

LWD
6-19-96

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
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HEARING IMPAIRED: (415) 904-5200

Th Fa



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49th day: 05/15/96
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Staff: SG-SC
Staff Report: 03/28/96
Revised: 06/18/96
Hearing Date: 07/12/96
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; Richard H. Hawley and Cyndi Butterfield
PROJECT LOCATION: Along San Simeon Creek Road, Highway 1, 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

The Central Coast Area Office has received three appeals on this proposal. Two of those appeals were timely; one was received after the appeal period ended. Staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeals have been filed for the following reasons:

The appellant-applicant contends that County permit Condition number 8, may, although it is unlikely that it will, require realignment of the proposed pipeline and additional expenditure of public funds. It is understandable that the applicant wishes to reduce expenditure of public funds, however, the County's condition is not inconsistent with the LCP. The second valid appeal contends that the proposal will allow the development of a pipeline with capacity in excess of that needed for projected development and that the county utilized the wrong hearing and review process. The information in the file, however, shows that the pipeline is sized appropriately and that the proposal, while not heard by the Planning Commission, did follow the hearing process as laid out in the certified LCP and was subject to hearings before the County Zoning Administrator and then the Board of Supervisors on appeal.

Exhibits

Exhibit 1 - Appeal of San Simeon Community Services District
Exhibit 2 - Appeal of Richard H. Hawley and Cyndi Butterfield
Exhibit 3 - San Luis Obispo County Findings and Conditions
Exhibit 4 - Vicinity Map
Exhibit 5 - Entire Proposed Pipeline Route
Exhibit 6 - Proposed Pipeline Route in San Simeon Acres
Exhibit 7 - San Simeon Acres Land Use Categories, USL, and URL Map
Exhibit 8 - CDF/SLOCFD letter

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. APPELLANTS' CONTENTIONS

1. Appellant-Applicant San Simeon Community Services District: 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 3 for the complete text of the County's conditions.

2. Appellants Richard H. Hawley and Cyndi Butterfield: This appeal raises four issues, two of which are not LCP issues: a) The pipeline diameter is larger than needed to serve the projected development within the community of San Simeon Acres, in violation of the LCP Coastal Plan Policies Public Works Policy 2, which states *"New or expanded public works facilities shall be designed to accommodate but not exceed the needs generated by projected development within the designated urban reserve lines."* b) The pipeline diameter is in conflict with Coastal Act Section 30254 which states *"New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; . . ."* c) the proposal is subject to an environmental impact report rather than a negative declaration because it has growth inducing potential and additionally, not all the relevant information was brought forth. d) The LCP requires that proposals that will cover over 20,000 square feet be processed as development plans with a hearing before the Planning Commission, rather than as minor use permits with a hearing before the Zoning Administrator. Please see Exhibit 2 for the complete text of the appeal.

Of the four bases for appeal listed, b and c do not raise issues of inconsistency with the County's certified LCP, which is the standard of review for appeals. Therefore, they were not considered further in the substantial issue analysis.

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 this project the grounds for an appeal are 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 (or their representatives) who made their views known before the local government, 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; a total area of about one-eighth square mile. Land uses consist exclusively of commercial development (primarily hotels, motels, and restaurants), multi-family residential development, and San Simeon Community Services District (SSCSD) facilities. There is no single family residential or any other land use designation in the community other than commercial, multi-family residential, and public facilities (for the District's waste water treatment facility). 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 because a portion of the pipeline route is within 300 feet of the beach and the pipeline route crosses two mapped intermittent streams, Arroyo del Padre Juan and an unnamed stream, 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 (CCSD) 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., authorizing CCSD *". . . to increase the production of potable water from its proposed desalination plant from 1.008 million gallons per day (mgd) to 1.15 mgd, with the resulting difference (nominally 142,000 gallons per day) to be made available only to the San Simeon Community Services District (SSCSD). . . . nor shall SSCSD make available, sell, or otherwise transfer any portion of the resulting difference to anyone outside of SSCSD's service boundary, unless this permit is amended by the Commission to allow such transfer. In addition, CCSD water delivered to SSCSD shall not be used to replace other existing water sources in order to export water from those sources outside SSCSD's water service boundary."*

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 original permit jurisdiction and the County chose not to relinquish permit authority to the

Commission; nor was the pipeline 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 appealed 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 inland of and 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.

a. **Appellant-Applicant SSCSD.** While the appellant-applicant SSCSD'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.

Two LCP policies have been identified 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.

b. Appellants Richard H. Hawley and Cyndi Butterfield contend that the County's approval violates Coastal Plan Policies document Public Works Policy 2:

Policy 2: New or Expanded Public Works Facilities *New or expanded public works facilities shall be designed to accommodate but not exceed the needs generated by projected development within the designated urban reserve lines. Other special contractual agreements to serve public facilities and public recreation areas beyond the urban reserve line may be found appropriate.*"

According to the appeal "San Simeon Acres has a build out water need of 200 to 250 acre feet per year. The proposed pipeline is 10" in diameter. This diameter pipe has the capacity to deliver over 1700 acre feet per year under normal pressure. The pipeline is obviously oversized for the needs of San Simeon." The Commission concurs that public works facilities

ought to be limited to that which is necessary to serve only the existing and anticipated need. How much water a pipe can deliver is a function of diameter, availability of water to put through the pipe, and the size of the pump(s).

The primary limiting factor here is the availability of water to put through the proposed pipe. SSCSD submitted a request to amend the Cambria 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., authorizing CCSD ". . .to increase the production of potable water from its proposed desalination plant from 1.008 million gallons per day (mgd) to 1.15 mgd, with the resulting difference (nominally 142,000 gallons per day) to be made available only to the San Simeon Community Services District (SSCSD) . . .nor shall SSCSD make available, sell, or otherwise transfer any portion of the resulting difference to anyone outside of SSCSD's service boundary, unless this permit is amended by the Commission to allow such transfer. In addition, CCSD water delivered to SSCSD shall not be used to replace other existing water sources in order to export water from those sources outside SSCSD's water service boundary." By permit, at 142,000 gallons per day, 365 day per year, the most SSCSD could obtain from the desal plant would equal 159 acre feet per year (afy), regardless of the pipe diameter. That is some 40 afy less than the amount the appellants say SSCSD will need at buildout.

According to the North Coast Area Plan document of the County's certified LCP *"The existing supply of water for San Simeon Acres is provided from two wells along Pico Creek. The existing permit from the County Health Department allows total production of 140 acre-feet per year from these wells. . . .Current production is approximately 80 acre-feet per year . . .The 1978 permanent population of San Simeon Acres was 134 people, and based on an estimated per capita consumption of 0.151 acre-feet per year, the water demands of these permanent residents is 20 acre-feet per year. This leaves 60 acre-feet per year as the portion consumed by seasonal residents and tourists . . . Projections of permanent population and tourist demands for water indicate that the maximum water allotment of 140 acre-feet will suffice past the year 2000 unless future safe-yield estimates turn out to be lower than anticipated . . . The absorption capacity of San Simeon Acres, based on residential land use in the Land Use Element, is 980 people. The necessary water supply to support this population would be 148 acre-feet per year, not including tourist demands. Total build-out of both visitor-serving uses and residential growth may consequently create a substantial deficit over the allowed production of 140 acre-feet per year."*

The County is currently developing an update to the North Coast Area Plan document. The EIR for that update states that in 1992, SSCSD extracted about 79 acre feet per year (afy) of water from its wells along Pico Creek. According to the EIR, there could be a range of from 284 to 308 acre-feet of water total needed at buildout for San Simeon Acres, depending on the particular buildout scenario to be adopted by the County for the update of the North Coast Area Plan. Thus additional needed water could range from 205 afy to 229 afy (284 - 79 = 205; 308 - 79 = 229). At 142,000 gallons per day, 365 day per year, the most SSCSD could obtain from the desal plant would equal 159 afy, some 50 to 70 afy less than needed at buildout as discussed in the EIR and the North Coast Area Plan update. In contrast, the negative declaration issued by SSCSD stated *"Therefore, the total amount of water needed at build-out is assumed to be . . . 209.2 AFY. The range of production and yield from Pico Creek has been determined to be approximately 120 AFY, from earlier studies. However, the quality of water in*

drought years tends to decline at production of approximately 75 AFY . . . if the Creek production is set at 75 AFY in dry years, then the supplemental water needed is 209.2 AFY - 75 AFY = 134.2 AFY as the most likely scenario." At 142,000 gallons per day, SSCSD would need to take water from the desal plant for 308 days per year to equal 134 afy. Given that water from a desalination plant is significantly more expensive than water from wells, it is unlikely that SSCSD would opt for the more expensive water from the desal plant for a significant part of the year if it were at all possible to utilize well water.

If SSCSD did take water from the desal plant all year long and if the total amount allowed from the Pico Creek wells were available, the maximum total water SSCSD would have would be 299 afy (desal = 159afy; wells = 140 afy). This would result in approximately 9 afy less to 15 afy more water needed at buildout than projected by the North Coast Area Plan Update EIR, and approximately 90 afy above the amount of water needed at buildout according to the negative declaration issued by SSCSD for the pipeline.

It is, however, a highly unlikely scenario that the total amount hypothetically available from either or both the desal plant and the Pico Creek wells would be available at all times. This is because of the cost of the water from the desal plant and the unlikelihood of being able to pump the maximum allowed amount of potable water from the Pico Creek wells for a sustained period without encountering water quality problems. In any event, the County's pipeline permit and the Coastal Commission's amended desal plant permit restrict the amount of water from the desal plant and through the proposed pipeline to uses within the SSCSD service boundary, which is coincident with the USL. Thus the pipeline will facilitate growth within the limits contemplated by the LCP but would not induce growth beyond that anticipated by the LCP.

One of the reasons given by SSCSD for having a 10" diameter pipeline is for fire fighting purposes. According to a March 11, 1996, letter from the California Department of Forestry/SLO County Fire Department to the County *"The proposed 10 inch water line from Cambria [desal plant] to the S.S.C.D. system would satisfy all the water requirements listed in the Uniform Fire Code. In the event that an 8 inch waterline or smaller be installed, the water system would not meet the fire code requirements."* Please see Exhibit 8 for the complete text of the CDF/SLOCFD letter. Perhaps SSCSD could meet the fire fighting requirements in terms of availability of water at the required amount for the required time by constructing a larger tank or additional tanks with a smaller diameter pipeline. The issue is moot, though, since the amount of water is limited by the permits as described above. The County's approval is consistent with Public Works Policy 2 in this regard.

Appellants Hawley and Butterfield also contend *" . . . that the project was incorrectly designated as needing a minor use permit. Local ordinance which implements our general plan states that projects that cover an outdoor space of 20,000 square feet or more must be reviewed through the development plan process which requires review by the full Planning Commission rather than the Planning Director. This project, at a minimum, will cover over 23,000 square feet. . . . In addition, local ordinance states that the Planning Director shall make determinations about minor use permits at a public hearing. The Planning Director was not present to take public comment into consideration at this minor use permit hearing and the permit application was approved in his absence."*

Coastal Zone Land Use Ordinance Section 23.03.042 - Determination of Permit

Requirement states *"The type of land use permit required to authorize a proposed land use that is subject to the provisions of this chapter pursuant to Section 23.03.020 is determined by Table 3-A. . . ."* Table 3-A initially requires a plot plan (ministerial) approval for site coverage or site disturbance of less than one acre (< 43,560 square feet). Footnote 2 of the table states *"Any use normally required by this title to have Plot Plan approval (except signs, pursuant to 23.04.306a) shall instead require Minor Use Permit approval where Section 23.01.043 (Appeals to the Coastal Commission) identifies the proposed project as development which is appealable to the Coastal Commission."* Thus, according to Table 3-A, Minor Use Permit approval is the appropriate level of review. The County's processing of the permit is therefore consistent with the LCP.

The processing of Minor Use Permits is described in **Coastal Zone Land Use Ordinance Section 23.02.033**. Throughout that section reference is made to the various actions that the Planning Director shall or may do. Typically, in most planning departments of any size, some or all of these functions are delegated by the Planning Director to Planning Department staff members. The Director could not possibly have enough time to do all of the functions required. **Coastal Zone Land Use Ordinance Section 23.01.040 - Administration of the Coastal Zone Land Use Ordinance** states *"This title shall be administered by the Planning Director, who will advise the public about its requirements. The responsibilities of the Planning Director under this title include but are not limited to the following functions, which may be carried out by Planning Department employees under the supervision of the director: a. Application processing. . . ; b. Zoning Administration. . . . c. Permit issuance. . . ."* It is clear that in San Luis Obispo County, as in most counties, the Planning Director may delegate many of his or her responsibilities, including those of making discretionary decisions on land use applications and taking public comments into consideration. The County's action was therefore consistent with the LCP sections governing processing of permits.

4. Conclusion

The County's actions on this permit application were consistent with the LCP, which is the standard of review on appeal. None of the contentions by either appellants raise a substantial issue.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(408) 427-4843
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) 927-4778
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: Mine 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 way to Chubb 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: _____

H5: 4/88

EXHIBIT |
A-3-SLO-96-27

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

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

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

6. Date of local government's decision: 3/19/967. Local government's file number (if any): D950085 PSECTION 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 Simeon Community Services District
Route 1, Box 5-17
San Simeon, 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
1415 Grand St, Suite B-5
San Luis Obispo, CA 93401
- (2) Joan Kalshan - Cambria Loan Defense Fund
440 Reservoir, Cambria, CA 93428
- (3) Richard Hawley
P.O. Box 1631
Cambria, CA 93428
- (4) Candi Butterfield
2425 Pine 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 Hwy 1 right of way north to San Simeon. 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 unnecessary 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.

[Handwritten Signature]
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 this is subordinate to the CalTrans conditions of approval for the encroachment permit conductor

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.

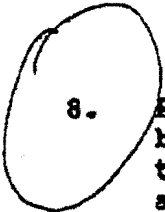
Geology, soils, and seismicity

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.

STATE OF CALIFORNIA - THE RESOURCE AGENCY

RECEIVED
APR 04 1996

DEE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
THE RICHIE STORE, STE. 300
3000 CINE, CA 95004
PHONE 408-4045



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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

SECTION I. Appellant(s)

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

CONDY BIKTERMED 2425 LEONARD DR. CAMBRIA 93408 825 927-8866

RICHARD HAWLEY P.O. BOX 1621 93408 825 927-4914
Zip CAMBRIA 93408 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: 2.2 MILE PIPELINE FROM CAMBRIA'S DESAL PLANT TO SAN SIMON ACRES WATER STORAGE TANK

3. Development's location (street address, assessor's parcel no., cross street, etc.): _____

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special conditions: _____
- 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-96-027

DATE FILED: Appeal originally filed 3/27/96

DISTRICT: Central Coast

MS: 4/88

EXHIBIT 2
A-3-SLO-96-27

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

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

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

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

7. Local government's file number (if any): D#956085P

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, CA 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 WADSWORTH, ENGINEER
4115 BROAD ST, SUITE B-5
SAN LUIS OBISPO, CA 93401
- (2) VERN WALSHAW - CAMBRIA LEGAL DEFENCE FUND
440 KERWIN, CAMBRIA, CA 93428
- (3) RICK HAWLEY
P.O. BOX 1631
CAMBRIA CA 93428
- (4) CYNDI BUTTERFIELD
2125 LEONA
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.)

"SEE ATTACHMENT"

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.

Cyril Pittendree

Signature of Appellant(s) or
Authorized Agent

Date: 4/2/96 4-96

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 _____

ATTACHMENT TO APPEAL - COASTAL ACT
San Simeon Community Services District 2.2 mile pipeline project
San Luis Obispo County Board of Supervisors
Regarding File / Permit Number: D950085P
Submitted by Richard H. Hawley and Cyndi Butterfield

Appeal Background

This public works project is a 2.2 mile water pipeline from the proposed Cambria desal plant to the town of San Simeon Acres. San Simeon Acres has a build out water need of 200 to 250 acre feet per year. The proposed pipeline is 10" in diameter. This diameter pipe has the capacity to deliver over 1700 acre feet per year under normal pressure. The pipeline is obviously oversized for the needs of San Simeon.

The calculation that a 10" pipeline can deliver over 1700 acre feet per year was provided by our own engineers. The San Simeon Community Services District (SSCSD) has repeatedly refused to provide their own calculations as to how much water the proposed pipeline is designed to deliver.

The scope of the project in terms of the engineering design specifics relating to water delivery capacity has not been included in information available to the public and has been absent from public discussion.

Engineering design specifics relating to the water delivery potential of the pipeline were not included in the initial study which resulted in a negative declaration and were requested but not included in the discussions which resulted in the granting of a minor use permit.

With a concern about the growth inducing potential of an oversized water pipeline project, the North Coast Advisory Council (an elected body) project review committee requested that the SSCSD engineer John Wallace provide the North Coast Advisory Council (NCAC) with information establishing the amount of water a 10" pipeline is capable of delivering. In a letter to the NCAC John Wallace denied the information on the grounds that water delivery systems are not the purview of the NCAC whose job is to review and comment on land use issues.

Water supply decisions and land use planning are plainly and firmly linked by common sense and by law. SB 901 establishes this link as does Government Code Section 65352.5. (a) in which the Legislature states that it is vital that there be close coordination between California's water supply agencies and California's land use approval agencies to ensure proper water supply planning.

Appeal Specifics

What follows is a list of the specific reasons for this appeal.

1. The diameter of the proposed pipeline is in conflict with the Coastal Plan Policies of the Land Use Element of the San Luis Obispo General Plan, Page 8-6 Policy 2. Policy 2 states that new or expanded public works facilities shall be designed to accommodate

ATTACHMENT TO APPEAL - COASTAL ACT
San Simeon Community Services District 2.2 mile pipeline project
San Luis Obispo County Board of Supervisors
Regarding File / Permit Number: D950085P
Submitted by Richard H. Hawley and Cyndi Butterfield

but not to exceed the needs generated by projected development within the designated urban reserve lines.

2. The diameter of the proposed pipeline is in conflict with Public Resources Code, California Coastal Act of 1976 Criteria for Review of Coastal Plans, Article 6, Section 30254. This section states that new or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division.

3. The project is clearly subject to environmental analysis in an environmental impact report. The project has major growth inducing potential and, under CEQA Statutes Article 9, Section 15126(g) must be analyzed in terms of how the project could foster, either directly or indirectly, economic or population growth, or the construction of additional housing.

The discussion in the initial study which provides the rationale for the negative declaration negates any potential for growth inducing impacts based purely on opinion and speculation. Substantiating data establishing the size of the project in terms of the amount of water the pipeline is designed to potentially deliver is nonexistent.

The initial study speculates that the project will not induce growth because it is not the "intention of this project to foster additional unplanned growth". The initial study further speculates that the project will not be able to induce growth based on the county's growth management ordinance. Unlike the permanence of a pipeline, the county's growth ordinance is subject to change at any time by the Board of Supervisors.

The impending major destination resort and world class golf course planned by the Hearst Corporation will cause major pressure for commercial development along highway one between Cambria and San Simeon Acres as the gateway to the resort. This is also the route of the pipeline. The missing ingredient for developing this strip is water.

The critical missing information is that the *10" water pipeline proposed for San Simeon would have the capacity to provide water for unplanned development in the coastal zone and the pressure to use the capacity of the pipeline unneeded by San Simeon for development along this corridor would be strong from land owners anxious to capitalize on their investments.*

If the capacity of the pipeline were to be put to use in this way, the San Simeon creek floodplain would sustain major environmental impacts. The incremental addition of pods to the desalination plant by developers would result in major industrialization of this once healthy riparian area.

Given the major potential for growth inducing and environmental impacts in this sensitive area which is so vulnerable to over development, we are concerned that the one piece of evidentiary data that would stimulate a discussion of environmental and growth inducing

ATTACHMENT TO APPEAL - COASTAL ACT
San Simeon Community Services District 2.2 mile pipeline project
San Luis Obispo County Board of Supervisors
Regarding File / Permit Number: D950085P
Submitted by Richard H. Hawley and Cyndi Butterfield

impacts has been excluded from all public discussion and from the decisions that have been made thus far and was, indeed, denied outright to the North Coast Advisory Council and at the minor use permit hearing.

Unless the water delivery potential of this 10" pipeline which is planned to span this very vulnerable coastal corridor is brought in to the public arena for public discussion, the opportunity to examine the potential for growth inducing impacts and for serious environmental and community impacts will be denied.

The necessary evidentiary foundation for making an environmental determination is still absent in the review of this project.

Without this information, the scope of the project is undisclosed, the potential for inducing growth cannot be discussed publicly, and the potential for environmental impact cannot, therefore, be determined.

Without this fundamental evidence, project was given a negative declaration. The lack of full environmental review also eliminated the opportunity to investigate a potentially environmentally superior alternative.

The rationale for needing the oversized diameter pipeline provided by the SSCSD was to increase their access to water for fighting fires. Their proposal is to pump distilled water to fight fires. However, a representative from the California Division of Forestry testified at the Board of Supervisor's hearing that a second holding tank in San Simeon would serve just as well.

This fact provides an alternative project which could be environmentally superior, and, by eliminating the unneeded delivery capacity, it provides the potential for a project that would conform to state and local laws. Although the rationale for needing the oversized pipeline was eliminated, the project was nonetheless issued a coastal permit with no direction for analysis of the alternative and no discussion of the potential for a smaller diameter pipeline.

Case law establishes that an EIR is necessary to substitute factual certainty for tentative opinion and speculation.

4. We contended that the project was incorrectly designated as needing a minor use permit. Local ordinance which implements our general plan states that projects that cover an outdoor space of 20,000 square feet or more must be reviewed through the development plan process which requires review by the full Planning Commission rather than the Planning Director. This project, at a minimum, will cover over 23,000 square feet. Our statements to this effect at the Board of Supervisor's hearing were met with no response from the Supervisors or the staff.

ATTACHMENT TO APPEAL - COASTAL ACT
San Simeon Community Services District 2.2 mile pipeline project
San Luis Obispo County Board of Supervisors
Regarding File / Permit Number: D950085P
Submitted by Richard H. Hawley and Cyndi Butterfield

In addition, local ordinance states that the Planning Director shall make determinations about minor use permits at a public hearing. The Planning Director was not present to take public comment into consideration at this minor use permit hearing and the permit application was approved in his absence.

We are concerned that because of the lack of data establishing the actual scope of the project, that this project was not given appropriate or adequate review.

We are also not aware of any consideration of the scope of the grading, or of a grading permit that has been issued for the project.

Appeal Conclusion

The necessary evidentiary foundation is lacking for determining the size of the project, the amount of water the project would be able to deliver to the north coast, and therefore, for determining if the project is in compliance with state and local laws, or for determining the potential for growth inducing impacts and environmental impacts of the project.

The negative declaration, and the decisions to deny the appeal and approve a coastal permit were made without the support of factual data.

A 10" water delivery pipeline along this specific coastal corridor is a major project with potential for significant environmental and growth inducing impacts. It is being processed and addressed as an insignificant project because of the absence of factual data.

Ironically, the missing data happens to be the same data that would make this project subject to full environmental review and show it to be not in compliance with the Coastal Act and the county General Plan sections cited above.

In the absence of factual data provided by the applicant on the size of the project, and disregarding the factual data provided by the appellant, the County of San Luis Obispo has taken action which is not in compliance with the Land Use Element of the County General Plan, the California Coastal Act, the California Environmental Quality Act, and local Land Use Ordinance.

In all due respect, this seems to be a classic example of the old story about the King who had no clothes. Anyone who chooses to look at the evidence can easily see that this is a major project which is not in compliance with state and local laws and with the potential for far reaching environmental and growth inducing impacts. Choosing to not look at evidence that the pipeline is oversized and choosing to exclude that evidence from public

ATTACHMENT TO APPEAL - COASTAL ACT
San Simeon Community Services District 2.2 mile pipeline project
San Luis Obispo County Board of Supervisors
Regarding File / Permit Number: D950085P
Submitted by Richard H. Hawley and Cyndi Butterfield

discussion cannot alter the reality of an oversized project any more than choosing to not look at a naked king can put clothes on his back.

We are simply asking that decisions of this magnitude that will determine the fate of our coastline and our community be based on factual evidence; and that that factual evidence is provided to the public, and is brought into the public discussion for a sound decision made in public.

Discussion based on factual evidence was denied to the North Coast Advisory Council, denied at the minor use permit hearing and again denied at the Board of Supervisor's appeal hearing. The tape of the Board of Supervisor's hearing makes our request for factual evidence very clear. The tape also makes clear the choice on the part of the public officials present to ignore our request, to continue to exclude evidentiary data, and to make their decision on opinion and speculation in the absence of factual data even after the need for the 10" diameter pipe to fight fires was proved to be unfounded and the potential for an environmentally superior alternative project was introduced.



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

BARNY MCCAY
CHIEF BUILDING OFFICIAL

NORMA SALISBURY
ADMINISTRATIVE SERVICES OFFICER

3.19.96

NOTICE OF FINAL COUNTY ACTION

Subject: D950085P - SSCSD

EXHIBIT 3
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,

Development Review Section

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Post-It™ brand fax transmittal memo 7671		# of pages 9	
To: <u>Jane Guinley</u>	From: <u>Pat Beck</u>	Co.:	<u>SLO County</u>
Co.:	<u>Calif. C. C.</u>	Phone #:	<u>781-5981</u>
Dept.:		Fax #:	<u>781-1242</u>
Fax #:	<u>408 427-4871</u>		

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.

Signature _____ Date _____

BY: *JK* DATE *3.19.96*

COUNTY GOVERNMENT CENTER, SAN LUIS OBISPO, CA. 93408 (805) 549-5600

Plot Plan/Site Plan/MUP/Dev. Plan/ Variance - In CZ Appealable

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 Brackert, David Blakely,
 Chairperson Laurence L. Laurent

ABSENT: None

RESOLUTION NO. 96-124

**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 Buzerfield 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 appeals; 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			# of pages
To	From	Phone #	7
Steve Gammock	Pat Beck		
Co. Calif. C. C.	Co. SLO County		
Dept.		Phone #	781-59811
		Fax #	781-1240

44-900-101-1242

PLANNING/BUILDING

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PLANNING/BUILDING 747-1744

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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 Butterfield and the Cambria Legal Defense Fund (Vera Kalshon) are hereby denied and the decision of the Hearing Officer is affirmed and that the application of San Simeon Community Services District for Minor Use Permit/Coastal Development Permit D950085P 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 Ovitt, seconded by Supervisor Brackett,

and on the following roll call vote, to wit:

- AYES: Supervisors Ovitt, Brackett, Blakely, Chairperson Laurent
 NOES: Supervisor Delany
 ABSENT: None
 ABSTAINING: None

the foregoing resolution is hereby adopted.

LAURENCE L. LAURENT

 Chairman of the Board of Supervisors

ATTEST:

JULIE L. RODEWALD

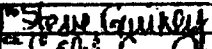
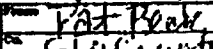


 Clerk of the Board of Supervisors
 BY: **VICKI M. SHELBY**
 (SEAL) Deputy Clerk

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, Jr.
 County Counsel

By: 

Post-It® brand fax transmittal memo 7571 (of pages 7)

By: 	By: 
By: 	By: 

33

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.

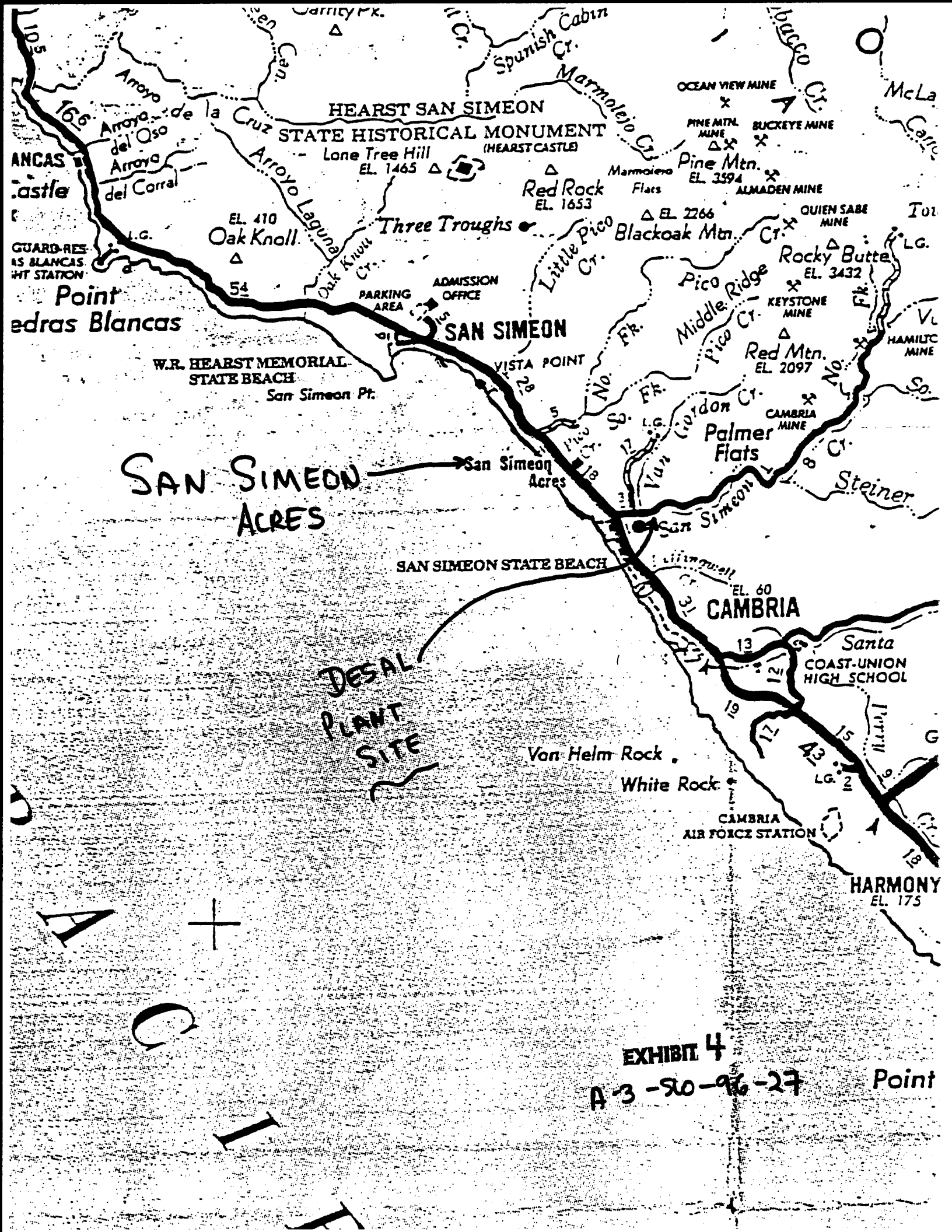
Cultural Resources

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.
-



HEARST SAN SIMEON STATE HISTORICAL MONUMENT (HEARST CASTLE)

ANGAS Castle
Pointedras Blancas
GUARD-RS AS BLANCAS HT STATION
W.R. HEARST MEMORIAL STATE BEACH
San Simeon Pt.

SAN SIMEON ACRES

SAN SIMEON STATE BEACH

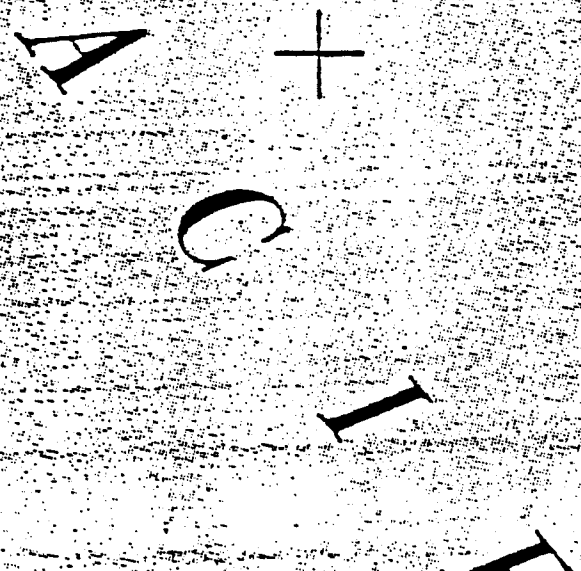
CAMBRIA

HARMONY EL. 175

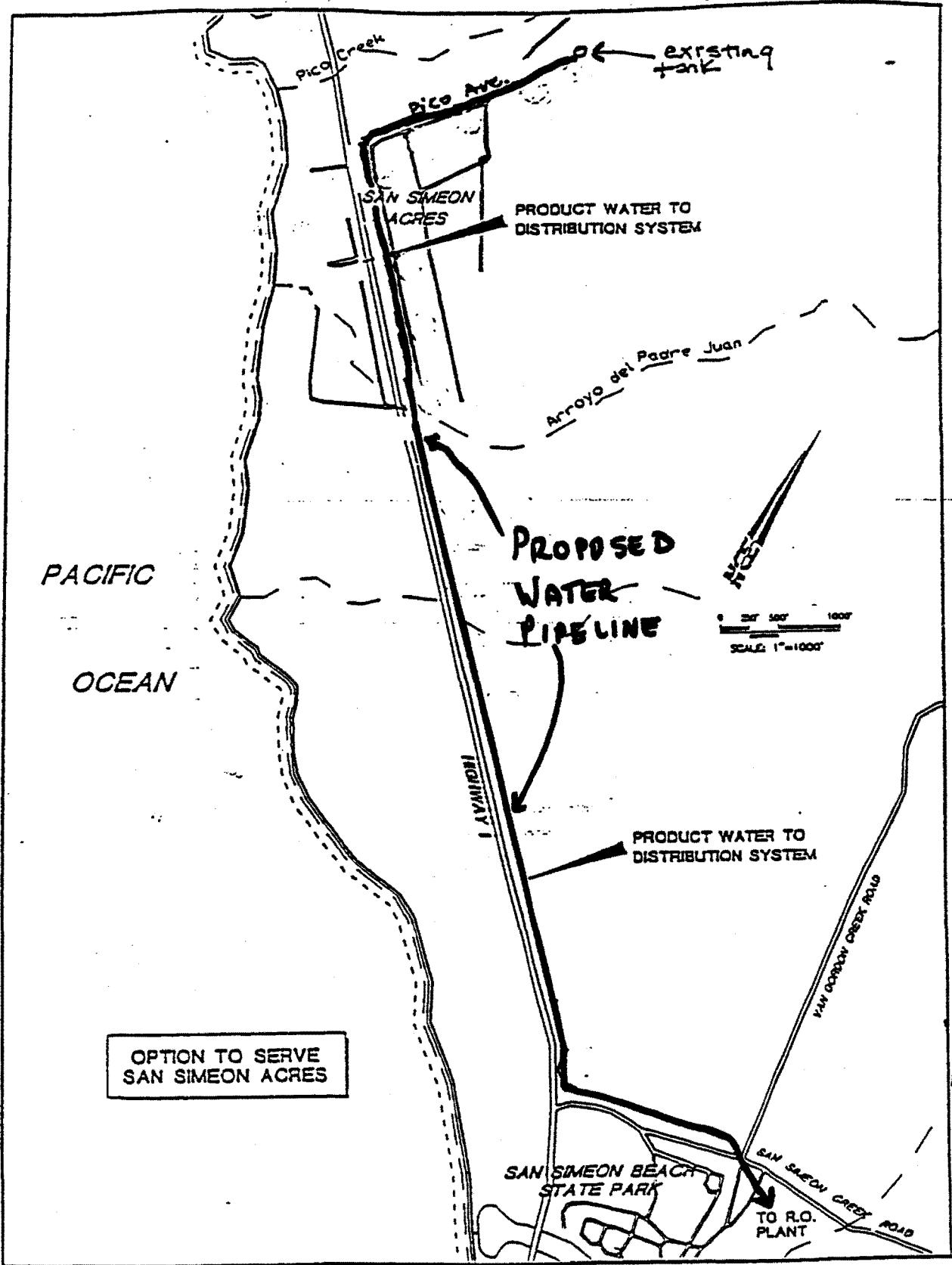
DESAL PLANT SITE

EXHIBIT 4
A-3-50-96-27

Point



Map labels include: Spanish Cabin Cr., Marmolejo Cr., Pine Mtn. (EL. 3594), Red Rock (EL. 1653), Lone Tree Hill (EL. 1465), Oak Knoll (EL. 410), Three Troughs, Blackoak Mtn. (EL. 2266), Rocky Butte (EL. 3432), Red Mtn. (EL. 2097), Cambria MINE, Van Helm Rock, White Rock, Santa Coast-Union High School, Cambria Air Force Station, Arroyo de la Cruz, Arroyo Laguna, Arroyo del Corral, Arroyo del Oso, Pointedras Blancas, San Simeon, Vista Point, San Simeon Acres, San Simeon Pt., W.R. Hearst Memorial State Beach, Admission Office, Parking Area, Middle Ridge, Pico Cr., Middle Cr., Pico Cr., Van Gorden Cr., Palmer Flats, Steiner, Cambria, Harmony, and various other geographical features and roads.



Appendix A
Photograph Location Map

EXHIBIT 5

A-3-SLO-96-27

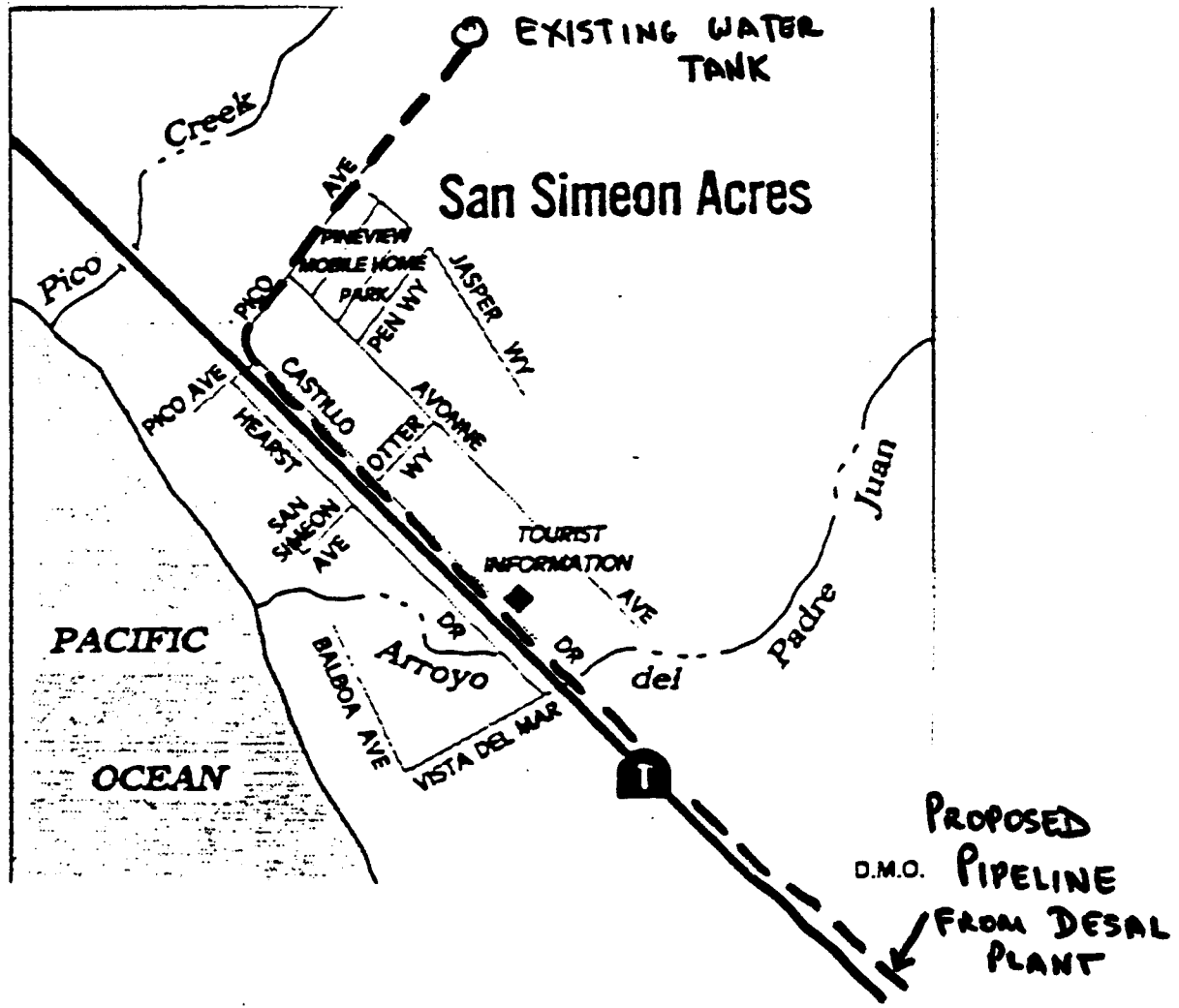


EXHIBIT 6
 A-3-SLO-96-27

W 10e

JL
WA

John L. Wallace & Associates
Civil Engineering • Surveying • Planning

COVER SHEET

Date: 4/9/96

Job Number: 084 15

To: Steve Guiney
Coastal Commission
Santa Cruz

From: Susan Ostro
John L. Wallace and Associates
4115 Broad Street, Suite B-5
San Luis Obispo, California 93401

Phone:

Fax: 408-427-4877

Phone: (805) 544-4011

Fax: (805) 544-4294

Subject: A-3-SLO-96-027

Message:

Dear Mr Guiney,

We wish to request a continuance
of the SSCSD appeal currently
scheduled for April 10, 1996 to the
May, 1996

EXHIBIT 8
A-3-SLO-96-27

File Name

Sent Via: Fax Mail Hand Deliver Overnight

Originals Mailed: Yes No Number of Pages (including cover):

cc John Wallace

North Coast Advisory CouncilPO BOX 533
CAMBERIA CA 93428

ATTN: STEVE GUINEE

April 9, 1996

RE: San Simeon Community Services District 2.2 mile
Pipeline Project -- Permit # D950085PCalifornia Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

Gentlemen:

Our Project Review Committee tried several times over a two-week period prior to the January 24 meeting of our Council (held in San Simeon) to obtain pertinent data from SSCSD about the proposed pipeline for San Simeon. These efforts were unsuccessful until the night of January 24 when the information was handed to the Chair of Project Review -- too late to be acted upon.

Therefore, since the Project Review Committee was denied timely access, there was no public review by the North Coast Advisory Council.

Sincerely,

Doug Buckmaster
Corresponding Secretary**EXHIBIT 8**

A-3-SLO-96-27

CDF / SLO COUNTY FIRE DEPARTMENT


 General Information 805/543-4244

FAX 805/543-6909

635 N. SANTA ROSA • SAN LUIS OBISPO • CALIFORNIA 93405

March 11, 1996

Ms. Jessica Kahel
 Department of Planning and Building
 County of San Luis Obispo
 County Government Center
 San Luis Obispo, CA 93408

Dear Ms. Kahel:

This letter is to clarify the water delivery system being proposed for the San Simeon Community Services District. For the last 10 years, this department has been working with the S.S.C.D. to upgrade it's water system to meet the requirements of the Uniform Fire Code.

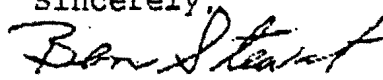
The minimum fire flow for some occupancies that the S.S.C.D. serves is 1,500 gallons per minute at 20 pounds per square inch for a 2 hour period. On November 1, 1983 a fire at the Green Tree Motel used over 100,000 gallons of water in a time frame of a few hours. There was problems then with the delivery of the water even during the slow part of the tourist season. Had this fire occurred during July or August with high water demand, the current system now in place may not have been enough to suppress the fire.

The proposed 10 inch water line from Cambria to the S.S.C.D. system would satisfy all the water requirements listed in the Uniform Fire Code. In the event that an 8 inch waterline or smaller be installed, the water system would not meet the fire code requirements.

Without an adequate water supply, firefighters do not stand much of a chance of stopping fires. The 10 inch water line will put the S.S.C.D. on the right path to provide the citizens and visitors of San Simeon a safer environment.

If I can provide more information, please feel free to call me at 543-4244.

Sincerely,



Ben Stewart
 Battalion Chief

EXHIBIT 8

A-3-SLO-96-2

lad

cc: Jim Rutledge, Battalion Chief
 San Simeon Community District
 Susan Ostoff, John Wallace & Associates

SERVING MANY OF THE UNINCORPORATED AREAS OF SAN LUIS OBISPO COUNTY

Including the communities of:

Avila Valley
 California Valley
 Carrizo Plains

Cholame
 Creston
 Harmony

Heritage Ranch
 Nipomo
 Oak Shores

Pozo
 Parkhill
 San Simeon

Stanger
 Sycamore



