

STATE OF CALIFORNIA - THE RESOURCES AGENCY

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12/24/95

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(408) 437-4863
HEARING IMPAIRED: (415) 904-5500

W12a



Filed: 11/17/95
49th day: 01/05/96
180th day: 05/15/96
Staff: SG-SC
Staff Report: 12/22/95
Hearing Date: 01/10/96
Commission Action:

STAFF REPORT
REGULAR

APPLICATION NUMBER: 3-95-64

APPLICANT: SAN LUIS BAY INN TIMESHARE ASSOCIATION (DEANNA LAUENROTH)

PROJECT LOCATION: 3254 Avila Beach Drive, Avila Beach, San Luis Obispo County

PROJECT DESCRIPTION: Repair storm damaged creekbank to prevent further erosion of disturbed archeological site and to protect tennis court

LOCAL APPROVALS RECEIVED: San Luis Obispo County Emergency Permit
P940544E(Local approvals)

SUBSTANTIVE FILE DOCUMENTS: San Luis Obispo County Coastal Plan Policies document, San Luis Bay Area Plan, Coastal Zone Land Use Ordinance

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, grant a permit to the applicant with the conditions below, for the reasons described in this staff report. The principal issues involved with this permit are the placement of fill in a wetland and the protection of an archeological site.

EXHIBITS

1. Location map
2. Vicinity map
3. Site map
4. Proposed rip rap plans
5. State Lands Commission letter
6. Fish and Game Agreement

STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

I. APPROVAL WITH CONDITIONS

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to implement its Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

A. 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 this permit is reported to the Commission. 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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
 4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
 5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
 6. 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.
 7. 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.
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3-95-64

San Luis Bay Inn Erosion

Page 3

B. Special Conditions**1. Final Engineering and Construction Drawings**

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT the permittee shall submit to the Executive Director for review and approval two copies of final plans bearing the engineer's stamp. The final plans shall indicate the method of tying the ends of the rip rap revetment into the adjoining soil.

2. Revegetation Plan

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT the permittee shall submit to the Executive Director for review and approval two copies of a revegetation plan prepared by a qualified professional landscape architect or botanist, which shall indicate how the bank protection structure is to be revegetated, including the types of plants, irrigation method, monitoring and reporting schedule until plants are successfully established, and methods to ensure that the revegetation is successful. Revegetation shall be done with native riparian species.

3. San Luis Obispo County Permit

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT the permittee shall submit to the Executive Director for review a copy of an approved permit for the work from the County of San Luis Obispo, or written evidence that no permit is required by the County.

4. Chumash, Native American Heritage Commission, and State Historic Preservation Office Approval

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT the permittee shall submit to the Executive Director for review written confirmation from an authorized representative of the northern Chumash community, the Native American Heritage Commission, and the State Historic Preservation Office that the proposed method of installation of the project conforms to all cultural protection measures, given that it is a disturbed portion of a significant archeological site.

5. Archeological Monitor

A qualified professional archeologist, contracted with and paid for by the permittee, and acceptable to the Executive Director, shall monitor all earth disturbing activities. The archeologist shall have the power to halt the work at any time if any important archeological

Page 4

San Luis Bay Inn Erosion

3-95-64

material is encountered, until such time as the material can be evaluated by the archeologist. In the event that remains of Chumash people are discovered, re-interment shall occur in a location and with appropriate ceremonies as approved by a representative of the northern Chumash community. Upon completion of the work, the archeologist shall submit to the Executive Director a letter summarizing all monitoring activities.

6. US Army Corps of Engineers

PRIOR TO COMMENCEMENT OF CONSTRUCTION the permittee shall submit to the Executive Director for review documentation from the US Army Corps of Engineers that the project has been approved in conformance with Federal agency requirements, or that no Corps approval is necessary.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Background and Description

The project site is located in the community of Avila Beach in San Luis Obispo county, just inland from the mouth of San Luis Obispo Creek (see Exhibits 1 and 2). In the winter and spring of 1995, heavy rain fell on the San Luis Obispo area. As a result, San Luis Obispo Creek and Harford Creek, which join at the project site, rose rapidly. Those high stream flows, combined with ocean waves that traveled up the mouth of San Luis Obispo Creek to the site, caused flooding of the site and surrounding area and eroded a portion of fill at the project site which had been placed into the creeks' floodplain. The applicant initially contacted Commission staff in February of 1995 concerning issuance of an emergency permit. Based on the description of the erosion at that time and a field visit, Commission staff determined that there was not an emergency situation justifying work without a regular coastal development permit, because the tennis court which exists on the fill was not in imminent danger and the archeological significance of the fill was not known to Commission staff at that time. The fill is from a nearby significant Chumash archeological site that was partially graded in the late 1980's. Although the grading caused some loss of significance by confusing the stratigraphic sequence of the material, it still contains material that is considered archeologically and culturally significant, including Chumash remains. If erosion continues, the archeological material will continue to erode and the tennis court will eventually be lost.

To prevent further erosion, the applicant proposes to excavate just outside of the fill so as not to further disturb the archeological material and place rip rap in the excavation and against the edge of the fill (see Exhibit 3). The rip rap would extend about 250 feet along the edge of the fill.

3-95-64

San Luis Bay Inn Erosion

Page 5

B. Coastal Act Policies

Section 30235. *Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.*

This proposal would result in armoring of approximately 250 feet of the banks of Harford and San Luis Obispo Creeks. The creeks typically do not flow directly against the bank at the edge of the fill. Depending on the location of the channel of San Luis Obispo Creek, it may flow perpendicular to the bank, but even then it may not reach the bank, meandering and ultimately curving sharply, some 135 degrees, to the left (southwest) at the mouth of the creek. The mouth is open generally to the southwest, making it easy for winter storm waves to enter the mouth and travel about one-quarter mile up to the site. Harford Creek, which is much smaller than San Luis Obispo Creek, flows parallel to the bank. The two creeks impinge the bank usually only during times of high water flow, typically during the winter during and shortly after periods of rain. At these times of high flow coupled with storm waves, the bank is subject to erosion.

The proposed rip rap would have little effect on natural shoreline processes and would not have an adverse impact on local sand supply; continuing erosion will adversely affect the archeological site and will destroy the tennis court. According to the project engineering geologist, there are two sources of sand for the local beaches, lateral transport along the coastline from northwest of San Luis Bay and sediment deposited by San Luis Obispo Creek.

The principal source is lateral transport of sand from the actively eroding coastline which extends northwesterly from Point San Luis to Point Buchon. This source of sand is relatively constant and not dependent upon intermittent periods of flooding from San Luis Creek. The proposed revetment would have no effect on the lateral transport of sand. The other source of sediment is the intermittent deposition caused when flooding occurs within the San Luis Creek watershed. . . The relative importance of each source was demonstrated during the late 1980's and early 1990's when the region was subjected to prolonged drought and no flooding. There were no reports of substantial beach size reduction in San Luis Bay during this period. . . The potential loss of sand due to erosion from this proposed 230 foot length of armored creek is extremely minor when compared to the overall length of creek bank which extends approximately 10 miles to the north.

In contrast to the engineering geologist's statement, the US Army Corps of Engineers, in its 1976 Supplement No. 1 to Design Memorandum No. 1 General Design for Port San Luis, California, stated that "There is little or no movement of sand along the shoreline upcoast of the existing breakwater. . . . The primary source of sand supply to the beaches between San Luis Obispo and Point Sal is from San Luis Obispo Creek, Pismo Creek, Arroyo [Grande] Creek, and the Santa Maria River." The Corps document was prepared in support of proposed harbor improvements at Port San Luis, about one-half mile northwest of the subject site. However, that document gives no relative magnitude of sand supply from any of the mentioned streams.

A 1978 environmental impact report prepared by the California Department of Parks and Recreation for land acquisition and development just downcoast from the subject site at Pismo State Beach and Pismo Dunes State Vehicular Recreation Area (now Oceano DSVRA) gave quantitative information on the sand budget in this area. According to that document,

The sand supply from Point Buchon to the Santa Maria River is estimated at 8,000 cubic yards per year from San Luis Obispo Creek and 13,000 cubic yards per year from Arroyo Grande Creek. The estimated deposition of sand on the beach is 79,000 cubic yards per year between Pismo Beach and Oso Flaco Creek and 46,000 cubic yards per year from Oso Flaco Creek to the Santa Maria River. The ocean bottom itself supplies approximately 100,000 cubic yards of sand per year from older alluvial deposits submerged after the retreat of the last glacial period.

That document corroborates the Corps of Engineers statement that sediment derived from local creeks is a greater component of beach sand supply in the area than is longshore transport, contradicting the project geologic report. Nevertheless, the amount of sediment available from the fill at the subject site is negligible and the project engineering geologist's statement that even during a recent drought period with little flow in the creek to deliver sediments the beaches did not lose sand, is correct.

It should be noted that the fill material most subject to erosion covers approximately two-thirds of an acre and is about five feet deep. Thus the approximate total volume of the most erodible fill material is approximately 5400 cubic yards (one acre = 43,560 square feet; $43,560 \times .67 = 29,000$ square feet; $29,000 \times 5 = 145,000$ cubic feet, and 27 cubic feet = one cubic yard, so $145,000 - 27 = 5370$ cubic yards). Historically, since its placement some 25 years ago, the erosion of this fill material has been negligible. It is unlikely that large amounts of the fill would be eroded at one time unless there were to be another large storm as there was in early 1995. In any event, in light of the information from the Department of Parks and Recreation EIR, the amount of sediment the fill could potentially contribute to local beaches is insignificant.

Thus, even though placement of a rip rap revetment at the subject site would alter natural shoreline processes, i.e., erosion, it would be to protect an existing structure, the tennis court and, because of the relative insignificance of the amount of erodible material, the proposed revetment will not have adverse impacts on local shoreline sand supply and is therefore consistent with Coastal Act section 30235. It is necessary to require evidence of approval of the proposal, or that no approval is necessary, from the Corps of Engineers since the proposal appears to involve work in the Corps jurisdiction.

Section 30244. Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

As mentioned earlier, the subject site is composed of fill that was taken from the archeological site. The applicant conducted an archeological investigation and prepared an archeological report. According to that report, the investigation uncovered a "...redeposited shell midden originally part of the San Luis Bay Inn site (SLO-56). While diagnostic artifacts were found, all

3-95-64

San Luis Bay Inn Erosion

Page 7

stratigraphic context has been lost. Human remains have been observed in the tidal flats in front of the redeposited midden. . . . The report lists three recommendations, as follows:

1. *Archeological monitoring is recommended as part of the erosion control repairs at a portion of the San Luis Bay Inn site (SLO-56) covering the San Luis Bay Inn tennis court terrace at the mouth of Harford Creek.*
2. *Mitigation excavations are not required, since this portion of the midden does not qualify for the National Register of Historic Places status due to a prior loss of context.*
3. *Provisions need to be made for re-interment of burials which are mixed into the redeposited midden.*

The report describes the material at the site as part of *"An extensive prehistoric Chumash settlement. . . . The San Luis Bay Inn site, SLO-56. . . is a large, coastal settlement with evidence of occupation from the Early Period through most of Chumash prehistory and into the Spanish era. Initial studies of SLO-56 have documented. . . the large number of prehistoric cemeteries and groups of burials present. . . . The San Luis Bay Inn site is one of the largest coastal settlements north of the Santa Barbara Channel. Ethno-historic evidence identifies the site as Sapjato, a regional center of the Obispeno Chumash. During the Spanish era, the famed Chief Buchon lived there."*

The investigation, including subsurface testing, revealed much cultural artifacts. Although no human skeletal remains were found in the excavations, *" . . . eroding burials continued to be noted along the stream banks and spread out across the tidal flats."* The investigation also included four excavations made in the stream bed sands at the base of the fill, where the proposed toe of the rip rap revetment would be, which revealed no cultural materials. The report concluded by stating *"The tennis court terrace midden, despite its loss of some significance, continues to retain heritage potential for data recovery relating to the regionally important San Luis Bay Inn archaeological site."*

In this particular instance, the proposed development might have some slight adverse impact on the archeological site if the excavation work further disturbs or destroys any of the material present. However, the archeological field investigation did not uncover any material in the area where excavation is proposed to take place. Additionally, the work will result in the protection of the archeological material from further erosion. The consulting archeologist's recommendations have been incorporated into the conditions of this permit. Additionally, staff is recommending a condition to require that, prior to transmittal of the coastal development permit, the applicant secure and submit to the Executive Director written approval of the work as proposed by the applicant, from an authorized representative of the Chumash, from the State Native American Heritage Commission, and from the State Historic Preservation Office. This provision is necessary to ensure that the work as proposed is appropriate to secure the cultural material in the site, given its significance. With those conditions, the proposal is consistent with Coastal Act section 30244.

Section 30253. (a) New development shall: (1) Minimize risks to life and property in area 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.

The high water flows and storm waves which led to the erosion at this site demonstrated that the site is subject to high geologic/flood hazards. The proposed rip rap revetment has been reviewed by the Commission's coastal engineer and it has been determined that the proposal is generally acceptable in terms of its engineering feasibility and effectiveness. According to the applicant, the Department of Fish and Game reviewed the initial plans and requested that the excavated material be placed over the rip rap and planted. According to the applicant

Several other methods of protection were considered including driven sheet pile and concrete or masonry walls. Normally any form of walls are considered permanent structures and, in our experience interacting with coastal planners over the past 18 years, permanent walls have been discouraged in the coastal zone unless absolutely necessary. Within this context and understanding the impact of construction of these structures, it did not appear to be a viable solution. Because slope protection is normally very expensive, the concept of no protection was considered but rejected due to the threat of significant property loss.

Staff posed the alternative of a poured concrete wall along the end and side of the tennis court along with revegetation of the bank. The applicant countered that revegetation of the bank alone at this point would not suffice to secure the bank against high flows and storm waves and that the wall would entail further disturbance of the archeological material and possible weakening of the fill with concomitant acceleration of soil loss. The applicant has indicated that the excavated material will be placed on the rip rap and planted. The plans submitted do not show this, so a condition is necessary to require a revegetation plan. Staff also posed the alternative of removing the fill and placing it back on the original site. According to the applicant, this will be done to any remains that are found as part of the protection work, but that the Chumash people would prefer that no further disturbance occur to the material. Because of these factors, staff is recommending approval of this proposal.

Staff must point out however, that the rip rap revetment cannot be considered anything other than a permanent wall. It would be disingenuous to propose it as an "alternative" to a "permanent" wall such as a concrete poured wall or any other type of wall. It is highly unlikely that the applicant will ever remove the rip rap revetment and leave the bank unprotected. Staff does not believe that that would be a prudent thing to do in any event because of the archeological material present in the fill. However, if the fill did not contain archeological material, but was simply earth that had been placed in the floodplain, it would be difficult for staff to recommend approval of any sort of bank protection for a tennis court developed on fill placed into a floodplain.

The proposal will minimize risks to life and property in this area of high geologic/flood hazard by protecting the fill with the tennis court. The revetment will assure structural stability and will not contribute significantly to erosion; it will in fact reduce erosion. It is a protective device, but it will not require the construction of any further such devices. Due to these reasons, the proposal is consistent with Coastal Act section 30253.

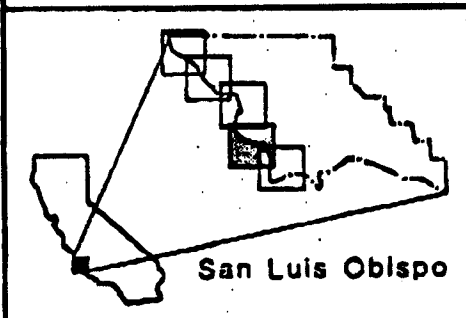
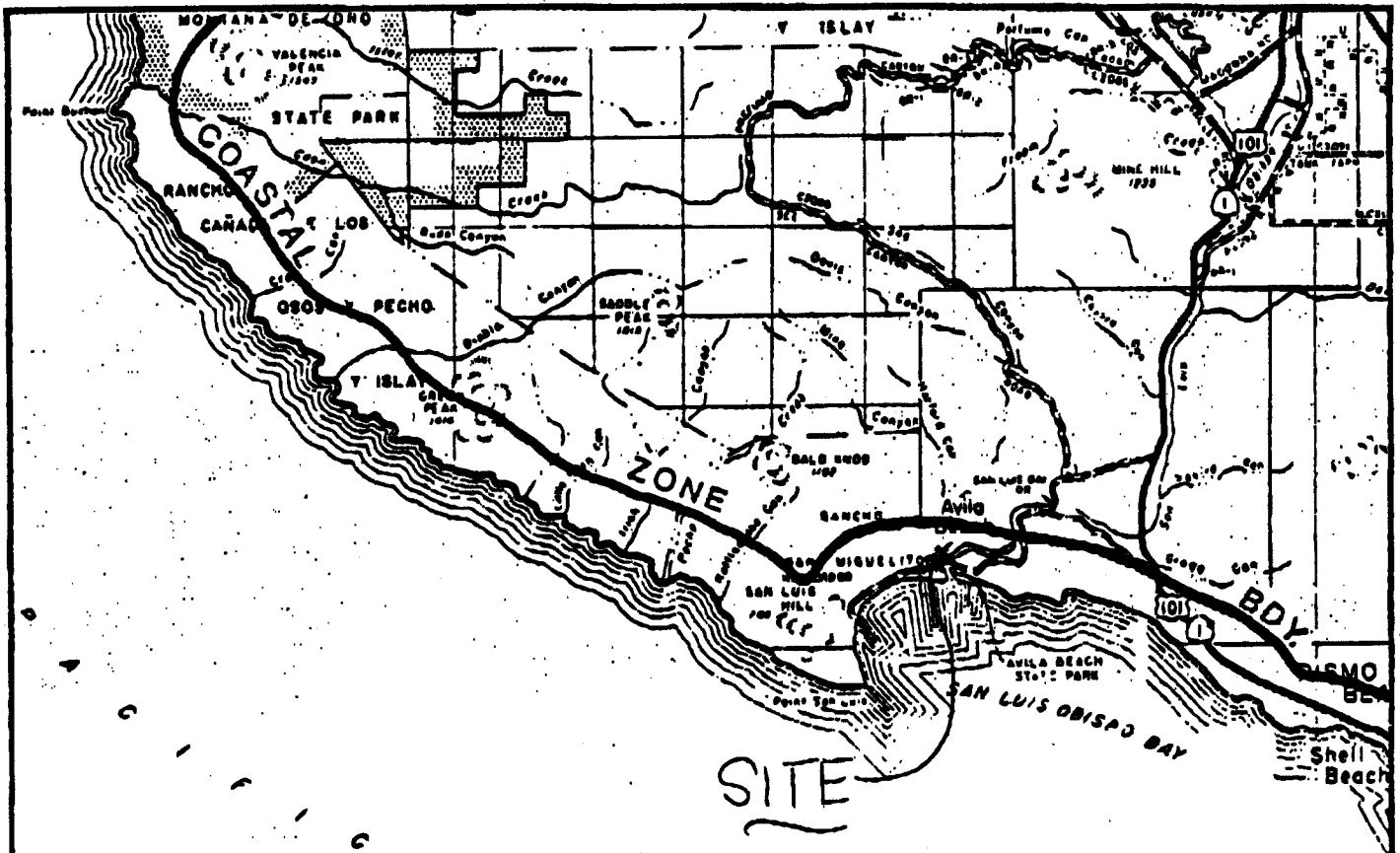
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San Luis Bay Inn Erosion

Page 9

C. California Environmental Quality Act (CEQA)

The Commission's permit process has been designated the functional equivalent of CEQA. CEQA requires the consideration of the least environmentally damaging alternative and the consideration of mitigation measures to lessen significant environmental impacts to a level of insignificance. The applicant and Commission staff both considered alternatives to the proposed rip rap revetment as discussed in this staff report. Given the fact that the fill the revetment is proposed to protect is composed of sensitive archeological material, there is essentially no other feasible, less damaging alternative. Therefore, based on the reasons discussed in this staff report and as conditioned, the proposal is consistent with CEQA.



LOCATION MAP



PISMO BEACH QUADRANGLE
CALIFORNIA-SAN LUIS OBISPO CO.
7.5 MINUTE SERIES (TOPOGRAPHIC)

12'30"

3997

TO US 101

SAN LUIS OBISPO

Bellevue Santa Fe Union Sch.

Well

Obispo

Stokmore Springs

Pismo River

Cherry Canyon

Pismo Canyon

Avila Rock

White Rock

Bay

OBISPO

LUIS

EXHIBIT 2
 3-15-64

SITE

3994

10'

T. 32 S.

T. 31

PORT SAN LUIS 0.3 MI. W. PORT SAN LUIS

1854 111 NE

SITE

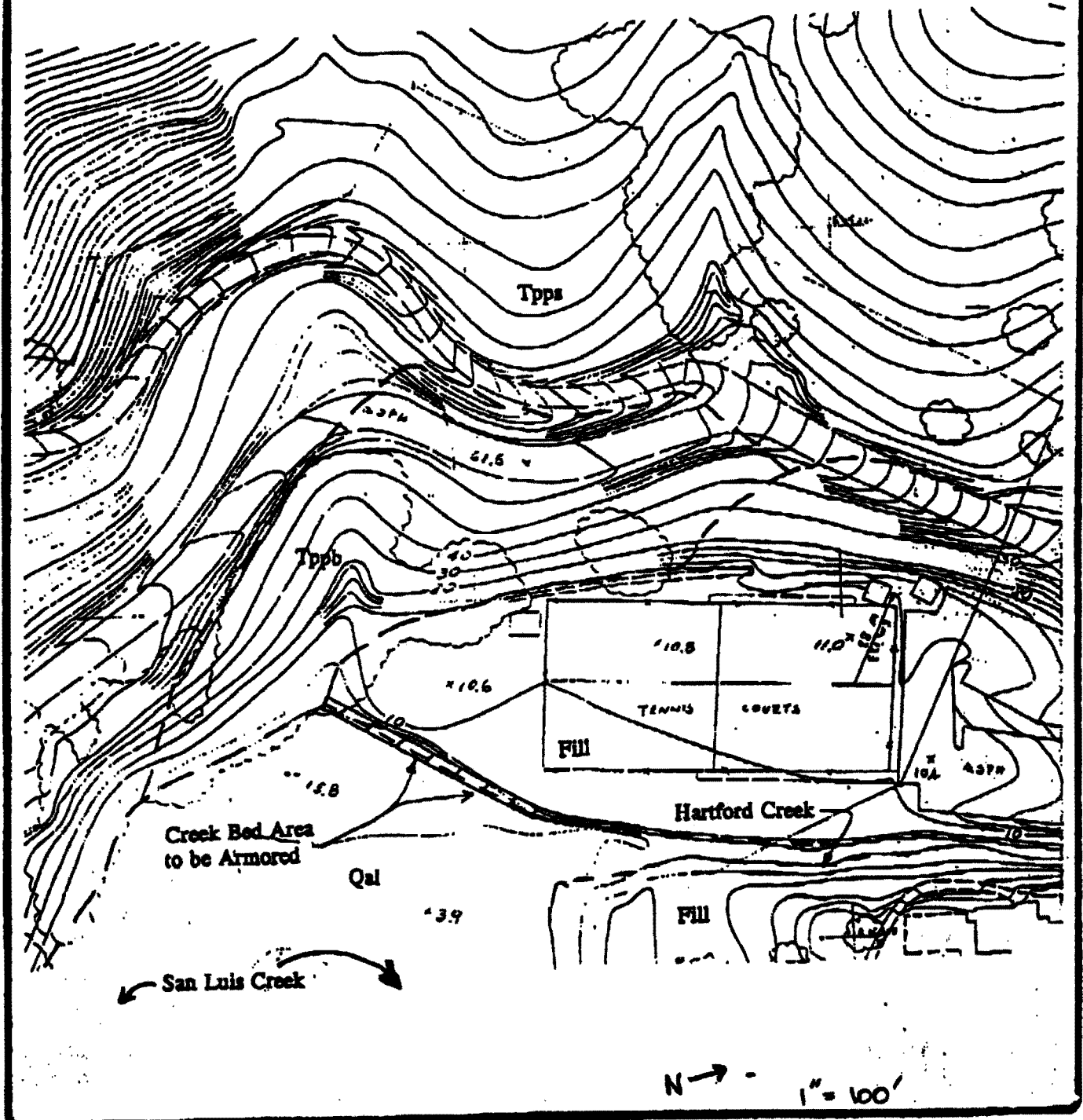
EXHIBIT 2
3-95-64

LUIS

OBISPO

BAY

**White
Rock.**



TERRATECH

SAN JOSE BLUEPRINT CO
PRINTED ON JAN 200

SAN LUIS BAY INN CREEK EVALUATION SITE PLAN

EXHIBIT 3
3-95-64

FIGURE

2

PROJECT
L0706

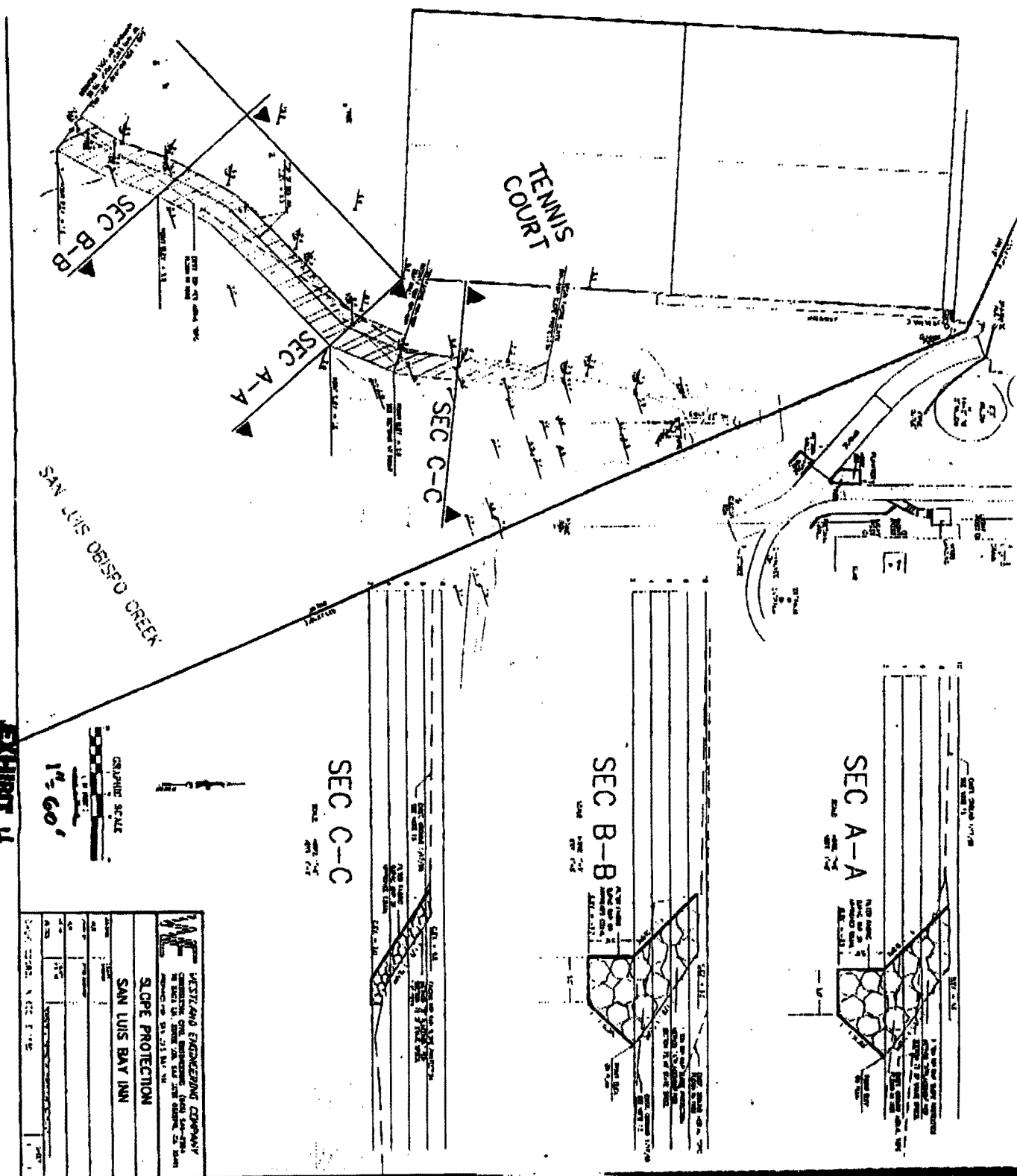


EXHIBIT 4
3-95-64

STATE OF CALIFORNIA

PETE WILSON, Governor

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825-8202

RECEIVED
AUG 28 1995



August 21, 1995

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

ROBERT C. HIGHT, Executive Officer
(916) 574-1800 FAX (916) 574-1810
California Relay Service From TDD Phone 1-800-735-2922
from Voice Phone 1-800-735-2929

Contact Phone: (916) 574-1861
Contact FAX: (916) 574-1825

File Ref: SD 95-08-15.1

Terry Orton
Westland Engineering Company
75 Zaca lane, Suite 100
San Luis Obispo, CA 93401

Dear Mr.. Orton:

SUBJECT: Coastal Development Project Review, San Luis Bay Inn, Avila Beach, San Luis Obispo County

This is in response to your request on behalf of your client, San Luis Bay Inn, for a determination by the State Lands Commission (SLC) whether it asserts a sovereign title interest in the property that your client's project will occupy and whether it asserts that the project will intrude into an area that is subject to the public easement in navigable waters.

The facts pertaining to your client's proposed development, as we understand them, are these:

Your client proposes to place rock rip rap along the westerly bank of a small creek in Harford Canyon where it joins San Luis Obispo Creek and to construct a rock rip rap sea wall along the westerly bank of San Luis Obispo Creek. This project is to repair the current eroded bank line and to protect the upland, currently occupied by a tennis court, from future storm caused erosion.

Your proposed project is located with Rancho San Miguelito. The boundary between sovereign public trust lands and the uplands within Rancho San Miguelito in this area has been fixed at this location pursuant to a 1970 boundary line agreement between the SLC, the Port San Luis Harbor District and private parties adjacent to the boundary line established by the agreement. This agreement was recorded on May 1, 1970 as Document Number 9985, Official Records of San Luis Obispo County.

Based on the information you provided and our in-house records and maps, it appears that your project will be located landward of that agreed boundary line. Further, it does not appear that your project interferes with navigation in the area. Therefore, no lease or permit from the

EXHIBIT 5

3-95-64, p.1

SLC will be required. However, you should be aware that the public has a right to navigate on waters within the State that are in fact navigable. Accordingly, the SLC presently asserts no claim either that the project intrudes onto sovereign lands or that it would lie in an area that is subject to the public easement in navigable waters. This conclusion is without prejudice to any future assertion of state ownership or public rights, should circumstances change, or should additional information come to our attention.

This letter does not constitute, nor should it be construed as, a waiver or limitation of any right, title, or interest of the State of California in any lands under its jurisdiction.

If you have any questions, please contact Alan Scott, Public Land Manager, Southern California Region at (916) 574-1861.

Sincerely,



JANE SEKELSKY
Chief, Land Management Division

cc: Steve Guiney, CCC/SC
Alan Scott

EXHIBIT 5
3-95-64, p.2

Notification No. 9-7-95 THP No. _____

AGREEMENT REGARDING PROPOSED STREAM OR LAKE ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the Department, and San Luis Bay Inn, Dennis Lavenex, Resort General Manager, hereinafter called the operator, is as follows:

WHEREAS, pursuant to Division 2, Chapter 8 of California Fish and Game Code, the operator, on the 14 day of Feb, 1995, notified the Department that he intends to substantially divert or obstruct the natural flow of, or substantially change the bed, channel, or bank of, or use material from the streambed of, the following water: Harwood Creek, in the County of San Luis Obispo, State of California, S. _____ T. _____ R. _____.

WHEREAS, the Department (represented by Dana Brandy) has made an inspection of subject area on the 29 day of May, 1995, and) has determined that such operations may substantially adversely affect existing fish and wildlife resources including: Other Aquatic Organisms

THEREFORE, the Department hereby proposes measures to protect fish and wildlife during the operator's work. The operator hereby agrees to accept the following recommendations as part of his work: Numbers 3, 9, 31 from the list of recommendations on the back of this page and the following special recommendations:

1. All work in or near the stream or lake shall be confined to the period June 1 ~ October 1, 1995.
2. THIS PROJECT INVOLVES STABILIZING THE BANKS OF HARWOOD CREEK BEGINNING AT THE TENNIS COURT CULVERTS COMBINED WITH A DIKE FOR HARWOOD CREEK - A BRANCH OF S.L.O. CREEK - WHERE THE TWO MEET WILL BE APPROXIMATELY 300 FEET.
3. INSTALLATION OF ALTERN RIP RAP SHALL CONFORM TO SIZE (DEPTH & WIDTH) AS SUBMITTED ON PLANS
4. NOTE ALL RECOMMENDATIONS AS REQUIREMENTS FOR THIS PROJECT.

The operator, as designated by the signature on this agreement, shall be responsible for the execution of all elements of this agreement. A copy of this agreement must be provided to contractors and subcontractors and must be in their possession at the work site.

If the operator's work changes from that stated in the notification specified above, this agreement is no longer valid and a new notification shall be submitted to the Department of Fish and Game. Failure to comply with the provisions of this agreement and with other pertinent Code Sections, including but not limited to Fish and Game Code Sections 5650, 5652 and 5948, may result in prosecution.

Nothing in this agreement authorizes the operator to trespass on any land or property, nor does it relieve the operator of responsibility for compliance with applicable federal, state, or local laws or ordinances.

THIS AGREEMENT IS NOT INTENDED AS AN APPROVAL OF A PROJECT OR OF SPECIFIC PROJECT FEATURES BY THE DEPARTMENT OF FISH AND GAME. INDEPENDENT REVIEW AND RECOMMENDATIONS WILL BE PROVIDED BY THE DEPARTMENT AS APPROPRIATE ON THOSE PROJECTS WHERE LOCAL, STATE, OR FEDERAL PERMITS OR OTHER ENVIRONMENTAL REPORTS ARE REQUIRED.

This agreement becomes effective on June 1, 1995

Operator Dennis Lavenex, Managing Agent

Title Resort General Manager

Organization San Luis Bay Inn

Date July 26, 1995

Dana Brandy
Department Representative

Title Warden

Department of Fish and Game, State of California

Date 7/12/95

EXHIBIT C

3-95-64, p. 2

RECOMMENDATIONS

1. Disturbance or removal of vegetation shall not exceed the minimum necessary for complete operations. The disturbed portions of any stream channel or lake margin within the high water mark of the stream or lake shall be restored to as near their original condition as possible.
2. Restoration shall include the revegetation of stripped or exposed areas.
3. Rock, riprap, or other erosion protection shall be placed in areas where vegetation cannot reasonably be expected to become reestablished.
4. Installation of bridges, culverts, or other structures shall be such that water flow is not impaired and upstream or downstream passage of fish is assured at all times. Bottoms of temporary culverts shall be placed at or below stream channel grade. Bottoms of permanent culverts shall be placed below stream channel grade.
5. Plans for design of concrete sills and other features that could potentially impede fish migrations must be approved by Department engineers.
6. When any dam (any artificial obstruction) is being constructed, maintained or placed in operation, sufficient water shall at all times be allowed to pass downstream to maintain fishlife below the dam.
7. An adequate fish passage facility must be incorporated into any barrier that obstructs fish passage.
8. Any temporary dam (any artificial obstruction) constructed shall only be built from material such as clean gravel which will cause little or no siltation.
9. No equipment will be operated in live stream channels.
10. Equipment shall not be operated in the stream channels of flowing live streams except as may be necessary to construct crossings or barriers and fills at channel changes.
11. When work in a flowing stream is unavoidable, the entire streamflow shall be diverted around the work area by a barrier, temporary culvert, and/or a new channel capable of permitting upstream and downstream fish movement. Construction of the barrier and/or the new channel shall normally begin in the downstream area and continue in an upstream direction, and the flow shall be diverted only when construction of the diversion is completed. Channel bank or barrier construction shall be adequate to prevent seepage into or from the work area. Channel banks or barriers shall not be made of earth or other substances subject to erosion unless first enclosed by sheet piling, rock riprap, or other protective material. The enclosure and the supportive material shall be removed when the work is completed and the removal shall normally proceed from downstream in an upstream direction.
12. Temporary fills shall be constructed of nonerodible materials and shall be removed immediately upon work completion.
13. Equipment shall not be operated in the lake or stream margin except during excavation and as may be necessary to construct barriers or fills. If work in the lake is unavoidable, a curtain enclosure to prevent siltation of the lake beyond the immediate working area shall be installed. The enclosure and any supportive material shall be removed when the work is completed.
14. Silt settling basins shall be located away from the stream or lake to prevent discolored, silt-bearing water from reaching the stream or lake.
15. Preparation shall be made so that runoff from steep, erodible surfaces will be diverted into stable areas with little erosion potential. Frequent water checks shall be placed on dirt roads, cat tracks, or other work trails to control erosion.
16. Wash water containing mud or silt from aggregate washing or other operations shall not be allowed to enter a lake or flowing stream.
17. a) A silt catchment basin shall be constructed across the stream immediately below the project site. This catchment basin shall be constructed of gravel which is free from mud or silt.
b) Upon completion of the project and after all flowing water in the area is clear of turbidity, the gravel along with the trapped sediment shall be removed from the stream.
18. If operations require moving of equipment across a flowing stream, such operations shall be conducted without substantially increasing stream turbidity. For repeated crossings, the operator shall install a bridge, culvert, or rock-fill crossing as specified in comments below.
19. If a stream channel has been altered during the operations, its low flow channel shall be returned as nearly as possible to its natural state without creating a possible future bank erosion problem, or a flat wide channel or sluice-like area. If a lake margin has been altered, it shall be returned as nearly as possible to its natural state without creating a future bank erosion problem. The gradient of the streambed or lake margin shall be as nearly as possible the same gradient as existed prior to disturbance.
20. Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the high water mark before such flows occur.
21. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, oil or petroleum products or other organic or earthen materials from any logging, construction, or associated activity of whatever nature shall be allowed to enter into or placed where it may be washed by rainfall or runoff into waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream or lake.
22. The operator will notify the Department of Fish and Game of the date of commencement of operations and the date of completion of operations at least five days prior to such completion.

WATERWAY RECONSTRUCTION PROJECTS ON LAKE SUPERIOR

EXHIBIT C

3-95-64, p.2

Notification No. 655-25

JHL, JR.