

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(408) 427-4863
HEARING IMPAIRED: (415) 904-6200



Don
3/28/96

RECORD PACKET COPY

Filed: 03/27/96
49th day: 05/15/96
180th day: 09/23/96
Staff: SG-SC
Staff Report: 03/28/96
Hearing Date: 04/10/96
Commission Action:

**STAFF REPORT: APPEAL
NO SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT: San Luis Obispo County
DECISION: Approval with Conditions
APPEAL NUMBER: A-3-SLO-96-27
APPLICANT: SAN SIMEON COMMUNITY SERVICES DISTRICT
APPELLANTS: San Simeon Community Services District
PROJECT LOCATION: Along San Simeon Creek Road, Highway, Castillo Drive, Pico Ave., and an existing easement across Hearst Corporation property, between San Simeon State Park and the community of San Simeon Acres, about two miles north of Cambria, San Luis Obispo County.
PROJECT DESCRIPTION: Construction of a 10 inch diameter, 2.2 mile long pipeline from the Cambria Community Services District proposed desal plant to San Simeon Community Services District existing water tank.
SUBSTANTIVE FILE DOCUMENTS: San Luis Obispo County LCP, San Luis Obispo County Permit D950085P, Cambria Community Services District proposed desal plant EIR, San Simeon Community Services District Mitigated Negative Declaration adopted October 11, 1995

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed for the following reasons:

County permit Condition number 8, which the appellant requests that the Commission amend, may, although it is unlikely that it will, require realignment of the proposed pipeline and

additional expenditure of public funds; this is not inconsistent with the LCP's protection of biological resources, nor is it inconsistent with any other LCP policy.

I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal was filed, pursuant to Coastal Act section 30603.

MOTION. Staff recommends a YES vote on the following motion:

I move that the Commission determine that Appeal No. A-3-SLO-96-27 raises NO substantial issue with respect to the grounds on which the appeal has been filed.

A majority of the Commissioners present is required to pass the motion.

II. APPELLANT'S CONTENTIONS

Approximately 1.4 miles of the 2.2 mile length of the pipeline would be placed in the Highway One right-of-way, subject to Caltrans approval of an encroachment permit. The northerly one-half mile of the 1.4 mile pipeline segment along the highway would lie in the right-of-way of Castillo Drive, a frontage road inland of and parallel to Highway One. According to appellant San Simeon Community Services District (SSCSD), Caltrans will not allow the pipeline to stay within the Highway One right-of-way once the pipeline enters the SSCSD's boundary at the urban services line, but ". . . will require the alignment to run parallel to Castillo Road." SSCSD contends that County "Condition 8 could be construed to disallow this required alignment next to Castillo which will require the disturbance of some imported vegetation. If #8 is imposed literally the District could be required to install and redesign the pipeline under Castillo causing significant unwarranted costs to the District with no corresponding environmental gain."

The County's Condition number 8 reads as follows: "Pipeline alignments which follow existing roadways shall be installed so as to deviate as little as possible from the road alignments. This will minimize the amount of adverse impact on biotic resources of the area." SSCSD requests that the Commission amend Condition 8 by adding the following sentence: "The County understands this condition is subordinate to the Caltrans conditions of approval for the encroachment permit." Please see Exhibit 1 for the complete text of the appeal and Exhibit 2 for the complete text of the County's conditions.

III. LOCAL GOVERNMENT ACTION

San Simeon Community Services District is a special district and as such was the lead agency for this proposal. Consistent with being a lead agency, and pursuant to the California Environmental Quality Act, SSCSD circulated a proposed negative declaration for comments on the project and later adopted a mitigated negative declaration for the proposal. San Luis Obispo County, being the local government agency responsible for reviewing and issuing land use permits, entertained a permit request from SSCSD. The San Luis Obispo County Zoning Administrator approved the proposed pipeline project with conditions on February 16, 1996.

That approval was appealed to the Board of Supervisors, which heard the appeal on March 19, 1996. On that date, the Board of Supervisors denied the appeals and affirmed the decision of the Zoning Administrator.

IV. APPEAL PROCEDURES

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea. Furthermore, developments approved by counties may be appealed if they are not the designated "principal permitted use" under the certified LCP. Finally developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by a city or county (Coastal Act Section 30603(a)).

For projects not located between the sea and the first public road paralleling the sea, the grounds for an appeal shall be limited to an allegation that the development does not conform to the certified LCP (Coastal Act Section 30603(b)(1)). Because this project is appealed on the basis of it being a public works facility and because it is not located between the sea and the first public road paralleling the sea, the grounds for an appeal to the Coastal Commission include only the allegation that the development does not conform to the standards set forth in the certified local coastal program.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue," and no Commissioner objects, the substantial issue question will be considered moot, and the Commission will proceed directly to a de novo public hearing on the merits of the project.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Coastal Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

V. RECOMMENDED FINDINGS AND DECLARATIONS

1. Background

San Simeon Acres is an unincorporated community about one-half mile long and one-quarter mile wide, for a total area of about one-eighth square mile. Land uses consist exclusively of commercial development (primarily hotels, motels, and restaurants) and multi-family residential development. There is no single family residential or any other land use designation in the community other than commercial and multi-family residential. The community owes its existence to the nearby Hearst San Simeon State Historical Monument (Hearst Castle), serving the tourists and travelers along Highway One.

The Commission is acting on this proposal since it lies partially in the Commission's mapped appeal jurisdiction and because it is a "major public works facility" as defined in the Commission's administrative regulations. Pursuant to sections 30604(b) and 30604(c) of the Coastal Act, the standard of review for such post-certification Commission actions is conformity with the certified LCP.

The certified LCP was the basis for the approval by San Luis Obispo County of coastal development permit D940095D for the Cambria Community Services District desalination plant. That county permit was appealed to the Commission, which approved the proposed desalination plant with conditions (Commission permit A-3-SLO-95-69). The EIR for the desalination plant considered a "San Simeon Alternative" which was the participation of San Simeon Community Services District (SSCSD) in the project to the extent of receiving some of the water produced by the plant. The EIR disclosed that that participation by SSCSD would not have any adverse environmental effects, but the EIR did not address potential environmental effects of the pipeline and, in fact, the EIR stated that SSCSD would have to prepare its own environmental documentation and analysis for any amendment to the desal plant permit to increase water production and for any pipeline permit. SSCSD prepared an initial study and negative declaration for the amendment and for the pipeline permit. SSCSD submitted a request to amend the desal plant permit to allow for increased production for SSCSD's use, with written approval of the request from CCSD the desal plant permittee, to the Commission on February 1, 1996. The Commission approved the amendment request on March 14, 1996. As described under III. above, the County approved the permit for the pipeline on March 19, 1996. No Commission approval was needed because the pipeline was not in the Commission's permit jurisdiction, and the County did not want to relinquish permit authority to the Commission; nor was it considered part of the desal plant and therefore subject to Commission review as an amendment to the Commission permit for the desal plant.

2. Description

The proposal is to construct approximately 2.2 miles of 10-inch maximum diameter water pipeline from the proposed CCSD desalination plant, just inland from San Simeon State Park, to the SSCSD existing water tank, just inland from the community of San Simeon Acres. The pipeline is proposed to run from the desal plant to and along San Simeon Creek Road, then along Highway One to the north end of San Simeon Acres and then in or along local streets and an easement across Hearst Ranch land to the SSCSD's existing water tank.

3. Issue Discussion

The standard of review for appeals is the Local Coastal Program (LCP) of the local government which acted on the subject permit. In this case that is the San Luis Obispo County LCP. While the appellant's written appeal did not clearly articulate the LCP policies or requirements with which the approval is inconsistent, discussion with SSCSD revealed that Caltrans will allow the pipeline to be within the Highway One right-of-way only up to the point at which the pipeline enters the SSCSD's boundary, which is coincident with the urban services line. From that point the line will have to be within the right-of-way of Castillo Drive, the frontage road inland of and parallel to Highway One. Castillo Drive is a County right-of-way. There are some ornamental shrubs along the Castillo Drive right-of-way that may have to be removed during pipeline construction.

Staff has identified some LCP policies and ordinances that may be germane to SSCSD's appeal. These include the following:

Sensitive Habitats Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats. *New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resource shall be allowed within the area.*

Sensitive Habitats Policy 2: Permit Requirement. *As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat. This shall include an evaluation of the site prepared by a qualified professional which provides: a) the maximum feasible mitigation measures (where appropriate), and b) a program for monitoring and evaluating the effectiveness of mitigation measures where appropriate.*

The project negative declaration did not identify any rare, endangered, threatened, or otherwise significant plant species along the proposed pipeline route. Compact cobweb thistle (*Cirsium occidentale* var. *Compactum*), a rare plant, is known from the general area, but only on the sea bluff several hundred yards west of the proposed pipe route. The biological survey completed as part of the environmental review of the proposal identified impacts from project construction to biological resources, depending on where the pipeline was placed with regard to roads, as follows: "1. Pipeline alignments which coincide with existing roadways do not pose any threat to the biotic resources of the areas beyond the impacts of the roadways themselves. 2. In

areas that do not follow roadways, pipeline installation will require excavation, grading and removal of vegetation along that segment of the alignment. However, in general, these impacts will not be significant since the areas to be converted are small and subsequent revegetation will occur above the subsurface pipelines." For the second impact the biological report recommended that no mitigation was necessary. For the first impact, the report recommended the following mitigation: "Pipeline alignments which follow existing roadways shall be installed so as to deviate as little as possible from the road alignments. This will minimize the amount of adverse impact on biotic resources of the area." This mitigation measure was incorporated into the County permit as Condition number 8, which appellant SSCSD requests the Commission to amend by adding a sentence as follows: "The County understands this condition is subordinate to the Caltrans conditions of approval for the encroachment permit." The appeal by SSCSD and the request to amend Condition number 8 are based on SSCSD's concern that the County could possibly require SSCSD to place the pipeline under the surface of Castillo Drive, with the attendant increased costs of trenching through the asphalt-concrete road surface and repaving it, rather than allowing the pipe to be placed in the right-of-way outside of the road surface, in order to minimize impacts to biological resources.

The County's Condition number 8 comes from the SSCSD's negative declaration, which SSCSD certified. Even when the SSCSD's boundary is reached and the pipeline has to leave the Caltrans right-of-way, it could immediately move into the County right-of-way along side of Castillo Drive. There is no reason why the pipeline alignment will not ". . .deviate as little as possible from the road alignments." Although it is unlikely, even if the County's condition has the effect that SSCSD fears it may, that is, trenching in the paved road with its increased costs, that result would be consistent with the LCP because it would be carrying out LCP policies which require protection of biological resources.

While it is understandable that SSCSD would not want to be subjected to additional costs associated with pipeline placement and while that is a prudent approach for a public agency to take, no substantial issue is raised with respect to the LCP or the County's application of it to the pipeline permit, for the reasons given above.

FROM

03-26-96 12:21PM TO

918055444294

P.5

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(408) 427-4863
HEARING IMPAIRED: (415) 904-5200



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing
This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

San Simeon Community Services District
Route 1, Box 5-17
San Simeon, Calif 93452 (805) 427-4778
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: San Luis Obispo County Board of Supervisors

2. Brief description of development being appealed: Mines Use Permit for San Simeon Community Services District Pipeline

3. Development's location (street address, assessor's parcel no., cross street, etc.): Approximately 2.2 miles of pipeline from the Cambria Desal plant up Hwy 1 north west to Petro Rd in San Simeon then up Pico Road to the District Storage tank

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: #8. Exhibit B 1950085P-Conditions (see attached)

c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-96-27

DATE FILED: 03/26/96

DISTRICT: _____

HS: 4/88

EXHIBIT 1
A-3-SLO-96-27

FROM

03-26-96 12:21PM TO

016035444294

P.6

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator
- b. ~~City Council~~/Board of Supervisors
- c. Planning Commission
- d. Other _____

6. Date of local government's decision: 3/19/96

7. Local government's file number (if any): D950085 P

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:
San Simon Community Services District
Route 1, Box 5-17
San Simon, Calif. 93452

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) John Wallace, General Manager, SSCSD
11415 Grand St, Suite B-5
San Bernardino, CA 93401
- (2) Norm Kalshan - Cambria Lion Defense Fund
440 Resura, Cambria, CA 93428
- (3) Richard Hawley
P.O. Box 1631
Cambria, CA 93428
- (4) Cundi Butterfield
2425 Bona Dr.
Cambria, CA 93428

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

The Pipeline Alignment is subject to approval by Caltrans as it is within the Heavy Right of Way north to San Simon. The District must meet Caltrans requirements which will require the alignment to run parallel to Castillo Road. Condition #8 could be construed to disallow this required alignment next to Castillo which will require the disturbance of some imported vegetation. If #8 is imposed laterally the District could be required to install and redesign the pipeline under Castillo causing significant unwarranted costs to the District →

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

John Wallace

Signature of Appellant(s) or Authorized Agent

Date 3/26/96

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

with no corresponding environmental gain. Please note that the Districts N.D. Sch# 95091019 provides that no significant environmental impacts are associated with the proposed project.

The District requests that the Coastal Commission amend Condition #8 as follows.

8. Pipeline Alignments which follow existing roadway shall be installed so as to deviate as little as possible from the road alignments. The County understands that the CalTrans conditions of approval for the encroachment permits is subordinate to the condition

The CalTrans conditions are based upon public access policies.

**Exhibit B
D950085P - Conditions**

Approved Development

1. This approval authorizes the construction of approximately 2.2 miles of pipeline not to exceed 10" in diameter (1.4 miles in the Highway 1 right-of-way) from the SSCSD water tank in San Simeon to San Simeon Creek Road and then to the proposed CCSD desalination facility to serve the community of San Simeon with a maximum of 150,000 gallons of water per day from CCSD's desalination plant. Service connections to users outside SSCSD boundaries shall not be authorized by this permit.

In addition, CCSD water delivered to the SSCSD shall not be used to replace other existing water sources in order to export water from these sources outside SSCSD water service boundary.

2. Site development shall be consistent with the approved site plan and improvement plans.

Encroachment Permits

3. Prior to construction in the Highway 1 right-of-way or roadway, the applicant shall obtain a Caltrans encroachment permit.
4. Prior to construction in the county road right-of-way, the applicant shall obtain encroachment permits from the County Engineering Department.

Geology, soils, and seismicity

5. All grading shall be carried out under the guidelines set forth in Chapter 70 of the Uniform Building Code, 1994 Edition.
6. According to Section 23.05.036 of the County Coastal Zone Land Use Ordinance, if project construction occurs during the period of October 15 through April 15, a Sedimentation and Erosion Control Plan shall be prepared and approved by the County Engineer.
7. In accordance with Section 23.05.036(d) of the County Coastal Zone Land Use Ordinance, the control of sedimentation and erosion shall include but is not limited to the following methods:
 - a) Slope Surface Stabilization:
 - 1) Temporary mulching, seeding or other suitable stabilization measures approved by the County Engineer shall be used to protect exposed erodible areas during the construction period.

- 2) Earth or paved interceptors (berms) and diversions (sand bags) shall be installed at the top of cut or fill slopes where there is a potential for erosive surface runoff.
 - b) Erosion and sedimentation control devices: In order to prevent polluting sedimentation discharges, erosion and sediment control devices shall be installed as required by the County Engineer for all grading and filling. Control devices and measures that may be required include, but are not limited to energy absorbing structures or devices to reduce the velocity of runoff water.
 - c) Final erosion control measures: Within 30 days after completion of grading, all surfaces disturbed by vegetation removal, grading, haul roads, and/or other construction activity that alters natural vegetative cover, are to be revegetated to control erosion, unless covered with impervious or other improved surfaces authorized by approved plans. Erosion controls may include any combination of mechanical or vegetative measures.
8. Pipeline alignments which follow existing roadways shall be installed so as to deviate as little as possible from the road alignments. This will minimize the amount of adverse impact on biotic resources of the area.
9. All soil removed for excavation of the pipeline alignments shall be replaced at the same location. In order to maintain adequate soil porosity, filled areas shall not be overcompacted. Any graded surface shall be left rough. Soil moisture shall be replenished prior to top soil replacement.
 10. Any graded areas within or immediately adjacent to riparian areas shall be landscaped as soon after construction as feasible with appropriate native species. This activity will lessen the potential for erosion and siltation problems to occur.
 11. The SSCSD shall retain a biological specialist to conduct a pre-construction site reconnaissance to review the possible presence of the Cobweb Thistle.

Noise

12. Prior to the issuance of grading permits, the contractors shall produce evidence acceptable to the SSCSD that:
 - a. All construction vehicles or equipment, fixed or mobile, operated within 1,000 feet of a sensitive noise receptor shall be equipped with properly operating and maintained mufflers.



SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

FINAL LOCAL ACTION NOTICE REFERENCE # 3-SLO-96-16 APPEAL PERIOD 3/25-4/5/96

ALEX HINDS DIRECTOR BRYCE TINGLE ASSISTANT DIRECTOR ELLEN CARROLL ENVIRONMENTAL COORDINATOR BARNEY MCCAY CHIEF BUILDING OFFICIAL NORMA SALISBURY ADMINISTRATIVE SERVICES OFFICER

3.19.96

NOTICE OF FINAL COUNTY ACTION

Subject: D950085P - SSCSD

EXHIBIT 2 A-3-SLO-96-27

The Administrative Hearing Officer approved the above-referenced application. Two copies of a Land Use Permit are enclosed. The conditions of approval adopted by the hearing Officer are attached to the Land Use Permit. The conditions of approval must be completed as set forth in this document.

Please sign and return one copy of the Land Use Permit to this office. Your signature will acknowledge your acceptance of all the attached conditions and applicable Land Use Ordinance, Coastal Zone Land Use Ordinance and Building and Construction Ordinance standards.

If you are dissatisfied with any aspect of this approval, you have the right to appeal the decision to the Planning Commission. The appeal must be filed within 14 days of the date of the Administrative Hearing decision using the form provided by the Planning Department along with the appropriate fee. Appeals may not require a fee if the grounds for appeal are certain coastal related issues (pursuant to 23.01.043d).

This action is also appealable to the California Coastal Commission pursuant to Coastal Act Section 30603 and County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. We strongly recommend that you contact the county Department of Planning and Building to obtain the appeal form and information handout explaining the rights of appeal.

Exhaustion of appeals at the county is required prior to appealing the matter to the California Coastal Commission. This appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (408) 427-4863 for further information on appeal procedures. If you have any questions regarding these procedures, please contact me at (805) 781-5600.

Sincerely,

Jessica Kahl

Development Review Section

D-55 e:\wpcdocs\forms\9300851.frm

Post-it brand fax transmittal memo 7671 # of pages 9 To: Jessa Kahl Co: Calif C.C Dept: From: Pat Beck Co: SLO County Phone: 781-5981 Fax: 408 427-4871 Fax #: 781-1242

COUNTY OF SAN LUIS OBISPO

LAND USE AND COASTAL DEVELOPMENT PERMIT

PERMIT NO. *D950085P*



This Land Use/Coastal Development Permit allows the approved use described below to be established on the site referenced by the Assessor Parcel Number listed below. Any attached conditions of approval must be completed by the applicant as set forth by the condition. In addition to the conditions of approval, the approved use must also satisfy all applicable provisions of the Coastal Zone Land Use Ordinance and the Building and Construction Ordinance.

APPROVAL GRANTED
APPROVED USE: *construction of a 2.2 mile pipeline from the SSCSD water tank in San Simeon to the proposed CCSD desalination facility.*
ASSESSOR PARCEL NUMBER(S):
various
ISSUED TO:
SSCSD
CONDITIONS ATTACHED: YES NO
FINDINGS ATTACHED: YES NO

EFFECTIVE DATE
Unless an appeal is filed, this approval will become effective on _____, 19____, and will be valid for two years. If an appeal is filed as provided by Section 23.01.042 and 23.01.043 of the Coastal Zone Land Use Ordinance, this approval may be affirmed, affirmed in part, or reversed. After two years the approval will expire and become void unless one of the following occurs:
a. The project has been completed.
b. Work has progressed beyond the completion of structural foundations.
c. A written extension request has been filed with the Planning Department prior to the date of expiration and has been granted.

NOTE: THIS IS NOT A BUILDING PERMIT

Applicant must sign and accept conditions or permit is void. DEPARTMENT OF PLANNING AND BUILDING VERIFICATION.
BY: *JK* DATE *3.19.96*
Signature _____ Date _____

IN THE BOARD OF SUPERVISORS

COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tues day March 19 1996

PRESENT: Supervisors Harry L. Oviatt, Evelyn Delany, Ruth Brackett, David Blakely, Chairperson Laurence L. Laurent

ABSENT: None

RESOLUTION NO. 95-124

RESOLUTION AFFIRMING THE DECISION OF THE HEARING OFFICER TO CONDITIONALLY APPROVE THE APPLICATION OF SAN SIMEON COMMUNITY SERVICES DISTRICT FOR MINOR USE PERMIT/ COASTAL DEVELOPMENT PERMIT D950085P

The following resolution is now offered and read:

WHEREAS, on February 16, 1996, the Zoning Administrator of the County of San Luis Obispo (hereinafter referred to as the "Hearing Officer") duly considered and conditionally approved the application of San Simeon Community Services District for Minor Use Permit/Coastal Development Permit D950085P; and

WHEREAS, Richard Hawley/Cyndi Buzerfeld and the Cambria Legal Defense Fund (Vern Kalshan) have appealed the Hearing Officer's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on March 19, 1996, and determination and decision was made on March 19, 1996; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeals and finds that the appeals should be denied and the decision of the Hearing Officer should be affirmed subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

Post-it brand fax transmittal memo 7871		9 of pages 9	
To: Steve Gimbley	From: JOT Beck		
Co. Valley C. Co.	Co. SLO County		
Dept.	Phone # 781-5987		
Fax # 408 427-4877	Fax # 781-1242		

PLANNING/BUILDING 7471-181-1244

1. That the recitals set forth hereinabove are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.
3. That the negative declaration prepared for this project is hereby approved as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act.

4. That the Board of Supervisors has reviewed and considered the information contained in the negative declaration together with all comments received during the public review process prior to approving the project.

5. That the appeals filed by Richard Hawley/Cyndi Bunkerfield and the Cambria Legal Defense Fund (Vera Katsina) are hereby denied and the decision of the Hearing Officer is affirmed and that the application of San Simeon Conservancy Services District for Minor Use Permit/Casual Development Permit D930083P is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor Owitt, seconded by Supervisor Brockert and on the following roll call vote, to wit:

- A YES: Supervisor Owitt, Brockert, Stakely, Chairperson Laurance
 NOES: Supervisor DeLany
 ABSENT: None
 ABSTAINING: None
- the foregoing resolution is hereby adopted.

LAWRENCE L. LAURANCE
 Chairman of the Board of Supervisors

ATTEST:

JULIE L. MOONWALLS
 Clerk of the Board of Supervisors
 BY: WENDY M. SEIBELBY
 Deputy Clerk

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, Jr.
 County Counsel

[Handwritten signature]

SEARCHED	INDEXED	SERIALIZED	FILED
<i>[initials]</i>	<i>[initials]</i>	<i>[initials]</i>	<i>[initials]</i>
MAR 22 1996			
COUNTY OF SAN SIMON			

32

Exhibit A
D950085P - Findings

- A. The proposed project and use is consistent with the Local Coastal Program and the Land Use Element of the general plan because a water pipeline for a public utility facility is specified as an allowed use with special standards by Table "O" of the Land Use Element and Local Coastal Plan in all land use categories except for recreation and open space. The proposed project or use satisfies all applicable provisions of this title.
- B. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- C. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the uses because the project is subject to Ordinance and Building Code requirements designed to address health, safety, and welfare concerns.
- D. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development as the negative declaration has determined the project will not be growth inducing.
- E. The proposed use or project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because it is a water pipeline for a public utility facility located underground and the Initial Study found there would be only a temporary minimal increase in vehicle trips for the construction period.
- F. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act for vertical access because the project is within the public right-of-way that already provides public access and therefore will not inhibit access to coastal waters and recreation areas.
- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act for lateral access because no part of the project site is located between the foot of the bluff and the mean high tide line.

- H. The project design and development incorporates adequate measures to ensure protection of significant archaeological resources because the project complies with the recommendations of the archaeological surface survey.
- I. The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design.
- J. Natural features and topography have been considered in the design and siting of all proposed physical improvements.
- K. The proposed clearing of riparian vegetation and topsoil is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.
- L. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage. Improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff.
- M. A 10" diameter water line satisfies the Uniform Fire Code as stated by the County Fire District/CDF and provides for a more energy efficient means of transporting the water. Also, this permit does not authorize use of the pipeline for water service outside of the SSCSD boundaries. The project is consistent with both the California Coastal Act and the Local Coastal Plan.
- N. On the basis of the Initial Study and all comments received, there is no substantial evidence that the project will have a significant effect on the environment.

**Exhibit B
D950085P - Conditions**

Approved Development

1. This approval authorizes the construction of approximately 2.2 miles of pipeline not to exceed 10" in diameter (1.4 miles in the Highway 1 right-of-way) from the SSCSD water tank in San Simeon to San Simeon Creek Road and then to the proposed CCSD desalination facility to serve the community of San Simeon with a maximum of 150,000 gallons of water per day from CCSD's desalination plant. Service connections to users outside SSCSD boundaries shall not be authorized by this permit.

In addition, CCSD water delivered to the SSCSD shall not be used to replace other existing water sources in order to export water from these sources outside SSCSD water service boundary.

2. Site development shall be consistent with the approved site plan and improvement plans.

Encroachment Permits

3. Prior to construction in the Highway 1 right-of-way or roadway, the applicant shall obtain a Caltrans encroachment permit.
4. Prior to construction in the county road right-of-way, the applicant shall obtain encroachment permits from the County Engineering Department.

Geology, soils, and seismicity

5. All grading shall be carried out under the guidelines set forth in Chapter 70 of the Uniform Building Code, 1994 Edition.
6. According to Section 23.05.036 of the County Coastal Zone Land Use Ordinance, if project construction occurs during the period of October 15 through April 15, a Sedimentation and Erosion Control Plan shall be prepared and approved by the County Engineer.
7. In accordance with Section 23.05.036(d) of the County Coastal Zone Land Use Ordinance, the control of sedimentation and erosion shall include but is not limited to the following methods:
 - a) Slope Surface Stabilization:
 - 1) Temporary mulching, seeding or other suitable stabilization measures approved by the County Engineer shall be used to protect exposed erodible areas during the construction period.

- 2) Earth or paved interceptors (berms) and diversions (sand bags) shall be installed at the top of cut or fill slopes where there is a potential for erosive surface runoff.
- b) Erosion and sedimentation control devices: In order to prevent polluting sedimentation discharges, erosion and sediment control devices shall be installed as required by the County Engineer for all grading and filling. Control devices and measures that may be required include, but are not limited to energy absorbing structures or devices to reduce the velocity of runoff water.
- c) Final erosion control measures: Within 30 days after completion of grading, all surfaces disturbed by vegetation removal, grading, haul roads, and/or other construction activity that alters natural vegetative cover, are to be revegetated to control erosion, unless covered with impervious or other improved surfaces authorized by approved plans. Erosion controls may include any combination of mechanical or vegetative measures.
8. Pipeline alignments which follow existing roadways shall be installed so as to deviate as little as possible from the road alignments. This will minimize the amount of adverse impact on biotic resources of the area.
9. All soil removed for excavation of the pipeline alignments shall be replaced at the same location. In order to maintain adequate soil porosity, filled areas shall not be overcompacted. Any graded surface shall be left rough. Soil moisture shall be replenished prior to top soil replacement.
10. Any graded areas within or immediately adjacent to riparian areas shall be landscaped as soon after construction as feasible with appropriate native species. This activity will lessen the potential for erosion and siltation problems to occur.
11. The SSCSD shall retain a biological specialist to conduct a pre-construction site reconnaissance to review the possible presence of the Cobweb Thistle.

Noise

12. Prior to the issuance of grading permits, the contractors shall produce evidence acceptable to the SSCSD that:
 - a. All construction vehicles or equipment, fixed or mobile, operated within 1,000 feet of a sensitive noise receptor shall be equipped with properly operating and maintained mufflers.

- b. Construction hours shall be limited from 8 a.m. to 7 p.m., Monday through Friday and shall not occur on weekends or holidays.
- c. All operations shall comply with applicable County Noise Standards.
- d. Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings and the State Park.

Notations in the above format, appropriately numbered and included with other notations on the front sheet of grading plans, will be considered as adequate evidence of compliance with this condition.

- 13. Project construction along San Simeon Creek Road and beneath Highway 1 shall be prohibited on weekends and holidays recognized by the State of California and/or the County of San Luis Obispo.
- 14. Construction-related impacts along San Simeon Creek Road and Highway 1 (including prior to and during pipeline installation) shall be minimized by the placement of proper detour and directional signs. The San Simeon State Park access point shall be properly signed and bicyclists, pedestrians and vehicles directed by a flagman during truck/equipment travel in the vicinity. The location and size of the signs shall be approved by the County of San Luis Obispo and/or Caltrans prior to construction. This measure is subject to periodic field inspections by the County Engineer and daily compliance by the construction manager. At least one lane for traffic flow access along San Simeon Creek Road shall be maintained at all times. Complete access along Highway 1 shall be maintained at all times during project construction.
- 15. The limits of construction shall be clearly marked as would construction vehicle storage areas and vehicle turn-arounds. The construction manager shall ensure the daily compliance with this measure.

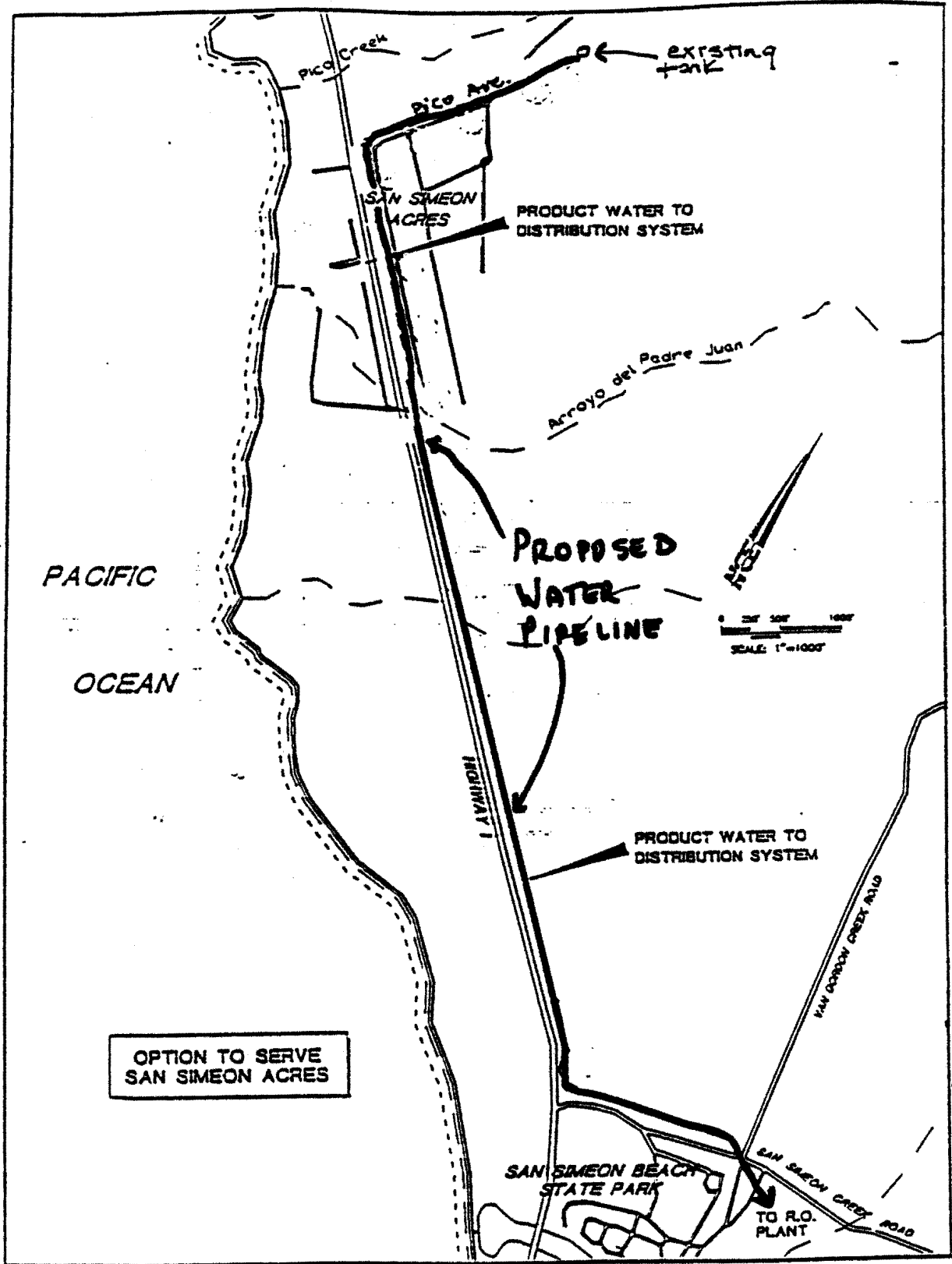
Cultural Resources

- 16. The final design is not completed, but if the SSCSD pipeline begins and stays in San Simeon Creek Road at its southern end and stays in Caltrans right-of-way, it will not affect any known cultural resources.

If other routes are selected outside the Caltrans right-of-way, additional survey, subsurface testing and mitigation may be necessary. In this case, an archaeological mitigation and monitoring program will be prepared for the review and approval of the County

Environmental Coordinator. Members of the local Chumash community should be involved. In the event that any buried archaeological materials, historic features, ovens or burials are unearthed, work in that should halt until they can be properly evaluated and appropriate recommendations made consistent with CEQA of 1970.

17. The pipeline shall not receive any blended water from CCSD except for short term emergencies or plant failure.



Appendix A
Photograph Location Map

EXHIBIT 4
A-3-SLO-96-27

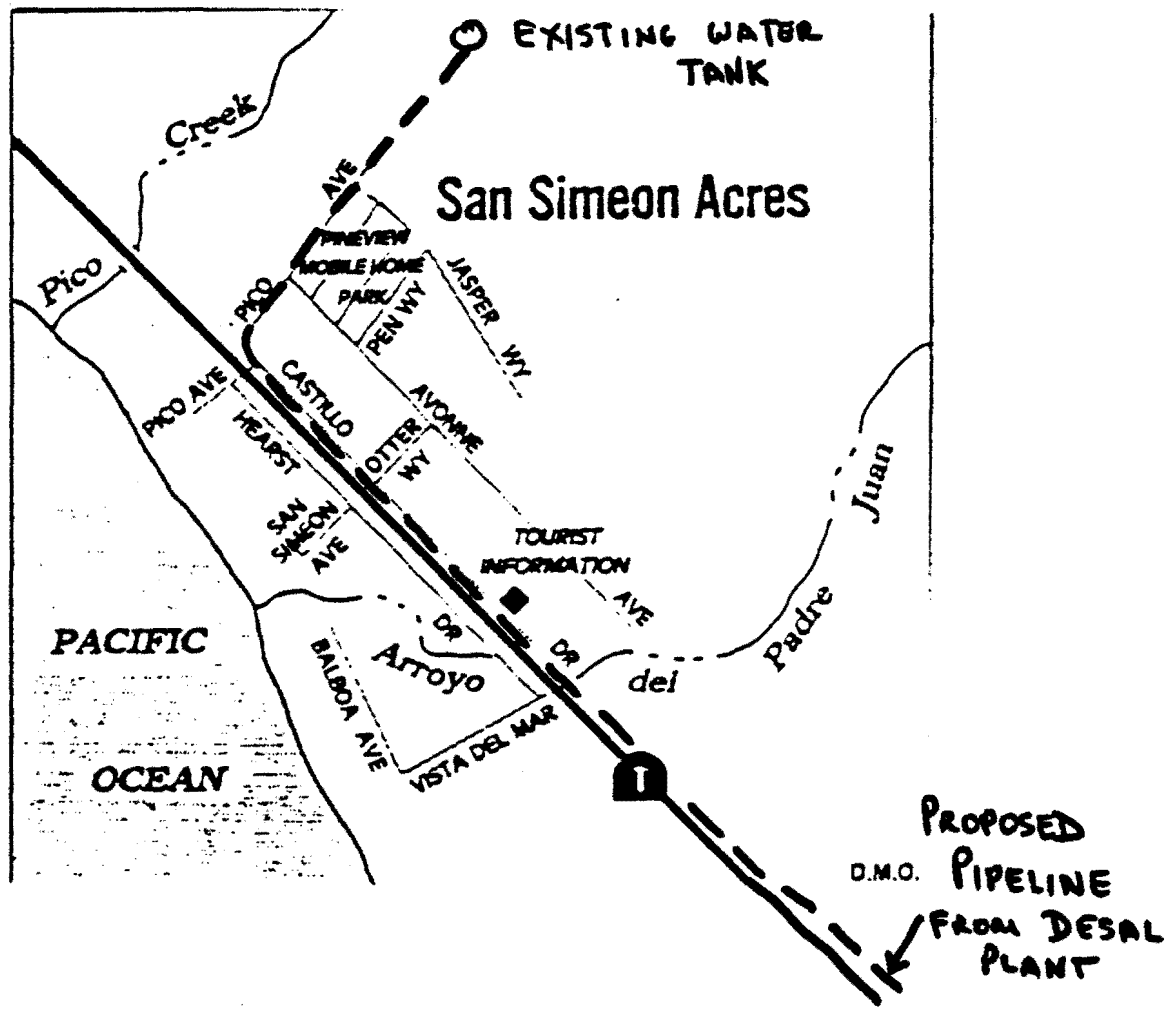
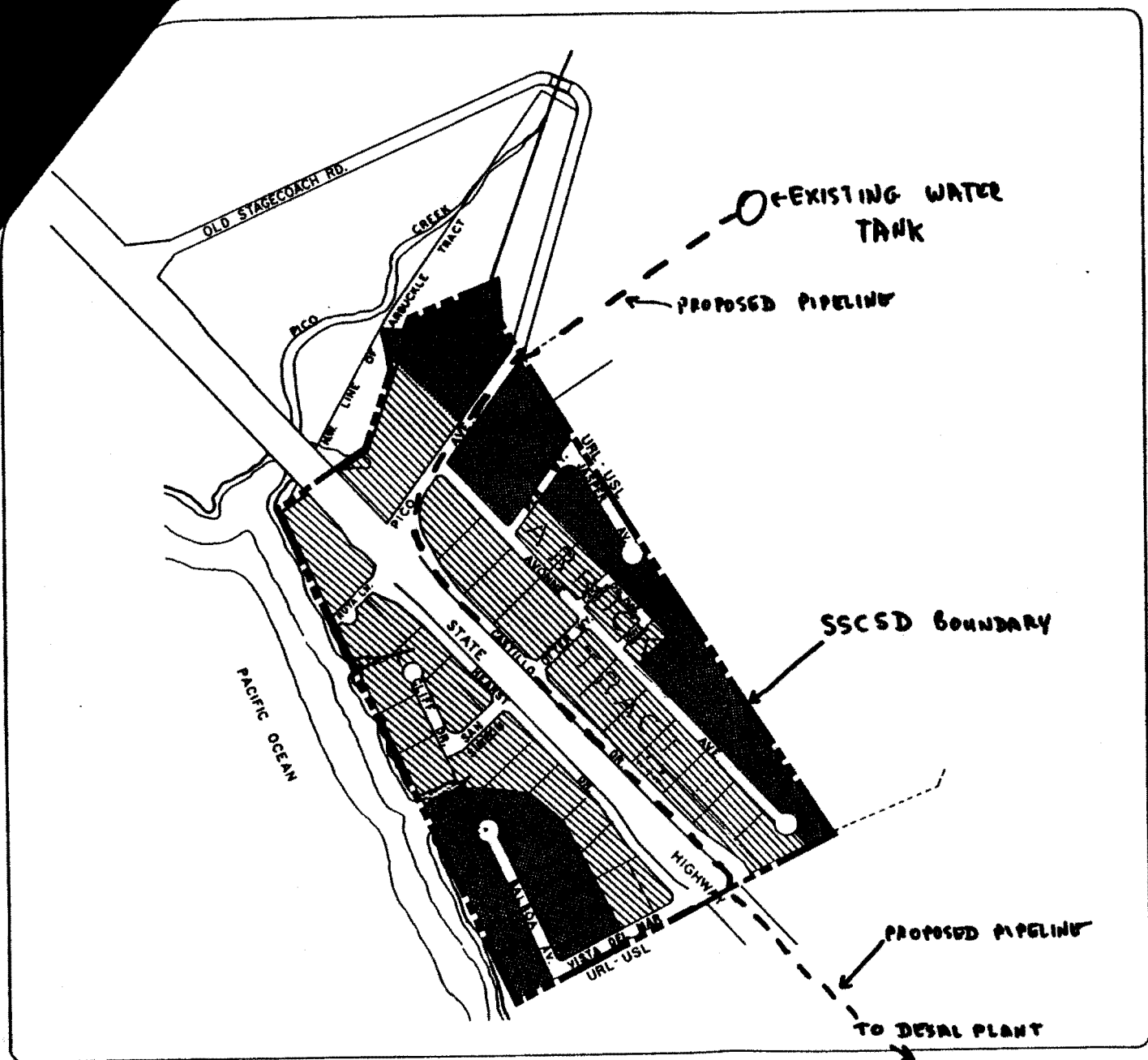















EXHIBIT 5

A-3-SLO-96-27








LEGEND

LAND USE CATEGORIES

-  AGRICULTURE
-  RURAL LANDS
-  RECREATION
-  RESIDENTIAL RURAL
-  RESIDENTIAL SUBURBAN
-  RESIDENTIAL SINGLE FAMILY
-  RESIDENTIAL MULTIPLE FAMILY
-  OFFICE & PROFESSIONAL
-  COMMERCIAL RETAIL
-  COMMERCIAL SERVICE
-  INDUSTRIAL
-  PUBLIC FACILITIES
-  OPEN SPACE

BOUNDARIES

-  URBAN RESERVE LINE (URL)
-  URBAN SERVICES LINE (USL)
-  VILLAGE RESERVE LINE (VRL)
-  PLANNING AREA
-  CENTRAL BUSINESS DISTRICT

SCALE



NORTH



NOTE:

This map is for reference purposes only. Official maps, showing precise property lines and land use category boundaries, are on file in the Planning Department.

EXHIBIT 6

A-3-56-96-27

SAN SIMEON ACRES

LAND USE CATEGORIES

San Luis Obispo County Planning Department
Revised