airport. Although the Commission has previously certified a Local Coastal Program for Santa Barbara County, this project is located within an area of Santa Barbara County where the Commission has retained jurisdiction over the issuance of coastal development permits and the standard of review for this project is the Chapter 3 policies of the Coastal Act.

The Commission has previously issued three Coastal Development Permits (CDPs) in 1994, 2000, and 2003, respectively, to the Santa Barbara County Flood Control District for substantially the same project as is proposed by this application, including CDP 4-94-061, CDP 4-00-025, and CDP 4-03-025. These permits were subject to several special conditions, including a specific provision that limited the effective term of each permit to a 5-year period, after which time any future desilting/beach deposition activities would require a new permit from the Commission. CDP 4-03-025 expired in 2009; therefore, the County is proposing this subject application to continue the ongoing desilting/dredging and sediment disposal program for an additional five years until 2015.

In addition, on March 16, 2005, the Commission approved CDP 4-02-074 to allow The Beach Erosion Authority for Clean Oceans and Nourishment (BEACON) to implement a five-year program for the placement of a maximum of 791,500 cubic yards/year of beach replenishment material at five separate beaches within Santa Barbara and Ventura Counties, including the deposition of up to 100,000 cu. yds./year of material at Goleta Beach County Park. BEACON is a joint powers authority of which the County of Santa Barbara is a participating member.

As part of this application, the County is requesting to dredge a maximum of 30,000 cu. yds. of material. Historically, the County has deposited the material dredged from Atascadero Creek at Goleta Beach. This permit will also authorize placement of a maximum of 30,000 cu. yds. of beach replenishment material/year within the surfzone at Goleta Beach, consistent with the amount of material previously authorized by the Commission for placement at Goleta Beach in CDP 4-94-061, CDP 4-00-025, and CDP 4-03-025, and 4-02-074. In order to minimize adverse impacts to the marine environment and to ensure consistency in the implementation of regional beach nourishment efforts, the eleven (11) special conditions required for this coastal development permit are in substantial conformance with the terms and conditions of CDP 4-02-074.

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EXHIBITS:

Exhibit 1. Vicinity Map
Exhibit 2. Parcel Map
Exhibit 3. Site Plan (Upstream Portion)
Exhibit 4. Site Plan (Middle Reach)
Exhibit 5. Site Plan (Downstream Reach)
Exhibit 6. Enhancement Plan- Plunge Pool and Boulder Weir

LOCAL APPROVALS RECEIVED: California Department of Fish and Game, Streambed Alteration Agreement #5-108-00, dated October 18, 2000; U.S. Army Corps of Engineers, Permit # 2200001039-LM, dated August 29, 2000; California Regional Water Quality Control Board- Central Coast Region, conditional wavier for "Water Quality Certification, Atascadero Creek Maintenance Project," Santa Barbara County," dated November 20, 1994; Santa Barbara County, Coastal Development Permit for Atascadero Creek Maintenance, Case # 07CDP-00000-00084, approved October 17, 2007.

SUBSTANTIVE FILE DOCUMENTS: Proposed Final Supplement to the Environmental Impact Report (94-EIR-1) by Santa Barbara County Flood Control District and URS Corporation dated September 2000; Revised Final Environmental Impact Report (94-EIR-1) by Santa Barbara County Flood Control District and Woodward-Clyde Consultants dated July 1994; Seeding Evaluation for Atascadero Creek by Rachel Tierney, August 2001; Coastal Development Permit 4-00-205 (Santa Barbara County Flood Control District), Coastal Development Permit 4-94-061 (Santa Barbara County Flood Control District), and Coastal Development Permit 4-03-025 (Santa Barbara County Flood Control).

I. STAFF RECOMMENDATION

MOTION: ***I move that the Commission approve Coastal Development Permit No. 4-09-068 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 a majority of the Commissioners present.

RESOLUTION TO APPROVE THE 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 and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. 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

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.

4. 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.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Timing and Operational Constraints

A. Except as provided in Sections D. and E. below, all project maintenance operations, including desilting/dredging activities, shall occur only during the period between September 15 through December 15, unless additional time is granted by the Executive Director for good cause.

B. Sediment disposal/beach replenishment operations may occur Monday through Friday, excluding state holidays. No work shall occur on Saturday or Sunday.

C. All construction operations, including operation of equipment, material placement, placement or removal of equipment or facilities, restricting public access, beach regrading/grooming, or other activities *shall be prohibited in the following circumstances*:

1. on any part of the beach and shorefront in the project area from the Friday prior to Memorial Day in May through Labor Day in September to avoid impacts on public recreational use of the beach and other public amenities in the project vicinity,

2. on any part of the beach and shorefront in the project area when California grunion (of any life stage, including eggs) are present during any run periods and corresponding egg incubation periods, as identified by the surveys conducted pursuant to Special Condition Seven (7), to avoid impact on the spawning of the California Grunion,

3. on any part of the beach and shorefront in the project area when Western Snowy Plover are present, as identified by the surveys conducted pursuant to Special Condition Seven (7), to avoid adverse effects to Western Snowy Plovers, and

4. on any part of the beach and shorefront in the project area when Beldings Savannah Sparrow are present, as identified by the surveys conducted pursuant to Special Condition Seven (7), to avoid adverse effects to Beldings Savannah Sparrow.

D. Project operations, including dredging, discing, operation of equipment, and all other maintenance activities shall be prohibited within 50 feet of any ponding/pools along Atascadero Creek, year around. From 50 feet to 100 feet from the ponding/pools, activities shall be conducted with hand tools only. Equipment may not be driven within 50 feet of the ponds.

E. Channel clearing of target emergent vegetation by use of hand tools or mower may be conducted in spring/summer.

2. <u>Southwestern Pond Turtle Habitat Enhancement and Monitoring Program</u>

A. Prior to issuance of the coastal development permit, the applicant shall submit an updated habitat enhancement and protection plan for review and approval by the Executive Director. This updated habitat enhancement and protection plan shall be prepared by a qualified biologist or environmental resource specialist with field experience in assessing habitat requirements for the southwestern pond turtle and qualifications acceptable to the Executive Director. The plan shall include a timeline for completion of the three components of the habitat enhancement and monitoring plan previously approved by the Commission, but not yet implemented, including: (1) the plunge pool basking feature, (2) bank restoration, and (3) a new ramp and boulder weir. The updated habitat enhancement plan shall, at a minimum, include the following:

1. Provisions for maintenance necessary to ensure that the pond enhancement does not become heavily shaded and to ensure large algal mats do not accumulate on the pools and are not supplanted by growth of vegetation. The Plan shall also describe potential annual repair activities after the storm season. Protection measures shall include the avoidance of mosquito abatement activities in the pond enhancement area and any such activity shall require a separate coastal development permit.

2. Provisions stating that flood control activities shall be prohibited within the ponds. If vegetation in the ponds raises issue with respect to flood control requirements, a separate coastal development permit shall be required for any subsequent flood control activities.

3. Provisions requiring sufficient native vegetation (such as coyote bush and/or blackberry) to be planted and maintained, that upon maturity, serves to restrict or deter pedestrian access at the Patterson Avenue bridge location. Signage shall be placed along the project reach identifying the sensitive nature of the creek and stating that access is restricted.

4. If a qualified academic group or nonprofit agency, with qualifications acceptable to the Executive Director, proposes a southwestern pond turtle recovery project, the applicant shall make the enhancement pond areas available for such purposes. The recovery program would be subject to Executive Director approval and may require a separate coastal development permit.

5. Final plans for the proposed bank revegetation near the Patterson Avenue bridge shall be included within the enhancement plan.

B. The updated habitat enhancement plan shall be implemented and completed within the first two years from the date this permit is approved and final implementation shall be reported the Executive Director of the Coastal Commission upon completion. The Executive Director may grant additional time for good cause.

C. The habitat enhancement project shall be monitored by the applicant for five years from the date that the enhancement program completion is reported to the Executive Director. The updated habitat enhancement plan shall include a monitoring program, including performance standards and milestones to ensure that that enhancement

program is successful. The program shall be implemented to monitor the project for compliance with the specified guidelines and performance standards. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

1. All revegetation shall consist of native plant species locally endemic to riparian habitat and wetland areas in the watershed. Invasive, non-indigenous plant species shall not be used and invasive species shall be removed concurrent with periodic channel maintenance.
2. Plantings will be maintained in good growing condition throughout the five-year project.
3. The Permittee shall undertake the enhancement in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

D. The applicant shall submit, on an annual basis for a period of five years from completion of the enhancement project, a written report prepared by a qualified resource specialist, evaluating the extent of the success or failure of the enhancement project. This report shall include further recommendations and requirements for additional activities in order for the project to meet the specified criteria and performance standards. These reports shall also include photographs taken from pre-designated sites (annotated to a copy of the site plans) indicating the progress of recovery at each of the sites.

E. At the end of the five-year period, a final detailed report shall be submitted for the review and approval of the Executive Director. If the report indicates that any portion of the project standards are not met, the report shall provide recommendations to compensate for those portions of the original program which were not successful. The applicant shall be responsible for implementing additional remedial actions and provide continued monitoring as the Executive Direction may determine necessary to ensure compliance.

F. In addition to the above requirements, the County shall encourage the construction of a new pedestrian bridge over Atascadero Creek in the vicinity of the existing Atascadero Creek restoration site. The purpose of the bridge is to provide adequate access to adjacent recreation trails thereby reducing existing patterns of pedestrian trespass through the sensitive creek habitat. An appropriate bridge design would span the creek and would be located as far as feasible from the existing pond.

3. <u>Sediment Analysis, Monitoring and Deposition</u>

A. At least two (2) weeks prior to disposal of excavated material, the applicant shall provide evidence to the Executive Director of the location and method of disposal to an approved disposal location either outside of the coastal zone, a site within the coastal zone permitted to receive such fill, or at Goleta Beach. If the excavated

material will be deposited at Goleta Beach, an engineer(s) or environmental professional(s), with appropriate qualifications acceptable to the Executive Director, shall: (1) prepare a Sampling and Analysis Plan and conduct testing at the source and receiver site for the review and approval of the Executive Director and (2) monitor the site during all beach nourishment activities. The Sampling and Analysis Plan shall be consistent with the following:

(1) Sampling Frequency – Samples shall be collected from both the receiver sites and the source sites. For the receiver site, samples shall be collected along transects that are approximately perpendicular to the shoreline, with one (1) transect per each 0.5 miles of receiver beach length. For the source sites, samples shall be collected throughout the source area, with one (1) sample per 0.5 acres, and a minimum of five (5) samples per source site for contaminant testing and a minimum of three (3) samples per source site for all other sediment testing. For the source site samples, the boring depth shall extend approximately one-foot (1-ft) below the anticipated excavation depth.

(2) Grain Size -- Physical analysis shall be conducted on representative samples of each source material proposed for placement at the Goleta Beach deposition site and on samples from each transect of the receiver beach. The material shall be analyzed for consistency with the U.S. Army Corps of Engineers (ACOE) / Environmental Protection Agency (EPA), State Water Resources Control Board and California Regional Water Quality Control Board (RWQCB) criteria for beach replenishment. Deposition of source material shall occur consistent with the following:

i. Source material meeting all applicable federal and state beach nourishment requirements, and for which an average of 75% or more of the material is coarse grained (retained on a Standard U.S. Sieve Size No. 200), may be deposited below the mean high tide for the purpose of beach nourishment.

ii. Source material meeting all applicable federal and state beach nourishment requirements, and for which an average of 90% or more of the material is coarse grained (retained on a Standard U.S. Sieve Size No. 200), may be deposited above the mean high tide line for the purpose of beach nourishment.

iii. Source material that does not meet the applicable physical, chemical, color, particle shape, debris, and/or compactability standards for beach replenishment shall not be used.

(3) Contaminants -- Based on U.S. EPA Tier I analyses results, Tier II bulk chemical analysis shall be conducted on representative composite samples of each source material proposed for placement at the Goleta Beach deposition site. The material shall be analyzed for consistency with EPA, ACOE, State Water Resources Control Board and RWQCB requirements for beach replenishment. At a minimum, the chemical analysis shall be conducted consistent with the joint EPA/Corps *Inland Testing Manual*. If the ACOE / EPA, State Water Resources Board or RWQCB determine that the sediment

exceeds Effects Range Medium (ER-M) contaminant threshold levels according to the NOAA Screening Quick Reference Tables (SQUIRTs), the materials shall not be placed at the site.

(4) Color -- Color classification shall be conducted on representative samples of each upland source material proposed for placement at the Goleta Beach deposition site. The color shall reasonably match the color of the receiving beach after reworking by wave action. Color is only an issue for upland sediment, but is not as significant for marine-derived sediment sources.

(5) Particle Shape – Particle shape classification shall be conducted on representative samples of each source material proposed for placement at any of the five deposition sites. For beach replenishment, the source material shall consist of a minimum of 90% rounded particles (i.e., maximum of 10% angular particles).

(6) Debris Content – A visual inspection of the source location shall be conducted to determine the presence and types of debris such as trash, wood, or vegetation. The amount of debris within the material shall be estimated, as a percentage of the total amount of source material. Prior to placement of opportunistic sand at any beach/shoreline receiver site, all such debris material shall be separated from the sand material (by mechanical screening, manual removal or other means) and taken to a proper disposal site authorized to receive such material.

(7) Compactability – Chemical and visual inspections of the source location shall be conducted to determine the presence of elements such as iron oxides which can compact to form a hardpan surface. Source material with compactable material shall be considered for placement below the mean high tide only.

(8) Turbidity. The monitor shall observe and document the turbidity of coastal waters during all construction activities related to the permeable pier sand retention system and beach nourishment activities. The extent of turbidity plumes shall be recorded/mapped by the monitor. Monitoring of turbidity shall occur during and immediately after beach fill placement. In regards to beach nourishment activities, if the monitoring indicates that turbidity attributed to the project is not completely diminished immediately following construction (1-2 days), then the rate of placement of sand will be modified so that large, long lasting turbidity plumes are no longer created. In such cases, construction methods shall be modified to reduce levels, by such means as: use of coarser beach nourishment material, avoidance of periods of high surf/high tides, and monitoring.

B. The analysis shall include confirmation by the U.S. Army Corps of Engineers, the EPA, and State Water Resources Control Board/Regional Water Quality Control Board that the material proposed for beach replenishment meets the minimum criteria necessary for placement on the sandy beach.

C. If sediment will be disposed of at Goleta Beach, the total amount of sediment/beach replenishment material deposited at Goleta Beach pursuant to this permit, in combination with any other sediment disposal/beach replenishment projects (including, but not limited to, all deposition activities implemented pursuant to Coastal Development Permit (CDP) 4-02-074 (or any new BEACON permit) and CDP 4-05-139) shall not exceed a cumulative total of 200,000 cu. yds. of sediment/year. The applicant shall be responsible for coordinating with all other potential sediment disposal/beach replenishment projects at Goleta Beach. If material is placed at Goleta Beach as part of any other beach replenishment project, then the applicant shall limit the amount the amount of material placed at Goleta Beach pursuant to this permit to ensure that no more than 200,000 cu. yds. of material is deposited at Goleta Beach during any given year for the life of this project. The placement of additional quantities of material greater than 200,000 cu. yds. at Goleta Beach during any given year will require an amendment to this coastal development permit.

4. <u>Operations and Maintenance Responsibilities</u>

A. It shall be the applicant's responsibility to assure that the following occurs concurrent with, and after completion of, all project operations:

(1) At the completion of sediment disposal operations, and a minimum of one month prior to Memorial Day in May, any sand deposited on the beach shall be graded and groomed to natural beach contours to restore the shoreline habitat and to facilitate recreational use.

(2) If sand has been deposited on the beach, the applicant shall monitor for vertical scarping along the shorefront which may occur as waves rework the seaward edge of the replenishment project area. The applicant shall grade the beach to natural beach contours to avoid hazardous drop off conditions, consistent with the timing constraints listed in Special Condition One.

(3) Staging areas shall be used only during active construction operations and will not be used to store materials or equipment between operations.

(4) The applicant shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to implement the project.

(5) Construction equipment shall not be cleaned on the beach or in the beach parking lots.

(6) Construction debris and sediment shall be properly contained and secured on site with BMPs to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking.

(7) Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Any and all debris resulting from

construction activities shall be removed from the project site within 24 hours. Debris shall be disposed at a debris disposal site outside of the coastal zone or at a location within the coastal zone authorized to receive such material.

(8) The applicant shall be responsible for removing all unsuitable material or debris within the area of placement should the material be found to be unsuitable for any reason, at any time, when unsuitable material/debris can reasonably be associated with the placement material. Debris shall be disposed at a debris disposal site outside of the coastal zone or at a location within the coastal zone authorized to receive such material.

(9) All areas disturbed as a result of this project shall be planted and maintained for habitat restoration and erosion control purposes as soon as possible after disturbance has occurred. Disturbed areas within the streambed/channel may be planted and maintained with locally native seeds or plants endemic to riparian habitat areas.

5. Stockpile Sites

A. Permanent stockpiling of material at any of the stockpile sites subject to this permit shall not be allowed. The stockpile sites must be cleared and returned to their pre-construction condition with no remaining equipment, silt fencing, or construction equipment remaining on-site within one week of the end of each project.

B. Stockpiled materials shall be located as far from stream areas on the designated site(s) as feasible and in no event shall materials be stockpiled less than 30 ft. in distance from the top edge of a stream bank.

C. Temporary erosion control measures, such as sand bag barriers, silt fencing; and/or swales, shall be implemented for all stockpiled material. These temporary erosion control measures shall be required at the site(s) prior to or concurrent with the initial grading operations and shall be monitored and maintained until all stockpiled fill has been removed from the project site. Successful implementation of erosion control measures will ensure that the material is completely stabilized and held on site.

6. Herbicide Use

Herbicides shall not be used within any portion of the stream channel as measured from toe of bank to toe of bank. Herbicide use in upland areas outside of the stream channel shall be restricted to the use of Glyphosate Aquamaster™ (previously Rodeo™) herbicide for the elimination of non-native and invasive vegetation for purposes of habitat restoration only. The environmental resource specialist shall conduct a survey of the project site each day prior to commencement of vegetation removal and eradication activity involving the use of herbicide to determine whether any native vegetation is present. Native vegetation shall be clearly delineated on the project site with fencing or survey flags and protected. In the event that non-native or invasive vegetation to be removed or eradicated is located in close proximity to

native riparian vegetation or surface water, the applicant shall either: (a) remove non-native or invasive vegetation by hand (Arundo donax shall be cut to a height of 6 inches or less, and the stumps painted with Glyphosate Roundup™ herbicide), or (b) utilize a plastic sheet/barrier to shield native vegetation or surface water from any potential overspray that may occur during use of herbicide. In no instance shall herbicide application occur if wind speeds on site are greater than 5 mph or 48 hours prior to predicted rain. In the event that rain does occur, herbicide application shall not resume again until 72 hours after rain.

7. Project Monitoring Responsibilities

Prior to issuance of the coastal development permit, and prior to the commencement of work each subsequent year, the applicant shall retain the services of: (1) a qualified biologist or environmental resource specialist; (2) a qualified engineer, soil scientist or resource specialist; and (3) a qualified archaeologist and appropriate Native American consultant, with appropriate qualifications acceptable to the Executive Director. All desilting, dredging and sediment disposal, activities shall be carried out consistent with the following:

A. Turbidity. The qualified biologist or environmental resources specialist shall monitor and document the turbidity of coastal waters during all project construction activities. The extent of turbidity plumes shall be recorded/mapped by the monitor. Monitoring of turbidity shall occur during and immediately after beach fill placement. If the monitoring of the beach fill project indicates that turbidity attributed to the replenishment project is not completely diminished immediately following construction (1-2 days), then the rate of placement of sand will be modified so that large, long lasting turbidity plumes are no longer created. In such cases, construction methods shall be modified to reduce levels, by such means as: use of coarser beach nourishment material, avoidance of periods of high surf/high tides, and monitoring.

B. Grain Size & Debris: The qualified engineer, soil scientist or resource specialist shall be present whenever sand is being placed on the beach or within the surfzone. The monitor shall, through grab samples, visual inspection or other methods, ensure that the delivered material is within the acceptable size ranges for nourishment material. If the material is not sand or is not within the acceptable size range, the monitor shall halt the placement of sand on the beach or surfzone. The monitor shall also examine the material to determine presence of debris. If any debris or non-sand material is detected, deposition activities shall be halted. Deposition activities shall not continue until an updated analysis of the composition of the sand material is approved by the Executive Director. Prior to resuming operations, all debris shall be removed to the maximum feasible extent.

C. Archaeology. The qualified archaeologist and appropriate Native American consultant shall be present on-site during all desilting/dredging activities which occur within or adjacent to the archaeological sites in the project area. Specifically, the desilting/dredging operations on the project site shall be controlled and monitored by the archaeologist with the purpose of locating, recording and

collecting any archaeological materials. In the event that any significant archaeological resources are discovered during operations, all work in this area shall be halted and an appropriate data recovery strategy be developed, subject to review and approval of the Executive Director, by the applicant's archaeologist and the native American consultant consistent with CEQA guidelines.

D. Biology. The qualified biologist or environmental resources specialist shall conduct a survey of the project site, to determine presence and behavior of sensitive species, one day prior to commencement of any desilting, dredging, or disposal/beach nourishment operations. Prior to commencement of any development, the applicant shall submit the contact information of all monitors with a description of their duties and their on-site schedule. Prior to initiation of daily project activities, the resource specialist shall examine the project site to preclude impacts to sensitive species. Project activities including desilting, dredging, disposal/beach nourishment operations, or grading or grooming of the beach, shall not occur until any sensitive species (e.g., western snowy plovers, Belding's savannah sparrows, Steelhead trout, pond turtle, etc.) have left the project area or its vicinity. In the event that any sensitive wildlife species (including but not limited to western snowy plover, Belding's savannah sparrow, pond turtle, California grunion, steelhead trout) exhibit reproductive or nesting behavior, the environmental specialist shall require the applicant to cease work, and shall immediately notify the Executive Director and local resource agencies. Project activities shall resume only upon written approval of the Executive Director. The monitor(s) shall require the applicant to cease work should any breach in permit compliance occur or if any unforeseen sensitive habitat issues arise. The monitor(s) shall immediately notify the Executive Director if activities outside of the scope of this coastal development permit. If significant impacts or damage occur to sensitive wildlife species, the applicant shall be required to submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be processed as an amendment to this coastal development permit.

E. The applicant shall submit an annual post-construction assessment summarizing the maintenance practices, timing of implementation, and whether any sensitive species were observed and any measures taken to avoid or mitigate disturbance.

F. Proposed changes to the project may require a permit amendment or new permit. Any proposed changes to the approved program shall be reported to the Executive Director. No change to the program shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.

8. Public Access Program

A. Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a report which describes the methods (including signs, fencing, posting of security guards, etc.) by which safe public access to or around the beach deposition sites and/or staging areas shall be

maintained during all project operations. Where public paths or bikeways shall be closed during active operations, a person(s) shall be on-site to detour traffic.

B. The report shall include plans for staging and storage of equipment. Where use of public parking spaces is unavoidable, the minimum number of public parking spaces that are required for the staging of equipment, machinery and employee parking shall be used.

C. The applicant shall post each construction site with a notice indicating the expected dates of construction and/or beach closures.

9. Required Approvals

By acceptance of this permit, the applicant agrees to obtain all other necessary State or Federal permits that may be necessary for all aspects of the proposed project (including the National Marine Fisheries Service, California Department of Fish and Game, California State Lands Commission, Regional Water Quality Control Board, and the U.S. Army Corps of Engineers).

10. Assumption of Risk

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

Prior to issuance of the Coastal Development Permit, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

11. Duration of Permit

This permit is valid for a period of five (5) years from the date of Commission action, after which time the permit shall expire. Any desilting/dredging, breaching, or sediment disposal activities after the expiration of this permit will require the issuance of a new coastal development permit.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The proposed project is for the implementation of an annual desilting program for a 1.4-mile long reach of Atascadero Creek for a term of 5 years. The proposed program includes dredging/removal of 2,000–30,000 cu. yds. of sediment/year and annual maintenance activities. Maintenance activities proposed within the streambed would involve discing in late fall and application of herbicide in spring/summer. The program also includes placement of all suitable excavated material in the surfzone at Goleta Beach County Park.

The project site is a 1.4 mile long segment of Atascadero Creek beginning approximately 4,400 ft. upstream from the mouth of Goleta Slough at a point immediately south of the terminus of Ward Drive and extending upstream to a point immediately south of the terminus of Via Miguel Avenue (Exhibits 1- 3). Public access is available along the entire length of the project site via an existing bicycle/pedestrian path located adjacent to Atascadero Creek.

The channel for Atascadero Creek is approximately 40-75 ft. in width as measured from toe of bank to toe of bank. The proposed project includes periodic desilting/dredging by dragline method and maintenance of an approximately 35-40 ft. wide portion of the total channel. The remaining unmaintained portion of the channel (which is at a higher elevation than the maintained portion of the channel and is, therefore, only subject to streamflow during high-flow events) will remain as undisturbed area. Atascadero Creek is designated as an environmentally significant habitat area by the Santa Barbara County Local Coastal Program. In addition, the entire creek channel on site is also identified as wetlands. A public bicycle/pedestrian trail is located adjacent to and north of the top bank of the creek. Two identified archaeological sites (SBA-45 and SBA-1588) are located within the project reach adjacent to areas where desiltation and maintenance activities will occur.

Desilting/Dredging

The proposed annual desilting/dredging activities are implemented on an as-necessary basis. The applicant has indicated that excavation/dredging is currently necessary with at least 3,000 cu. yds. of material to be removed. Additionally, dredging of the subject reach of Atascadero Creek may be necessary at an undetermined future point in time in the event that the channel becomes overly sedimented. Future dredging activities are expected to result in the removal of no more than 30,000 cu. yds. of material within the project reach per year. Desilting/dredging activities involve the use of a crane rigged with a clamshell bucket that is operated from the adjacent stream bank. All dredged material will be stockpiled in designated areas adjacent to the creek where it is allowed to dewater. Stockpiles will be set back a minimum of 30 ft. from the top edge of the

stream bank. The sediment will be allowed to dewater for several weeks and then it is hauled to a suitable disposal site. The County estimates desilting is typically necessary in the project reach every 5 to 10 years. However, the proposed desilting would occur on as-needed basis because high sediment laden flows can result in sedimentation of the creek that increases the potential flooding hazard to adjacent developed areas. The most recent dredging in a portion of Atascadero Creek took place in October 2009.

Annual Maintenance Activities

The proposed project also includes annual maintenance activities involving: (1) discing of the channel in late fall and (2) mowing and/or herbicide application in the channel in spring/summer. Discing of the streambed is carried out using a bulldozer with a blade or ripper attachment to uproot vegetation and loosen the top layers of soil. Approximately 50 cu.yds. of sediment within the channel is upturned and loosened by discing to facilitate downstream flushing of sediment during the rainy season. The vegetation and some sediment is windrowed along the toe of the north bank. Discing is proposed in order to remove all emerging vegetation in the channel prior to the rainy season (typically late October or November) when stream flow is minimal and the majority of the channel bottom is dry. The area that is disked annually is approximately 10 acres. This includes discing a 35-foot wide swath from the confluence of Hospital Creek to Patterson Avenue, and a 40-foot wide swath from Patterson Avenue to the check structure located in the vicinity of Ward Drive.

The proposed annual maintenance activities will also include the application of *Aquamaster*™ *(*formerly Rodeo™ or Round-up™) herbicide to all existing vegetation (both native and non-native) within the stream channel during spring/summer months. Individual plants and clumps of plants are sprayed with hand-held spray wand. Only vegetative material is sprayed; herbicide is not applied to open water. Herbicide would be applied to both non-native and native wetland vegetation, specifically cattails (*Typha sp*.) and bulrush (*Scirpus sp*.). The purpose of the herbicide application is to prevent plant growth within the channel in order to minimize the effort required to later remove vegetation by discing in fall prior to the rainy season. Vegetation growing within the streambed may also be mowed, if necessary, to further inhibit growth and facilitate the discing that takes place in the fall.

Rock Weir

In order to bring the grade of the creek up approximately 18 inches but not eliminate the pool, which is currently occupied by at least one southwestern pond turtle and can also provide good habitat for steelhead moving through the system, the District is proposing to install a rock weir structure approximately 100 feet downstream from the bridge. The structure would be constructed of large rip-rap with keyed-in boulders grouted below grade. The structure will have two outer arms pointing upstream into the flow at an angle of approximately 30 degrees to the banks. The center of the structure will be perpendicular of the flow and occupy approximately 18 inches above grade. This will bring the water surface elevation in the existing pool up 18 inches, thus reducing the

jump over the existing impediment to approximately 2 feet. The construction of the rock weir and bank restoration would be conducted to avoid impacts to the southwestern pond turtle with construction occurring between August and October.

B. PAST COMMISSION ACTION

The project site has been subject to past Commission action. Coastal Development Permit (CDP) 4-94-061 was previously approved by the Commission for the initial removal of 30,000 cu. yds. of sediment and vegetation from the subject portion of Atascadero Creek. A 35-40 ft. wide channel was deepened within Atascadero Creek. The permit also provided for annual maintenance activities including discing the streambed and channel in late fall to remove vegetation and the use of herbicide within stream channel in spring and summer. As mitigation for the adverse effects to the wetland and riparian habitat on site, the project previously approved pursuant to CDP 4-94-061 included the acquisition and enhancement of 26 acres of existing riparian habitat and wetland areas located adjacent to a portion of the subject site. CDP 4-94-061 was approved pursuant to five special conditions regarding acquisition of approximately 26 acres of adjacent existing wetland habitat areas to be enhanced, dredging monitoring reports, other required approvals, timing of dredging activities. Special Condition Two of CDP 4-94-061 also specifically stated that the Commission's approval of the proposed project was for a limited duration of five years from the date of Commission action and would expire on November 16, 1999.

Additionally, CDP 4-00-205 was approved by the Commission for annual desilting and maintenance in the subject reach of Atascadero Creek and deposition of the excavated material at Goleta Beach for the purpose of beach nourishment, subject to seven special conditions regarding revegetation program, dredging program, project monitoring and responsibilities, limited duration and long-term solution alternatives, archaeological monitoring, required approvals, and assumption of risk. The CDP approved the flood control activities for the 2000/2001 winter storm season with the requirement that an evaluation of feasible alternatives be submitted as part of any future permit applications. Furthermore, CDP 4-00-205 specified that herbicides and non-native plants shall not be used in the course of the flood control activities.

CDP 4-03-025 was approved by the Commission for annual desilting and maintenance activities in the subject reach of Atascadero Creek and deposition of the excavated material at Goleta Beach for the purpose of beach nourishment subject to nine special conditions regarding: timing of operations, a dredging program, project monitoring, archaeological resources and monitoring, required agency approvals, assumption of risk, waiver of liability and indemnity agreement, revised plans, permit expiration, and a southwestern pond turtle habitat enhancement and monitoring program. According to the most recent monitoring report received by Santa Barbara Flood Control District, dated February 27, 2007, pursuant to Special Condition 2, the Southwestern Pond Turtle Habitat Enhancement and Monitoring Program, of CDP 4-03-025, only a portion of the proposed southwestern pond turtle habitat enhancement program, enhancement of the "long pond," was completed. The Flood Control District completed the

enhancement of the "long pond," located on the property adjacent to Atascadero Creek, in November 2006. Three other components of the habitat enhancement program have not yet been implemented, including creating a basking feature in the plunge pool immediately downstream of Patterson Avenue, bank restoration immediately downstream of the Patterson Avenue bridge along the north bank of the creek, and construction of a new ramp and a boulder weir. As part of CDP 4-03-025, the District restored approximately 3,500 sq. ft. of the south bank immediately downstream of the bridge by planting native riparian vegetation.

In addition, on March 16, 2005, the Commission also approved CDP 4-02-074 to allow The Beach Erosion Authority for Clean Oceans and Nourishment (BEACON) to implement a five-year program to place a maximum of 791,500 cubic yards per year of suitable beach replenishment material at five separate beach fill sites within Santa Barbara and Ventura Counties (including the deposition of up to 100,000 cu. yds./year of beach replenishment material at Goleta Beach). BEACON is a joint powers authority whose members consist of the different local government agencies in Santa Barbara and Ventura Counties, including Santa Barbara County itself.

C. ENVIRONMENTALLY SENSITIVE HABITAT AND MARINE RESOURCES

Section **30230** of the Coastal Act states:

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

Section **30231** of the Coastal Act states that:

> ***The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges- and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.***

Section **30236** of the Coastal Act states:

> ***Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (l) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is***

> ***necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.***

Section **30240** of the Coastal Acts states:

> ***(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.***

Section 30231 requires that the biological productivity and quality of coastal waters be maintained. Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. Section 30236 allows for alterations to streambeds when required for flood control projects where no other less damaging alternative is feasible and when necessary to protect public safety or existing development. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas shall be protected and that development within or adjacent to such areas must be designed to prevent impacts which could degrade those resources.

The proposed project is for the implementation of an annual desilting program for a 1.4-mile long reach of Atascadero Creek. The program will involve dredging/removal of 2,000 to 30,000 cu. yds. of sediment/year and deposition of the excavated material at Goleta Beach. Sediment removal will occur on an as-need basis. The applicant has indicated that approximately 3,000 cu. yds. need to be dredged from the subject reach as soon as possible. Additionally, the proposed project includes several additional components which are implemented as part of an annual maintenance program including discing of the streambed in late fall and application of herbicide to the streambed in spring/summer.

The proposed desilting and maintenance activities will be located within Atascadero Creek, a perennial waterway. The subject reach of the creek is identified as an environmentally sensitive habitat area by the Santa Barbara County Local Coastal Program and consists of riparian and wetland habitat. The segment of Atascadero Creek subject to this application begins approximately 2,000 ft. upstream from the Goleta Slough (one of the 19 major wetland habitats specifically identified in Chapter 3 of the Coastal Act) and extends approximately 1.4 miles further upstream.

The proposed project, including the proposed annual maintenance activities, will result in several adverse effects to the above species due to significant disturbance to existing riparian habitat and wetland areas on site. The proposed discing of the streambed, which will occur each fall, consists of the operation of a bulldozer with a blade or ripper attachment which uproots all vegetation (native and non-native) within the stream channel and upturns and loosens the top 18-24 inches of soil. Approximately 50 cu. yds.

of sediment within the channel is upturned and loosened by discing to facilitate downstream flushing of sediment during the rainy season. In addition, the proposed use of herbicide to eliminate native riparian and wetland vegetation also results in the loss of such vegetation and potential adverse effects to water quality on site and to downstream Goleta Slough.

The subject site provides habitat for Steelhead trout, a federally listed endangered species. In addition, the subject reach of Atascadero Creek has been identified as providing habitat for several other species of special concern. The Revised Final Environmental Impact Report (94-EIR-1) by Santa Barbara County Flood Control District and Woodward-Clyde Consultants dated July 1994, indicates that the project site is dominated by emergent wetland habitat and that a large number of and variety of wildlife species occur within the subject area including:

- ***Various riparian migrant birds that are of limited distribution, including the tree swallow and blue grosbeak, state listed rare species (and possibly the southwestern willow flycatcher, a state listed endangered species).***

- ***Rare breeding birds such as yellow warbler, a CDFG "Species of Special Concern."***

- ***Breeding habitat for the rare white-tailed kite at the nearby More Mesa grasslands (currently a wintering population).***

- ***Habitat for resident populations of the southwestern pond turtle, a CDFG "Species of Special Concern" and federal candidate species.***

The 1994 EIR for the Atascadero Creek Maintenance project describes the habitat resources for avifauna:

> ***Atascadero Creek supports a variety of riparian and wetland habitats despite its proximity to residential areas and routine channel maintenance activities over the past few decades. The riparian and wetland areas along the creek provide excellent habitat to a wide diversity of avifauna species. The majority of these species are migrants passing through in spring and fall, including many rare fall migrant birds…Atascadero Creek supports a variety of common riparian breeding birds such as northern rough-winged swallow, black-headed grosbeak, Hutton's vireo, common yellowthroat and song sparrow. The only sensitive species possibly breeding within the project reach is yellow warbler; one to two males have summered here the last two years.***

1. Sensitive Bird Species

The 1994 Project EIR reports that several sensitive bird species occur along the project reach, including great blue heron, northern harrier, white-tailed kite, Cooper's hawk, sharp-shinned hawk, merlin, yellow-billed cuckoo, willow flycatcher, purple martin, tree swallow, loggerhead shrike, yellow warbler, least Bell's vireo, blue grosbeak, and Belding's savannah sparrow. To avoid impact to avian species during the breeding season (March 15 through August 31), Special Condition One (1) restricts flood control maintenance activities in and along Atascadero Creek, on an annual basis. Special

Condition 1 allows maintenance activities to occur between September 15 and December 15 to avoid sensitive species timing constraints. However, to allow adequate flood control activities, target vegetation may be removed by hand tools or mowing in spring or summer as proposed.

The Commission notes that the proposed project may result in potential adverse effects to surrounding habitat due to unintentional disturbance from construction equipment and desilting activity. Therefore, to ensure that all recommendations of the environmental consultant are properly implemented, and to ensure that any potential adverse effects to sensitive riparian habitat and wetlands, are minimized, **Special Condition Seven (7)** requires that a qualified environmental resource specialist shall conduct a survey of the project site each day prior to commencement of any excavation/dredging, or maintenance activity (including discing and mowing) to determine whether any sensitive wildlife species are present. In the event that any sensitive wildlife species are present on the project site, the environmental resource specialist shall either: (1) initiate a salvage and relocation program prior to any excavation/maintenance activities to move sensitive species and significant wildlife features (such as southwestern pond turtles, breeding bird nests, etc.) by hand to safe locations elsewhere along the project reach or (2) as appropriate, implement a resource avoidance program with sufficient buffer areas to ensure adverse effects to such resources are avoided. The monitor shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. If significant impacts or damage occur to the beach, slough, or marine environment on site beyond the scope of work allowed for by this permit, the applicant shall be required to submit a revised, or supplemental, restoration program to adequately mitigate such impacts. The revised, or supplemental, restoration program shall be processed as an amendment to this coastal development permit.

Furthermore, the project includes access ramps for equipment which requires cutting back the riparian vegetation to reach the stream and also includes bank restoration near the Patterson Avenue Bridge. **Special Condition Four (4)** requires all areas of the subject site disturbed as a result of this project to be planted and maintained for habitat restoration and erosion control purposes as soon as possible after disturbance has occurred. While not required, Special Condition 4 allows disturbed areas within the streambed/channel may be planted and maintained with locally native seeds or plants endemic to riparian habitat areas.

2. Herbicide

As mentioned above, the proposed annual maintenance activities include the application of *Aquamaster*™ (formerly Rodeo™ or Round-up™) to existing vegetation within the dry portions of Atascadero Creek streambed during spring/summer months. The active ingredient in *Aquamaster*™ is glyphosate. *Aquamaster*™ is applied with a surfactant to enhance its effectiveness by spreading and retaining the herbicide on plant surfaces, and by promoting absorption. Surfactants are blends of petroleum-based oils that reduce surface tension on the leaf surface. The surfactant used by the applicant would be LI-700.

Herbicide would be applied to both non-native and native wetland vegetation. Individual plants and clumps of plants are sprayed with hand-held spray wand. Only vegetative material is sprayed; herbicide is not applied to open water. Herbicide would be applied to both non-native and native wetland vegetation, specifically *Typha sp*. and *Scirpus sp*. The purpose of the herbicide application is to prevent plant growth within the channel in order to minimize the effort required to later remove vegetation by discing in fall prior to the rainy season. Glyphosate herbicide is currently registered by the United States Environmental Protection Agency (EPA) as a non-selective herbicide of relatively low toxicity suitable for use in wetland and riparian areas. The Glyphosate Environmental Assessment Report by the EPA dated September 1993 states:

> ***Glyphosate is of relatively low oral and dermal acute toxicity. It has been placed in Toxicity Category III for these effects (Toxicity Category I indicates the highest degree of acute toxicity, and Category IV the lowest)…Based on current data, EPA, has determined that the effects of glyphosate on birds, mammals, fish, and invertebrates are minimal….Glyphosate adsorbs strongly to soil and is not expected to move vertically below the six inch soil layer…Glyphosate is readily degraded by soil microbes…However, glyphosate does have the potential to contaminate surface waters due to its aquatic use patterns…If glyphosate reached surface water, it would not be broken down readily by water or sunlight.***

The applicant asserts that "…it is impossible to ignore the fact that using herbicide to control silt trapping vegetation in Atascadero Creek is the far superior alternative with negligible impacts to the most sensitive aquatic wildlife (salmonids)" (Santa Barbara County Flood Control, correspondence dated February 17, 2004). The applicant maintains that without the application of herbicide, achieving the same results by mowing or hand crews would cost significantly more money and time. It would take two crew members with backpack sprayers approximately one day on foot applying herbicide. Although the County estimates that it would take approximately the same amount of time to mow the vegetation instead of spraying herbicide, it would likely require at least one additional operation because the plants would begin to grow back immediately.

The County has prepared a Routine Maintenance Program EIR (November 2001) for Flood Control practices throughout Santa Barbara County. The EIR reports the following regarding Glyphosate:

> ***1. Since glyphosate is a non-selective herbicide capable of controlling a variety of species of plant life, it can impact plants that are considered to be rare or of regional significance. Non-target plants located in and around flowing channels subject to Aquamaster TM treatment would be especially vulnerable.***
>
> ***2. Glyphosate application can result in ecological upset for avian species that have considerable interaction with creek channel environments.***
>
> ***3. A low potential exists for bioconcentration of glyphosate in aquatic organisms.***
>
> ***…12. Non-target plants outside the intended spray area may also be affected due to herbicide drift from aerial application.***

The Routine Maintenance Program EIR (November 2001) further states:

> ***The primary water quality impact is the potential for elevated levels of herbicide (and its active ingredient, glyphosate) in the water of a drainage. Herbicides can only be introduced to the drainage water by three mechanisms: (1) overspray that deposits herbicide directly into open water; (2) overspray that deposits herbicide on dry substrates where it may be dissolved by flowing water at a later time; and (3) herbicide dripping from a plant leaf onto water below due to excessive application.***

In addition, the Final Supplement to Environmental Impact Report (94-EIR-1) by URS Corporation dated September 2000 indicates that the "slightly toxic" threshold for Glyphosate herbicide requires concentrations in water between 10 and 100 mg/L for rainbow trout and oyster larvae. Acute toxicity in trout was only observed with 96-hour dosages of over 1,000 mg/L. The Supplemental EIR also indicates that there is only a very low potential for the compound to build up in the tissues of aquatic invertebrates or other aquatic organisms. The half-life of Glyphosate herbicide in water varies from 35 to 65 days. The Santa Barbara County Flood Control District has sampled water in the creek within the subject reach of Atascadero Creek to determine the concentration of Glyphosate herbicide after spraying had occurred. Results are shown below in Table 1:

Table 1
Concentrations of Herbicide in Atascadero Creek after Spraying (mg/L)

Location	August 14, 1995	March 27, 1996
Confluence with Hospital Creek	38	0.42
Near Via Miguel St.	1.9	30
Upstream of Patterson Ave.	14	No Data
Downstream of Patterson Ave.	23	No Data

From the Final Supplement to Environmental Impact Report (94-EIR-1) by URS Corporation dated September 2000

The Final Supplement to Environmental Impact Report (94-EIR-1) by URS Corporation dated September 2000 asserts that the above data indicates that the proposed use of herbicide will have no significant adverse effects to fish and wildlife within Atascadero Creek because the results indicate levels of herbicide within the creek at "slightly toxic" levels or lower only. The Supplemental EIR states:

> ***These data indicate that maximum concentrations of Rodeo™ in the surface waters of the creek are below the EPA thresholds for aquatic invertebrates and fish under prolonged exposure (i.e., 48 hours or more), and significant below acute toxicity thresholds. Rodeo™ concentrations at greater distances from the application site would be much lower because of dilution, and because the herbicide will adsorb onto sediment particles in the creek bottom and suspended in the water***

Additionally, the County has submitted a water quality testing summary which provides results from a previous application of Glyphosate herbicide (1% solution) on Atascadero Creek. A pre-test was conducted to determine if there was any glyphosate present in the system prior to spraying. After the spraying occurred, the County measured glyphosate concentrations: (a) 1-2 hours after application; (b) the morning following application; and (c) several weeks later. All pre-testing was non-detectable for glyphosate. The results for the *1-2 hour* sampling indicated a low of .026 mg/l and a

maximum of 2.0 mg/l within the sprayed area. The results for the *following morning* detected glyphosate concentrations between .016 mg/l and .095 mg/l within the sprayed area. Glyphosate was not detected within the sprayed area several weeks later. The results for downstream monitoring were all non-detect except for concentrations measured at Patterson Avenue Bridge the *following morning* at concentration of .051 mg/l. Based on this information, the County considers the impact of herbicide spraying to be minimal to habitat and wildlife since residual levels are negligible to LC50 for the rainbow trout (>1,000 mg/l for glyphosate for 96-hour exposure), the levels are generally below safe drinking water standards even at the *1-2 hour* testing period, and break down completely in subsequent weeks.

Correspondence with the County Flood Control (February 17, 2004) states:

> ***One acre-foot (af) of water equals 326,700 gallons. If a 1% solution of glyphosate [Aquamaster™] and LI-700 [surfactant] is applied over 1 af of water and none of it is taken up by plants or adheres to soil particles (the typical fate of glyphosate until it breaks down), then the residual concentration of glyphosate is 1.6 mg/l and for LI-700 it is 2.4 mg/l. Typical depths when herbicide is applied in Atascadero Creek are closer to 0.1'. Therefore, maximum concentrations of glyphosate and LI-700 are 16 mg/l and 24 mg/l respectively. Considering the facts that most of the herbicide is taken up by plants, salmonids cannot live in 0.1' of water, and it is impossible to maintain these concentrations for 96 hours without constantly adding herbicide, potential impacts to salmonids are negligible. Furthermore, water quality samples taken in Atascadero Creek and others after herbicide applications frequently indicate residual levels well below safe drinking water standards (0.7 mg/l for glyphosate) let alone LC50s for salmonids.***

In previous permit actions, the Commission has allowed for the use of Glyphosate herbicide (*Aquamaster*™) within sensitive wetland and riparian when it was found that use of an herbicide was necessary for habitat restoration and that there were no feasible alternatives that would result in fewer adverse effects to the habitat value of the site. However, the Commission notes Glyphosate herbicide, although determined by the EPA to be low in toxicity, is still toxic and will still result in some adverse effects to wildlife when used in sensitive habitat areas such as the subject site. Even if it is assumed that the above data can be extrapolated to encompass applications of herbicides in all subsequent years, it appears that in at least one case (Patterson Avenue Bridge) the herbicide did migrate downstream, and although levels are considered relatively low and breakdown over time, they are still present on a temporary basis within the environmentally sensitive habitat and wetland area of Atascadero Creek. Additionally, there is direct impact (loss of non-target vegetation) to surrounding habitat from overspray.

In the case of the proposed project, Glyphosate herbicide (*Aquamaster*™) is only proposed for use during spring and early summer when stream flow is minimal. The applicant has indicated that the herbicide is only applied to patches of vegetation (primarily emergent willows and cattails) located within dry portions of the creek channel where no flow activity is present. The purpose of the herbicide spraying is to decrease the amount of vegetation present in the channel that will need to be removed the following fall during the annual discing activity.

The Commission notes that some level of flood control maintenance is necessary within the subject reach of Atascadero Creek. In addition, the Commission notes that alteration of streambeds, as proposed by this project, is consistent with Section 30236 of the Coastal Act when required for flood control projects and when necessary to protect public safety or existing development. However, the Commission further notes that Section 30236 also requires that such projects shall incorporate the best mitigation measures feasible. In addition, Section 30240 of the Coastal Act requires that all development within environmentally sensitive habitat areas must be carried out in a manner designed to minimize or prevent potential adverse effects to those resources. As such, the Commission notes that flood control activities on the subject site should be carried out in the least environmentally damaging manner. In this case, alternatives may exist to the proposed annual maintenance activities which would reduce adverse effects to wetland and riparian habitat on site, such as mechanical or hand removal of vegetation (or mowing and cutting of vegetation) within the stream channel instead of utilizing herbicide in the stream channel.

Staff notes that there is a certain amount of overspray that will result from the application of the herbicide that cannot be avoided even with the proper application. There is a potential for the herbicide to be introduced to the aquatic environment and there is a potential for other non-targeted vegetation to receive overspray. Given that this is designated environmentally sensitive wetland habitat and that other methods of removal may be implemented, the Commission requires **Special Conditions Six (6)** and **Seven (7)** to minimize adverse effects to habitat from the implementation of the annual flood activities. Special Condition 6 restricts the application of herbicide within any portion of the stream channel as measured from toe of bank to toe of bank. Herbicide use in upland areas outside of the stream channel shall be restricted to the use of Glyphosate (Roundup^{TM}) herbicide for the elimination of non-native and invasive vegetation for purposes of habitat restoration only, and conducted according to the specified guidelines as described in Special Condition 6. Native vegetation shall be clearly delineated on the project site with fencing or survey flags and protected.

3. Steelhead

In August 1997, the National Marine Fisheries Service (NMFS) designated populations of the southern steelhead (*Oncorhynchus mykiss*) along the coast of Santa Barbara (within the South-Central Evolutionary Significant Unit) as endangered. The subject site also provides habitat for Steelhead trout. Southern steelhead are anadromous (migrating from freshwater to the ocean as juveniles and returning to freshwater as an adult to spawn). Spawning occurs from December through June when higher winter stream flows occur. The Final Supplement to Environmental Impact Report (94-EIR-1) by Santa Barbara County Flood Control District and URS Corporation dated September 2000, indicates that although no evidence of migration and spawning of steelhead has been observed in Atascadero Creek, individual steelhead have been observed in Maria Ygnacio Creek (an upstream tributary of Atascadero Creek which converges within the project reach). As such, the Supplemental EIR determined that steelhead may

potentially be present within the subject reach of Atascadero Creek as the steelhead migrate upstream in search of spawning habitat.

The Supplemental EIR states that the potential occurrence of steelhead within the project reach is expected to be rare, and would generally consist of migrating fish. Adults typically migrate upstream during the period December through March, while juveniles typically travel downstream between February through May. The proposed dredging or discing activity within the subject reach of Atascadero Creek during identified seasonal migratory periods may result in potential adverse effects to steelhead. The Final Supplement to Environmental Impact Report (94-EIR-1) by Santa Barbara County Flood Control District and URS Corporation dated September 2000 states:

> ***The current maintenance program includes only two physical disturbances to the creek bed that could directly affect any fish or aquatic organisms in the creek: annual discing and periodic channel desilting. Both activities occur in October or November when the channel is mostly devoid of water, and steelhead are not migrating. Hence, there would be no direct effect on steelhead from these activities.***

As noted above, the proposed project may result in adverse effects to steelhead (a federally listed endangered species) if the proposed desiliting activities or maintenance activities occur while steelhead are migrating. Therefore, **Special Condition One (1)** requires that all project operations, with the exception of hand clearing and mowing of target emergent vegetation, occur only during the period between September 15 and December 15, to avoid sensitive species timing constraints. This timing will ensure that project activities do not occur between December 15 through June 30 when high winter stream flows occur, to avoid adverse effects to steelhead trout.

In addition, to further mitigate adverse effects to fish populations within Atascadero Creek from the proposed project, the applicant provided an analysis of the feasibility of removing or modifying all existing grade stabilizer “check” structures within Atascadero Creek to better facilitate passage, as part of the alternatives analysis required by Special Condition 4 of CDP 4-00-205. Two existing grouted rock rip-rap and concrete “check” structures or grade stabilizers are located within Atascadero Creek south of Ward Drive (near the western terminus of the project reach) and at the base of the Patterson Avenue Bridge. These structures extend across the entire width of the active stream channel (ranging in height from 6 inches to 6 feet) and present obstacles (although not impassable barriers during high-flow events) to fish movement up and downstream. The County has indicated that the date of construction of the structures is unknown but that they have existed on site prior to the passage of the Coastal Act.

Based on discussions with NMFS staff, the applicant concluded that the only grade control structure within the project boundaries that poses an impediment to fish is located at the Patterson Avenue Bridge. “The check structure located near the end of Ward Drive does not pose an impediment to fish under most flow conditions and does not need to be considered for modification according to Mr. Stan Glowacki of the

National Marine Fisheries Service (NMFS)" (Alternatives Analysis dated February 2003).

The Patterson Avenue Bridge, abutments and concrete apron within the creek invert essentially act as a grade control structure at the confluence of Maria Ygnacio and Atascadero Creek, however, downcutting immediately downstream of the bridge has created a large pool (50' x 40' and approximately 7' deep) and associated fish impediment, rather than a barrier. The Flood Control District met with Stan Glowacki to discuss possible modifications to eliminate this impediment and make this structure passable under most of the flow conditions.

In order to bring the grade of the creek up approximately 18 inches but not eliminate the pool, which is currently occupied by at least one southwestern pond turtle and can also provide good habitat for steelhead moving through the system, the District is proposing to install a rock weir structure approximately 100 feet downstream from the bridge. The structure would be constructed of large rip-rap with keyed-in boulders grouted below grade. The structure will have two outer arms pointing upstream into the flow at an angle of approximately 30 degrees to the banks. The center of the structure will be perpendicular of the flow and occupy approximately 18 inches above grade. This will bring the water surface elevation in the existing pool up 18 inches, thus reducing the jump over the existing impediment to approximately 2 feet.

The Flood Control District restored approximately 3,500 sq. ft. of the south bank immediately downstream of the bridge by planting native habitat consistent with the riparian corridor pursuant to CDP 4-03-025. The plantings will help hold the bank in place, replace lost habitat and protect the existing habitat bordering the southwestern turtle pool. The construction of the rock weir and bank restoration adjacent to the Patterson Avenue bridge would be conducted to avoid impacts to the southwestern pond turtle with the applicant requesting construction between August and October.

NMFS generally recommends an 18-inch jump height for adults and 6-inch jump height for juveniles. Though not considered an outright barrier to fish passage, the Patterson Avenue Bridge is considered a substantial impediment to fish passage because on average in represents approximately a 4-foot jump height. Technically, the Patterson Avenue Bridge is considered "take" of this species. According to NMFS staff, the proposed rock weir would require hydraulic analysis evaluated by NMFS specialists to ensure that the pond would not be adversely affected, while also bringing the water elevation up 18 inches. NMFS would normally recommend two rock weir structures in the project reach order to bring the elevation up further. However, given the concern for the existing ponds to remain, the benefit of one structure should not be ignored. A structure of this nature would extend from bank to bank, up to approximately 80 feet in this case. Additionally, NMFS estimates that such a structure would be approximately 20 feet wide on the bottom, as excavated into the streambed, and 5 to 10 feet wide on the visible portion at the top of the structure. This substantial configuration is necessary because such structures are required to withstand the 100-year flood levels.

Although approved pursuant to CDP 4-03-025, the rock weir has not yet been constructed and is therefore proposed as part of this permit application. Therefore, Special Condition Two (2) has been required to ensure that the applicant's proposal to construct the fish passage improvements, including the rock weir, are adequately implemented and to ensure that potential adverse impacts to environmentally sensitive habitat are minimized to the maximum extent feasible. Specifically, Special Condition Two (2) requires that prior to issuance of the coastal development permit, the applicant shall submit an updated habitat enhancement and protection plan for review and approval by the Executive Director. This updated habitat enhancement and protection plan shall be prepared by a qualified biologist or environmental resource specialist with field experience in assessing habitat requirements for the southwestern pond turtle and qualifications acceptable to the Executive Director. The plan shall include a timeline for completion of the three components of the habitat enhancement and monitoring plan previously approved by the Commission, but not yet implemented, including: (1) the plunge pool basking feature, (2) bank restoration, and (3) a new ramp and boulder weir. Special Condition Two (2) further requires that the updated habitat enhancement plan shall be implemented and completed within the first two years from the date this permit is approved and final implementation shall be reported the Executive Director of the Coastal Commission upon completion. The Executive Director may grant additional time for good cause.

4. <u>Southwestern Pond Turtle</u>

The southwestern pond turtle is classified as a Species of Special Concern by the Department of Fish and Game, and previously classified as a Category 2 species by the USFWS. Southwestern pond turtle has been observed within the project reach. Habitat requirements for adults include permanent freshwater lakes, ponds, and low-flowing streams, rivers, and irrigation ditches. These water sources must be fairly deep, support adequate growths of aquatic vegetation, as well as a diverse invertebrate fauna, and possess suitable protected basking sites (rocks, ledges, logs, etc.). Breeding habits are poorly known.

Southwestern pond turtles were observed during biological surveys in the project reach in 1991, 1994, and 1999 in ponds located between Turnpike Road and Patterson Avenue. Informally, Five fairly persistent ponds which may support southwestern pond turtle occur along the project reach. Based on June 1994 field surveys by John Storrer and Paul Collins for the District, the southwestern pond turtle occurs in very limited numbers along the creek due to poor quality habitat. A total of three turtles were observed during four visits: one at the "elbow" and two at Patterson Avenue bridge. Non-native turtles, such as northern diamond-back terrapin and three-toed box turtles are also present and may be displacing native turtles. A single southwestern pond turtle was observed during the November 4, 1999 survey downstream of the Patterson Avenue Bridge. Attempts to trap the animal were unsuccessful.

There is every indication that the population of pond turtles in this area is very small. Even so, it should be noted that the seasonal timing of the pre-construction biological

surveys were not optimal for observing turtles, but were conducted to ensure that southwest pond turtles were not in the project reach prior to invasive flood control activities. In general, pond turtle activity is greatly reduced by early fall and most individuals would be expected to have left the stream channel in favor of upland winter retreats by this time. Channel maintenance is intentionally timed to coincide with this period of inactivity, in order to reduce the potential for incidental mortality. (Storrer Environmental Services, November 8, 1995)

The 1994 Project EIR states that the project would result in several potentially significant impacts to biological resources: (1) including temporary and permanent loss of several riparian/wetland habitat types; (2) potential reduction in the amount and quality of habitat for aquatic organisms, breeding or migrating birds, and pond turtles; (3) potential direct mortality to pond turtles; (4) potential sedimentation impacts affecting downstream species in Goleta Slough; and (5) enhancement of riparian and wetland habitats at the mitigation areas.

The 1994 EIR lists the "clearing of emergent wetlands from the channel bottom on an annual basis would remove habitat for the southwestern pond turtle, and possibly cause mortality" as an avoidable significant impact of the project. The practical impacts to the habitat as a result of the project were confirmed in the Post-maintenance Assessment prepared by Storrer Environmental Services (June 18, 1995):

> ***No pond turtles were observed during the course of the June 10, 1995 survey. Sites that were previously considered suitable for turtles; including the Hospital/Atascadero Creek confluence, bend at Via Miguel, and Patterson Avenue Bridge had declined in overall habitat value due to the maintenance activities and streambed scour that resulted from storm runoff. There were disjunct pools of sufficient depth to provide refuge for pond turtles, however much of the protective cover vegetation associated with these features was not longer present. There was evidence of frequent visitation by children, dogs, cats, and raccoons in the vicinity of the pools. These factors negatively influence the potential for pond turtles to occur…***
>
> ***The results of the survey are not conclusive with respect to presence or absence of southwestern pond turtles in lower Atascadero Creek. However, overall habitat quality has declined since the last sightings in June of 1994. It is possible that pond turtles were simply not detected; given the low population level with Atascadero Creek, this is a distinct possibility. Restocking of this lower reach from upstream is feasible, particularly in light of the restoration potential afforded by the mitigation sites.***

Additionally, there is a clear nexus between the ongoing flood control maintenance activities and the additional degradation of the habitat due to modification to the habitat and the additional trespass. Without the project activities, Atascadero Creek would be a densely vegetated area which would hinder trespass by humans and animals.

As part of the 1994 approval (CDP 4-94-061), the project included the creation and restoration of approximately 28 acres of upland and wetland habitats at three mitigation sites adjacent to the project reach to compensate for the loss of habitat in the Atascadero Creek channel: 14.57 acres of riparian woodland to be established on the vacant land between the creek and bike path; 11.04 acres of emergent and forested wetlands to be established and/or protected on a parcel adjacent to the creek that was

purchased by the District; and 2.23 acres of emergent and forested wetlands to be established on existing County owned property adjacent to the project reach. This restoration was intended to offset the impacts of the channel clearance and provide long-term protection to habitats subject to modification and disturbance.

This restoration was completed in phases over four years: commencing in 1994 with the excavation of emergent wetland basins and continued planting of the wetland and riparian woodland through 1997. This restoration has been successfully implemented in accordance with the performance criteria as provided in the annual monitoring reports, 1995-1999. However, this mitigation was not intended to address the impact to the southwestern pond turtle. The 1994 Project EIR specifically states:

> ***Removal of emergent wetlands from the channel bottom on an annual basis would directly affect the southwestern pond turtle because it would remove known turtle habitat and food supply. Suitable aquatic and emergent wetland habitat for the turtle would not be created at the mitigation sites.***

The Flood Control District has indicated that the above-mentioned restoration project is intended to fully mitigate all past, present, and future impacts associated with the project. Though the restoration project was successful, Commission staff does not agree that the impact to the southwestern pond turtle has been fully mitigated. CDP 4-94-061 was approved pursuant to five special conditions, including Special Condition Two which specifically stated that the Commission's approval of the proposed project was for a limited duration of five years from the date of Commission action and would expire on November 16, 1999. The findings of CDP 4-94-061 state:

> ***The project also has the potential to adversely affect sensitive species such as the Southwestern Pond Turtle. The County has proposed to survey the areas to be dredged or cleared prior to undertaking these activities to locate and temporarily relocate any turtles until the channel clearing has been completed. To ensure that these and other mitigation measures adequately protect sensitive species, it is necessary to limit the time of the permit and to monitor the effectiveness of the mitigation measures. Accordingly, this permit is conditioned to limit the permit to no more than five years, and to require annual monitoring of the channel clearing activities.***

It is important to note that the proposed activities are annual and ongoing. Past Commission action does not support the idea that uncertain future impacts are mitigated by one-time habitat restoration projects, when specific measures within the project area itself (in this case Atascadero Creek) could be taken to mitigate the impacts of the project.

Current mitigation includes avoidance of activities within 50 feet of the ponds and pre-construction surveys to determine presence and take subsequent action to temporarily relocate turtles. To mitigate potential impacts to resident turtles that might result from dredging and clearing operations a "Southwestern Pond Turtle Salvage and Reintroduction Plan" (Collins and Storrer 1994) was developed. Following this protocol, prior to construction, an attempt would be made to capture any individuals sighted, per the approved salvage and reintroduction plan. These specimens would be temporarily held in captivity, then released near their point of capture following completion of

channel maintenance operations. Therefore, to ensure that the potential disturbance from construction equipment and desilting activity on pond turtles is minimized and to ensure that all recommendations of the environmental consultant are properly implemented, **Special Condition Seven (7)** requires that a qualified environmental resource specialist shall conduct a survey of the project site each day prior to commencement of any excavation/dredging, or maintenance activity (including discing and mowing) to determine whether any sensitive wildlife species are present. In the event that any sensitive wildlife species are present on the project site, the environmental resource specialist shall either: (1) initiate a salvage and relocation program prior to any excavation/maintenance activities to move sensitive species and significant wildlife features (such as southwestern pond turtles, breeding bird nests, etc.) by hand to safe locations elsewhere along the project reach or (2) as appropriate, implement a resource avoidance program with sufficient buffer areas to ensure adverse effects to such resources are avoided. The monitor shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. If significant impacts or damage occur to the beach, slough, or marine environment on site beyond the scope of work allowed for by this permit, the applicant shall be required to submit a revised, or supplemental, restoration program to adequately mitigate such impacts. The revised, or supplemental, restoration program shall be processed as an amendment to this coastal development permit.

As a result of the evident impacts to the southwestern pond turtle and habitat, in this case, the impact of the project to pond turtles from the annual flood control activities is not fully mitigated. As a component of the Southwestern Turtle Enhancement project, approved prior to issuance of CDP 4-03-025, Flood Control modified a portion of the Atascadero Creek restoration site to create a perennial, protected pond habitat area. A benefit of this setup is its proximity to the southbank of Atascadero Creek which may provide potential nesting habitat. Additionally, there is opportunity to protect the known pond turtle habitat at the Patterson bridge, including the relocation of the existing access ramp for flood control equipment further downstream and the planting of a vegetative barrier to discourage further trespass into these areas. To ensure protection of pond turtle habitat consistent with Section 30240 of the Coastal Act, **Special Condition Two (2**) requires an updated Southwestern Pond Turtle Habitat Enhancement and Monitoring Program, prepared by a qualified biologist or environmental resource specialist with qualifications acceptable to the Executive Director, which shall include a timeline for completion of the three components of the habitat enhancement and monitoring plan previously approved as part of the Southwestern Turtle Enhancement Program under CDP 4-03-025, but not yet implemented, including: (1) the plunge pool basking feature, (2) bank restoration, and (3) a new ramp and boulder weir.

Special Condition 2 further provides that if a qualified academic group or nonprofit agency, with qualifications acceptable to the Executive Director, proposes a southwestern pond turtle recovery project, the applicant shall make the enhancement pond areas available for such purposes. The recovery program would be subject to

Executive Director approval and may require a separate coastal development permit. The Enhancement program was not completed within the 5 year permit timeframe of CDP 4-03-025. Therefore, Special Condition 2 of this permit requires the Enhancement Program to be completed within two years of the Executive Director's approval of the updated Enhancement Program under this CDP. requires that the enhancement measures be implemented at the first-available, The Executive Director may grant additional time for good cause. Further, the project monitoring was not completed as specified by CDP 4-03-025 of the portion of the Enhancement Program that was completed, the pond at Long Pond. Therefore, Special Condition 2 requires the habitat enhancement to be monitored by the applicant for five years, and shall preclude the planting of non-native species within the enhancement areas. The applicant is required to submit, on an annual basis for a period of five years, a written report prepared by a qualified resource specialist, evaluating the extent of the success or failure of the enhancement project. At the end of the five-year period, a final detailed report shall be submitted for the review and approval of the Executive Director. If the report indicates that any portion of the project standards are not met, the report shall provide recommendations to compensate for those portions of the original program which were not successful. The applicant shall be responsible for implementing additional remedial actions and provide continued monitoring as the Executive Direction may determine necessary to ensure compliance.

In addition to the above requirements, Special Condition 2 provides that the County should encourage the construction of a new pedestrian bridge over Atascadero Creek in the vicinity of the existing Atascadero Creek restoration site. The purpose of the bridge is to provide adequate access to adjacent recreation trails thereby reducing existing patterns of pedestrian trespass through the sensitive creek habitat. An appropriate bridge design would span the creek and would be located as far as feasible from the existing pond.

As noted above, the proposed project may result in adverse effects to southwestern pond turtle if the proposed desilting activities or maintenance activities occur in and along Atascadero Creek in the project area during the southwestern pond turtle breeding season. Therefore, the Commission requires **Special Condition One (1)** which requires that all project operations, with the exception of hand clearing and mowing of target emergent vegetation, occur only during the period between October 1 and December 15, to avoid sensitive species timing constraints. **Special Condition (1)** specifically provides the proposed practice to prohibit flood control activities within 50 feet of any ponding/pools along Atascadero Creek, year around. From 50 feet to 100 feet from the ponding/pools, activities shall be conducted with hand tools only. Equipment may not be driven within 50 feet of the ponds.

5. Beach and Intertidal Habitat

The Commission finds that the proposed project is necessary in order to prevent flooding of existing development. In addition, the Commission finds that alteration of streambeds, as proposed by this project, is consistent with Section 30236 of the Coastal

Act when required for flood control projects to protect public safety or existing development and when adverse effects have been mitigated to the maximum extent feasible. In this case, the Commission notes that the proposed flood control project may result in some potential adverse effects to surrounding habitat due to unintentional disturbance from construction equipment and dredging activity. Therefore, to ensure that any potential adverse effects to sensitive riparian habitat, wetlands, and beach environment are minimized during actual dredging activities, **Special Condition Seven (7**) requires that a qualified biologist or environmental resource specialist shall conduct a survey of the project site each day prior to commencement of any desilting/dredging or beach disposal activities to determine whether any sensitive wildlife species are present. In the event that any sensitive wildlife species are present on the project site (including but not limited to western snowy plover, Belding's savannah sparrow, California grunion, steelhead trout) exhibit reproductive or nesting behavior, the environmental specialist shall require the applicant to cease work, and shall immediately notify the Executive Director and local resource agencies. Project activities shall resume only upon written approval of the Executive Director. The monitor(s) shall require the applicant to cease work should any breach in permit compliance occur or if any unforeseen sensitive habitat issues arise. The monitor(s) shall immediately notify the Executive Director if activities outside of the scope of this coastal development permit. If significant impacts or damage occur to sensitive wildlife species, the applicant shall be required to submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be processed as an amendment to this coastal development permit.

In addition, the Commission notes that the sandy beach at Goleta Beach has been identified as a potential grunion spawning location. Sediment disposal/beach nourishment activities are not proposed to occur within the seasonally predicted run period and egg incubation period of the California grunion. However, the Commission notes that any potential disposal of large quantities of sediment into the surf zone may result in adverse effects to grunion due to direct disturbance by construction activity and use of heavy equipment on the sandy beach as well as indirect impacts from smothering of eggs previously deposited on the sandy beach. Therefore, in order to ensure that any potential adverse effects to grunion are avoided, **Special Conditions One (1)** and **Seven (7)** prohibit any sediment disposal/beach nourishment activities from occurring on any part of the beach and shorefront in the project area when California grunion (of any life stage, including eggs) are present during any run periods and corresponding egg incubation periods. Further, in order to ensure that adverse impacts to the above referenced sensitive species are avoided, **Special Condition Seven (7)** also requires a qualified biological monitor to be present during all project activities. The monitor shall have the authority to cease operations should any breach in permit compliance occur or if any unforeseen sensitive habitat issues arise. If significant impacts or damage occur to sensitive wildlife species, the applicant shall be required to submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be processed as an amendment to this coastal development permit.

In addition, the applicant has submitted information that previous testing by County staff of dredged/excavated material from the subject creeks that was carried out over the past 10 years pursuant to the three previous coastal permits issued by the Commission determined that those sediments met federal and state beach nourishment and spoil discharge criteria, including physical and chemical testing. However, the Commission notes that because this project is proposed over a five year period of time and that water and sediment quality in creeks may change over time due to changed conditions resulting from new upstream development or potential new non-point source pollution impacts, that continued testing of all excavated material to determine suitability for beach deposition is necessary to minimize potential adverse impacts to the marine environment. Therefore, in order to ensure the long-term protection of marine resources, **Special Condition Three (3)** requires that all excavated/dredged material meet federal and state beach nourishment and spoil discharge criteria, including physical and chemical testing as described in Special Condition Three (3) prior to surfzone disposal. Additionally, **Special Condition Seven (7)** requires pre- and post-construction monitoring of the shoreline project areas, including beach width and sand volume changes. This information will be important to assess the project and its potential to affect plover habitat as well as evaluate the overall success of the project to meet its goals.

Further, the placement of source material on the beach is expected to result in increased turbidity at the deposition site. Temporary increases in turbidity and suspended solids decrease light penetration, causing a decline in primary productivity due to decreased photosynthesis by phytoplankton and may result in adverse impacts to marine organisms. Specifically, any appreciable turbidity increase may also cause clogging of gills and feeding apparatuses of fish and filter feeders. Turbidity impacts are anticipated to have the maximum concentrations generally restricted to the lower water column, and decreasing rapidly with distance due to settling and dilution. However, the impacts of surfzone and beach fill placement activities (i.e., increased turbidity, sedimentation, dissolved oxygen reduction, burial of organisms) are expected to be relatively localized in nature and mobile organisms would likely relocate to an undisturbed area. Following deposition activities, organisms are expected to recolonize previously disturbed areas.

As such, impacts from sediment re-suspension caused by the project are anticipated to be short-term in duration. In addition, the proposed deposition site is located in an area that is considered to have naturally high levels of turbidity due to high wave energy and creek outfall, particularly during the winter season when operations would take place. This project is proposed for a limited term of five years, to ensure that this critical information regarding potential impacts to marine resources is recorded and reported to the Executive Director for consideration of future project approvals, Special Condition Seven (7) requires a qualified biologist or resource specialist to monitor turbidity during all project construction activities. If the monitoring indicates that turbidity attributed to the replenishment project is not completely diminished immediately following deposition activities (1-2 days), then the rate of placement of sand will be modified so that large, long lasting turbidity plumes are no longer created.

In addition, the composition (i.e., grain size) of the deposition material can also affect the marine environment. For instance, material with higher fine-grained material content will contribute to higher rates of turbidity (see above discussion of turbidity impacts) and will have higher likelihood of containing contaminants. In general, the higher the amount of coarse grained sand, the lower the turbidity and associated risks to offshore resources and productivity. As a result, the grain-size of the material is an important design characteristic of the project. Therefore, in order to ensure that biological productivity of coastal waters and the offshore environment is maintained, the Commission finds that a maximum of 25% fine-grained material shall be placed at any of the deposition sites, as provided in Special Condition Three (3). This percentage of fine-grained material would be consistent with past Commission action in its approval of previous beach nourishment projects for Goleta Beach, including the Commission's approval of CDP 4-02-074 (BEACON).

In addition, in order to ensure that only appropriate material is deposited within the surfzone and marine environment, **Special Condition Three (3)** also addresses the placement of course-grained material at the deposition sites. Special Condition Three (3) requires that of the coarse grained material (retained on a Standard U.S. Sieve Size No. 200), no more than 0.5 percent shall consist of gravel or pebble-sized material. To achieve the desired gradation of material, the source may be screened out or mechanically sorted, or alternately, the source shall not be deposited at the site.

Debris such as trash, wood, or vegetation could also be present within the source material, especially material generated from flood control debris basins and creek desilting when dragline excavation is utilized. Screening may be performed by mechanically sifting the material through a coarse mesh to catch debris at the site, using conventional earthmoving equipment. To ensure that only material appropriate for beach nourishment be deposited within the surfzone and marine environment, **Special Condition Seven (7)** requires an on-site monitor, with qualifications acceptable to the Executive Director, to be present during all deposition operations to assess grain size and debris content. The monitor shall, through grab samples, visual inspection or other methods, ensure that the delivered material is within the acceptable size ranges for nourishment material. If the material is not sand or is not within the acceptable size range, the monitor shall halt the placement of sand on the beach. The monitor shall also examine the material to determine presence of debris. If any debris or non-sand material is detected, deposition activities shall be halted. Deposition activities shall not continue until an updated analysis of the composition of the sand material is approved by the Executive Director. Prior to resuming operations, all debris shall be removed to the maximum feasible extent.

The Commission notes that the proposed project, in combination with the related beach replenishment project authorized pursuant to CDP 4-02-074 (BEACON), could potentially allow for the discharge/placement of a greater amount of material in the surfzone than has been separately analyzed under either application in the event that both projects were to be implemented separately as stand-alone projects in the same year. The Commission notes that the cumulative impacts from the combined projects are not known. County staff have indicated that it is not the County's intention to

implement both of these projects separately from each other and that no more than 200,000 cu. yds./year of total deposition at Goleta Beach is currently envisioned. Therefore, in order to ensure that the cumulative effects of the development authorized by this permit and by other previously approved coastal permits for similar beach nourishment projects at the project site, are not inadvertently greater than have been analyzed separately under any single application, **Special Condition Three (3)** limits the total amount of sediment/beach replenishment material that is deposited at Goleta Beach from all sediment disposal/beach replenishment projects (including, but not limited to, all deposition activities implemented pursuant to Coastal Development Permits 4-05-139, 4-02-074, and 4-09-068) to no more than 200,000 cu. yds. of sediment/year. The applicant shall be responsible for coordinating with all other potential sediment disposal/beach replenishment projects at Goleta Beach. If material is placed at Goleta Beach as part of any other beach replenishment project, then the applicant shall limit the amount the amount of material placed at Goleta Beach pursuant to this permit to ensure that no more than 200,000 cu. yds. of material is deposited at Goleta Beach during any given year for the life of this project. The placement of additional quantities of material greater than 200,000 cu. yds. at Goleta Beach during any given year will require an amendment to this coastal development permit.

The riparian, wetland, and marine environment could also be adversely impacted as a result of the implementation of project activities by unintentionally introducing sediment, debris, or chemicals with hazardous properties. To ensure that construction material, debris, or other waste associated with project activities does not enter the water, the Commission finds **Special Condition Four (4)** is necessary to define the applicant's responsibility ensure proper disposal of solid debris and material unsuitable for placement into the marine environment. As provided under Special Condition Four (4), it is the applicant's responsibility to ensure that the no construction materials, debris or other waste is placed or stored where it could be subject to wave erosion and dispersion. Furthermore, Special Condition Four (4) assigns responsibility to the applicant that any and all construction debris, sediment, or trash shall be properly contained and removed from construction areas within 24 hours. Further, construction equipment shall not be cleaned on the beach or in the beach parking lots.

The Commission finds that the proposed project, as conditioned, will serve to minimize effects to existing habitat and wildlife resources on site while meeting necessary flood control requirements. However, the Commission also finds that the marine, beach and riparian habitats on site are subject to potential changes over time as new species migrate into the are or as potential unidentified impacts from the proposed dredging operation may be discovered over time. Therefore, in order to ensure that any potential changed circumstances which may be discovered at some future point in time, such as new information regarding sensitive habitat and wildlife resources on site or new impacts from the dredging project, are considered, Special Condition Eleven (11) specifically limits the duration of all activities approved by this permit (including dredging and sediment deposition) to a period of no more than five (5) years from the date of Commission action, after which time this permit shall expire. Any desilting/dredging or sediment disposal will require the issuance of a new coastal development permit.

In addition, the proposed project will involve work within streams, wetland areas, and tidally influenced portions of the sandy beach and will also require approval from the United States Army Corps of Engineers, California State Lands Commission, California Department of Fish and Game, and the Regional Water Quality Control Board. Therefore, **Special Condition Nine (9)** requires the applicant obtain all other necessary State or Federal permits that may be necessary for all aspects of the proposed project.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, 30236, and 30240 of the Coastal Act.

D. HAZARDS AND SHORELINE PROCESSES

Section **30253** of the Coastal Act states in part that new development shall:

> ***(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.***
>
> ***(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.***

Section 30253 of the Coastal Act mandates that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard. The purpose of the proposed desiltation program is to maintain the floodwater carrying capacity in Atascadero Creek to reduce the likelihood of flood damage to adjacent residential areas. In general, Atascadero Creek is an area of sediment deposition primarily because the gradient of the creek is substantially reduced in the project reach, which in turn, decreases the velocity of water and allows sediments to drop out. The annual removal of vegetation in the channel by discing removes channel obstructions and ensures that creek velocities are maintained.

The proposed project includes desilting/dredging activities to be implemented on an as-necessary basis. The applicant has indicated that excavation/dredging is currently necessary with at least 3,000 cu. yds. of material to be removed. Additionally, dredging of the subject reach of Atascadero Creek may be necessary at an undetermined future point in time in the event that the channel becomes overly sedimented. Future dredging activities are expected to result in the removal of no more than 30,000 cu. yds. of material within the project reach per year. Desilting/dredging activities involve the use of a crane rigged with a clamshell bucket that is operated from the adjacent stream bank. All dredged material will be stockpiled in designated areas adjacent to the creek where it is allowed to dewater. Stockpiles will be set back a minimum of 30 ft. from the top edge of the stream bank. The sediment will be allowed to dewater for several weeks and then it is hauled to a suitable disposal site. The County estimates desilting is typically necessary in the project reach every 5 to 10 years. However, the proposed desilting would occur on as-needed basis because high sediment laden flows can result in sedimentation that requires desilting.

The applicant has stated that the stockpiled material is intented to be utilized for beach nourishment activities at Goleta Beach. However, in the event that the material is determined not to be suitable for beach nourishment, then the applicant proposes to dispose of the material at a suitable alternative disposal site outside the Coastal Zone (or to a permitted location within the Coastal Zone),however, no alternative disposal sites have been specifically identified. Staff notes that a suitable site is one that has all the necessary federal, state, and local approvals to receive such material. Additionally, no information regarding the suitability of sediment to be utilized for beach nourishment has been submitted as part of this application. Therefore, Special Condition Three (3) requires that prior to disposal of excavated material, the applicant shall provide evidence to the Executive Director of the location and method of disposal to an approved disposal location either outside the coastal zone, a site within the coastal zone permitted to receive such fill, or at Goleta Beach. If the material will be utilized for beach nourishment at Goleta Beach, then Special Condition Three (3) further requires that the applicant shall submit a determination of the suitability of the sediment for beach/surfzone disposal, including a determination by the U.S. Army Corps of Engineers as to whether the excavated material meets the minimum criteria necessary for placement on the sandy beach or within the surf zone. Material meeting all applicable federal and state beach nourishment or dredge spoil discharge requirements shall be reserved for such use.

As stated above, all dredged material will be stockpiled in designated areas adjacent to the creek for dewatering, approximately 30 to 100 ft. in distance from the top of the bank. However, the Commission notes that excavated materials that are placed in stockpiles are subject to increased erosion and potential adverse effects to adjacent streams and wetland areas from resedimentation and increased turbidity. The Commission also notes that additional landform alteration would result if the excavated material were to be retained on site. Therefore, in order to ensure that dredged material will not be permanently stockpiled on site and that erosion and resedimentation of the streams on site are minimized during any temporary stockpiling activities, Special Condition Three (3) also requires that any stockpiled materials shall be located as far from the stream or wetland areas on site as feasible and in no event shall materials be stockpiled less than 30 ft. in distance from the top edge of the stream bank. Temporary erosion control measures (such as sand bag barriers, silt fencing; swales, etc.) shall be implemented in the event that temporary stockpiling of material is required. These temporary erosion control measures shall be monitored and maintained until all stockpiled fill has been removed from the project site. Permanent stockpiling of material on site shall not be allowed.

In addition, the Commission notes, based on the information submitted by Santa Barbara County Flood Control District, that the proposed development is located in an area of the Coastal Zone which has been identified as subject to potential hazards from flooding. The applicant has indicated that the areas surrounding Atascadero Creek have previously been subject to substantial damage as the result of seasonal flood events

during the winter storm season. As such, the Commission notes that evidence exists that the project site is subject to potential risks due erosion, and flooding.

The Commission further notes that although the proposed development is intended as a flood control project and will serve to reduce the potential for flooding of the developed areas immediately upland of the project site, there remains some inherent risk to any flood control projects. The Coastal Act recognizes that certain types of development, such as the proposed project, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property. As such, the Commission finds that due to the unforeseen possibility of erosion and flooding, the applicant shall assume these risks as a condition of approval. Therefore, **Special Condition Ten (10)** requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30253.

E. PUBLIC ACCESS AND VISUAL RESOURCES

Coastal Act Section **30210** states that:

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

Coastal Act Section **30211** states:

> ***Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.***

In addition, 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. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by***

> ***the Department of Parks and Recreation and by local government shall be subordinated to the character of its setting.***

Coastal Act sections 30210 and 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. In addition, Coastal Act Section 30251 requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored.

The proposed project will be located adjacent to and within public recreational areas including the Atascadero Creek Bikeway system. A public bicycle/pedestrian trail is located adjacent to several of the creek where dredging will occur. The proposed dredging activities will result in some potential temporary disruption to the public's ability to use the bicycle/pedestrian trail on site resulting from construction vehicles crossing the bicycle path during dredging operations. Disruptions are expected to be minor and would not result in the closure of any bicycle or pedestrian paths.

Dredged material will be stockpiled in designated areas adjacent to the creek for dewatering, approximately 30 to 100 ft. in distance from the top of the bank. Temporary stockpiles would be expected to remain on site for several months until all material has been adequately dewatered and removed to a suitable disposal site. Stockpiled materials, which would be visible from several public viewing areas including the bicycle/pedestrian trails on site, would result in some adverse temporary impacts to public views.

The Commission notes that excavated materials that are placed in stockpiles are subject to increased erosion and that additional landform alteration would result if the excavated material were to be permanently retained on site. The resulting landform alteration and increased erosion on site would adversely impact public views along the Atascadero Creek Bikeway. Therefore, in order to ensure that the adverse impacts to public views are minimized **Special Condition Five (5)** requires that stockpile sites be temporary, and only as long as necessary for the dewatering process to be complete. In addition, stockpiled materials shall be located as far from the stream or wetland areas on site as feasible and in no event shall materials be stockpiled less than 30 ft. in distance from the top edge of the stream bank. Temporary erosion control measures (such as sand bag barriers, silt fencing; swales, etc.) shall be implemented in the event that temporary stockpiling of material is required. These temporary erosion control measures shall be monitored and maintained until all stockpiled fill has been removed from the project site. Permanent stockpiling of material on site shall not be allowed. The applicant shall provide evidence to the Executive Director of the location of the permanent disposal site for all excavated material prior to removal of the material from the project site. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required. In addition, to ensure that all disturbed areas (including temporary stockpile areas) are adequately revegetated, **Special Condition Four (4)** requires that all accessways on the subject site disturbed as a result of this project be planted and maintained for habitat restoration and erosion control purposes

as soon as possible after disturbance has occurred. Disturbed areas within the streambed/channel may be planted and maintained with locally native seeds or plants endemic to riparian habitat areas.

In addition, the Commission notes that the desilting/dredging activities are proposed during the fall and winter months when visitor-use of Goleta Beach County Park is lowest. The Commission also notes that closure of portions of the beach to public use during spring and summer months (during maximum visitor-use of the park) would result in significant impediment to the public's ability to fully utilize the public beach areas on site. In order to minimize disturbance to park users, as balanced with minimizing impacts to wildlife on site, the County is proposing to limit desilting/dredging operations between the period of September 15 through December 15. Therefore, in order to ensure that the applicant's proposal to limit the duration of the proposed dredging project is implemented and to ensure that adverse effect to public access and recreation are minimized, Special Condition One (1) limits desilting/dredging activities to the period between September 15 through December 15, unless additional time is granted by the Executive Director for good cause.

Furthermore, though the winter and early spring season is the appropriate time of year to implement project activities, given the mild climate, each of these sites are still expected to attract extensive public visitorship on any given weekend. Since Goleta beach is subject to higher levels of public use during weekends, sediment disposal/placement activities during these times would result in significant adverse impacts to public access. Therefore, to ensure that maximum access is maintained for the public in the project area consistent with Coastal Act Section 30210, **Special Condition One (1)** requires that all beach nourishment/sediment disposal operations, including any restrictions on public access, be prohibited on any part of the beach and shorefront in the project area on Saturdays and Sundays, thereby removing the potential for construction-related disturbances to conflict with weekend visitor activities. In this way, scheduling operations outside of peak recreational times will serve to minimize potential impacts on public access.

Furthermore, to ensure the safety of recreational users of the project site and to ensure that the interruption to public access of the project site is minimized, the Commission requires the applicant to submit a public access plan, pursuant to Special Condition Eight (8), to the Executive Director for review and approval. **Special Condition Eight (8)** requires a description of the methods (including signs, fencing, posting or security guards, etc.) by which safe public access to and around the receiver site shall be maintained during and after beach deposition activities. Where use of public parking spaces is unavoidable, the minimum number of public parking spaces (on and off-street) that are required at each receiver site for the staging of equipment, machinery and employee parking shall be used.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30210, 30211, and 30251 of the Coastal Act.

F. ARCHAEOLOGICAL RESOURCES

Coastal Act Section 30244 of the Coastal Act states that:

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

Archaeological resources are significant to an understanding of cultural, environmental, biological, and geological history. The Coastal Act requires the protection of such resources to reduce the potential adverse impacts through the use of reasonable mitigation measures. Degradation of archaeological resources can occur if a project is not properly monitored and managed during earth moving activities and construction. Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be permanently lost. In the past, numerous archaeological sites have been destroyed or damaged as a result of development. As a result, the remaining sites, even though often less rich in materials, have become increasingly valuable as a resource. Further, because archaeological sites, if studied collectively, may provide information on subsistence and settlement patterns, the loss of individual sites can reduce the scientific value of the sites which remain intact.

The applicant has submitted Environmental Impact Report (94-EIR-1) by Santa Barbara County Flood Control District and Woodward-Clyde Consultants dated July 1994 which indicates that Native American Archaeological resources have been identified within three separate areas (SBA-45 and SBA-1588). In order to minimize the potential for adverse effects to cultural resources, the proposed dredging will only occur in the same areas of stream channel where dredging has occurred in previous years. In addition, in order to avoid disturbance to cultural resources on site, the buffer areas have been delineated adjacent to all identified resource areas where dredging activities shall be prohibited. However, the Commission notes that potential adverse effects to those resources may still occur due to inadvertent disturbance during dredging activity. To ensure that impacts to archaeological resources are minimized, **Special Condition Seven (7)** requires that if project activities are undertaken within an area known to have archaeological resources, the applicant agrees to have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all desilting/dredging activities which occur within or adjacent to the archaeological sites in the project area. Specifically, if required as described above, the desilting/dredging operations on the project site shall be controlled and monitored by the archaeologist(s) with the purpose of locating, recording and collecting any archaeological materials. Alternately, under the direction of a qualified archaeologist and/or appropriate Native American consultant, the applicant may implement alternative techniques designed to temporarily protect such resources (e.g., placing temporary cap material in accordance with accepted protocols for archaeological resource protection). In the event that any significant archaeological resources are discovered during operations, all work in this area shall be halted and an appropriate data recovery strategy be developed, subject to review and approval of the Executive Director, by the applicant's archaeologist and the native American consultant consistent with CEQA guidelines.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30244 of the Coastal Act.

G. CEQA

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

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, project alternatives and mitigation measures have been considered and incorporated into the project. Five types of mitigation actions include those that are intended to avoid, minimize, rectify, reduce, or compensate for significant impacts of development. Mitigation measures required as part of this coastal development permit include the avoidance of impacts to ESHA through timing and operational constraints limiting the time of work, sediment analysis, biological monitoring, operational constraints relating to dredging and material deposition on the beach, and project monitoring. The following special conditions are required to assure the project's consistency with Section 13096 of the California Code of Regulations:

Special Conditions 1 through **11**

As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

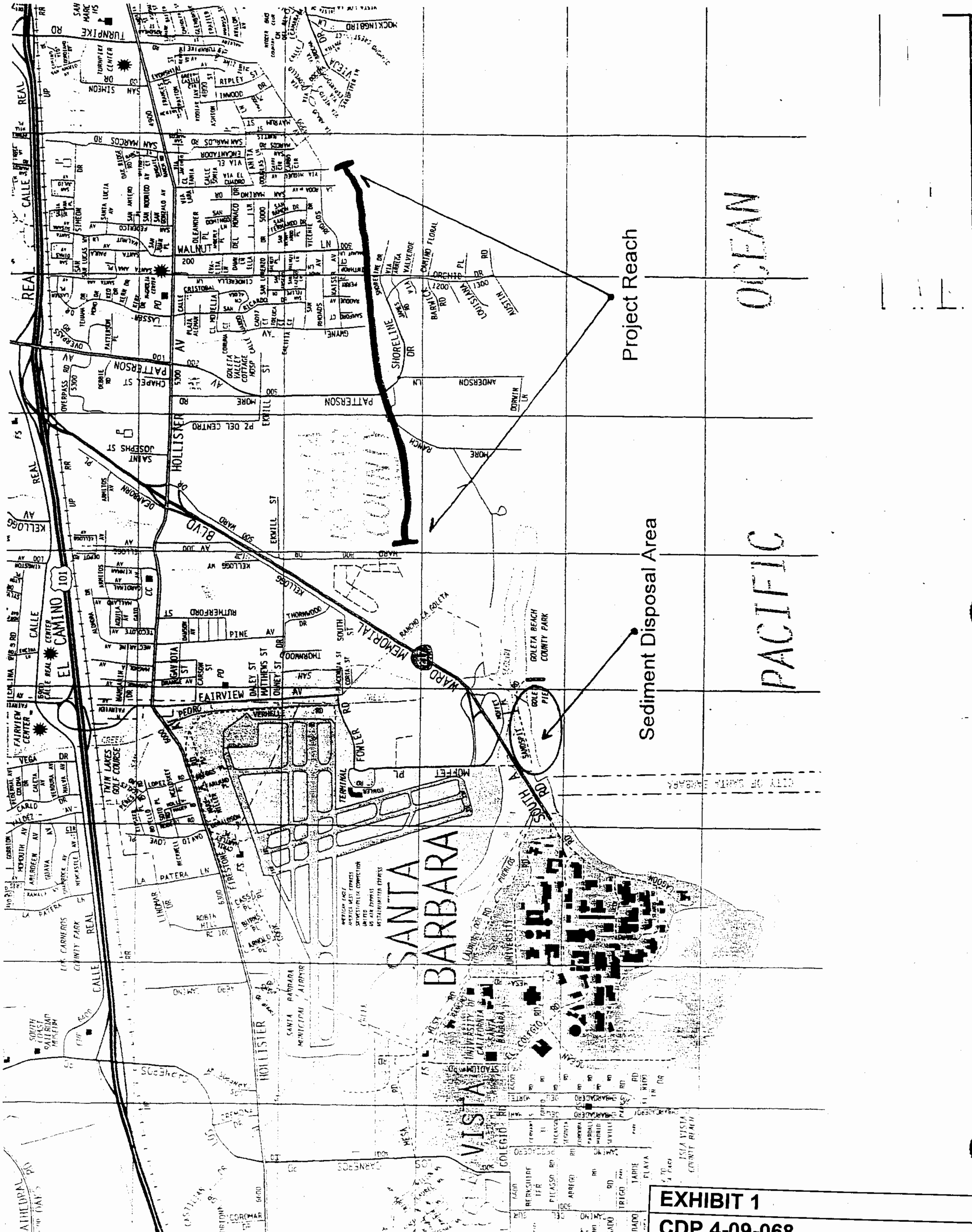
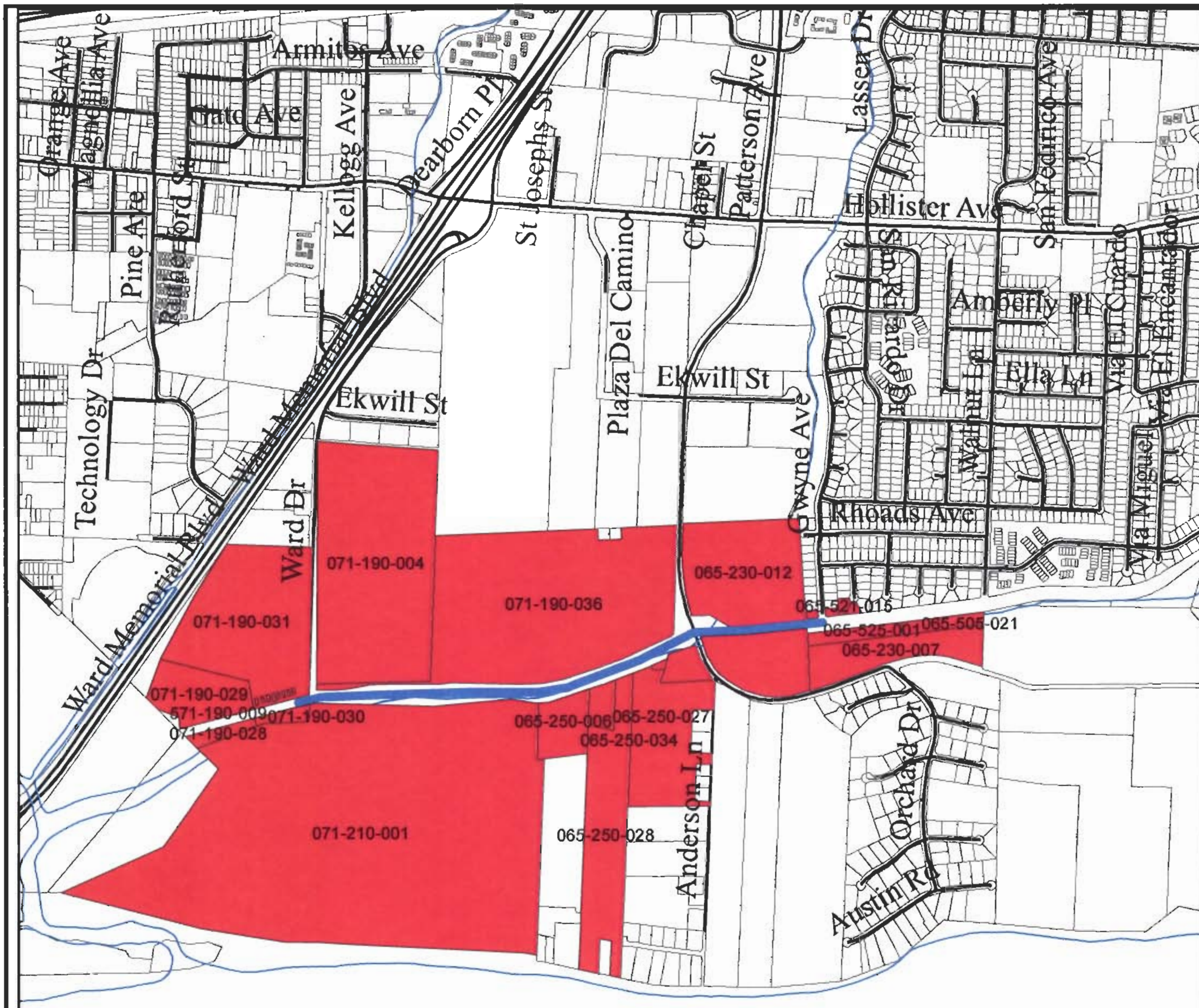


EXHIBIT 1

CDP 4-09-068

Vicinity Map



Key to Features

Atascadero Creek Assessor's Parcel Map

Department of Public Works County of Santa Barbara

Legend

- Parcels Within 100' of Project
- Creeks
- Streets

This map is for reference only. Although every effort has been made to ensure the accuracy of information, errors and conditions originating from physical sources used to develop the database may be reflected on this map. Santa Barbara County shall not be liable for any errors, omissions, or damag... inappropriate use of... level of accuracy in... boundary lines show... should not be used t... values, bearings or...

N S W E

Feet

1,300 650 0 1,300

Coordinate System State Plane California Zone V NAD 1983

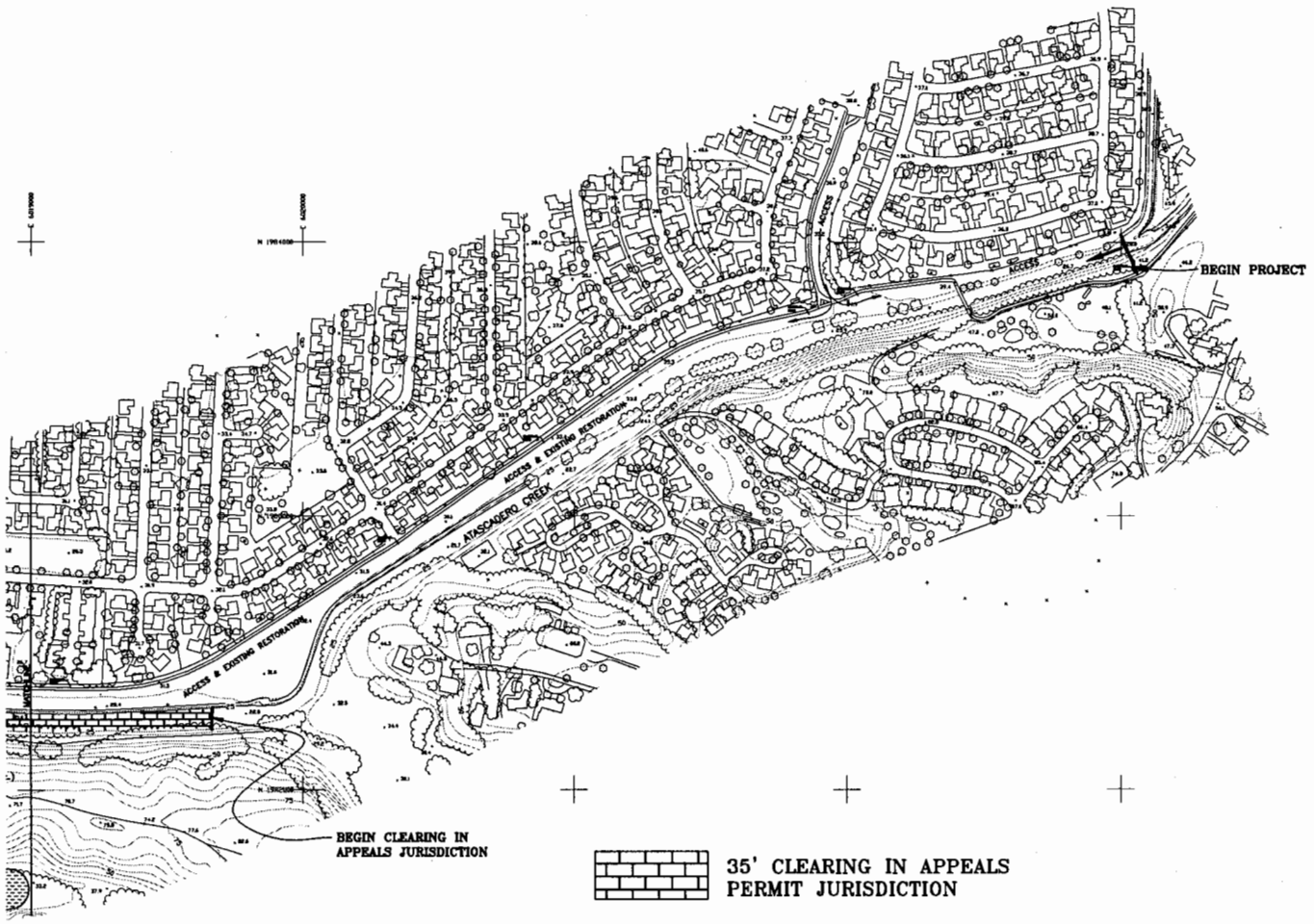
California Coastal Commission Application 2009

Atascadero Creek- Assessors Parcel Map

EXHIBIT 2

CDP 4-09-068

Assessor's Parcel Map



SCALE: 1" = 200'

UNAUTHORIZED CHANGES OR USES:
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REVISIONS			
NO.	DESCRIPTION	DATE	APP

DESIGNED BY:
FLOOD CONTROL DESIGN ENGINEER DATE

SANTA BARBARA COUNTY
FLOOD CONTROL
AND
WATER CONSERVATION DISTRICT
123 E. ANAPAMU STREET
SANTA BARBARA, CA 93101
(805) 568-3440

ATASCADERO
CREEK

SANTA BARBARA COUNTY, CALIFORNIA

LOWER ATASCADERO
CREEK PROJECT

DESIGNED BY: KT
DRAWN BY: JT

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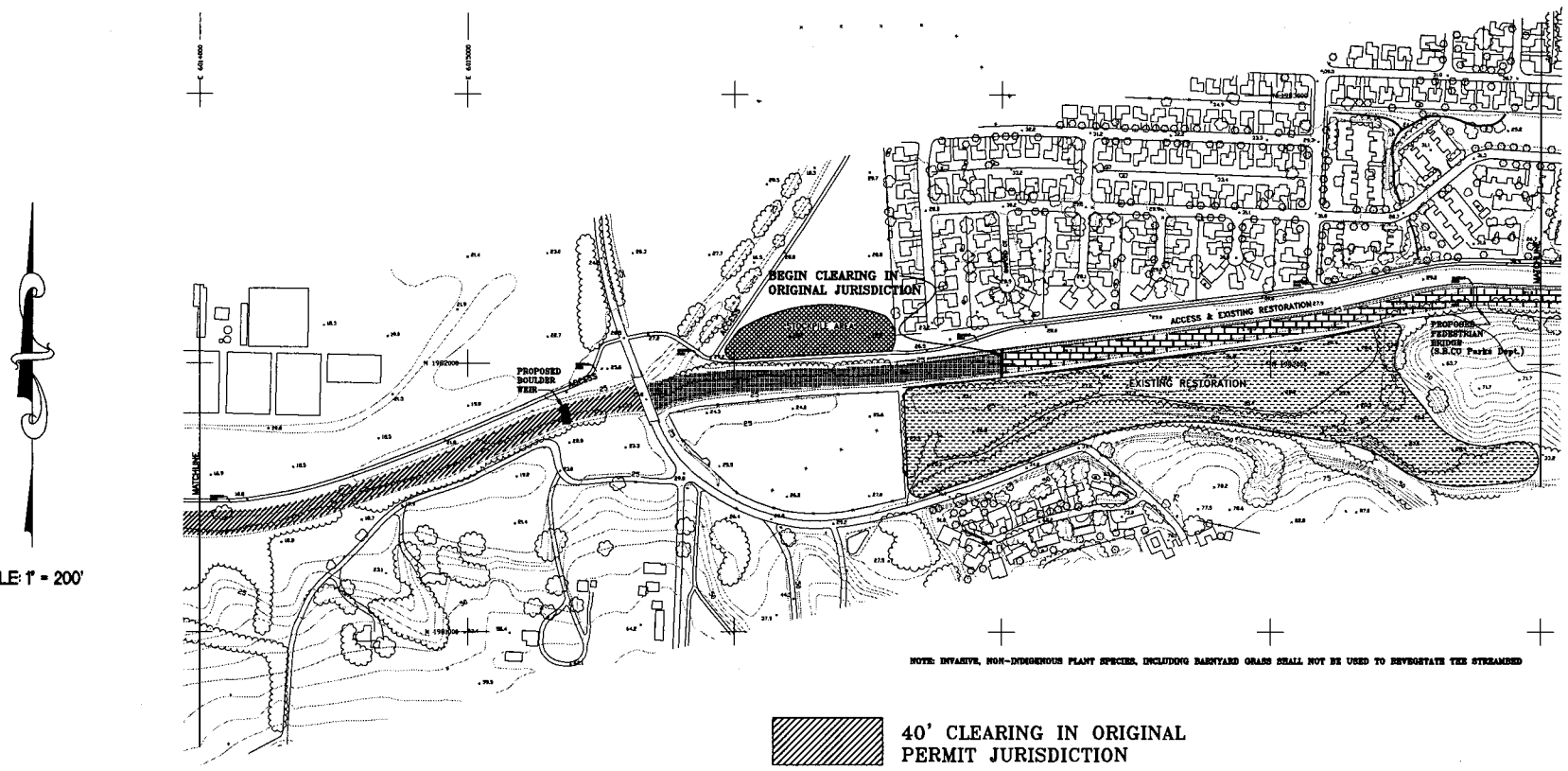
EXHIBIT 3

CDP 4-09-068

Site Plan (Upstream Portion of Reach)



NOTE: INVASIVE, NON-INDIGENOUS PLANT SPECIES, INCLUDING BARNYARD GRASS SHALL NOT BE USED TO REVEGETATE THE STREAMBED

40' CLEARING IN ORIGINAL PERMIT JURISDICTION

35' CLEARING IN ORIGINAL PERMIT JURISDICTION

35' CLEARING IN APPEALS PERMIT JURISDICTION

REVISIONS NO.	DESCRIPTION	DATE	APP

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SANTA BARBARA, CA 93101
(805) 568-3440

ATASCADERO
CREEK

SANTA BARBARA COUNTY, CALIFORNIA

LOWER ATASCADERO CREEK PROJECT

DESIGNED BY: KT
DRAWN BY: JT
CHECKED BY: JF

SHEET 2 OF 3
Filename: ATAS_COR.DWG

EXHIBIT 4
CDP 4-09-068
Site Plan (Middle Reach)

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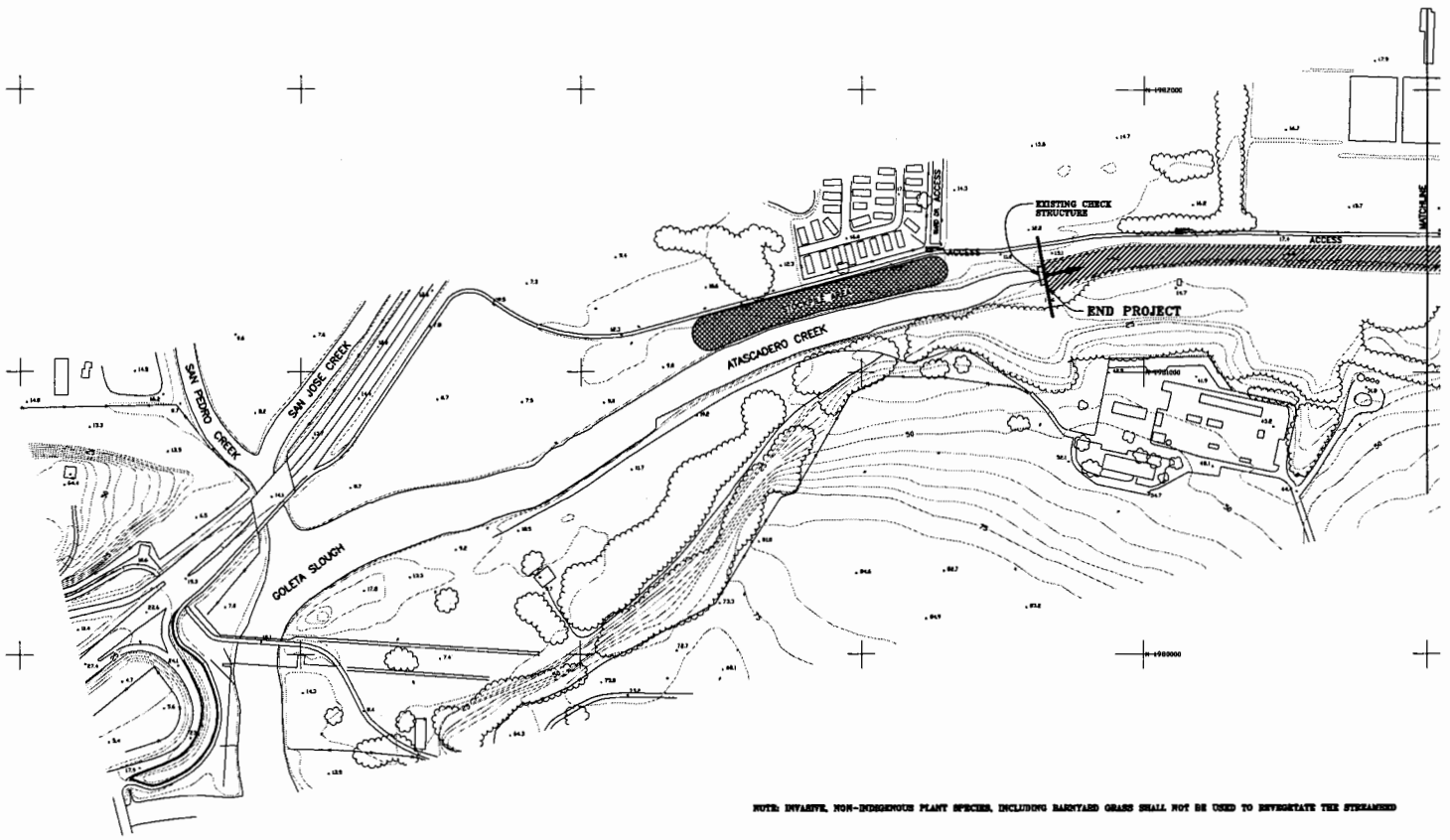

SCALE: 1" = 200'

NOTE: INVASIVE, NON-INDIGENOUS PLANT SPECIES, INCLUDING BARNYARD GRASS SHALL NOT BE USED TO REVEGETATE THE STREAMBED

40' CLEARING IN ORIGINAL PERMIT JURISDICTION

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FLOOD CONTROL DESIGN ENGINEER DATE

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FLOOD CONTROL
AND
WATER CONSERVATION DISTRICT
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SANTA BARBARA, CA 93101
(805) 568-3440

ATASCADERO
CREEK

SANTA BARBARA COUNTY, CALIFORNIA

LOWER ATASCADERO CREEK PROJECT

DESIGNED BY:	KT
DRAWN BY:	JT
CHECKED BY:	JF

SHEET 3 OF 3
Filename: ATAS_COR.DWG

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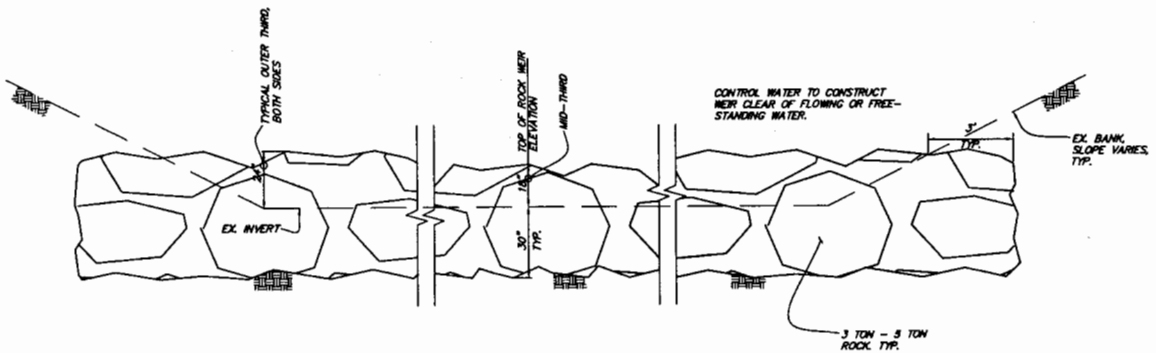
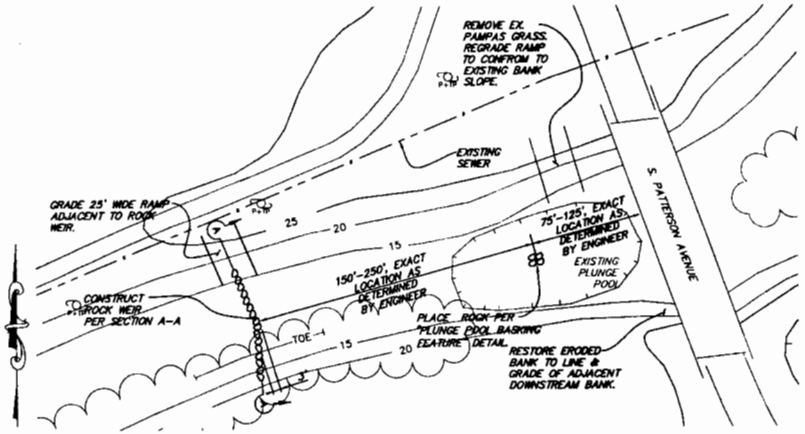
EXHIBIT 5
CDP 4-09-068
Site Plan (Downstream Reach)

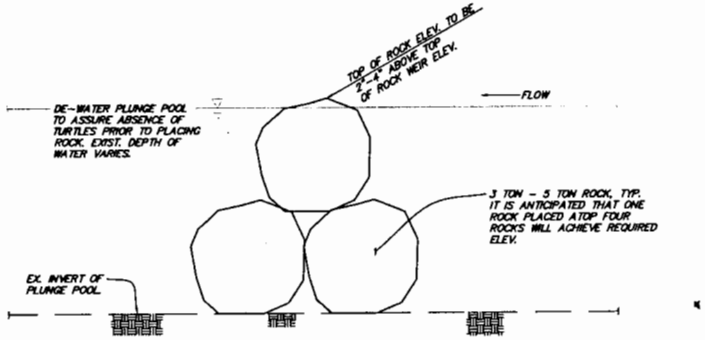
Components of the Southwestern Pond Turtle Habitat Enhancement Plan



SECTION AA: ROCK WEIR
SCALE: 1"=2'



PLAN: ATASCADERO CREEK
SCALE: 1"=40'



PLUNGE POOL BASKING FEATURE DETAIL
SCALE: 1"=2'

DIGALERT
800-227-2600
Call 2 Full Working Days In Advance

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REVISIONS			
NO.	DESCRIPTION	DATE	APP

DESIGNED BY: [signature] 9-7-05
FLOOD CONTROL DESIGN ENGINEER — DATE

SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
123 E. ANAPAMU STREET
SANTA BARBARA, CA 93101
(805) 568-3440

ATASCADERO CREEK TURTLE HABITAT
SANTA BARBARA COUNTY, CALIFORNIA

PLUNGE POOL BASKING FEATURE & ROCK WEIR

DESIGNED BY: JSF
DRAWN BY: KAB
CHECKED BY: JSF

O-1006
SHEET 2 OF 3
Filename: Atascadero Creek_TH.dwg

EXHIBIT 6
CDP 4-09-068
Plans for Plunge Pool and Rock Weir