

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

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C.F.L.
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Staff Report: 7/28/98
Hearing Date: 8/13/98
Action:

STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE DETERMINATION

LOCAL GOVERNMENT: County of Santa Cruz

DECISION: Approval with Conditions (See Exhibit 2a)

APPEAL NO.: A-3-SCO-98-055

APPLICANT: COUNTY OF SANTA CRUZ, DEPARTMENT OF PUBLIC WORKS (current owners of subject site are Mr. & Mrs. Rocha)

PROJECT LOCATION: Buena Vista Drive (opposite intersection with Harkins Slough Road), San Andreas area of Santa Cruz County (AP# 046-121-03) (see Exhibit 1a)

PROJECT DESCRIPTION: Stockpile approx. 1.25 million cubic yards of earth to facilitate sanitary landfill operation; (see Exhibit 3a-d)

APPELLANTS: Commissioner Sara Wan; Commissioner Pedro Nava; Buena Vista Community Association, Attn.: David Barlow (see Exhibit 6)

FILE DOCUMENTS: Santa Cruz County Coastal Development Permit 97-0309 file including draft and final and draft and final supplement to *Environmental Impact Report Buena Vista Landfill Soil Management Plan (EIR)*; Santa Cruz County Certified Local Coastal Program consisting of 1994 *General Plan and Local Coastal Program for the County of Santa Cruz* and portions of the *County Code and Zoning Map*; Coastal permits files 83-1503/A-3-SCO-85-42 to allow the landfill and A-3-SCO-90-98/96-0216 to allow the Watsonville landfill expansion; Local Coastal Program Major Amendment #1-85 file; *Santa Cruz Materials Recovery*

Facility Final Conceptual Design Report, October 1991; Integrated Waste Management Facility Draft EIR, 1996.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal has been filed -- agricultural impacts, riparian corridor and wetland impacts, general siting considerations, and visual impacts -- for the following reasons. First, the local coastal program contains several provisions that do not allow the elimination of a riparian corridor and wetland seep or the alteration of the area's scenic agricultural vistas, as does the subject stockpile project. Second, even if these policies could somehow be interpreted as possibly condoning such a use on the subject site, the County has not convincingly demonstrated that there are no alternatives, which is a prerequisite under the local coastal program. Finally, even were such proof forthcoming, it is not apparent that the County has done all that it can to retain and maximize agriculture and enhance habitat in the area. **This substantial issue analysis may be found on pages 19 - 28 of this report.**

The proposed project is a response to an identified, undisputed County need to soon excavate over one million cubic yards of earth at its only landfill site in order that it can continue to accept refuse. Analysis of the project presents a challenge, as it would fill for 20 years a riparian ravine with wetland seep and 20 acres of agricultural land on a scenic County road. On the one hand, the stockpile can be viewed as an urgent, necessary public works project. On the other hand, a reading of all the relevant, governing local coastal program policies suggests that it would be very difficult, at the least, to approve such a project, which appears to be prohibited. While there are some exception and special findings available in the local coastal program, the County has not made a convincing case that they apply or justify approval of this project. For example, to allow an exception to the riparian protection policies, the riparian corridor in question must still be preserved, not eliminated and mitigated with an enhancement elsewhere, as this project will do.

Additionally, before an approval could be crafted that attempted to satisfy the policies, the local coastal program requires a finding of no feasible alternatives. The County record includes some analysis of alternatives, but it is too dismissive. It does not address how noted obstacles may be removed nor how alternatives may be adjusted to overcome the constraints. The County has since provided additional input on alternatives, which, on one hand, constitutes some further justification of its conclusions; but, on the other hand, suggests that further analysis and brainstorming are in order, given the magnitude of the impacts at issue. As of this writing, it appears that there is not one complete, feasible alternative to the proposed project, but it is premature to rule out all other approaches. It is likely, as the appellants suggest, that a combination of measures might allow for reducing the scope of the proposed project (and maybe even the entire need for it). From the County's perspective, as long as the subject site needs to be used for some stockpile, how

much is not crucial. This is because site preparation costs (e.g., drainage system, conveyor) will be similar in all cases, hence, making no sense to spend additional money on other approaches that would just reduce the proposed project's scope. At this time, it is unclear whether such a conclusion is inescapable. Clearly, there can be environmental benefits in a project significantly reduced in size so that the wetland and possibly the riparian corridor are not filled or not filled for so long a time period. Thus, at this time there is no staff recommendation as to where and under what conditions the excavated material should be sited.

This analysis focuses on significant policy issues. The appellants contend that the project approval violates some 40 local coastal program provisions. To avoid excessive length, this report groups the contended policies into the four noted issue areas and does not address them all individually. While the project approval may be consistent with some of these policies, it takes only one inconsistency to give rise to a substantial issue. It should also be noted that there are many other relevant local coastal program policies and that the County has imposed several conditions to address them that are not in contention. In some respects, the County approval is quite thorough. Once more information on alternatives is made available and analyzed, the nature and location of any off-site improvements that the Commission might approve would be formulated and would dictate what conditions of the County approval would have to be changed and what new conditions would need to be added.

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I. SUMMARY OF APPELLANTS' CONTENTIONS

There are two groups of appellants: Commissioners and Community. There are two Commissioner appellants who believe agricultural and habitat issues are raised. In part they state, "The coastal permit allowing the proposed stockpile on agricultural land does not meet all of the Local Coastal Program County Code Section 13.10.639 requirements for interim use of agricultural land for sanitary landfill purposes." Also,

The coastal permit allowing the proposed stockpile to completely fill a riparian corridor and wetland seep does not meet all of the Local Coastal Program County Code Section 16.30.060 exception requirements. The objectives of the Land Use Plan do not extend to condoning complete removal of a wetland and riparian corridor and if they could be so interpreted would require more comprehensive restoration planning and mitigation assurances than contained in the permit.

Their full contentions are quoted in finding #B.1 below.

The community group appellants contend that the proposed soil stockpile project is in conflict with some 40 Local Coastal Program Goals, Objectives, Policies and Programs. For some of the policies they elaborate on what they believe are inconsistencies. They contend that the project is not a priority for use of the site, as under the local coastal program agricultural use and riparian habitat are priorities. Beyond the specific agricultural and habitat policies, the community appellants contend more generally that the proposed project is in conflict with other siting and land use priority policies of the Local Coastal Program. They argue that the stockpile should be sited in an area where public roadways and drainages are adequate (pursuant to policy 2.1.4) and where orderly, balanced utilization of coastal resources is assured (pursuant to objective 2.23). They argue that the proposed soil stockpile project is in basic contrast to the purpose of the Conservation and Open Space Element of Santa Cruz County in that it will negatively impact biological, water, visual, open space, coastal agricultural land, and air

quality resources as well as result in noise, traffic, endangered species and riparian habitat impacts within the Coastal Zone. They believe that the project does not comply with Conservation Element provisions under the following categories:

- Element Goals
- Natural and Cultural Resources Protection Goals
- Open Space Protection Goal
- Biological Resources
- Water Resources
- Hydrological, Geological and Paleontological Resources
- Visual Resources
- Scenic Roads
- Open Space
- Agriculture

Their full contentions are shown in Exhibit 6. They have also elaborated on some points in letters contained in Exhibit 7.

II. LOCAL GOVERNMENT ACTION

The Santa Cruz County Board of Supervisors approved a coastal permit with 38 conditions and a mitigation monitoring and reporting plan for the proposed stockpile project and took related actions on June 9, 1998 (see Exhibit 2a). The Board made coastal zone permit, development permit, riparian exception, development on agriculturally-zoned properties, and California Environmental Quality Act (CEQA) findings. Previous hearings were held by the County Planning Commission on June 25, 1997, August 13, 1997, October 8, 1997, and December 10, 1997. The County's final action was received by the Coastal Commission on June 11, 1998, triggering an appeal period running from June 12, 1998 through June 25, 1998.

III. 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)). This project is appealable because it is located in a county and is not a principal permitted use and it is a major public works project.

For projects not located between the sea and the first public road paralleling the sea, which is the case for this project, 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)). For projects located between the sea and the first public road paralleling the sea, the grounds for appeal to the Coastal Commission can also include an allegation that the development does not conform to the public access and recreation policies of the Coastal Act.

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," which is the case here, 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. However, since there is no recommendation available regarding the merits of this project, this hearing will be continued to a subsequent meeting. 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.

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.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **substantial issue** exists with respect to the grounds on which the appeal was filed, pursuant to Coastal Act Section 30603.

MOTION: Staff recommends a "NO" vote on the following motion:

"I move that the Commission determine that Appeal No. A-3-SCO-98-055 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.

V. RECOMMENDED FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Background

1. Setting

a. Vicinity

The 70 acre subject site is located on Buena Vista Drive across from Santa Cruz County's current landfill in the southern coastal part of the County (see Exhibit 1a). The primary land use in the vicinity is agriculture, and most of the area is designated for agricultural uses (see Exhibit 1c). Other land uses include single family residences, landfills, a jail, and farm worker housing (see Site and Surrounding Uses Map, Exhibit 1b). The current active landfill site is approximately 72 acres (of which 56 are permitted for landfilling) (see Exhibit 4a). The adjacent, pre-1986 landfill area is 62 acres (of which 37 were used for landfill purposes). One of these County-owned parcels also includes an additional 93 acres containing a County jail (see A-3-SCO-90-85).

b. Subject Site

According to a County staff report describing the location subject to this appeal, "at least 90% of the parcel has been cultivated in recent years. About 9% supports riparian habitat and a eucalyptus grove. A single-family dwelling and accessory buildings are located near the center of the property." A biologic report prepared for the project enumerates uses on the 70-acre site as: 63 acres of commercial agriculture, 2 acres of improved and unimproved drainages and wetland, 4 acres of eucalyptus grove, and 1 acre of structures. The site is designated "Agricultural" on the *Santa Cruz County General Plan and Local Coastal Program* land use map with an "Agricultural Resource" overlay and is zoned "CA" (Commercial Agriculture) (see Exhibit 1c). The sloping site contains three riparian corridors: a seasonal stream (referred to as the East Channel) and two tributaries (referred to as the North and South Channels); which in turn are tributary to Gallighan Slough, which is part of the Watsonville Slough system emptying into the Pajaro River mouth. (see Exhibits 1d and e)

The actual proposed project area is about 20 acres consisting of a ravine, recently farmed on both sides, with a remnant riparian corridor (the South Channel) in the center. Additionally, an area by one of the other riparian corridors (East Channel) on the site would be subject to restoration (see Exhibit 3c). Also, an area on adjacent County property is proposed for wetland restoration (see Exhibit 3d).

This is a County-sponsored project. The 70 acre parcel is currently owned by Mr. and Mrs. John Rocha and leased to farmers. If the Commission acts favorably toward the County on the appeal, the County would conclude negotiations to purchase the entire site. Once

purchased, an Open Space easement covering the site would be extinguished, pursuant to State law.

2. Subject Permit Request

The proposed project is described in the County staff report as a temporary stockpile of approximately 1.25 million cubic yards of material on 20 acres of the subject site. The material would come from the approved, active landfill operating across the street (pursuant to County coastal permit #83-1503). Under that permit, sand and rock are being excavated to create pits (identified as modules) in which to deposit refuse. Under the current proposal, the excavated material would be sent overhead across the road to the subject site on a conveyor that will be temporarily installed for about two years (see Exhibit 3b). This stockpile would include drainage facilities and other erosion control, utilizing surface drainage ditches, a buried underdrain system, a sedimentation basin, and revegetation (see Exhibit 3a). The material would then be gradually trucked back across the road to the landfill site to be used as cover. Once all the stockpile is removed from the subject site (in 20 years), it will be graded to a gentler contour to be available as farmland once again.

The proposed project also includes riparian and wetland restoration at two locations (see finding #3b below for a fuller description of this project component and Exhibits 3c and d).

3. Previous Permit and LCP Amendment

The current active landfill was approved by the County in May 1985 (County coastal permit 83-1503). (An appeal, A-3-SCO-85-42, of the County's coastal permit was withdrawn before any hearing, rendering the County action final.) The 72 acre land area was designated in part "Quarry" and in part "Agriculture," and in fact contained both a quarry and farmland, in addition to riparian and wetland vegetation. In order to facilitate that project, the Coastal Commission approved a local coastal program amendment (#1-85) to redesignate the quarry portion to "Public Facilities" and to allow interim sanitary landfills on agricultural land (see *County Code* Section 13.10.639 in Exhibit 2b).

The land was purchased from Granite Construction Company. The purchase agreement allows the company to continue mining the sand and gravel until May 2002. However, according to the County, this stockpile project is needed because Granite Construction has not excavated sufficient material from the existing landfill; to date only .2 million cubic yards out of approximately 1.7 million. Therefore, since Granite has not taken the material away, the County must find a place to store it.

B. Analysis of Project Consistency with Local Coastal Program**1. Appellants' Contentions**

The appellants' contentions can be categorized into four issues: agricultural, habitat, general siting, and visual. Following are quotes or paraphrases of their contentions:

a. Agricultural Issues

With regard to agricultural issues, the Commissioner appellants contend:

The coastal permit allowing the proposed stockpile on agricultural land does not meet all of the Local Coastal Program County Code Section 13.10.639 requirements for interim use of agricultural land for sanitary landfill purposes; specifically there is not evidence (and findings were not made) that the maximum amount of agricultural land is being maintained through "[d1] phasing the non-agricultural use, [d2] utilizing any non-agricultural areas available first, ..[and d5] rehabilitating other areas such as former landfill sites for agricultural use." Although the permit is for twenty years, there is a lack of specificity about how the site will be returned to agricultural use and the mechanisms for ensuring it.

The community appellants contend that the project is not a priority for use of the site; under the local coastal program agricultural use is a priority. Thus, they cite a conflict with objective 2.22 and policy 2.22.1, as follows:

LCP Objective No. 2.22 (Coastal Dependent Development)

This proposed project is in conflict with the objective within the LCP to ensure that priority for coastal-dependent and coastal-related development is given over other development. This project would remove approximately 20 acres of coastal strawberry production as well as a riparian habitat area and would degrade and otherwise compromise other such similar properties and their related activities in the vicinity, in favor of a 20 acre stockpile of soil. This is in direct contrast to the intent of the above noted objective because the project would actually displace rather than give priority to coastal-related and coastal-dependent uses. With the approval of this project, priority has been given to development that is neither coastal-related nor coastal-dependent and in fact may be considered an undesirable use within the coastal zone.

LCP Policy No. 2.22.1 (Priority of Uses within the Coastal Zone)

The proposed project is in conflict with the policies within the LCP which maintain a hierarchy of land uses priorities within the Coastal Zone, categorizing agriculture as a first priority. This project would displace and negatively impact coastal agricultural and therefore does not support the intent of this policy.

These appellants also contend that the County permit approval violates the following local coastal program policies:

- LCP Objective No. 5.13 (Commercial Agriculture Land)
- LCP Policy No. 5.13.5 (Principally Permitted Uses on Commercial Agricultural (CA) Zoned Land)
- LCP Policy No. 5.13.6 (Conditional Uses on Commercial Agricultural (CA) Zoned Land)
- LCP Policy No. 5.13.20 (Conversion of Agricultural Land)
- LCP Policy No. 5.13.23 (Agricultural Buffers required)
- LCP Policy No. 5.13.26 (Windbreaks)
- LCP Program (c) (Oppose expansions ... in Coastal Zone)

b. Habitat Issues: Wetlands and Riparian Corridors

With regard to habitat issues the Commissioner appellants contend:

The coastal permit allowing the proposed stockpile to completely fill a riparian corridor and wetland seep does not meet all of the Local Coastal Program County Code Section 16.30.060 exception requirements; specifically there is not convincing evidence that [d4] the riparian corridor is not being reduced or adversely impacted" and that there is no feasible less environmentally damaging alternative" and [d5] that the objectives of the Local Coastal Program Land Use Plan are being met. The objectives of the Land Use Plan do not extend to condoning complete removal of a wetland and riparian corridor and if they could be so interpreted would require more comprehensive restoration planning and mitigation assurances than contained in the permit. Again, although the permit is for twenty years, there is a lack of specificity about how the filled wetland and riparian area will be restored.

The community appellants contend that the project is in basic contrast to the Conservation and Open Space Element and its goals of Natural and Cultural Resources protection and Open Space protection. As noted above, they contend it is not a priority use, implying riparian habitat is a higher priority. The appellants also contend that the project approval violates the following provisions:

Biological Resources

- LCP Objective No. 5.1 (Biological Diversity)
- LCP Policy No. 5.1.1 (Sensitive Habitat Designation)
- LCP Policy No. 5.1.2 (Definition of Sensitive Habitat)
- LCP Policy No. 5.1.3 (Environmentally Sensitive Habitats)
- LCP Policy No. 5.1.4 (Sensitive Habitat Protection Ordinance)
- LCP Policy No. 5.1.6 (Development within Sensitive Habitat)
- LCP Policy No. 5.1.7 (Site Design and Use Regulations)
- LCP Policy No. 5.1.10 (Species Protection)

- LCP Objective No. 5.2 (Riparian Corridors and Wetlands)
- LCP Objective No. 5.2.2 (Riparian Corridor and Wetland Protection Ordinance)
- LCP Objective No. 5.2.3 (Activities within Riparian Corridor and Wetlands)
- LCP Program (a) (Maintain and Enforce a Riparian and Wetland Protection ordinance...)
- LCP Program (b) (Coordinate with CDFG)

Water Resources

- LCP Objective 5.7 (Maintain Surface Water Quality)
- LCP Policy No. 5.7.5 (Protecting Riparian Corridors ...)

Hydrological, Geological and Paleontological Resources

- LCP Policy No. 5.9.2 (Protecting Significant Resources throughout Easements and Land Dedications)

c. General Siting Issues

Beyond the specific agricultural and habitat policies, the community appellants contend more generally that the proposed project is in conflict with other siting and land use priority policies of the Local Coastal Program. They argue that the stockpile should be sited in an area where public roadways and drainages are adequate (pursuant to policy 2.1.4) and where orderly, balanced utilization of coastal resources is assured (pursuant to objective 2.23), as follows:

LCP Policy No. 2.1.4 (Siting of New Development)

This proposed project is in conflict with siting of new development policies for the coastal zone because this type of project is most suitably sited where public roadway and drainage systems are adequate rather than where they are degraded, as is the condition in the project vicinity. Additionally, this project will have significant adverse effects, both individually and cumulatively, on environmental and natural resources, including coastal resources.

LCP Policy No. 2.23 (Conservation of Coastal Land Resources)

This proposed project is in conflict with the objective within the LCP to ensure orderly, balanced utilization and conservation of Coastal Zone resources because it would eliminate, negatively impact and compromise Coastal Zone resources rather than conserve them. The removal of the open space easement on this property (rezoned from CA-O to CA) is also in direct conflict with this policy because it undermines an established conservation plan for the area.

The community appellants, furthermore, argue that the proposed project is in basic contrast to the purpose of the Conservation and Open Space Element of Santa Cruz County in that it will negatively impact biological, water, visual, open space, and air quality resources, as well as result in noise and traffic (in addition to the agricultural and habitat impacts discussed above.) Specifically, they contend, "the removal of the open space easement on this property (rezoned from CA-O to CA) is also in direct conflict with this policy [2.23] because it undermines an

established conservation plan for the area." They also cite conflict with policy 5.9.2 and Open Space program "a."

d. Visual Resource Issues

With regard to this final issue, the community appellants contend that the project is in conflict with the following visual resource and scenic road policies:

Visual Resources

- LCP Objective 5.10a (Protection of Visual Resources)
- LCP Objective No. 5.10b (New Development within Visual Resource Areas)
- LCP Policy No. 5.10.2 (Development within Visual Resource Areas)
- LCP Policy No. 5.10.3 (Protection of Public Vistas)
- LCP Policy No. 5.10.5 (Preserving Agricultural Vistas)

Scenic Roads

- LCP Policy No. 5.10.10 (Designation of Scenic Roadways)
- LCP Policy No. 5.10.11 (Development Visible from Rural Scenic Roads)
- LCP Policy No. 5.10.13 (Landscaping requirements)
- LCP Policy No. 5.10.23 (Transmission Lines and Facilities)

2. Local Coastal Program Provisions

There are two relevant governing local coastal program components certified by the Coastal Commission: the coastal land use plan which is the *1994 General Plan and Local Coastal Program for the County of Santa Cruz* and the implementation plan which includes portions of the *County Code* and the zoning maps. A project must be consistent with all relevant provisions of the local coastal program in order for it to be permitted. The following are quotations or paraphrases of the provisions which the appellants contend are not being following with regard to the proposed stockpile.

a. Agricultural Provisions

The *1994 General Plan and Local Coastal Program for the County of Santa Cruz* is strongly supportive of agriculture as follows:

- Objective 2.22 is, "to ensure priority for coastal-dependent and coastal-related development over other development on the coast."
- Policy 2.22.1 says to "maintain a hierarchy of land use priorities within the Coastal Zone: First Priority: Agriculture and coastal-dependent industry...."
- Policy 2.22.2 states, "Prohibit the conversion of any existing priority use to another use, except for another use of equal or higher priority."

The subject site is designated "Commercial Agriculture" in the *Santa Cruz County General Plan and Local Coastal Program*. The purpose of this land use category is to maintain such designated lands for exclusive agricultural use. (*General Plan* objective 5.13) Landfills are not listed as a principal permitted use under policy 5.13.5. Interim public uses are conditionally allowed under policy 5.13.6, if sited to avoid conflicts with principal agricultural activities in the area and sited to avoid or otherwise minimize removal of land from production. The *County Code* amplifies this by specifically allowing sanitary landfills as interim uses that meet the following criteria:

- ⇒ the site is rehabilitated upon cessation of the landfill use;
- ⇒ water quantity and quality available to the area is not diminished;
- ⇒ land use conflicts with adjacent agriculture are prevented; and
- ⇒ the maximum amount of agricultural land as is feasible is maintained in production by:
 - ⇒ phasing the non-agricultural use,
 - ⇒ utilizing any non-agricultural areas available first,
 - ⇒ utilizing lower quality soils (e.g., Class III) instead of or before higher quality soils (e.g., Classes I or II),
 - ⇒ employing means of reducing the area necessary for the interim public use such as resource recovery, and
 - ⇒ rehabilitating other areas such as former landfill sites for agricultural use (*Code* Section 13.10.639; see Exhibit 2b).

Additionally, discretionary uses (such as interim landfills) on CA-zoned land must:

- ⇒ enhance or support continued agriculture;
- ⇒ not restrict or adversely affect current agriculture;
- ⇒ be ancillary to the agricultural use or be a non-agricultural use only if no other agricultural use is feasible;
- ⇒ not conflict with on-site or area agriculture;
- ⇒ remove no land or as little land as possible from production (*Code* Section 13.10.314).

Other agricultural policies cited by the appellants as relevant include:

- Policy 5.13.20: sets strict circumstances for allowing conversions to non-agricultural uses, including: that the land is not viable for agriculture, that the land does not meet the criteria for commercial agriculture, and that conflicts with nearby agriculture will not be created.
- Policy 5.13.23: generally requires a 200 foot buffer area between commercial agricultural and non-agricultural land uses.
- Policy 5.13.26: requires buffers to include windbreaks.

- Program (c): opposes expansion of municipal boundaries which would include commercial agricultural land.

b. Wetlands and Riparian Corridor Provisions

The Local Coastal Program provisions in question include the following: Objective 5.1 is,

to maintain the biological diversity of the County through an integrated program of open space acquisition and protection, identification and protection of plant habitat and wildlife corridors and habitats, low-intensity and resource compatible land uses in sensitive habitats and mitigations on projects and resource extraction to reduce impacts on plant and animal life.

The Local Coastal Program has provisions requiring protection of riparian areas and wetlands; which are defined as environmentally sensitive habitats (under policies 5.1.2 and 5.1.3). They must be delineated and biotic reports must be prepared. Sensitive habitat provisions include:

- Policy 5.1.3 allows only uses dependent on resources in these habitats unless:
 - ⇒ other uses are consistent with habitat protection policies and beneficial to the public;
 - ⇒ the project approval is legally necessary to allow a reasonable economic use of the land;
 - ⇒ any adverse environmental impact will be completely mitigated; and
 - ⇒ there is no feasible less-damaging alternative.
- Policy 5.1.4 requires complying with the Sensitive Habitat Protection ordinance (Chapter 16.32 of the *County Code*).
- Policy 5.1.6 states in part,

Sensitive habitats shall be protected against any significant disruption of habitat values; and any proposed development within or adjacent to these areas must maintain or enhance the functional capacity of the habitat. Reduce in scale, redesign, or, if no alternative exists, deny any project which cannot sufficiently mitigate significant adverse impacts on sensitive habitats...

- Policy 5.1.7 contains the following provisions relevant to a stockpile:
 - ⇒ (c) "require easements, deed restrictions or equivalent measures to protect that portion of a sensitive habitat on a project parcel which is undisturbed by a proposed development activity,"
 - ⇒ (e) "limit vegetation removal to the minimum amount necessary; prohibit landscaping with invasive or exotic species."
- Policy 5.1.10 states in part, "Recognize that habitat protection is only one aspect of maintaining biodiversity and that certain wildlife species,...may not utilize

specific habitats. Require protection of these individual rare, endangered and threatened species..."

The following *1994 General Plan and Local Coastal Program for the County of Santa Cruz* provisions specifically address riparian corridors and wetlands:

- Objective 5.2 is "to preserve, protect and restore all riparian corridors and wetlands for the protection of wildlife and aquatic habitat, water quality, erosion control, open space, aesthetic and recreational values and the conveyance and storage of flood waters."
- Objective 5.7 is "to protect and enhance surface water quality in the County's streams, coastal lagoons and marshes by establishing best management practices on adjacent land uses."
- Policy 5.2.2 says to follow the Riparian Corridor and Wetland Protection ordinance (Chapter 16.30 of the *County Code*) to ensure no net loss of riparian corridors and riparian wetlands.
- Policy 5.2.3 states that "development activities, land alteration and vegetation disturbance within riparian corridors and wetland required buffers shall be prohibited unless an exception is granted per the Riparian Corridor and Wetlands Protection ordinance."

The County has to make Riparian Exception findings of:

- ⇒ special circumstances affecting the property,
- ⇒ necessity for proper function of an existing or permitted activity;
- ⇒ not being injurious to downstream or other nearby property;
- ⇒ not reducing nor adversely impacting the riparian corridor;
- ⇒ there being no less environmentally damaging alternative;
- ⇒ and meeting local coastal program objectives (*County Code* Section 16.30.060).

LCP programs "a" and "b" call for funded programs to protect, revegetate, restore and increase acres of riparian corridors and wetlands. Policy 5.7.5 requires drainage facilities to protect water quality for all new development within 1,000 feet of riparian corridors.

c. General Siting Provisions

The *1994 General Plan and Local Coastal Program for the County of Santa Cruz* provisions that the appellants contend are not followed state in part:

- 2.1.4: Locate new residential, commercial, or industrial development within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on environmental and natural resources, including coastal resources.

- 2.23: To ensure orderly, balanced utilization and conservation of Coastal Zone resources, taking into account the social and economic needs of the people of Santa Cruz County.
- 5.9.2: Encourage and obtain where possible Open space Easements or other forms of land dedication to conserve as open space those areas containing hydrological, geological, or paleontological features of significant scenic or scientific value.
- Open Space program a: Continue using open space and conservation easements and other methods to help preserve urban and rural open space areas...

d. Visual Resources

The following *1994 General Plan and Local Coastal Program for the County of Santa Cruz* provisions address scenic protection in general:

- Objective 5.10b is to ensure that new development is appropriately designed and constructed to have minimal to no adverse impact upon identified visual resources.
- Policy 5.10.2 requires projects to be evaluated against the context of their unique environment to protect these resources (e.g., agricultural fields).
- Policy 5.10.3 requires protection of significant public vistas "from all public roads by minimizing disruption of landform and aesthetic character caused by grading operations... Provide necessary landscaping to screen development which is unavoidably sited within these vistas..."
- Policy 5.10.5 requires preserving the aesthetic value of agricultural vistas and encourages development to be consistent with the agricultural character of the community.

The following *1994 General Plan and Local Coastal Program for the County of Santa Cruz* provisions address scenic roads:

- Policy 5.10.10 designates Buena Vista Drive as a scenic road.
- Policy 5.10.11 requires new development in the viewsheds of rural scenic roads to be sited out of public view, obscured by natural landform and/or existing vegetation.
- Policy 5.10.13 requires all grading and land disturbance projects visible from scenic roads to blend contours of the finished surface with the adjacent natural

terrain and landscape and incorporate only appropriate characteristic or indigenous plant species.

- Policy 5.10.23 requires transmission facilities to minimize impacts on significant public vistas and to avoid locations which are on or near sensitive habitat, whenever feasible.

3. Local Government Action:

Santa Cruz County approved the proposed stockpile project with conditions on June 9, 1998. The Board of Supervisors made coastal zone permit, development permit, riparian exception, development on agriculturally-zoned properties, and California Environmental Quality Act (CEQA) findings (see Exhibit 2a). The County approval addresses each of the issues raised in this appeal in the following ways.

a. County Agricultural and General Siting Findings and Conditions

The County approval is for twenty acres of agricultural land to be used for stockpiling fill from the adjacent landfill site over the next 20 years. Conditions allow fill removal from the site without loss of native topsoil. The stockpile must be removed after 20 years. The County approved the project as similar enough to a landfill to fall under the category "publicly owned and operated landfill, as an interim use." The County made the four findings necessary under Section 13.10.314 of the *County Code* to allow development on property designated "CA" as well as addressed the specific findings required under Section 13.10.639 to allow interim landfills (see Exhibit 2b). The gist of the County's findings is that 40 acres of the 70 acre site will continue in farming, that nearby agricultural will not be impacted, and that after 20 years farming will return to the 20 acre stockpile area after the area is recontoured to a more level topography and native topsoil is put back in place, thus resulting in improved agricultural viability and less potential erosion (see Attachment 2 of Exhibit 2a).

County acquisition of the subject site will result in termination of the Open Space Easement now covering it. Thus, the County will be rezoning the site to eliminate the "O" overlay district which is placed on parcels with open space easements (the "CA" Commercial Agricultural district remains; this does not constitute a local coastal program amendment because certification of the County's zoning map did not include the "O" overlays). In making the rezoning findings (technically, distinct from the coastal permit findings subject to this appeal), the County states that the, "soil management project was not foreseen when the property was placed under Open Space Easement contract...The project is now necessary for the use of Modules 4 and 5 of the Buena Vista landfill..." The project EIR found no cumulative impacts on agricultural land in the area, because the proposed use is temporary. Specific findings to the general siting policies cited by the appellants were not made.

b. County Wetlands and Riparian Corridor Findings and Conditions

The County conditionally approved the project which involves filling a .29 acre, 1,020 foot-long drainage swale with a .5 acre freshwater seep at its head (see Exhibits 1d and 2a). This area is considered jurisdictional wetlands under the U.S. Army Corps of Engineers' guidelines. The County findings justify allowing the project in wetlands and riparian areas by saying that the requisite exception findings can be made based on the following: the subject riparian area is degraded; it splits property constraining use that could be made of property; the stockpile needs an amount of area that encompasses the riparian corridor; higher quality riparian area on the parcel is preserved (not impacted by the stockpile); new habitat is created along an historical drainage course and three new wetland ponds are created resulting in a doubling of the existing habitat acreage; the functional capacity of main stream channel is maintained; and the habitat's functional capacity will increase (see Attachment 2 of Exhibit 2a).

No federally-listed endangered species have been discovered at the project site to date, but their presence must be surmised in the absence of undertaking more extensive biologic study. Thus, the County is requesting an "incidental take permit" from the U. S. Fish and Wildlife Service. Along with the project EIR and its Supplement, a *Biological Assessment for Santa Cruz Long-Toed Salamander and California Red-legged Frog* (November 1997) was prepared which delineates the possible habitat, calculates the loss, and includes a mitigation plan (mitigation at 2:1; resulting in 1.65 acres of new habitat as well as native species buffers to them; measures to save any salamanders or frogs that may be in the area and prevent them from entering the work site). The east channel will be enhanced by widening, lessening the gradient with a series of check dams, modifying the course to allow it to meander, and being vegetated (see Exhibit 3c). Also, three small seasonal ponds (totaling 0.4 acres) will be created on County-owned property adjacent to the subject site (see Exhibit 3d).

The coastal permit as conditioned by the County requires: following the mitigation plan; undertaking the restoration prior to any stockpiling occurring, under the supervision of a wetland specialist; and placing each restoration area under a biotic preservation easement. Other conditions include obtaining necessary approvals from the California Department of Fish and Game, U.S. Army Corps of Engineers, and U.S. Fish and Wildlife Service. There is already evidence in the County permit file of consultation with Fish and Game and the Army Corps, although those agencies' approvals are not yet final. Other permit conditions address impacts from adjacent uses on the habitats: remaining agriculture on-site is to be set back at least 30 feet from the channel bank; sedimentation into the channel is to be prevented; protection is to occur during closure operations; and fencing is allowed.

The County approval also allows for a replacement culvert under Buena Vista Drive if necessary.

c. County Visual Resource Findings and Conditions

The County approval is for a stockpile project that would essentially transform a ravine into a mound for 20 years. The maximum height would be 164 feet (existing grade is about 50 to

140 feet elevation). The approval also includes an enclosed 20 foot high, 300 foot long conveyor structure over Buena Vista Drive for a two year period, with attached stationary sections. Policy consistency is covered in the EIR for the project; but only two of the seven policies cited by the appellants are explicitly addressed. The EIR finds the proposed project, with the riparian planting and revegetation of the stockpile, consistent with policy 5.10.3 and with policy 5.10.11, if the conveyor facility includes an "old covered bridge" style facade." The EIR also concludes, "although the project is located within a designated scenic roadway, the road segment in the project area is not of the character and quality of the defining visual elements that resulted in the scenic designation." County permit findings indicate that "the project is consistent with the Coastal Zone Design Criteria in that it will not create a significant visual impact,...no ocean views nor important vista will be affected.. and the entire site will be restored at the termination of this 20-year project." Development permit findings indicate that "the proposed project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects...of the neighborhood in that the soil stockpile will retain the open space nature which occurs on the surrounding agricultural and public facility properties."

4. Substantial Issue Analysis and Conclusion

The County approval raises a substantial issue on three levels. First, the local coastal program contains several provisions that simply do not sanction a stockpile that eliminates a riparian corridor and wetland seep and/or alters the area's scenic agricultural vistas (see section a below). Second, even if these policies could somehow be interpreted as possibly condoning such a use on the subject, the County would first, at a minimum, have to prove that the site in question is the only possible location for the stockpile and that it can be no smaller nor be in place for a shorter duration; i.e., the County must demonstrate that there are no feasible, less impacting alternatives. As described below (see section b), that proof is lacking. Finally, even were such proof forthcoming and convincing, it is not clear that the County has done all that it can to retain and maximize agriculture and/or enhance habitat in the area. For this subject case, there appear to be additional measures the County could have and should have taken (see section c below).

a. Integrity of the Riparian Corridor, Wetland, and Scenic Vista

Riparian and Wetland: The County has taken liberties with its Riparian Exception provisions in order to approve this project. Almost all of the local coastal program riparian and wetland policies cited above call for preservation of these habitats and limit uses to those that will preserve the habitats, echoing Coastal Act mandates. The one deviation is the Riparian Exception provision which allows for exceptions to these policies to be granted. However, the Riparian Exception is limited in its application. Required Exception finding 4 states in part, "that the granting of the exception...will not reduce or adversely impact the riparian corridor." This suggests, for example, that a project could be approved that intrudes into a required riparian or wetland buffer, but not adversely into the riparian corridor or wetland itself. And required Exception finding 5 states in part, "that the granting of the exception is in accordance

with the purposes of this chapter...,” which are, pursuant to Section 16.30.010 of the *County Code*, “to eliminate or minimize any development activities in the riparian corridor in order to preserve, protect, and restore riparian corridors for: protection of wildlife habitat; protection of water quality; protection of aquatic habitat...” This suggests, for example, that a project could actually be approved within a riparian corridor or wetland, which does not compromise the habitat. However, these sections should not be read to allow a use to actually obliterate the habitat. In this case, the County has so interpreted these sections, as the subject permit allows the South channel riparian corridor and wetland seep to be totally eliminated. There is required mitigation to enhance a section of the degraded East channel riparian corridor, that, while worthy, allows the subject South channel corridor to be lost forever. A temporary drainage is to be placed alongside the stockpile, but it is not being designed with riparian vegetation. At project’s end, it will be removed and the entire area will be regraded. This action will also permanently destroy the wetland seep, unless it reemerges on its own. The seep is not required to be restored and no protection is built into the permit were it to reappear. Therefore, a substantial issue is raised as to compliance with the local coastal program’s riparian and wetland policies.

Scenic Vistas: The County has not made the case that the proposed project meets its local coastal program scenic protection policies. The applicable policies cited above call for maintaining agricultural vistas, minimizing landform alterations caused by grading operations, and siting new development in the viewsheds of rural scenic roads out of public view. While an exception to specific Coastal Zone Design Criteria can be granted (pursuant to *County Code* Section 13.20.130(a)3, a finding must still be made that “the project will be consistent with the Visual Resource Policies of the General Plan and Local Coastal Program Land Use Plan.” The County made such a finding, but nevertheless the project EIR itself identifies a significant visual impact due to stockpile height, exposed soil, topographic change, and presence of heavy equipment. It goes on to indicate that the proposed riparian mitigation would result in screening vegetation and that the proposed erosion control would result in vegetation of the stockpile. However, that riparian planting would take several years to mature, and the stockpile, for most of its estimated 20 year life, will be subject to daily altering, thus, compromising the vegetation cover (first 2 to 2.5 years for depositing material, last 10 or so years for removing material). Thus, the “mitigations” fall far short of the policy direction which is against such a massive grading and landform alteration occurring at all. The EIR assertion that the area does not warrant the scenic protection afforded by the local coastal program suggests that a review of the LCP policies may be in order, but unless and until they are changed, they remain in effect. The Commission would have to be presented with convincing evidence in order to approve such an amendment. Thus, a substantial issue is raised as to compliance with the local coastal program’s scenic resource policies.

b. Alternatives to Stockpiling on Scenic Agricultural Land With Sensitive Habitat

A substantial issue is also raised regarding the consideration of possible alternatives. Assuming that the local coastal program could be interpreted to allow for the proposed project as a temporary use on the subject site, alternatives would first have to be found to be infeasible. The local coastal program Riparian Exception provisions require finding that “there

is no feasible less environmentally damaging alternative," and the provisions to allow interim use of agricultural land for landfills require using any non-agricultural areas available first. Additionally, this site is protected by an Open Space Easement, whose integrity should be upheld if possible under cited Open Space Program "a."

As described below, the County did examine some alternatives, but the analysis is incomplete and not yet convincing that the subject project is the only feasible solution to the problem of where to put the material to be excavated for landfill purposes. There are possible ways to reduce the need to use this scenic agricultural land with its riparian corridor for a stockpile for some 20 years. These include reducing the volume to be stockpiled, storing more material on-site, and/or stockpiling on an alternative site.

Reducing the Volume to be Stockpiled: The County record indicates that up to 1.6 million cubic yards of material has to be excavated, (minus whatever amount will have been used for cover and taken by Granite since that early 1997 estimate). As noted, Granite Construction has the right to this material until the May 2002. Granite has indicated that the material is not of high quality and its use is limited to subbase. The company indicates that it has tried to maximize mining and selling the material over the years; therefore, there appears to be no way to accelerate removal of the material. Since the current landfill has been in operation beginning in 1985, .207 million cy were taken for an annual average of .015 million cy. The amount removed varies annually; last year for example, 0.34 was used, due to a major levee repair project. The County acknowledges that Granite may continue to take material, but asks to be permitted to stockpile an amount assuming Granite will not take any more.

The County permit could address ways to divert excess material beyond 2002 so it does not have to be stockpiled in an inappropriate location. Since the County needs to excavate only one module immediately, the amount of future excavation and hence stockpiling could be reduced if Granite's contract is extended to allow the company to take more material in the interim. Even allowing Granite to take material once it is stockpiled may prove beneficial in reducing the temporal or physical extent of the stockpile. As a rejoinder, the County indicated that it did not want to part with any more material because it is needed for landfill cover. The current estimate is a surplus of only .15 million cy and any surplus could simply be added to the final cover layer. The County has indicated that it needs about 50,000 cubic yards per year for cover, which would translate into about 1 million cy over the life of the landfill, plus about .36 million cy for final cover. However, the County has also indicated that over time it has been and plans to continue reducing the amount of material needed for interim cover (e.g., by daily covering the refuse with tarps instead of soil). Also, over the course of the next twenty years the County may receive excess fill from construction sites that could be used for cover. Thus, pursuit of a program to periodically recalculate cover material needs and aggressively seek to dispose of excess is worthy.

On-site Retention: The County landfill area already comprises 134 acres consisting of 62 acres of previous closed landfill and 72 acres of current landfill, of which 56 acres are actually for refuse disposal (the remaining perimeter area includes the landscaped slopes to the landfill and the entry recycling area). The current landfill consists of five modules: #1 and #2 are

filled, #3 is active and expected to be filled by 2000, and #4 and #5 remain to be excavated and filled in the future (see Exhibit 4a). As of October 1997, an estimated 1.54 million cubic yards of material has to be excavated from future modules #4 and 5 at the existing landfill. Of this excavated material, the County has maintained that, based on safety factors, only .35 million cy can be stored on-site on modules #1- 3, after module #3 is closed (see Exhibit 4b). This leaves up to 1.19 million cubic yards to stockpile off-site (1.1 million cy from #4 and .09 million cy or less from #5).

However, it may be that more material can be stored on modules #1- 3 and/or material could be stored on part of #3 while the remainder is still active, on module # 5, or the previously closed part of the landfill, thereby reducing off-site stockpiling. Parts of these closed areas are already graded to final contours, but some level space on top remains. Another option may be to make module #4 smaller (e.g., separate it into two modules or excavate the smaller module #5 first). Another scenario would be to return some material sooner to stockpile back on the landfill (e.g., on module #4 after it is filled). This may involve consolidating or relocating the other activities that occur on closed areas of the landfill, as described below.

In response, the County asserts that excess material can be stockpiled on-site only after module #3 is closed, which cannot occur until module #4 is excavated. They would not take a chance on stockpiling material on the part of #3 already at intermediate grade in case they needed to keep placing refuse on it beyond 2000. Also, the County indicated that splitting module #4 into two modules would cost an extra \$300,000 (for engineering and liner installation) and would be problematic in an emergency (if large amounts of material needed to be processed). As for constructing module #5 first, the County indicated that it is the site of a stormwater retention system and a stockpile of clay material and would involve just as much excavation as doing module #4 first would. As for the closed landfill, that is already being used for wood, concrete, and scrap metal waste processing. The County indicated that it could bring back some stockpiled material earlier, but not the final cover material. Overall the County has indicated that some space is needed for operational flexibility and that there just is not room on the current landfill to stockpile more material. While there are definite constraints and costs might increase, some costs associated with off-site stockpiling may be commensurately reduced. Thus, maximizing on-site stockpiling is worthy if it is at all feasible. Further evaluation of the indicated constraints is necessary before a definite conclusion as to feasibility can be made.

Alternative Sites: Assuming that there is some amount of material that still needs off-site storage, after Granite takes its material and/or on-site stockpiling is maximized, the question as to whether there is another, less problematic site (or combination of sites) on which to stockpile remains. The County did prepare an alternatives analysis (see Exhibit 5 for site locations). Some sites that the County examined are as problematic as the subject site (and since they are farther away it would be more costly to use them). These include the Harkins Slough Road site (also designated agricultural and used for grazing) and the San Andreas Road site (also designated for and in agricultural use). However, other alternatives can not be as easily dismissed.

For example, the **Trabing Road** site has possibilities. It is out of the coastal zone, designated "Rural Residential," and not in agricultural production. Unfortunately, there has not been a detailed analysis of this site's suitability. And, if found suitable, potential riparian issues would have to be addressed. Although the EIR concludes, "the level of significance of these impacts [from stockpiling on the Trabing Road site] would be similar to biological impacts identified for the proposed project [stockpiling on the Rocha site]," a full biotic evaluation has not been prepared. Also, transport costs are estimated to be significantly higher because of the greater distance involved (estimated cost of \$13.5 million to \$8.5 million for Rocha).

Another potential site is the **Watsonville City -- Gilbertson Site**. This was rejected by the County because it is only 12 acres with an estimated storage space for only .45 million cubic yards of soil, existing liability as an illegal dump site, high cost of longer transport route, and the City's lack of a firm time schedule for its current remediation efforts. The City does need .08 million cubic yards of material for the planned remediation. A County permit has been issued to the City for this work; it is currently on appeal to the Coastal Commission (A-3-SCO-98-77). This site poses some riparian/wetland issues as well, which may result in a scaling back of the amount of material needed for remediation and the maximum amount of additional material that could be stockpiled there. Nevertheless, since this site is already degraded and needs remediation, stockpiling (or permanent disposal of excess material from the County landfill) should not be so readily dismissed.

Another City of Watsonville possibility is referred to as the **City Landfill "expansion"** site. The City requested a coastal permit to expand landfill operations over this entire site. A coastal permit was granted for only part of the site at that time (originally under appeal A-3-SCO-90-98, now under County coastal permit 96-0216). The remainder of the site serves as an agricultural and habitat buffer and contains a riparian ravine. The City is required to examine consolidation and alternative locations for waste disposal operations before a permit can be considered for landfill expansion over this remainder (see below). If stockpiling could occur without disturbing the riparian area a case may be made for allowing it to occur on this part of the site instead of on Rocha in keeping with the mandate of City-County cooperation. The rest of the Watsonville site is already approved for City landfill expansion. It is currently being partially used for a detention basin and stockpiling; the part not being used may be also be available to the County at least for the short-term. The County rejected this site as being too steep and conflicting with the City's plans. Since, the City's plans are contingent on cooperation with the County and require leveling the site, it should also not be so readily dismissed.

The Community appellants have expressed support for the **Miyashita** site across the street (Harkins Slough Road) from the current landfill and currently for sale. The County concluded that the 26-acre Miyashita site was not a viable alternative because it was too small (it could accommodate only .76 million cubic yards of material). The County also is concerned that more nearby residents would be impacted by a stockpile on this site than on the Rocha site. If the amount of material that needed to be stockpiled could be reduced (see above), then this site may be viable, alone or in combination with the adjacent Love site (see appellant's proposal in Exhibit 7, Barlow letter). From an agricultural and visual resource perspective, this

site poses similar issues to the Rocha site. The special findings for interim landfill use on agriculturally-zoned lands would have to be made as it too is designated "Agriculture." Its soil types and hence agricultural capability, at least according to the *Soil Survey*, are similar to the Rocha site's, although it is more level and hence not as susceptible to erosion. Part of the site is in greenhouses, but the remainder has reportedly not been farmed in the last decade. The site would also be in the scenic view corridor of Buena Vista Drive. From a habitat perspective, this site is less sensitive and valuable than the Rocha site, according to California Department of Fish and Game personnel. A map in the 1983 EIR for the current landfill shows a riparian corridor extending onto this site, but its presence is no longer in evidence, possibly due to the fact that the landfill removed the rest of the corridor. The Rocha site is considered more biologically valuable for its potential wildlife corridor links. It is located on the (western) side of Buena Vista Road where endangered species habitat occurs and, hence, the side more favorable to species migration than the disturbed (eastern) side of Buena Vista Road (where the landfill and the Miyashita properties are located).

Conclusion: There are definite costs and constraints associated with any of these alternatives and, as noted, the dismissal of some is justified. It is also likely that there is no single, viable alternative that would substitute for the proposed stockpile. But it may be possible to combine a series of measures that would either serve as an alternative to the project or result in significantly reducing its duration or the amount of area covered. For example, were Granite to take more material and the on-site stockpile size to be increased, then the adjacent Miyashita site may be large enough to accommodate the proposed stockpile. Lacking in the County record is a thorough examination of the ways to overcome noted constraints; alternatives are too readily dismissed, given the clear intent and strength of the local coastal program's riparian and agricultural policies. The County has since provided additional input on alternatives which, on one hand, constitutes some further justification for its site rejections, but, on the other hand, still suggests some further analysis and brainstorming is in order. At this juncture, there is not yet convincing evidence to make the findings of no viable alternatives. Hence, the County approval raises a substantial issue as to conformance with the cited local coastal program provisions requiring such findings.

c. Adequacy of Measures to Maximize Farming, Maintain a Rural Area, and Preserve and Enhance Habitat

Even assuming that there are no viable alternatives to the subject project, a substantial issue is also raised because the greatest amount of land is not being kept or placed in production pursuant to *County Code* Section 13.10.639 and the riparian corridor is being reduced in conflict with Section 16.30.060. In this permit, the County comes up short by not removing the stockpile as soon as possible and guaranteeing a return to agricultural and/or habitat use and/or not returning closed landfill or other areas to production as compensatory mitigation.

If agricultural land is to be used for sanitary landfill purposes, two measures need to be considered under the *Code*: phasing the non-agricultural use and rehabilitating other areas such as former landfill sites for agricultural use. These specific requirements are reinforced by the cited provisions to use open space easements to preserve land in open space and the

overall intention of the County's Local Coastal Program to maintain the subject area in agricultural use (see Exhibit 1c). These policies are intended to avoid an incremental loss of agricultural land, and unless strictly observed can compromise the entire area's agricultural economy. The site's setting is a rural, agricultural area where nearby the County (along with the City of Watsonville) has expanded intensive public uses over the last two decades; namely, a detention center, a farm workers housing complex, and two landfills. Each project has been approved separately with any necessary exception or other special findings being made and site-specific mitigations being required. The approval of the stockpile (and the associated County acquisition of the 70 acre subject site) is another incremental step toward more intensive public facility use in an area that should stay in an open space, agricultural use, according to the County's land use plan. With each new, non-agricultural use in the area, no matter if "temporary" (especially when "temporary" can mean decades), the more susceptible the area becomes to additional conversions to non-agricultural uses, and the less likely the sites housing the "temporary" uses can or will be returned to agricultural use (e.g., methane gas recovery and cover requirements likely preclude completed landfill sites from ever being cultivated again). This concern is illustrated by noting the circumstances which give impetus to the proposed project. The County will need more landfill space in 20 or so years, and the County Public Works Director has indicated that the subject site is a candidate. Although the time needed to open a new landfill is 12 to 15 years from the start of the process, the County has yet to begin such a planning process. The County may also need more space for materials recovery. One of the reasons given for not being able to stockpile more material on site is that it is being used for some waste recovery. The subject Rocha site was considered for such a facility in 1991 (*Santa Cruz Materials Recovery Facility Final Conceptual Design Report*, October 1991). More recently the County considered other sites, also on prime agricultural land (the preferred projects took up 43 acres) (*Integrated Waste Management Facility Draft EIR*, 1996). Although those projects were dropped, the reality is that over time the County will need more room for such public utility facilities, most likely in rural areas that are overwhelmingly designated as "Agriculture." Using the Rocha site for the proposed project, absent some additional mitigation measures, sets an adverse precedent for the cumulative conversion of the area to non-agricultural uses. This is contrary to the overall approach of the local coastal program. In short, the cumulative effect of such a process is the expansion of a non-agricultural use zone in a scenic, rural, agricultural area.

On-Site (Rocha stockpile site): With regard to this site, the County is planning to purchase the whole 70 acre parcel, after which the open space easement currently on it will disappear, which is of concern to the community appellants. The Coastal Commission does not have direct authority over these actions through this coastal permit appeal process (i.e., land purchase is not subject to a coastal permit). However, the coastal permit can be a vehicle to ensure that farming is given the opportunity to continue. Although the County says it will lease the remaining part of the parcel for farming, there is no requirement to do so in the permit and no comparable restrictions to those that are in the open space easement. There is no map in the record showing where the lease area will be and hence how large it will be.

To its credit, the permit does call for the stockpile to be removed in the planned 20 years. However, recycling, new compaction technology, or other measures could extend the life of

the landfill and, hence, the date all the stockpiled material is to be returned. Extending the 20 year limit could easily be accomplished by a future permit amendment. The proposed sequencing would have the County use the material left on-site for cover before using the off-site stockpile, meaning it will remain totally in place for at least seven years. Then, the stockpile is allowed to be reduced on a daily basis as needed for cover, rather than required to be removed in phases (e.g., having a whole section removed by a date certain and restoring that segment to agricultural use). Thus, there will be substantially more site activity and alteration for about a ten-year period than would normally occur on a farm. Finally, the permit condition only requires the site to be "restored for agricultural uses;" it does not explicitly commit the County to lease or sell the land to a farmer in 20 years. The restoration consists of removing the topsoil, recontouring the site to gentler slopes, and replacing the topsoil. However, having the topsoil buried for 20 years (out of contact with organic materials) and then upsetting the soil profiles through regrading would normally be detrimental to agricultural production.

Complicating factors in this case are that the soils on the sloping Rocha site are not the most productive (they are Class IV) and the site suffers from soil erosion due to poor farming practices. Whether the site can be restored to some productive agricultural use is problematic; the recent strawberry production is not recommended for such steep slopes and marginal soils. The County record does not contain an analysis of agricultural viability of the subject site, which would logically be a prerequisite to developing a restoration plan.

Given the riparian resources on site, the open space easement and the impending County purchase, the permit should have given more attention to habitat restoration as well. The *County Code* does not give detailed guidance as to appropriate compensatory mitigation measures (e.g., no mitigation ratios are offered) if a riparian exception were to be granted. There is good reason for this. Since, as noted above, the policies do not condone habitat elimination, the need for compensatory mitigation was not anticipated in the local coastal program. Policy 5.2.2 does state that there shall be no net loss of riparian corridors, and policy 5.2.3 requires that riparian exceptions show evidence of approval from California Department of Fish and Game and U.S. Army Corps of Engineers. Thus, the proposed mitigation of 2:1 is what the County has been led to believe will be acceptable to these other agencies. This 2:1 ratio is not strictly in kind; a freshwater wetland seep will be replaced by three wetland ponds at .8 to 1, while riparian vegetation will be replaced at a little over 2:1. The riparian enhancement is of an existing degraded channel; thus while the riparian woodland acreage is doubled, the actual length of corridor will be diminished. Other factors that suggest a more substantial mitigation may be in order include: the riparian and wetland to be removed should normally be protected with 100 and 300 foot buffers, riparian vegetation on the site has been adversely affected by County maintenance actions; activities associated with the soil transport may have adverse habitat impacts beyond the direct acreage loss; and a culvert widening under Buena Vista Drive is allowed which could affect the site's hydrology. Additionally, policy 5.1.12 requires "as a condition of development approval, restoration of any area of the subject property which is an identified degraded sensitive habitat." The North Channel next to the Rocha driveway is a degraded habitat which is not addressed by the subject permit; either in terms of enhancement or of being protected by a biotic conservation

easement. Furthermore, as noted, this property has habitat value by virtue of enhancing it as wildlife corridor.

This information suggests that perhaps more of the Rocha site should be restored as a habitat area, rather than for agriculture. Also, given that erodible slopes and riparian areas exist beyond the project area, a more comprehensive restoration program makes sense. Phasing and/or integrating some excess stockpiled soil permanently into site restoration are further possibilities. The County should have explored the information and issues raised in this discussion more thoroughly and devised a mitigation/ restoration plan accordingly.

"Off-site" (Closed Landfill or other sites): With regard to nearby property, no former landfill has yet been returned to agricultural use. The previous County permit (83-1503) for the current active landfill allowed 37 acres of land to be taken out of agricultural use (20 acres of row crops and 17 of unirrigated pasture) pursuant to a concurrent Local Coastal Program amendment to allow sanitary landfills as temporary uses on "CA" (Commercial Agricultural) land. The permit was not explicitly conditioned for a return to agriculture. However, this land remains zoned "CA." This landfill has an estimated 20 more years life before it will be completely closed and available for return to agricultural use. A staff report at the time noted, "25 to 40 acres of the [then] existing landfill site could also be made available for unirrigated pasture, once fill operations in that area are completed." But, that County permit (83-1503) was not conditioned for this area to actually be returned to agricultural use. As noted, the top, level portion of that previous landfill is now used for a variety of waste processing activities. The slopes, however, have been vegetated with grasses and could possibly support some limited grazing. Thus, such a condition to at least explore a return to grazing could now be placed on the current permit to serve as compensatory mitigation for the 20 acres to be "temporarily" lost to the proposed stockpile.

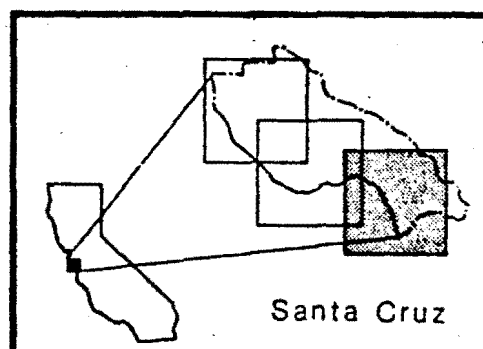
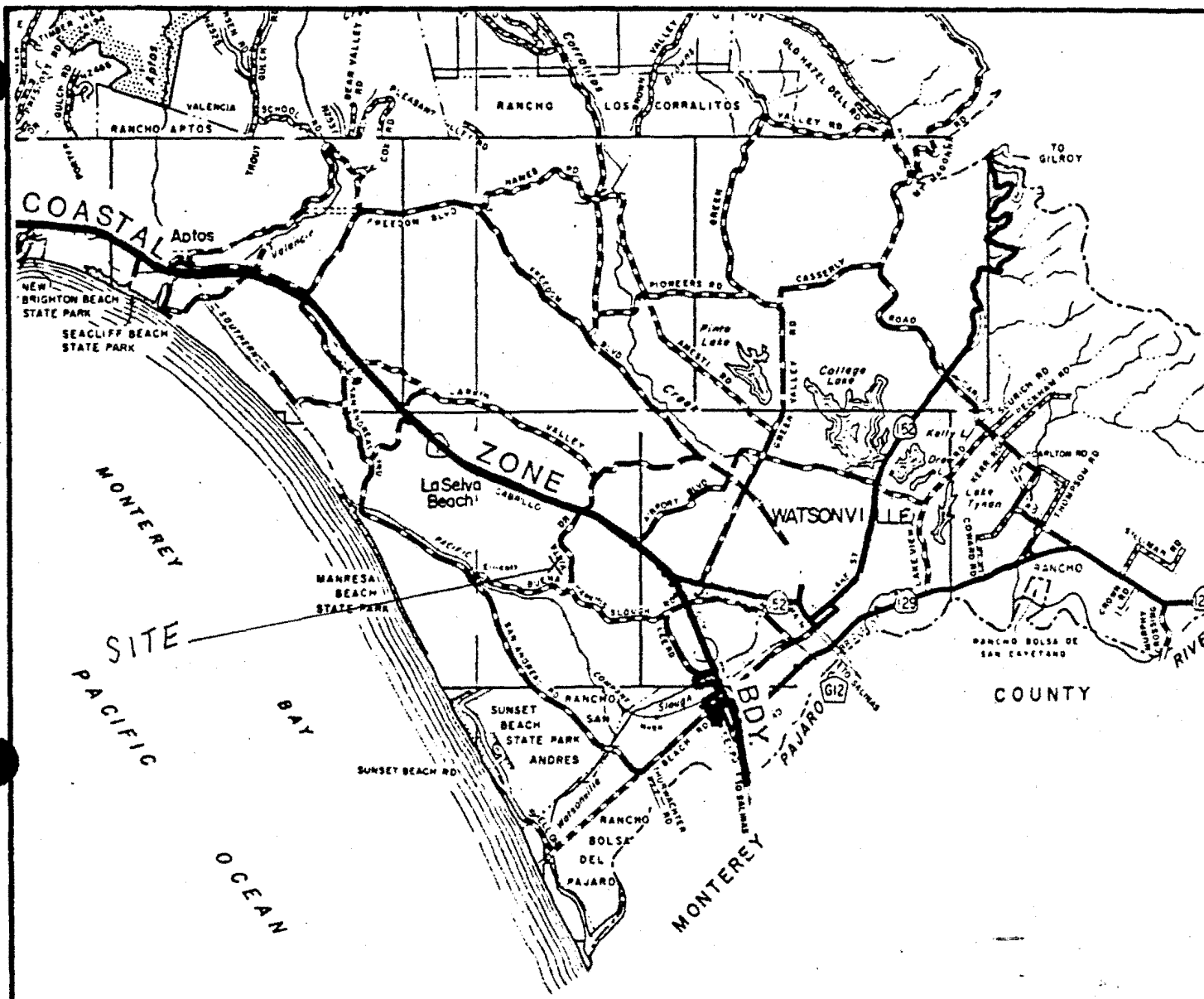
Alternatively, as compensation for the temporary loss of the subject 20 acres, the County could put back into production or enhance some production on other nearby land, if not on the remainder of the Rocha site, as suggested above. For example, the adjacent vacant Miyashita land that the community appellants prefer for a stockpile could be evaluated by the County for renewed agricultural use.

The other way to ensure preservation of agricultural land is to reduce the impetus to use these lands for public purposes. The County has an agreement with the City of Watsonville to participate in cooperative planning studies regarding source reduction, recycling, composting, other landfill diversion programs, materials recovery, integrated waste management operations including unified landfill disposal and materials and energy recovery operations, a joint methane recovery system, and interim joint landfill diversion recycling programs. In partially approving an expansion of the City of Watsonville's landfill, the County required that the City cooperate with the County in combined resource recovery efforts and all other phases of landfill operation to reduce the need to use all of the expansion site and for additional landfill sites (County coastal permit 96-0216). Furthermore, the City is required to identify a consolidated site for each of the above listed operations that, if possible, utilizes non-agricultural areas first and then lower quality agricultural soils second and then seek

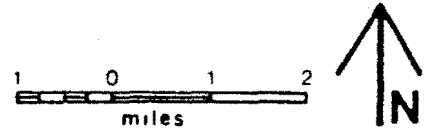
agreement with the County on ways to retain and/or return public land in the area not needed for landfill and related operations to agricultural use (with appropriate habitat buffers). While the County is continuing to cooperate with the City, the stockpile permit could have included a similar, updated condition to help ensure that the enumerated principles are following in the cooperative efforts and that the temporary facility will not become a permanent one due to any lack of City-County cooperation and alternatives analysis.

d. Conclusion

In conclusion, a substantial issue is raised at three levels. First, because the County has not preserved the integrity of the riparian corridor and wetland seep and current landform. Second, because, even if findings could be made that such preservation was not necessary, the County has not fully demonstrated that there are no less environmentally damaging alternatives. Third, because, even if such a demonstration is acceptable, the County has not maintained the maximum amount of agricultural land in production and/or maximized habitat enhancement. This would suggest that after finding substantial issue, the Commission go on to deny the coastal permit. In fact if on-site (or out-of-coastal zone) alternatives are available, no new coastal permit would be necessary. The County already has a coastal permit for operation the landfill, which includes moving material among modules. However, if on-site measures do not fully reduce the need for some off-site stockpile, then another permit would be needed. In the interest of expediency this appealed permit could possibly be conditioned for an alternative (or alternative approaches). (The Commission notes that whether this could be accomplished depends on the nature of the alternatives; some might require further deliberation or CEQA analysis first at the County level). Therefore, the Commission would leave the final permit determination to a subsequent meeting, if necessary, after more information on alternatives is made available and analyzed. The nature and location of the off-site improvements that the Commission might approve would dictate what conditions of the County approval would have to be changed and what new ones would have to be added.



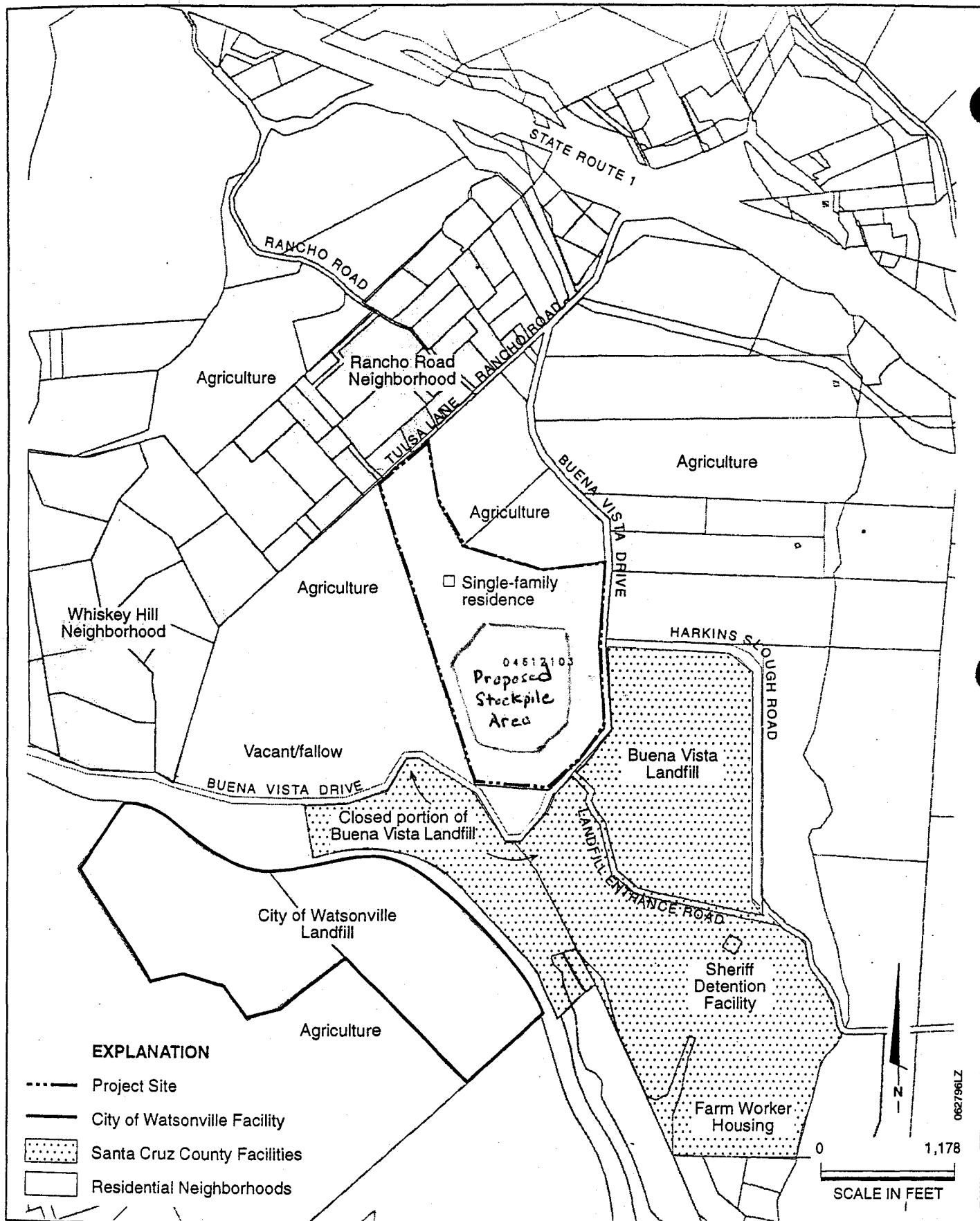
LOCATION MAP



California Coastal Commission

County of Santa Cruz

Sheet 3 of 3
Exhibit 1a
3-98-55 Stockpile



Harding Lawson Associates
Engineering and
Environmental Services

Land Use Features in the Project Vicini
Buena Vista Landfill
Soil Management Plan
Santa Cruz County, California

DRAWN
LZc

JOB NUMBER
34720 013

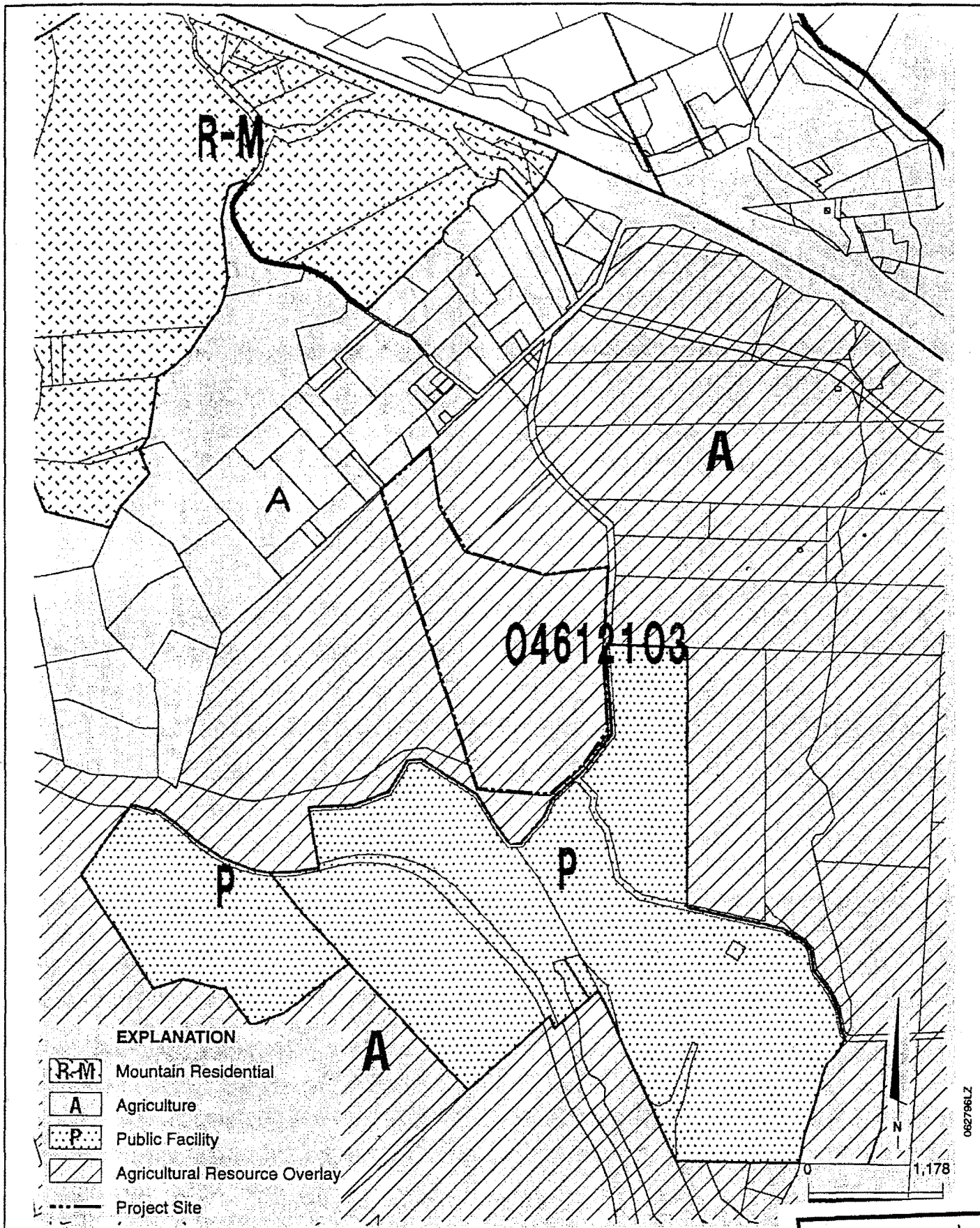
APPROVED

DATE
6/96

EXHIBIT NO. 16

APPLICATION NO.

3-98-55 Stockpile
Vicinity Land Uses



Harding Lawson Associates
Engineering and
Environmental Services

DRAWN
LZc

JOB NUMBER
34720 013

General Plan Land Use Design
Buena Vista Landfill
Soil Management Plan
Santa Cruz County, California

APPROVED

DATE
6/91

EXHIBIT NO. 1c

APPLICATION NO.

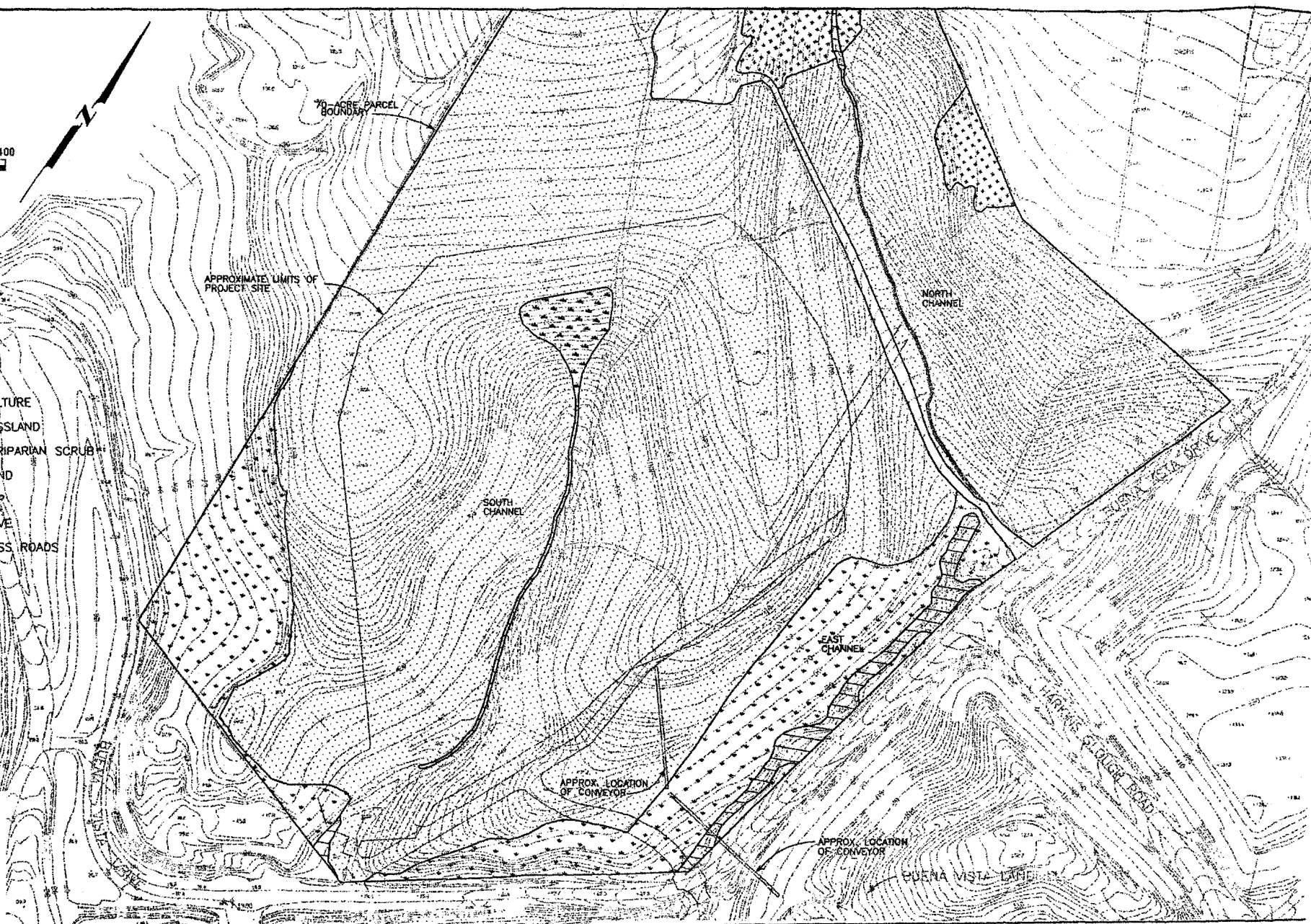
3-98-55 Stockpile
General Plan

200 400
SCALE IN FEET

EXPLANATION

- RURAL/AGRICULTURE
- NON-NATIVE GRASSLAND
- CENTRAL COAST RIPARIAN SCRUB
- EMERGENT WETLAND
- FRESHWATER SEEP
- EUCALYPTUS GROVE
- DEVELOPED/ACCESS ROADS

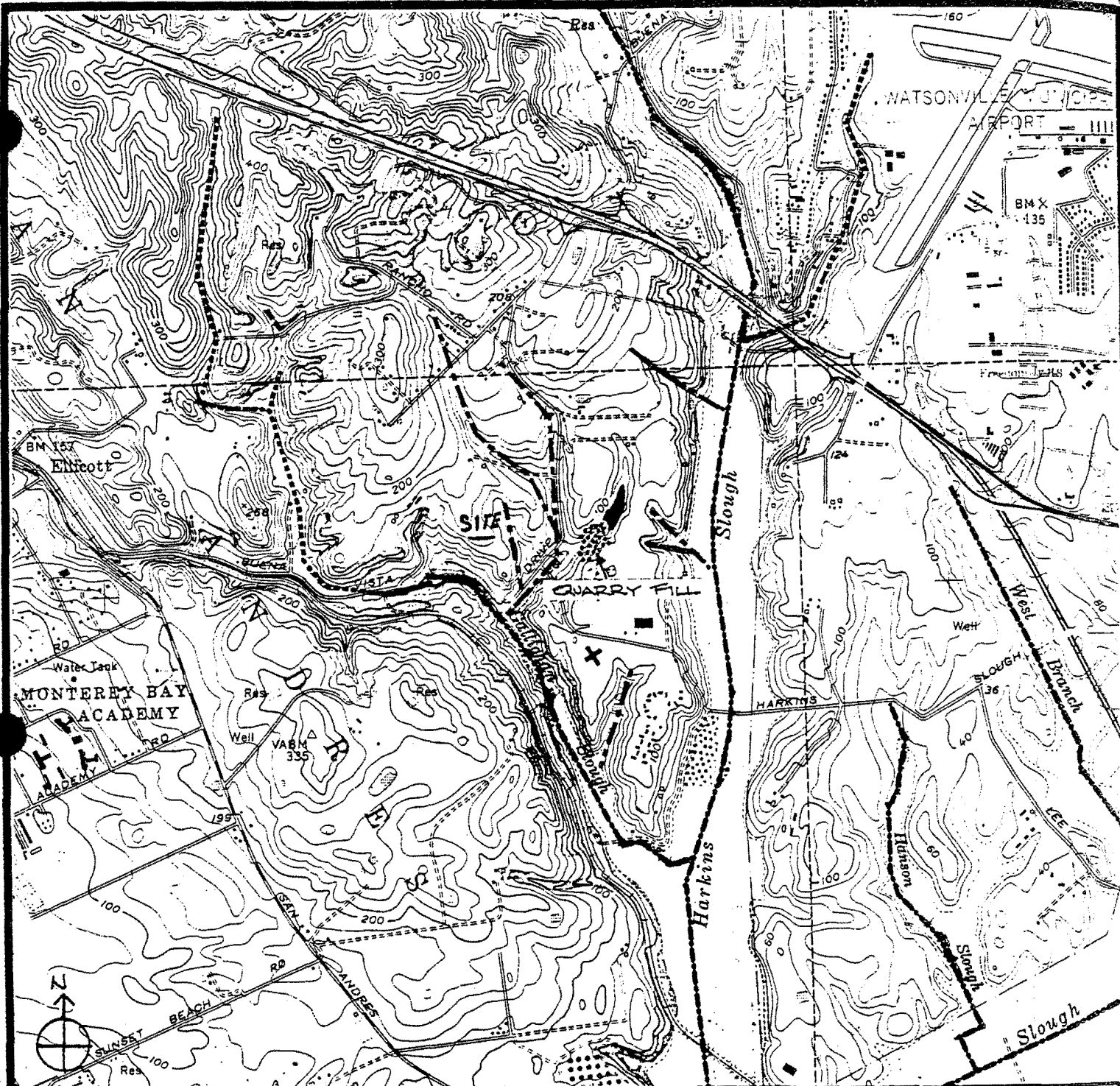
EXHIBIT NO. 1d
APPLICATION NO.
3-98-55 Stockpile
Site Habitats



Harding Lawson Associates
Engineering and
Environmental Services

Vegetation Map
Buena Vista Landfill
Soil Management Plan
Santa Cruz County, California

| | | | | |
|--------------|-------------------------|----------|---------------|-----|
| DRAWN CEG | JOB NUMBER 34720 018 | APPROVED | DATE 11/97 | REV |
|--------------|-------------------------|----------|---------------|-----|



SCALE 1:24,000

LEGEND

- Perennial Stream or Slough
- - - Intermittent Stream
- ... Ephemeral Swale
- Seasonal Wetland

CONTOUR INTERVAL 20 FEET
DASHED LINES REPRESENT HALF INTERVAL CONTOURS

SOURCE: JC

SURFACE DRAINAGE

EXHIBIT NO. 1e

APPLICATION NO.

3-98-55 Stockpile

Area Wetlands/Riparian



**FINAL LOCAL
ACTION NOTICE**
COUNTY OF SANTA CRUZ
Planning Department

REFERENCE # 3-500-98-037
APPEAL PERIOD 6/12-6/25/98
**COASTAL ZONE/RIPARIAN
EXCEPTION PERMIT**

Owner John & Violet Rocha
Address 1232 Buena Vista Dr.
Freedom, CA 95019

Permit Number 97-0309
Parcel Number(s) 046-121-03

PROJECT DESCRIPTION AND LOCATION

Proposal to stockpile approximately 1.25 million cubic yards of earth to facilitate the planned expansion of the County's Buena Vista landfill and to rezone the subject property from the "CA-O" (Commercial Agriculture with Open Space Easement Contract) to the "CA" (Commercial Agriculture Zone district. Property located on the west side of Buena Vista Drive at its intersection with Harkins Slough Road in the San Andreas planning area.

SUBJECT TO ATTACHED CONDITIONS.

Approval Date: 6/9/98

Effective Date: 6/19/98

Exp. Date (if not exercised): 6/19/00

Coastal Appeal Exp. Date: Call Coastal Comm.

Denied by: _____

Denial Date: _____

This project requires a coastal zone permit which is not appealable to the California Coastal Commission. It may be appealed to the Planning Commission. The appeal must be filed within 10 calendar days of action by the decision body.

- ☒ This project requires a Coastal Zone Permit, the approval of which is appealable to the California Coastal Commission. (Grounds for appeal are listed in the County Code Section 13.20.110.) The appeal must be filed with the Coastal Commission within 10 calendar days of receipt by the Coastal Commission of notice of local action. Approval or denial of the Coastal Zone Permit is appealable. The appeal must be filed within 10 calendar days of action by the decision body.

This permit cannot be exercised until after the Coastal Commission appeal period. That appeal period ends on the above indicated date. Permittee is to contact Coastal staff at the end of the above appeal period prior to commencing any work.

A Building Permit must be obtained (if required) and construction must be initiated prior to the expiration date in order to exercise this permit. **THIS PERMIT IS NOT A BUILDING PERMIT.**

By signing this permit below, the owner agrees to accept the terms and conditions of this permit and to accept responsibility for payment of the County's costs for inspections and all other actions related to noncompliance with the permit conditions. This permit shall be null and void in the absence of the owner's signature below.

R. Patrick Mathen
Signature of Owner/Agent for Public Works
Jim Tschacht
Staff Planner

June 9, 1998
Date
June 9, 1998
Date

Distribution: Applicant, File, Clerical, Coastal Commission

RECEIVED

JUN 11 1998

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

EXHIBIT NO. 2a

APPLICATION NO.

3-98-55 Stockpile

County Permit

County of Santa Cruz Public Works Department
Applic. No.: 97-0309
A.P.N.: 46-121-03

**COASTAL ZONE/RIPARIAN EXCEPTION PERMIT
CONDITIONS OF APPROVAL**

Permit No. 97-0309

Applicant and Property Owner: County of Santa Cruz Parks, Public Works Department for John and Violet Rocha.

Assessor's Parcel Numbers 46-121-03

Property Location: West side of Buena Vista Drive opposite its intersection with Harkins Slough Road, San Andreas Planning Area.

EXHIBITS:

Exhibit A - Project Plans dated August 1997 consisting of 4 sheets:

Sheet 1: Intermediate Grading Plan View
Sheet 2: Final Grading Plan View
Sheet 3: Drainage Details
Sheet 4: Conceptual Grading Cross-Sections

Exhibit B - Wetlands and Riparian Mitigation Plan, dated September 1997, consisting of 3 sheets:

Sheet D-1: Conceptual Planting Plan of East Channel Site
Sheet D-2: Conceptual Grading Plan of East Channel Site
Sheet D-3: Conceptual Grading and Planting Plan of the Seasonal Wetland Site, dated September 1997

Exhibit C - Mitigation Monitoring and Reporting Program, dated September 1997

CONDITIONS:

A. GENERAL REQUIREMENTS AND APPROVALS FROM OTHER AGENCIES

1. This permit authorizes the stockpiling of material excavated from the County Buena Vista landfill and the construction of associated drainage improvements for a period of 20 years. This project will be implemented in two phases specified below:

- a. Phase 1: Stockpiling of approximately 1.1 million cubic yards of earth.
- b. Phase 2: Stockpiling of approximately 150,000 cubic yards of earth.

Permit conditions corresponding to mitigation measures from the project's Environmental Impact Report are identified with a capital letter and number in parentheses at the end of the condition. (e.g., S-1a). Such conditions are addressed in the monitoring program (Exhibit C), which specifies required monitoring activities for these particular permit conditions.

2. All soil material from the Buena Vista landfill shall be transported to the project site by a conveyor system to be constructed overhead Buena Vista Drive. The design of this conveyor system shall replicate that shown on Plate 5.3-2 of the Draft EIR prepared for this project so the conveyor is fully enclosed in a rustic appearing structure which has a pitched roof. The only

material that may be transported to the site by vehicles shall be limited to clay material derived from off-site sources which is necessary for clay lining of modules 4 and 5 of the Buena Vista landfill. The conveyor system shall be completely removed within three months of all soil material being transported to the project site. This conveyor system shall be regularly maintained so it functions in good working condition without generating significant volumes of noise. The use of the conveyor shall not increase the hourly average (Leq) of ambient noise more than 9 dBA for any property beyond the project site or the Buena Vista landfill.

3. Prior to any project work occurring on the site, the Public Works Department shall obtain the approvals from the following and federal agencies:
 - a. Streambed Alteration Agreement from the California Department of Fish and Game (CDFG);
 - b. All necessary approvals from the CDFG regarding compliance with the California Endangered Species Act;
 - c. NPDES permit from the Regional Water Quality Control Board;
 - d. Clean Water Act Section 404 Individual Permit from the U.S. Army Corps of Engineers; and
 - e. All necessary approvals from the U.S. Fish and Wildlife Service regarding compliance with Section 7 of the Federal Endangered Species Act.
 4. If the approval of any of the agencies specified in Condition A.3 above results in significant changes to the project, the Public Works Department will immediately notify the Planning Department and make an application for a permit amendment so the required revisions can be reviewed by the Planning Commission at a regularly scheduled public hearing. If the revisions are acceptable to the Planning Commission, this permit shall be amended to reflect the changes to the project that have been generated by other agency requirements. If the Commission has concerns regarding any significant project revisions required by other agencies, the County's consideration of the permit amendment shall be continued until issues of concern can be resolved between the County and federal or state agency requiring the revision.
 5. Agricultural activities that will occur on the property beyond the 20-acre project site shall be conducted in a manner that do not generate accelerated erosion or damage any riparian habitat. Specifically, all crop cultivation proximate to the intermittent drainage at the northern end of the property shall occur no closer than 30 feet from the top of the channel bank and shall include measures to prevent sedimentation of this drainage channel.
- B. Prior to commencement of any site preparation work (except for biotic restoration) or deposition of fill material at the project site, the Public Works Department shall complete the following:
1. Additional engineering shall be undertaken during final project design to define soil properties and assess slope geometry to achieve an adequate factor of safety against instability. Final construction documents should include detailed specifications for site preparation and fill placement. (S-1a)
 2. Additional drainage features shall be incorporated into the final subdrain system design to minimize the risk of slope failure from hydrostatic pressure buildup caused by groundwater

seepage. The design should be flexible, allowing modification during construction to address actual field conditions. (S-1b)

3. Final project design shall include designing facilities and grades to accommodate the anticipated settlement or reducing the settlement. (S-2)
4. A design-level geotechnical investigation should be conducted of alluvial soils near the toe of fill slopes and at debris basin locations. All recommendations of the geotechnical investigation shall be incorporated into the final project plans. (S-3)
5. Project site drainage facilities shall be designed to resist seismic ground shaking forces to prevent damage during the design earthquake. (S-5)
6. The final design of the proposed project shall incorporate requirements of the County of Santa Cruz Grading Ordinance, Erosion Control Ordinance, County Design Criteria, and the Construction Activities General Permit. (H-1a)
7. The design of sedimentation basins shall incorporate erosion protection across exposed slopes to reduce the potential for erosion and possible failure of the berms during storm events.

The design capacity of the southern ravine sedimentation basin shall be increased to accommodate the anticipated reduction in capacity caused by ongoing sedimentation in the basin. In addition, a sediment removal schedule should be developed to maintain the storage capacity of the basins. This schedule shall be specified on the final project plans. (H-1b and H-1c)

8. A monitoring program shall be developed and implemented to assess project-related erosion and sedimentation of downstream drainages. The program should include the process for implementing any remedial measures if turbidity levels exceed standards set by the Regional Water Quality Control Board. (H-1d)
9. The final engineered drainage plans shall incorporate culverts with sufficient capacity to accommodate 100 year storm flows from the contributing watershed. (H-2)
10. If replacement of the culvert is required for reconstruction of the Buena Vista Drive crossing, the final design shall incorporate a culvert with sufficient capacity to convey runoff generated by a 100-year storm event. (H-3)
11. The County or its contractor shall develop a site specific spill response plan and a routine maintenance and inspection program to minimize the risk of release of hazardous materials. The spill response plan and its inspection program shall be approved by the County Environmental Health Service. A copy of the approved plan shall be retained by both Public Works and Environmental Health. (H-4)
12. The existing grades of the entire stockpiling area shall be surveyed and mapped to provide the necessary data to allow fill material to be removed from the site without loss of native topsoil. All survey data and mapping shall be retained by the Public Works Department and followed by excavation crews when fill material is being returned to the Buena Vista landfill. (Also see conditions F.1 - F.3).
13. Biotic Preservation Easement documents shall be implemented as described in Condition C.3.

- C. Biotic restoration, to compensate for project riparian impacts, shall be conducted in the following manner.
1. Final working drawings based on the conceptual wetland/riparian mitigation plan, specified as Exhibit B of this permit, shall be prepared and approved prior to any site preparation work on the project site. The final plans shall be approved by County Planning, California Department of Fish and Game and the U.S. Army Corps of Engineers. (B-1)
 2. Biotic restoration work shall be implemented according to the approved mitigation plan (Exhibit B) and the final working drawings prior to soil stockpiling activities occurring on the site. All restoration work shall be conducted under the supervision of a wetland botanist or wetland/riparian restoration specialist approved by the County Planning and Public Works Departments. (B-1)
 3. The two areas to be set aside and restored for biotic mitigation purposes shall be placed under two separate biotic preservation easements. Both easement documents shall require the protected land be permanently preserved as natural riparian and wetland habitats. The two easement documents shall be prepared according to the format required by County Counsel. Both documents shall be reviewed and approved by County Counsel and County Planning staff prior to formal approval by the Board of Supervisors and recordation. Both documents shall be recorded prior to the commencement of any site preparation work for this project.
- D. Prior to any soil stockpiling occurring, the Public Works Department shall complete the following:
1. Measures shall be implemented to increase sight distance for vehicles leaving the project site to minimum of 660 feet in both directions. These measures could include trimming of trees and brush, tree removal, and grading back of steep slopes adjoining the roadway. Equipment crossing warning signs shall be posted north and southwest of the Buena Vista Drive crossing. The intersection of the project access road and Buena Vista Drive shall be a two-way stop controlled intersection with a stop sign posted at both legs of the access road so project traffic must stop to give Buena Vista Drive traffic the right-of-way. (T-1)
 2. A final design (structural Section) for the Buena Vista Drive crossing shall be developed in accordance with requirements of the Santa Cruz County Roadway Design Criteria and the Caltrans Highway Design Manual. This new crossing shall be constructed according to the approved plans. (T-2)
 3. Sufficient paving length shall be provided on both sides road approaches to minimize mud/gravel tracking on Buena Vista Drive. In addition, project personnel should sweep any accumulated mud or gravel from Buena Vista Drive at regular intervals each day (if needed). (T-3)
 4. Implement the wetland and riparian mitigation plan to provide partial screening of the stockpile. (T-4)
 5. All drainage facilities shall be installed according to the requirements specified in conditions B.1-B.10 above. All installation work shall occur during May 1 to October 1.
- E. All stockpiling activities shall comply with the following operational measures:
1. To ensure that air quality impacts from dust emissions are less than significant, the following operational measures shall be implemented:

- a. Water trucks shall water exposed surfaces (loading site and unpaved roads) on a continual basis every work day when there is no natural precipitation to keep dust generation from occurring;
 - b. Watering intensity shall be 1 liter/square meter;
and
 - c. Maximum vehicle speeds shall be 15 MPH when vehicles are full and 30 MPH when vehicles are empty. (AQ-1)
 2. Muffling and other typical noise operational conditions of heavy equipment shall be continuously implemented to assure that noise impacts would be less than significant. (N-1)
 3. Any new noise attenuation techniques that are developed in the future and are applicable to this project shall be used to the maximum extent feasible to reduce noise impacts to surrounding properties.
 4. All vehicular use and soil stockpiling and grading shall occur between 8:00 a.m. to 5:00 p.m., Monday through Saturday.
 5. From October 15 to April 15 of each year, winter erosion control measures shall be employed. At minimum, these measures shall include:
 - a. Hydroseeding all slopes greater than 15% and areas not receiving fill material during the rainy season period;
 - b. Regrading all unsurfaced roads on the site to drain into roadside collector ditches; and
 - c. Recomposition of all unsurfaced roads on the site.
 6. All stockpiled material shall be limited to material that will be used as cover or liner material at the Buena Vista landfill. Material not used for this purpose shall not be transported to nor deposited at the project property. This restriction shall not limit the transport and use of agricultural soil amendments on the portion of the property retained in for agricultural crop and livestock production.
 7. The Public Works Department shall establish vegetation on barren surfaces of the stockpile to prevent surface erosion. (T-4)
- F. Use of the existing dwelling and use of the area remaining for agricultural crop and/or livestock production shall comply with the following:
1. The dwelling shall not be used as a maintenance facility. Residential use and/or office use related to the project is permitted.
 2. No vehicles shall use Tulsa Lane to access the site.
- G. Project closure shall include the following requirements:
1. All stockpiled soil shall be removed from the site 20 years from the date stockpiling first occurred (approximately 20.5 years from the date of permit approval).

2. The site shall be restored for agricultural uses by implementing a final grading/restoration plan as described in Condition G.3. Final plans for the recontouring and restoration of the project shall be reviewed and approved by County Planning staff prior to cessation of soil stockpiling use on the site.
3. Following the removal of fill from the project site, the site shall be graded to achieve final contours with gradients less than 20 percent. The site shall be covered with a layer of topsoil at least as deep as is currently present on the site.

Recovering the site with native topsoil after recontouring activities have been completed will require the temporary grading and stockpiling of native topsoil from those areas where recontouring will occur. Finished grades will facilitate crop production. Closure activities shall prevent any impacts from occurring on land protected by biotic preservation easement. If necessary, temporary construction fencing shall be installed 10 feet or more beyond the western edge of this protected land to prevent closure/recontouring activities from encroaching into the easement area.

- H. This project shall be reviewed in public hearing by the Board of Supervisors one year after the commencement of site preparation work (e.g. the installation of drainage facilities) associated with the project.

I. MITIGATION MONITORING PROGRAM

The mitigation measures listed in Exhibit C have been incorporated into the conditions of approval for this project in order to mitigate or avoid significant effects on the environment. As required by Section 21.081.6 of the California Public Resources Code, a monitoring and reporting program for the above mitigations is hereby adopted as a condition of approval for this project. The monitoring program is specifically described following each mitigation measure listed below. The purpose of this monitoring is to ensure compliance with environmental mitigations during project implementation and operation. Failure to comply with the conditions of approval, including the terms of the adopted monitoring program, may result in permit revocation pursuant to Section 18.10.462 of the Santa Cruz County Code.

MINOR VARIATIONS WHICH DO NOT CHANGE THE CONCEPT OR OVERALL DENSITY OF THIS PERMIT MAY BE APPROVED BY THE PLANNING DIRECTOR AT THE REQUEST OF THE APPLICANT OR THE PLANNING STAFF.

NOTE: This permit shall expire within two years from date of issuance unless it has been exercised.

stock4/pln453

Required Special Findings for Level 5 (or Higher)
Development on "CA" and "AP" Zoned Properties
County Code Section 13.10.314 (a)

Required Findings:

1. THAT THE ESTABLISHMENT OR MAINTENANCE OF THIS USE WILL ENHANCE OR SUPPORT THE CONTINUED OPERATION OF COMMERCIAL AGRICULTURE ON THE PARCEL AND WILL NOT REDUCE, RESTRICT OR ADVERSELY AFFECT AGRICULTURAL OPERATIONS ON THIS AREA.

The placement of 1.25 million cubic yards of earth material on this property is an interim use and all fill material will be removed 20 years after the placement of fill material commences. The project has been conditioned to require fill removal be done in a manner that retains all native topsoil on the site. The project has also been conditioned to require recontouring steep portions of the property to reduce 16-30% slopes that now exist on the property in order to make the property more agriculturally viable. This recontouring, to occur at project closure, will be done in a manner that temporally stockpiles native stockpile for respreading on the recontoured areas of the site. These measures ensure that the long-term agricultural viability of the parcel will not be jeopardized. In fact, these measures will improve the viability of the parcel for all forms of agricultural production at project closure. This improved viability over the long-term will compensate for the temporary loss of agricultural production on the parcel during the 20-year time period of the project.

2. THE USE OR STRUCTURE IS ANCILLARY, INCIDENTAL OR ACCESSORY TO THE PRINCIPAL AGRICULTURAL USE OF THE PARCEL,

OR

NO OTHER AGRICULTURAL USE IS FEASIBLE FOR THE PARCEL.

This interim use is incidental to the row crop use of the parcel because it will allow agricultural uses to continue on the 40-acre portion of the site beyond the soil stockpile area and the entire parcel will be available for agricultural uses at the end of the 20-year project period. The project has also been conditioned to require recontouring of the site to improve the slopes for agricultural production at project closure. This beneficial recontouring would not occur without the project. Both this closure activity and the stockpiling and soil management methods will prevent the continuation of serious erosion problems that presently occur on the property and reduce its agricultural viability.

3. THAT SINGLE-FAMILY RESIDENTIAL USES WILL BE SITED TO MINIMIZE CONFLICTS, AND THAT ALL OTHER USES WILL NOT CONFLICT WITH COMMERCIAL AGRICULTURAL ACTIVITIES ON SITE, WHERE APPLICABLE, OR IN THE AREA.

The project will not construct any new dwelling or buildings. The existing dwelling on the parcel will be maintained and the stockpile/soil management area will be located 700 feet from the dwelling area. The stockpile activities will not impact surrounding agriculture. The soil management area will be separated from the nearest agricultural parcel by 600 feet. Deposited soil will be compacted and watered to prevent significant amounts of dust generation that could affect nearby crops.

County of Santa Cruz Public Works Department
Application. No.: 97-0309
A.P.N.: 46-121-03

4. THAT THE USE WILL BE SITED TO REMOVE NO LAND FROM PRODUCTION (OR POTENTIAL PRODUCTION) IF ANY NON-FARMABLE POTENTIAL BUILDING SITE IS AVAILABLE.

OR

IF THIS IS NOT POSSIBLE, TO REMOVE AS LITTLE LAND AS POSSIBLE FROM PRODUCTION.

The project has be sited and designed to allow the 40-acre portion of the 70-acre parcel, which is most distant from the Buena Vista landfill, to remain in agricultural production during the life of this project. The 20-acre project area is the minimum area needed to contain the 1.25 million cubic yards of soil excavated from the landfill. Ten acres of the site consist of riparian habitat and dense eucalyptus grove. These habitat areas are not included in the previously stated acreages.

COASTAL ZONE PERMIT FINDINGS

1. THAT THE PROJECT IS A USE ALLOWED IN ONE OF THE BASIC ZONE DISTRICTS, OTHER THAN THE SPECIAL USE (SU) DISTRICT, LISTED IN SECTION 13.10.170(d) AS CONSISTENT WITH THE LUP DESIGNATION.

Although the soil stockpile use proposed by this project is not specifically listed in the uses chart for the "CA" zone district, the County Board of Supervisors has determined that this use is so similar to the use of a "publicly owned and operated landfill as an interim use" that it falls under the category for that type of use which is specified in the Uses Chart for the "CA" zone district as a conditionally allowed use in the zoned district. This determination is based on the following factors: 1. The use is limited to 20 years; 2. The site will be restored to agricultural use at the end of the 20-year project period; 3. The purpose of the project is to allow the County's Buena Vista landfill to function as planned and without the project it is doubtful the landfill could to continue to be used; and 4. Only fill material from the landfill will be deposited on the site.

2. THAT THE PROJECT DOES NOT CONFLICT WITH ANY EXISTING EASEMENT OR DEVELOPMENT RESTRICTIONS SUCH AS PUBLIC ACCESS, UTILITY, OR OPEN SPACE EASEMENTS.

Open Space Easement contract 75-1262, which was approved for this parcel in 1976, does not allow the type of use proposed by the project. The contract specifies that it can be terminated if the property is condemned by a public agency for a public use. The Board of Supervisors has determined that the open space easement is not necessary to ensure open space uses on this agricultural parcel and has further made a formal recommendation to the Board of Supervisors for termination of the contract under the contract's condemnation by a public agency clause. The permit has been conditioned that the approval of the project does not become operative until the Open Space Easement contract is terminated as specified by the contract.

3. THAT THE PROJECT IS CONSISTENT WITH THE DESIGN CRITERIA AND SPECIAL USE STANDARDS AND CONDITIONS OF THIS CHAPTER PURSUANT TO SECTION 13.20.130 ET SEQ.

The project is consistent with the Coastal Zone Design Criteria in that it will not create a significant visual impact; biotic restoration will include only those species that are compatible with the native riparian vegetation; no ocean views nor important vista will be affected; the most significant natural drainage feature will be retained and the entire site will be restored at the termination of this 20-year project.

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4. THAT THE PROJECT CONFORMS WITH THE PUBLIC ACCESS, RECREATION, AND VISITOR-SERVING POLICIES, STANDARDS AND MAPS OF THE LOCAL COASTAL PROGRAM LAND USE PLAN, SPECIFICALLY SECTION 4, 5, 7.2 AND 7.3, AND, AS TO ANY DEVELOPMENT BETWEEN AND NEAREST PUBLIC ROAD AND THE SEA OR THE SHORELINE OF ANY BODY OF WATER LOCATED WITHIN THE COASTAL ZONE, SUCH DEVELOPMENT IS IN CONFORMITY WITH THE PUBLIC ACCESS AND PUBLIC RECREATION POLICIES OF CHAPTER 3 OF THE COASTAL ACT COMMENCING WITH SECTION 30200.

The project is located on land designated for agricultural uses. No public recreation nor visitor-serving use designations occur on the project parcel or surrounding parcels. Public access and recreation and visitor-serving objectives of the Local Coastal Program will not be affected by the project.

5. THAT THE PROPOSED DEVELOPMENT IS IN CONFORMITY WITH THE CERTIFIED LOCAL COASTAL PROGRAM.

The County Board of Supervisors has determined that the project is a use that is consistent with the agricultural policies of the Local Coastal Program, specifically Policy 5.13.6, because it is an interim public use which does not impair the long-term agricultural viability of the parcel; the 20-acre use is ancillary to the row crop use on the 70-acre parcel; the location, design and operation of the project will not affect agricultural operations in the area and the project has been sited to allow agricultural production to occur on the contiguous northern and western portions of the site. The project is consistent with the Biological Resource policies of the LCP, specifically Policy 5.1.6 because the disruption of riparian habitats will be sufficiently mitigated by the implementation of professionally designed biotic restoration plan that replaced lost habitat at a 2:1 ratio. Air Quality policies have been met, specifically Policy 5.18.1, by incorporating maintenance measures that ensure this new development is consistent with the requirements of the Monterey Bay Unified Air Pollution Control District. Further, the project has been designed and/or conditioned to meet technical requirements to prevent erosion, slope stability and seismic hazards. Therefore, the LCP policies for Seismic Hazards, Slope Stability and Erosion have been met.

DEVELOPMENT PERMIT FINDINGS:

1. THAT THE PROPOSED LOCATION OF THE PROJECT AND THE CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY, OR WELFARE OF PERSONS RESIDING OR WORKING IN THE NEIGHBORHOOD OR THE GENERAL PUBLIC, AND WILL NOT RESULT IN INEFFICIENT OR WASTEFUL USE OF ENERGY, AND WILL NOT BE MATERIALLY INJURIOUS TO PROPERTIES OR IMPROVEMENTS IN THE VICINITY.

The location of the Buena Vista stockpile project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity in that the project is located in an area designated for agricultural uses and the Board of Supervisors has determined that the temporary stockpile use for a public purpose is consistent with the conditionally permitted uses in the agricultural zone districts as long as the long-term viability of the property for the production of crops and livestock is not impacted. The project is conditioned to rehabilitate the land for crop and livestock production at the closure of this project.

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2. THAT THE PROPOSED LOCATION OF THE PROJECT AND THE CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL BE CONSISTENT WITH ALL PERTINENT COUNTY ORDINANCES AND THE PURPOSE OF THE ZONE DISTRICT IN WHICH THE SITE IS LOCATED.

The project site is located in the "CA" zone district. The proposed location of the project and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the "CA" zone district in that the primary use of the property will be the cultivation of row crops; and a secondary use will be a publicly owned and operated soil stockpile as an interim use which will rehabilitate the land for the production of crops and livestock when the project ceases in 20 years.

3. THAT THE PROPOSED USE IS CONSISTENT WITH ALL ELEMENTS OF THE COUNTY GENERAL PLAN AND WITH ANY SPECIFIC PLAN WHICH HAS BEEN ADOPTED FOR THE AREA.

The project is located on a parcel with an "Agriculture" land use designation. The Board of Supervisors has determined that the project is consistent with all elements of the General Plan in that the project is a major grading activity that is necessary for the continued functioning of the Buena Vista landfill and the project is similar enough to publicly owned and operated landfills which are conditionally permitted interim uses in all agricultural zone districts. The use is not located in a hazardous or environmentally sensitive area and the proposal protects natural resources by locating in an area designated for this type of project. A degraded riparian and wetland habitat will be removed by this project, but this impact will be mitigated through the implementation of a biotic mitigation plan. A specific plan has not been adopted for this portion of the County.

4. THAT THE PROPOSED USE WILL NOT OVERLOAD UTILITIES AND WILL NOT GENERATE MORE THAN THE ACCEPTABLE LEVEL OF TRAFFIC ON THE STREETS IN THE VICINITY.

The use will not generate any utility use. The project will not generate more than the acceptable level of traffic on the streets in the vicinity in that traffic associated with the project during the time the conveyor system is in use will be limited to 2 scraper vehicles crossing Buena Vista Drive/day to and from the landfill and 1 water truck crossing/45 minutes. Traffic associated with the project when the conveyor system is removed will typically be 11-12 scrapers and other vehicle crossings/day.

5. THAT THE PROPOSED PROJECT WILL COMPLEMENT AND HARMONIZE WITH THE EXISTING AND PROPOSED LAND USES IN THE VICINITY AND WILL BE COMPATIBLE WITH THE PHYSICAL DESIGN ASPECTS, LAND USE INTENSITIES, AND DWELLING UNIT DENSITIES OF THE NEIGHBORHOOD.

The proposed project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood in that the soil stockpile will retain the open space nature which occurs on the surrounding agricultural and public facility properties and has been conditioned to improve the agricultural viability of the parcel at project closure by lessening the existing steep slopes through rehabilitative grading.

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6. THE PROPOSED DEVELOPMENT PROJECT IS CONSISTENT WITH THE DESIGN STANDARDS AND GUIDELINES (SECTIONS 13.11.070 THROUGH 13.11.076), AND ANY OTHER APPLICABLE REQUIREMENTS OF THIS CHAPTER.

The proposed development is consistent with the applicable Design Standards and Guidelines of the County Code in that the existing character and patterns of land use will be preserved as discussed in finding #5 above, natural site amenities of riparian and wetland habitat are either preserved or mitigated for impacts as discussed in finding #3 above and the project includes a functional soil transport system to the project site that will not affect existing traffic patterns by use of an overhead conveyor system to transport the stockpile material from the landfill to the project site.

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RIPARIAN EXCEPTION FINDINGS

1. THAT THERE ARE SPECIAL CIRCUMSTANCES OR CONDITIONS AFFECTING THE PROPERTY.

An intermittent stream traverses the eastern edge of the parcel adjacent to Buena Vista Drive. In addition, two intermittent drainages and an associated freshwater seep traverse the center and northern portions of the property. The location of these latter two drainages, which divide the parcel into three sections, severely limit any use that could occur on the parcel if all riparian/wetland habitat is to be completely protected. As a result, these two riparian habitats have been degraded by historic agricultural activities on the site but continue to limit any proposed use to a sectional development if the drainages are to be maintained in their current form. Notwithstanding these physical characteristics of the site, only one intermittent drainage and its associated fresh water seep will be removed by this project.

2. THAT THE EXCEPTION IS NECESSARY FOR THE PROPER DESIGN AND FUNCTION OF SOME PERMITTED OR EXISTING ACTIVITY ON THE PROPERTY;

The project can only occur on a unified 20 acre area (i.e., a single block of land). The filling of one riparian area described in finding #1 above is necessary to have enough spatial area for the project without encroaching on the western portion of the property that will be conserved for row crop production.

3. THAT THE GRANTING OF THE EXCEPTION WILL NOT BE DETRIMENTAL TO THE PUBLIC WELFARE OR INJURIOUS TO OTHER PROPERTY DOWNSTREAM OR IN THE AREA IN WHICH THE PROJECT IS LOCATED;

The granting of the Exception will allow the project to go forward as well as require the implementation of a riparian restoration plan to mitigate for the loss of 0.85 acre of riparian and wetland habitat on-site. The restoration plan will replace lost habitat at a 2:1 ratio and will create expanded riparian habitat on the project parcel and an adjoining County owned parcel that will contain higher quality habitat than the degraded habitat that will be removed by the project. As such, this Exception will not be injurious to the overall habitat values or the public welfare.

4. THAT THE GRANTING OF THE EXCEPTION, IN THE COASTAL ZONE, WILL NOT REDUCE OR ADVERSELY IMPACT THE RIPARIAN CORRIDOR, AND THERE IS NO FEASIBLE LESS ENVIRONMENTALLY DAMAGING ALTERNATIVE; AND

The project has been designed to preserve the high quality riparian habitat on the parcel, which is the intermittent stream adjoining the eastern edge of the parcel along Buena Vista Drive. The required restoration plan will increase the size of the habitat substantially by creating new habitat that extends this corridor northward along its historical (pre-damaged) drainage course. In addition, a new wetland and open water body will be created on a former wetland site on an adjoining County owned vacant parcel. This plan will result in doubling the amount of riparian/wetland lost by replacing this habitat at a 2:1 ratio. This will be long-term benefit to the riparian system on the project site and the adjoining site. Another project design that would have preserved all existing riparian wetland habitat on-site would not meet the requirements of the project as discussed in finding #2 above.

5. THAT THE GRANTING OF THE EXCEPTION IS IN ACCORDANCE WITH THE PURPOSE OF THIS CHAPTER, AND WITH THE OBJECTIVES OF THE GENERAL

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**PLAN AND ELEMENTS THEREOF, AND THE LOCAL COASTAL PROGRAM
 LAND USE PLAN.**

The granting of this Exception meets the provisions of the County Riparian Corridor and Wetland Protection Ordinance (County Code chapter 16.30) and the General Plan policies for Biological Resources (Section 5-3) because non-degraded habitat on the site is preserved and the functional capacity of the main stream channel will be maintained. (Policy 5.1.6). In addition, biotic restoration will be required as a condition of project approval (Policy 5.1.12) and the implementation of the restoration plan will enhance the preserved habitat's functional capacity.

REZONING FINDINGS:

1. THE PROPOSED ZONE DISTRICT WILL ALLOW A DENSITY OF DEVELOPMENT AND TYPES OF USES WHICH ARE CONSISTENT WITH THE OBJECTIVES AND LAND-USE DESIGNATIONS OF THE ADOPTED GENERAL PLAN; AND,

The rezoning will retain the basic underlying "CA" zoning district which is consistent with the General Plan designation of "Agriculture" land use with an "Agricultural Resource" overlay. This zoning will allow the proposed soil stockpiling use as long as the stockpiling is associated with the County's Buena Vista landfill and can meet the provisions of County Code Section 13.10.639. The project has been designed and conditioned to meet these requirements.

2. THE PROPOSED ZONE DISTRICT IS APPROPRIATE OF THE LEVEL OF UTILITIES AND COMMUNITY SERVICE AVAILABLE TO THE LAND; AND,

The "CA" zoning district is appropriate for this rural area surrounded by agricultural and public landfill/refuse disposal site uses. The "CA" zoning district restricts uses to agricultural uses and interim public landfill uses, including a single-family residence and in some cases farm worker housing. These type of uses do not result in high demands on utilities, roads or community services, which are limited in the immediate area where the site is located.

3.
 - a. THE CHARACTER OF DEVELOPMENT IN THE AREA WHERE THE LAND IS LOCATED HAS CHANGED OR IS CHANGING TO SUCH A DEGREE THAT THE PUBLIC INTEREST WILL BE BETTER SERVED BY A DIFFERENT ZONE DISTRICT; OR,
 - b. THE PROPOSED REZONING IS NECESSARY TO PROVIDE FOR A COMMUNITY RELATED USE WHICH WAS NOT ANTICIPATED WHEN THE ZONING PLAN WAS ADOPTED; OR,
 - c. THE PRESENT ZONING IS THE RESULT OF AN ERROR; OR,
 - d. THE PRESENT ZONING IS INCONSISTENT WITH THE DESIGNATION SHOWN ON THE GENERAL PLAN.

The removal of the "O" combining zoning district is necessary to allow the proposed project to occur on the site. The County Public Works soil stockpile/management project was not foreseen when the property was placed under Open Space Easement contract and zoned with the "O": combining designation in 1976. The project is now necessary for the use of Modules 4 and 5 of the Buena Vista landfill which must be activated if refuse disposal can occur at the County's only landfill.

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CEQA FINDINGS:

The California Environmental Quality Act and County Environmental Review Guidelines require that when an EIR has been completed which for a project identifies one or more significant environmental effects for the project, the public agency shall not approve the project unless one or more of the following findings can be made:

1. Changes or alterations have been required in, or incorporated into the project which avoid or substantially lessen the significant environmental effect as identified to the final EIR.
2. Such changes or alternations are with the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such agency or can and should be adopted.
3. Specific economic, social or other considerations make infeasible the mitigation measures or project alternatives, identified in the final EIR.

The final Environmental Impact Report for the Public Works Soils Stockpile/Management project has identified, as significant, the impacts described below. Changes have been incorporated into the project or mitigations have been required as permit conditions which reduce all identified impacts to levels of insignificance. The project has been revised to a modified version of the EIR's Project Alternative 3B (Overhead Conveyor Alternative). The modifications to this alternative are discussed in the EIR Addendum. The Addendum also discusses why these modifications result in minor technical changes to the Alternative and do not generate new impacts or exacerbate identified impacts from that discussed in the EIR.

Project revisions and/or mitigations are described to the right of each impact listed on the following pages of these findings. All mitigation measures listed on the following pages have been incorporated into the project design or they have been made a condition of the project, except for mitigation LU-1 and measures to address cumulative impacts. Mitigation measure LU-1 has not been included in this project because the Board of Supervisors has determined the project is consistent with General Plan policy and therefore no mitigation is necessary.

Except as specified in the preceding paragraph, CEQA finding #1 pertains to all impacts on the following pages. Any additional findings pertaining to individual impacts are specified in the right-hand column of the following pages.

Mitigation measures designed to mitigate cumulative impacts generated by other projects are listed on the last 3 pages listing impacts and mitigation measures. These mitigations are either the responsibility of the City of Watsonville regarding the City's Sphere of Influence Amendment or they will be incorporated into the approval of the City/County MRF project by the County if and when that project is approved. These cumulative impact measures can and should be incorporated into the approvals for these separate projects to be approved by the City of Watsonville and/or the County.

(Findings continue on the following sheets)

CEQA Findings
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Summary of Environmental Impacts and Mitigation Measures
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SIGNIFICANT UNAVOIDABLE ADVERSE ENVIRONMENTAL IMPACTS of the project for which the decision maker must issue a "statement of overriding considerations" under Section 15093 of the State CEQA Guidelines (as amended) if the project is approved.

No significant unavoidable adverse impacts were identified.

SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACTS THAT CAN BE FEASIBLY MITIGATED OR AVOIDED of the project for which the decision maker must make "findings" under Section 15091 of the State CEQA Guidelines (as amended) if the project is approved. Residual impacts after mitigation are less than significant for these impacts.

LAND USE COMPATIBILITY/POLICY ANALYSIS

Impact LU-1. Implementation of the proposed project may be inconsistent with General Plan Policy 5.13.5.

Mitigation Measure LU-1. If the County Planning Commission determines that the proposed project is consistent with General Plan Policy 5.13.5, no impact would occur and consequently, no mitigation would be required. If the Planning Commission determines that the project is inconsistent with the General Plan, the County would be required to request a General Plan Amendment.

The Commission has determined the project is consistent with General Plan policy.

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SOILS AND GRADING

Impact S-1. Static and/or seismic instability of fill slopes could cause slope failure, resulting in sedimentation of adjoining properties, site erosion, damage to drainage facilities on and adjacent to the project site, or hazards to onsite workers.

Mitigation Measure S-1a. Additional engineering studies shall be undertaken during final project design to define soil properties and assess slope geometry to achieve an adequate factor of safety against instability. Final construction documents shall include detailed specifications for site preparation and fill placement.

Mitigation Measure S-1b. Additional drainage features shall be incorporated into the final subdrain system design to minimize the risk of slope failure from hydrostatic pressure buildup caused by groundwater seepage. The design shall be flexible, allowing modification during construction to address actual field conditions.

Impact S-2. Settlement of the ground surface during placement of fill materials (i.e., during the life of the project) could damage site facilities and disrupt site drainage.

Mitigation Measure S-2. Potential impacts associated with ground surface settlement shall be mitigated by either designing facilities and grades to accommodate the anticipated settlement or reducing the settlement.

Impact S-3. Liquefaction of soils near the toe of fill slopes or other structures could result in disruption of the fill slopes, sediment catch basins, subdrain and surface drainage facilities.

Mitigation Measure S-3. A design-level geotechnical investigation shall be conducted of alluvial soils near the toe of fill slopes and at debris basin locations.

Impact S-4. Seismic ground shaking could damage site drainage facilities.

Mitigation Measure S-4. Project site drainage facilities shall be designed to resist seismic ground shaking forces to prevent damage during the design earthquake.

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HYDROLOGY AND WATER QUALITY

Impact H-1. Surface water runoff during storm events could erode exposed soils, increasing the sediment load in project area drainage ditches and stream channels and on adjacent properties and roadways.

Mitigation Measure H-1a. The final design of the proposed project shall incorporate requirements of the County of Santa Cruz Grading Ordinance, Erosion Control Ordinance, County Design Criteria, and the Construction Activities General Permit.

Mitigation Measure H-1b. The design of sedimentation basins shall incorporate erosion protection across exposed slopes to reduce the potential for erosion and possible failure of the berms during storm events.

Mitigation Measure H-1c. A sediment removal schedule shall be developed to maintain the storage capacity of the basins.

Mitigation H-1d. A monitoring program shall be developed and implemented to assess project-related erosion and sedimentation of downstream drainages. The program shall include the process for implementing any remedial measures if turbidity levels exceed standards set by the Regional Water Quality Control Board.

Additional Finding: The EIR mitigation techniques addressing the northern ravine in Mitigation Measures H-1b and H-1 are no longer necessary because the northern ravine area has been deleted from the revised project.

Mitigation Measure H-2. The final engineered drainage plans shall incorporate culverts with sufficient capacity to accommodate 100 year storm flows from the contributing watershed.

Impact H-2. Stormwater discharge at the southeastern end of the project site could result in flooding and erosion along Buena Vista Drive if existing drainage facilities do not have sufficient capacity.

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**Summary of Environmental Impacts and Mitigation Measures
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Impact H-3. The proposed road crossing from Buena Vista Landfill to the project site could be impacted by flooding if drainage facilities were not properly designed.

Impact H-4. Releases of fuel or hydraulic fluids from construction equipment could degrade surface water quality in adjacent drainages.

BIOLOGICAL RESOURCES

Impact B-1. Implementation of the project would result in direct impacts to plant communities considered sensitive by CDFG, designated as special aquatic sites by ACOE, and protected under the County General Plan.

TRAFFIC

Impact T-1. Vehicles leaving the project site would experience restricted sight lines.

Mitigation Measures

Mitigation Measure H-3. If replacement of the culvert is required for reconstruction of the Buena Vista Drive crossing, the final design shall incorporate a culvert with sufficient capacity to convey runoff generated by a 100-year storm event.

Mitigation Measure H-4. The County or its contractor shall develop a site specific spill response plan and a routine maintenance and inspection program to minimize the risk of release of hazardous materials.

Mitigation Measure B-1. A wetland and riparian mitigation plan shall be implemented to create habitat similar to that proposed to be impacted by the project. The plan shall be approved by the County, CDFG, and ACOE and implemented prior to construction of the proposed project.

Mitigation Measure T-1. Measures shall be implemented to increase sight distance for vehicles leaving the project site to a minimum of 660 feet in both directions. These measures could include trimming of trees and brush, tree removal, grading, signalization, and/or the presence of a flag person. Equipment crossing warning signs shall be posted north and southwest of the Buena Vista Drive crossing.

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Impact T-2. Project traffic may cause degradation of Buena Vista Drive pavement.

Mitigation Measures

Mitigation Measure T-2. A final design (structural section) for the Buena Vista Drive crossing shall be developed in accordance with requirements of the Santa Cruz County Roadway Design Criteria and the Caltrans Highway Design Manual.

VISUAL RESOURCES

Impact V-1. Modification of site topography resulting from construction of the soil stockpile would adversely impact key views along Buena Vista Drive.

Mitigation Measure V-1. The County shall establish vegetation on barren surfaces of the stockpile and implement the wetland and riparian mitigation plan to provide partial screening of the stockpile.

CUMULATIVE IMPACTS

LAND USE COMPATIBILITY/POLICY ANALYSIS

Implementation of the MRF and Watsonville SOI amendment projects could result in the conversion of lands designated by the County as Commercial Agriculture (CA). Section 4.1 describes CA and other land use designations and zonings specified by the County. The proposed project would require the temporary conversion of approximately 20-acres of land designated as CA. Because the land would be restored to pre-project conditions following the 20-year project, the project would not contribute toward the long-term cumulative loss of CA land in the County.

Additional Findings: Implementation of mitigation measure LU-2 would ensure that the post-project condition of the property can support agricultural production.

3-98-55 Co. Permit (20)

ATTACHMENT 2

CEQA Findings
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Summary of Environmental Impacts and Mitigation Measures
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HYDROLOGY AND WATER QUALITY

Potential impacts to water quality from implementation of the MRF include uncontrolled stormwater runoff associated with construction and operation of the facility. Improper handling of hazardous waste could further contribute to degradation of water quality. Implementation of the Watsonville SOI amendment could result in water quality impacts to adjacent drainages from uncontrolled stormwater runoff associated with proposed development. The proposed soil management project could contribute to degradation of water quality by introducing sediments in area drainages without consideration of mitigation. The impacts of these projects could contribute to an incremental increase in water quality degradation in the southern Santa Cruz County region, resulting in potentially significant impacts.

Mitigation measures proposed by the Watsonville SOI and MRF include implementation of Best Management Practices during construction, compliance with requirements of NPDES permits, elevation of project facilities above the 100-year flood plain, and other measures to minimize water quality impact. These measures, in combination with mitigation measures described in Section 4.3.2 of this EIR, would reduce cumulative water quality impacts to less than significant levels.

BIOLOGICAL RESOURCES

Project related impacts, in combination with similar impacts of the Watsonville SOI and MRF projects, would result in the incremental loss of wetland and riparian habitats in the region of the project site. These cumulative impacts would be significant.

Measures proposed in Draft Environmental Impact Report, Integrated Waste Management Facility (CH₂M Hill, 1996) would reduce impacts to special status resources to less than significant levels primarily by avoidance. Project specific mitigation measures have not yet been developed for the Watsonville SOI project. The agency responsible for formulating such mitigation is the City of Watsonville. The proposed soil management project's contribution to cumulative impacts would be reduced to less than significant levels from implementation of a plan to create wetland and riparian habitat on the project site.

From EIR
County
Response

The Zoning Ordinance Uses Chart requires landfills to meet the provisions of County Code Section 13.10.639. In summary, this section requires landfills located on agriculturally zoned land to:

- Be interim uses that will rehabilitate the site for agricultural uses upon cessation of the landfill use
Following completion of the soil stockpiling operation, the project site would be returned to agriculture.
- Ensure that water quantity and quality available to the parcel and surrounding agricultural parcels will not be diminished
Water for the operation would be obtained from existing wells on the landfill and/or the project site. The quantity of water used for the project would be less than that used by the current agricultural operation.
- Prevent land use conflicts with adjacent agricultural properties.
The proposal is configured to use 20 acres in the southern most portion of the 70-acre parcel, thus maximizing separation between the proposed stockpile and neighboring parcels to the north and east. The environmental analyses indicate that impacts such as air quality and noise would not be expected to exceed established standards. No land use conflicts with adjacent agricultural properties were identified in the EIR or EIR Supplement.
- Maintain the maximum amount of agricultural land in agricultural production as is feasible.
The proposed project would allow the continuation of agricultural production on the majority of the 70-acre parcel for the duration of the project. Use of 20 acres of existing agricultural land would be an unavoidable consequence of minimizing other environmental effects by locating the soil stockpile in close proximity to the existing landfill. The project would not result in permanent displacement of agricultural land.

Although the project is not a landfill, it has been designed to meet the provisions of Sec. 13.10.639. Based on the above criteria, the proposed action is judged to be consistent with Section 13.10.639 of the Santa Cruz County Code.

Ordinance
Text

13.10.639 SANITARY LANDFILL AS INTERIM USE. A publicly owned and operated sanitary landfill either by contract or by public forces, as an interim use, on land zoned for agriculture shall be subject to the following regulations:

- a. Land taken out of agricultural production shall, upon cessation of landfill activities, be rehabilitated and made available for subsequent agricultural uses. Rehabilitation actions shall include, but not be limited to, stockpiling of existing topsoils for replacement to the area taken out of production as a topsoil layer over the final cover of the landfill. Where stockpiling is not feasible, topsoil may be imported or produced, for example, through the use of compost made from plant waste entering the landfill, provided that in any case if the land is Type 3 commercial agricultural land, the finished topsoil layer shall have physical-chemical parameters which give the soil a capability rating (as defined by the Santa Cruz County Local Coastal Program Land Use Plan) of prime agricultural land.
- b. Existing water quality and quantity available to agricultural land used on an interim basis for a sanitary landfill and to other prime agricultural land in the vicinity of the landfill shall not be diminished by the landfill use, either during its operation or after closure.
- c. No conflicts with adjacent commercial agricultural activities shall result from the landfill use, either during its operation or after closure.
- d. The maximum amount of agricultural land shall be maintained in production through the following measures, as feasible:
 1. phasing the non-agricultural use.
 2. utilizing any non-agricultural areas available first.
 3. utilizing lower quality soils (e.g., Class III) instead of or before higher quality soils (e.g., Classes I or II).
 4. employing means of reducing the area necessary for the interim public use such as resource recovery.
 5. rehabilitating other areas such as former land-

fill sites for agricultural use (Ord. 2605

EXHIBIT NO. 26

APPLICATION NO.

3-98-55 Stockpile

Special Landfill Findings

CEQA Findings
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**Summary of Environmental Impacts and Mitigation Measures
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Description of Impact

Mitigation Measures

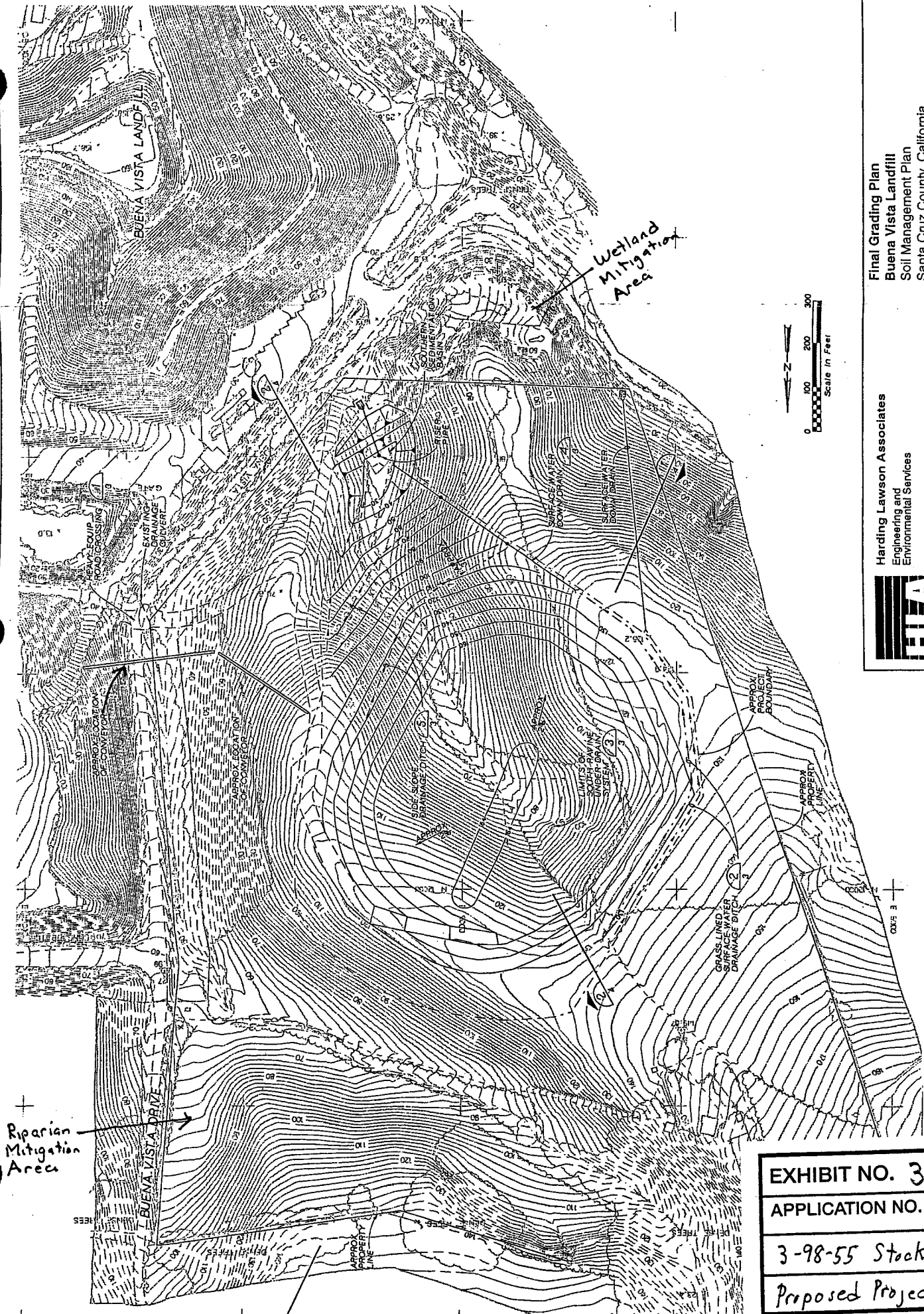
AIR QUALITY

Generation of PM_{10} emissions from the proposed project in combination with emissions generated by the Watsonville SOI amendment and MRF projects could result in a significant impact.

Mitigation measures proposed by the Watsonville SOI amendment and MRF project in combination with those proposed by the soil stockpile project would reduce the impact to less than significant levels.

3-98-JS Co. Permit (22)

01/10/1991



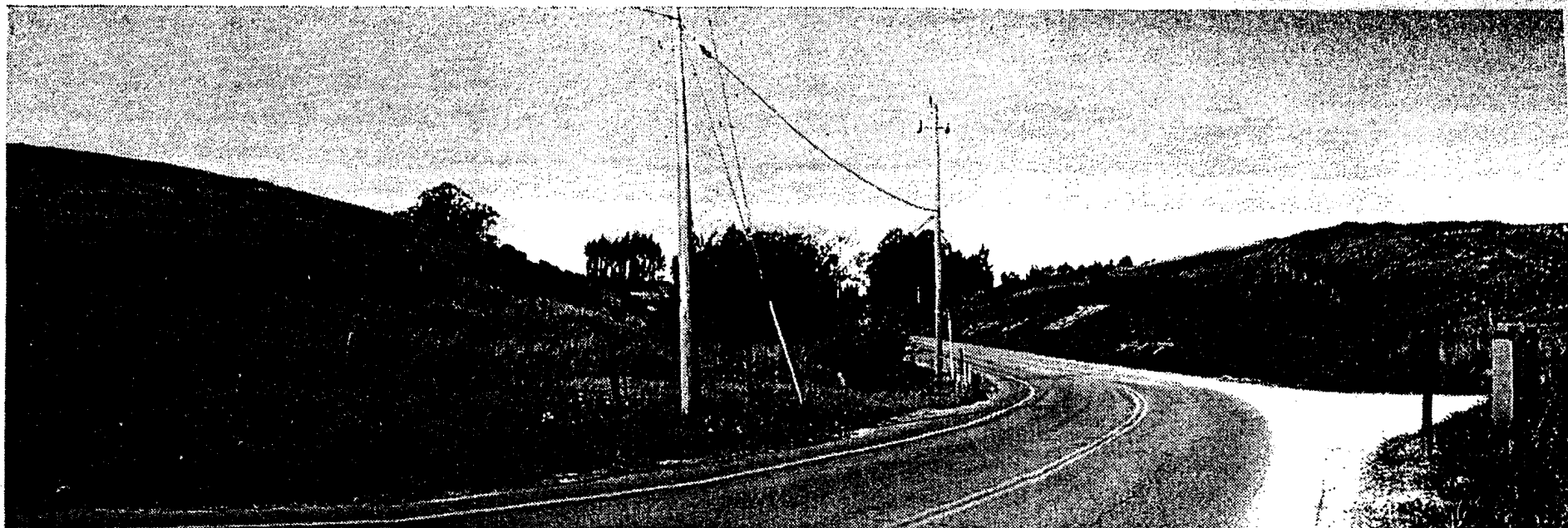
Harding Lawson Associates
Engineering and
Environmental Services

EXHIBIT NO. 3a

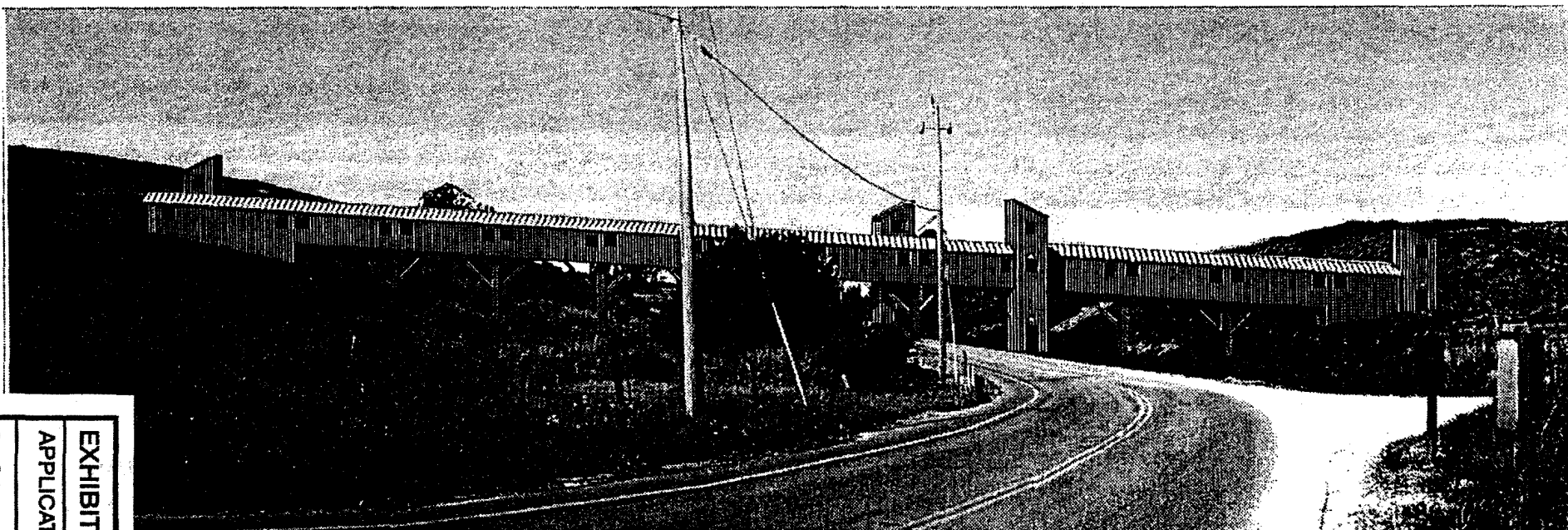
APPLICATION NO.

3-98-55 Stockpile

Proposed Project



Buena Vista Drive Looking North - Existing Conditions



Drive Looking North - Above-Ground Conveyor

| |
|-------------------|
| EXHIBIT NO. 3. |
| APPLICATION NO. |
| 3-98-55 Stockpile |
| Proposed Conveyor |

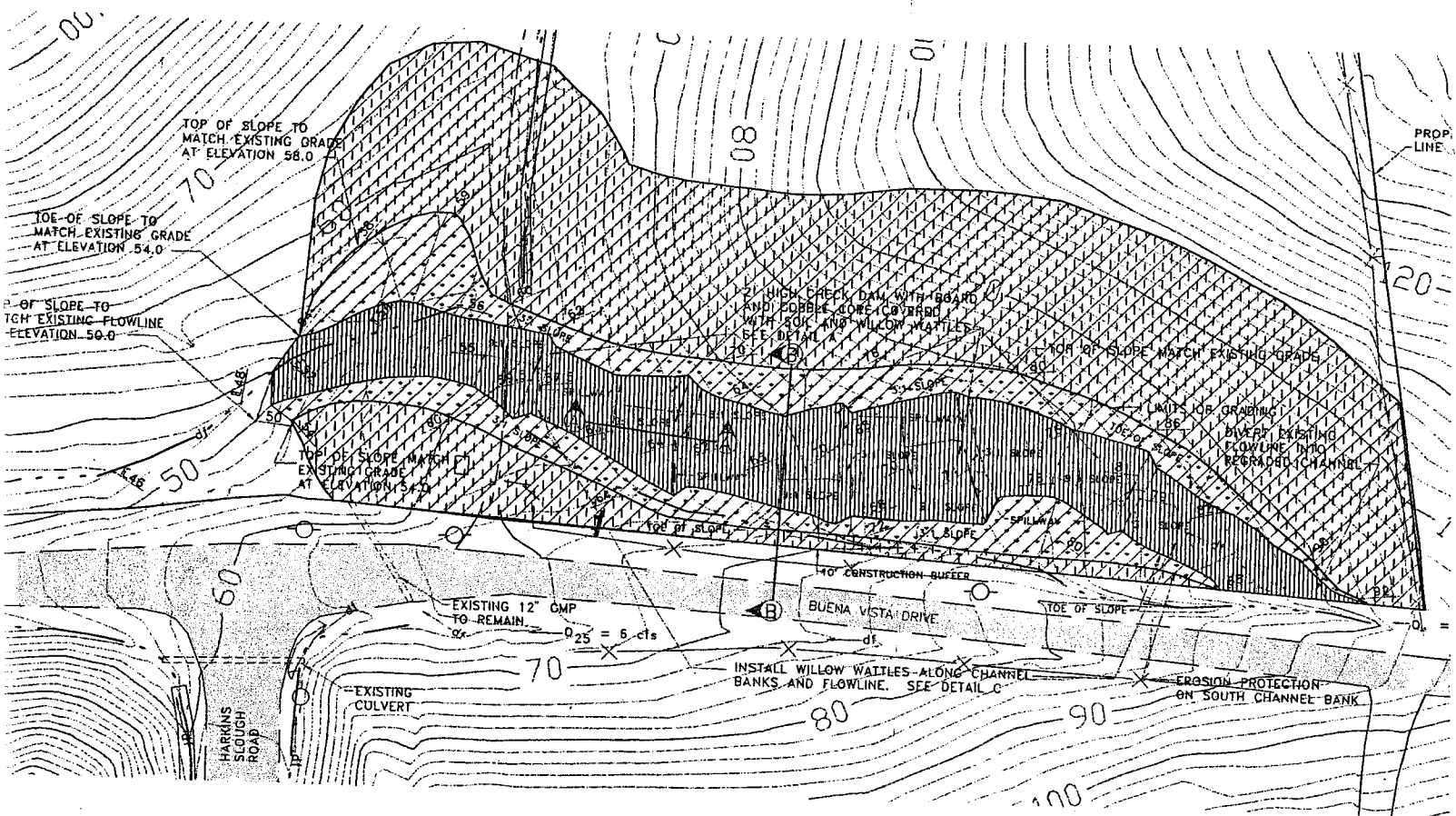


Harding Lawson Associates
Engineering and
Environmental Services

Above-Ground Conveyor Alternative
Buena Vista Landfill
Soil Management Plan
Santa Cruz County, California

PL

5.3-


















-  CENTRAL COAST RIPARIAN SCRUB PLANTINGS
-  EMERGENT WETLAND PLANTINGS
-  UPLAND PLANTINGS
-  HYDROSEED MIX
-  50 FLOWLINE EXISTING SPOT ELEVATION
-  EXISTING FLOWLINE
-  EXISTING CONTOUR
-  PROPOSED CONTOUR
-  EXISTING PAVEMENT
-  PROPOSED PAVEMENT
-  A CROSS SECTION LOCATION LETTER AND VIEW DIRECTION
-  32 PROPOSED SPOT ELEVATION
-  df DRAINAGE FLOW DIRECTION
-  EXISTING CULVERT
-  PROPOSED CULVERT


EXHIBIT NO. 3c


APPLICATION NO.


3-98-55 Stockpile


Proposed Riparian Mitigation


EXPLANATION



 RIPARIAN PLANTINGS



 EMERGENT WETLAND PLANTINGS


 UPLAND PLANTINGS AND HYDROSEED MIX

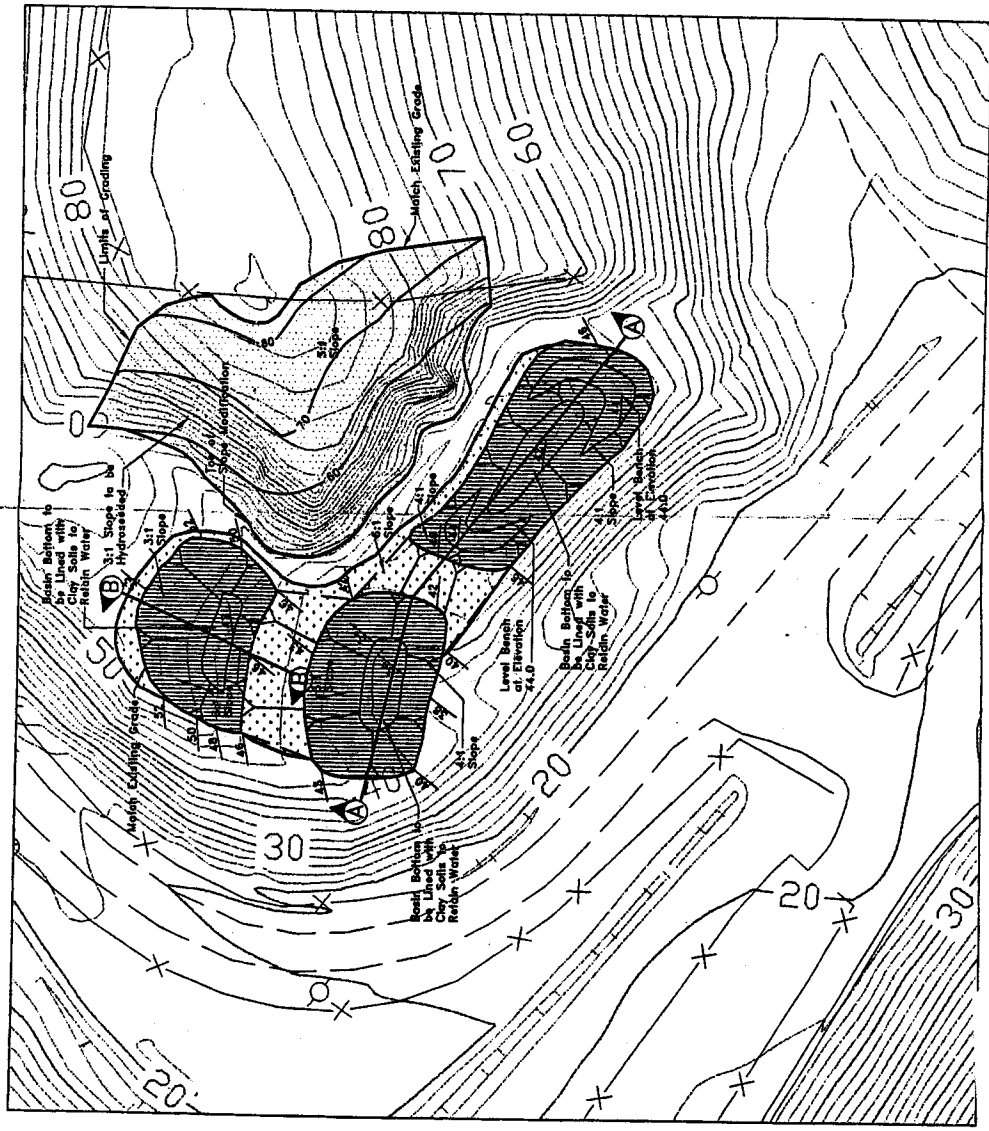

 EXISTING CONTOUR


 PROPOSED CONTOUR


 CROSS SECTION LOCATION LETTER AND VIEW DIRECTION


 PROPOSED SPOT ELEVATION

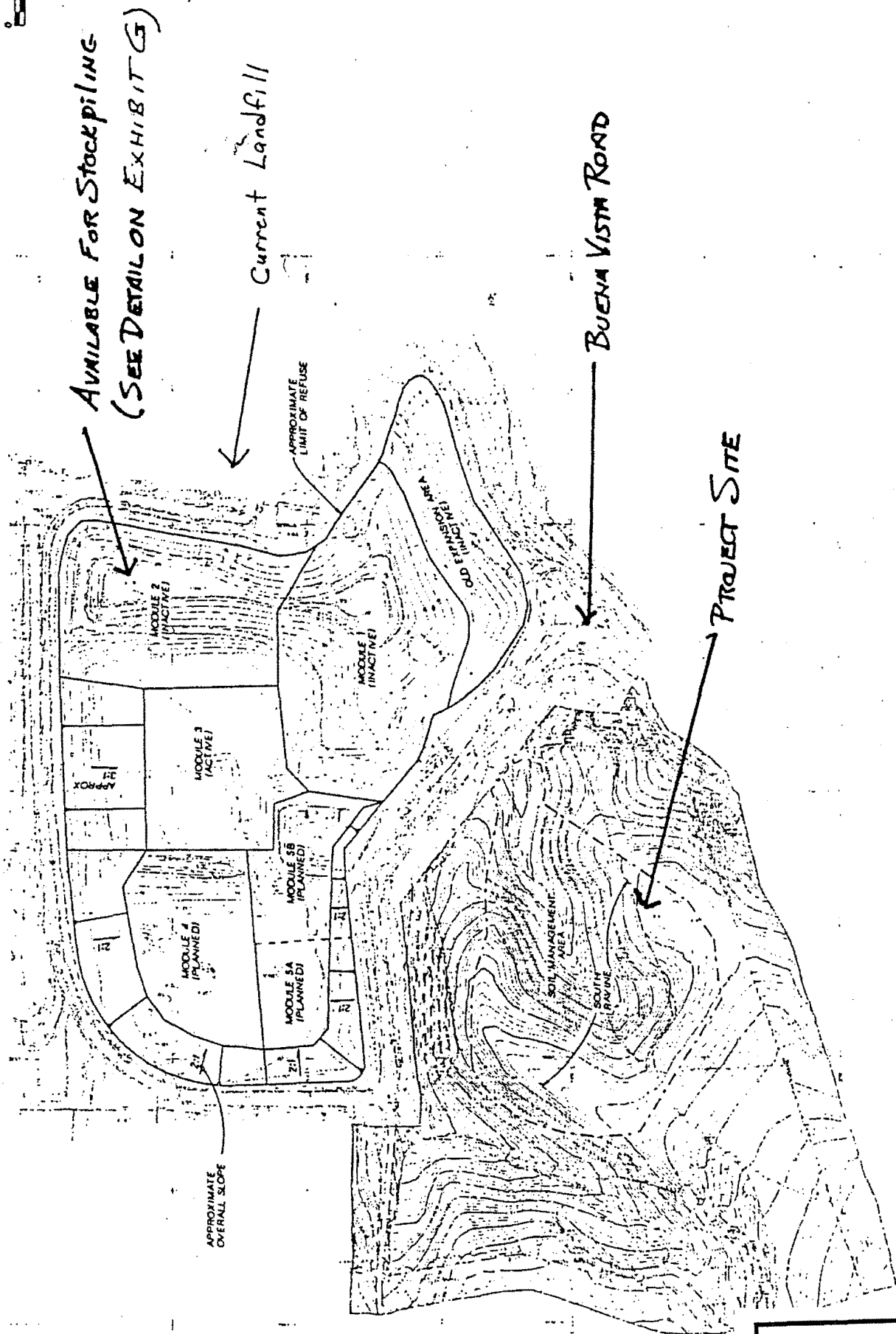
NOT FOR CONSTRUCTION



CONCEPTUAL PLANTING PLAN

| |
|-----------------------------|
| EXHIBIT NO. 3d |
| APPLICATION NO. |
| 3-98-55 Stockpile |
| Proposed Wetland Mitigation |

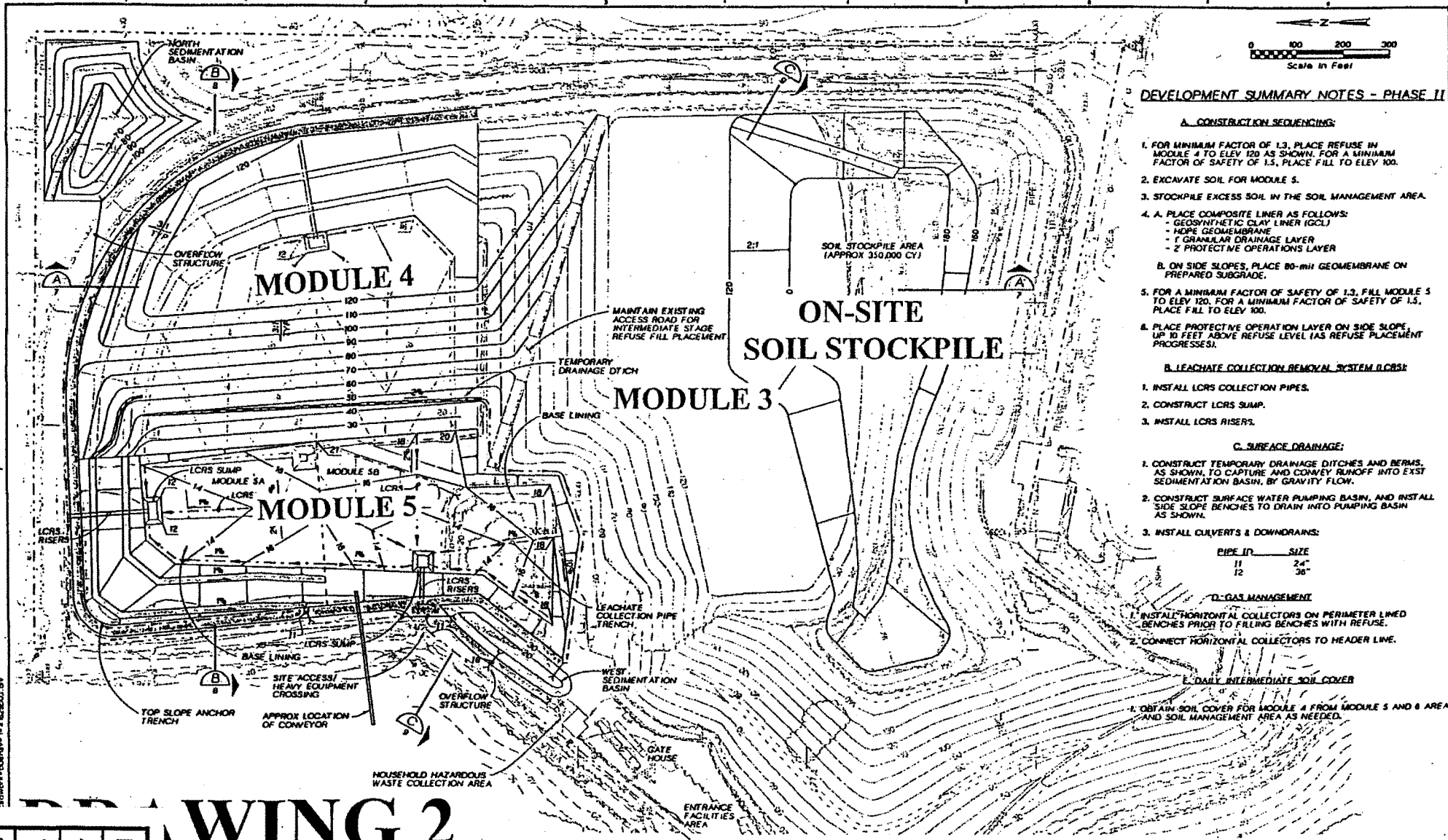
MODULES OF THE COUNTY BUENA VISTA LANDFILL



56

EXHIBIT NO. 4a
APPLICATION NO.
3-98-55 Stockpile
Current Landfill

| | | | | | |
|--|--|-------------------------------------|--|---|---|
| JOHN S. TERRENTIEFF CIVIL ENGINEER 1000 S. LEWIS ANIM C. BELPER | | NO. DATE REVISION BY APPROVED | REUSE OF DOCUMENTS THIS DOCUMENT AND THE SEAL AND SIGNATURE OF THE ENGINEER ARE NOT TO BE REUSED IN ANY OTHER PROJECT WITHOUT THE WRITTEN AUTHORIZATION OF JOHN S. TERRENTIEFF. | SITE DEVELOPMENT PLAN BUENA VISTA LANDFILL COUNTY OF SANTA CRUZ, CALIFORNIA | MODULE CONSTRUCTION SEC AND SOIL MANAGEMENT LA |
|--|--|-------------------------------------|--|---|---|



DRAWING 2

| | |
|----------|--------------|
| DESIGN | S. TEREPIEFF |
| OR | F. POON |
| OR | S. LEWIS |
| APPROVED | C. KEMPER |

| NO. | DATE | REVISION | BY | APPROVED |
|-----|------|----------|----|----------|
| | | | | |

REUSE OF DOCUMENTS
THIS DOCUMENT, AND THE IDEAS AND DESIGN INFORMATION HEREIN, AS AN INSTRUMENT OF PROFESSIONAL SERVICE, IS THE PROPERTY OF CH2M HILL AND IS NOT TO BE USED, IN WHOLE OR IN PART, FOR ANY OTHER PROJECT WITHOUT THE WRITTEN AUTHORIZATION OF CH2M HILL.

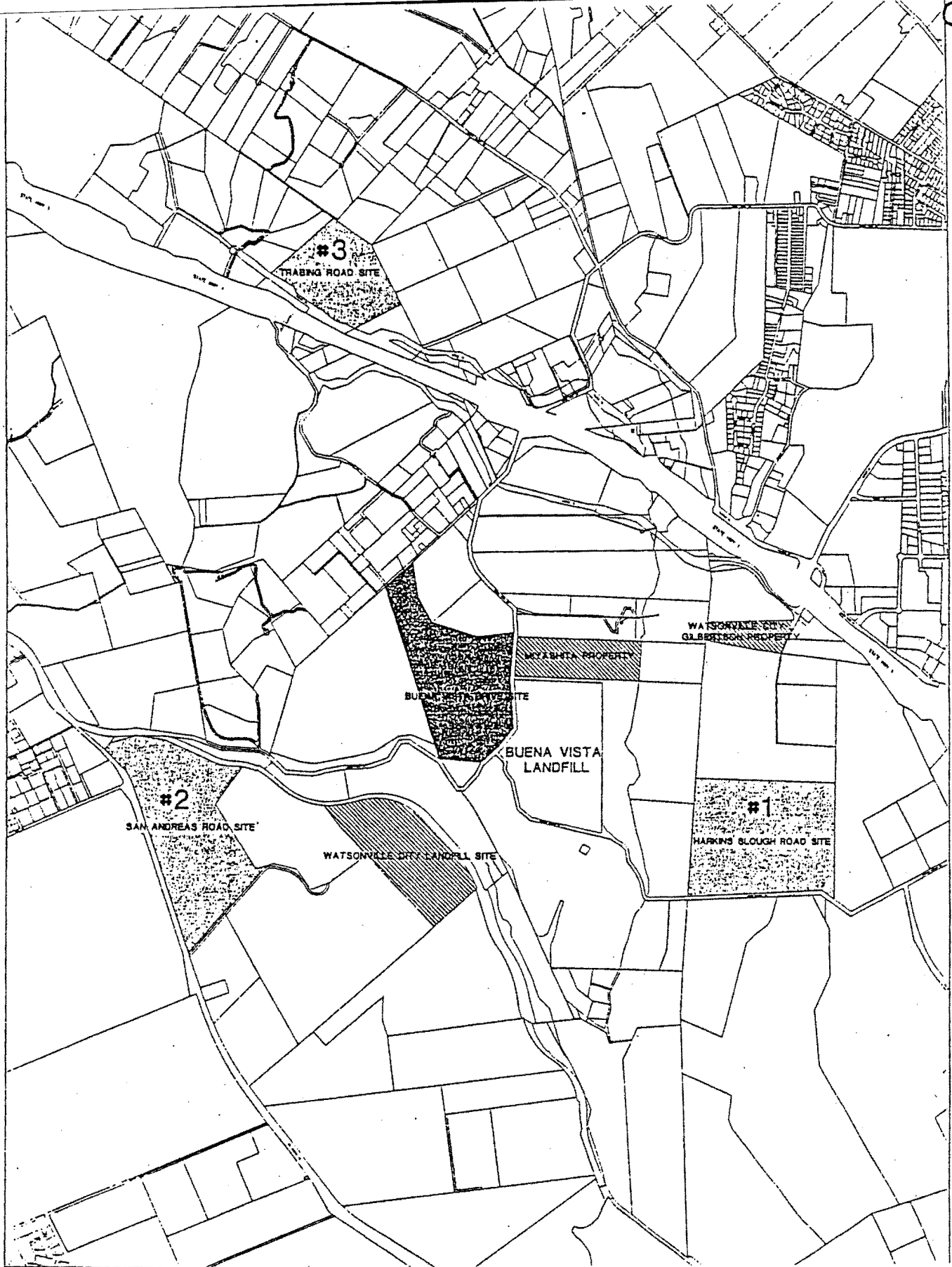
THIS IS ONE OF TWO DRAWINGS. THE OTHER DRAWING IS A REVISION OF THIS SET. ADJUST SCALES ACCORDINGLY.

SITE DEVELOPMENT PLAN
BLUMA VISTA LANDFILL
COUNTY OF SANTA CRUZ, CALIFORNIA

| | | |
|---|--|--|
| PHASE II MODULE 4 INTERMEDIATE STAGE AND MODULE 5 EXCAVATED | | SHEET NO. 4 DATE AUG 1997 BY M202.GC.BY |
|---|--|--|

EXHIBIT NO. 4b
APPLICATION NO.
3-98-55 Stockpile
Proposed stockpile on landfill

PRELIMINARY - NOT FOR CONSTRUCTION



BUENA VISTA LANDFILL

SOIL MANAGEMENT SITE ANALYSIS

SEPTEMBER 1997

DATA PREPARED BY SANTA CRUZ COUNTY GEOGRAPHIC INFORMATION SYSTEM STAFF--SEPT 1997



LEGEND
Preferred Site [stippled pattern]
Alternative Site [dotted pattern]
Other Site [diagonal line pattern]

EXHIBIT NO. 5

APPLICATION NO.

B-98-55 Stockpile

Alternative Sites

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.)

Reason for Appeal

This project is in conflict with numerous Local Coastal Program Goals, Objectives, Policies and Programs for the County of Santa Cruz. Specific Local Coastal Program Goals, Objectives, Policies and Programs which this project is in conflict with are listed on Attachment D and appear in the same sequence as they do within the Santa Cruz County 1994 General Plan and Local Coast Program.

Additionally, this project is not in conformance with the

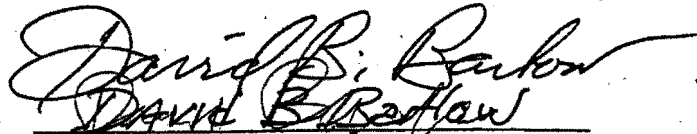
Coastal Zone permit issued for landfill operation expansion

in 1984/85 for the primary operational site.

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.


DAVID B. BARKEN

Signature of Appellant(s) or
Authorized Agent

Date

June 25, 1998
6-25-98

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

EXHIBIT NO. 6

APPLICATION NO.

3-98-55 Stockpile

Community Appellant's Contentions

ATTACHMENT ED

Listed below are Local Coastal Program Goals, Objectives, Policies and Programs which are in conflict with the proposed soil stockpile project.

Land Use Element

Land Use and Development Framework

LCP Policy No. 2.1.4 (Siting of New Development)

This proposed project is in conflict with siting of new development policies for the coastal zone because this type of project is most suitably sited where public roadway and drainage systems are adequate rather than where they are degraded, as is the condition in the project vicinity. Additionally, this project will have significant adverse effects, both individually and cumulatively, on environmental and natural resources, including coastal resources.

Land Use Policies for Specific Areas

LCP Objective No. 2.22 (Coastal Dependent Development)

This proposed project is in conflict with the objective within the LCP to ensure that priority for coastal-dependent and coastal-related development is given over other development. This project would remove approximately 20 acres of coastal strawberry production as well as a riparian habitat area and would degrade and otherwise compromise other such similar properties and their related activities in the vicinity, in favor of a 20 acre stockpile of soil. This is in direct contrast to the intent of the above noted objective because the project would actually displace rather than give priority to coastal-related and coastal-dependent uses. With the approval of this project, priority has been given to development that is neither coastal-related nor coastal-dependent and in fact may be considered an undesirable use within the coastal zone.

LCP Policy No. 2.22.1 (Priority of Uses within the Coastal Zone)

This proposed project is in conflict with the policies within the LCP which maintain a hierarchy of land uses priorities within the Coastal Zone, categorizing agriculture as a first priority. This project would displace and negatively impact coastal agricultural and therefore does not support the intent of this policy.

LCP Objective No. 2.23 (Conservation of Coastal Land Resources)

This proposed project is in conflict with the objective within the LCP to ensure orderly, balanced utilization and conservation of Coastal Zone resources because it would eliminate, negatively impact and compromise Coastal Zone resources rather than conserve them. The removal of the open space easement on this property (rezoned from CA-O to CA) is also in direct conflict with this policy because it undermines an established conservation plan for the area.

Conservation and Open Space Element

This proposed soil stockpile project is in basic contrast to the purpose of the Conservation and Open Space Element of Santa Cruz County in that it will negatively impact

3-98-55

Appeal to Coastal Commission / Stockpile of soil

biological, water, visual, open space, coastal agricultural land, and air quality resources as well as result in noise, traffic, endangered species and riparian habitat impacts within the Coastal Zone.

Element Goals

- ◆ Natural and Cultural Resources protection Goal
- ◆ Open Space Protection Goal

Biological Resources

LCP Objective No. 5.1 (Biological Diversity)
LCP Policy No. 5.1.1 (Sensitive Habitat Designation)
LCP Policy No. 5.1.2 (Definition of Sensitive Habitat)
LCP Policy No. 5.1.3 (Environmentally Sensitive Habitats)
LCP Policy No. 5.1.4 (Sensitive Habitat Protection Ordinance)
LCP Policy No. 5.1.6 (Development within Sensitive Habitat)
LCP Policy No. 5.1.7 (Site Design and Use Regulations)
LCP Policy No. 5.1.10 (Species Protection)
LCP Objective No. 5.2 (Riparian Corridors and Wetlands)
LCP Policy No. 5.2.2 (Riparian Corridor and Wetland Protection Ordinance)
LCP Policy No. 5.2.3 (Activities within Riparian Corridor and Wetlands)
LCP Program (a) (Maintain and Enforce a Riparian and Wetland Protection ordinance..)
LCP Program (b) (Coordinate with CDFG)

Water Resources

LCP Objective 5.7 (Maintain Surface Water Quality)
LCP Policy No. 5.7.5 (Protecting Riparian Corridors...)

Hydrological, Geological and Palenotological Resources

LCP Policy No. 5.9.2 (Protecting Significant Resources throughout Easements and Land Dedications)

Visual Resources

LCP Objective 5.10a (Protection of Visual Resources)
LCP Objective No. 5.10b (New Development within Visual Resource Areas)
LCP Policy No. 5.10.2 (Development within Visual Resource Areas)
LCP Policy No. 5.10.3 (Protection of Public Vistas)
LCP Policy No. 5.10.5 (Preserving Agricultural Vistas)

Scenic Roads

LCP Policy No. 5.10.10 (Designation of Scenic Roadways)
LCP Policy No. 5.10.11 (Development Visible from Rural Scenic Roads)
LCP Policy No. 5.10.13 (Landscaping requirements)
LCP Policy No. 5.10.23 (Transmission Lines and Facilities)

Open Space

LCP Program (a) (Continue using open space and conservation easements...)

3-98-55

Appeal to Coastal Commission / Stockpile of soil

Agriculture

LCP Objective No. 5.13 (Commercial Agriculture Land)

LCP Policy No. 5.13.5 (Principally Permitted Uses on Commercial Agricultural (CA) Zoned Land)

LCP Policy No. 5.13.6 (Conditional Uses on Commercial Agricultural (CA) Zoned Land)

LCP Policy No. 5.13.20 (Conversion of Agricultural Land)

LCP Policy No. 5.13.23 (Agricultural Buffers required)

LCP Policy No. 5.13.26 (Windbreaks)

LCP Program (c) (Oppose expansions... in Coastal Zone)

3-98-55

Appeal to Coastal Commission/Stockpile of soil

DEPARTMENT OF
PUBLIC WORKS

GOVERNMENTAL CENTER

JOHN A. FANTHAM
DIRECTOR OF PUBLIC WORKS



COUNTY OF SANTA CRUZ

701 OCEAN STREET, SANTA CRUZ, CALIFORNIA 95060-4070

(408) 454-2180

FAX (408) 454-2385

RECEIVED

June 19, 1998 JUN 22 1998

MR. RICK HYMAN, COASTAL PLANNER
CALIFORNIA COASTAL COMMISSION
725 Front Street
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

SUBJECT: BUENA VISTA LANDFILL SOIL MANAGEMENT PROJECT

Dear Mr. Hyman:

On June 9, 1998, the Board of Supervisors approved the subject project, issue a development permit with conditions, and certified the Environmental Impact Report (EIR) which consists of a draft and final EIR, and a draft and final supplemental EIR. Attached you will find a copy of the final supplemental EIR to complete your document records. A copy of the County development permit and conditions, and the executed Board of Supervisors correspondence certifying the EIR was transmitted to you under separate cover from our County Planning Department. The draft and final EIR, and the draft supplemental EIR were previously transmitted to your office.

We are also in receipt of your June 8, 1998, letter to the Board of Supervisors regarding the project. It is our hope that your conversation with the undersigned on June 9, 1998, resolved all the concerns expressed in your letter. The alternative site in question has already been extensively reviewed by the County on two separate occasions. The County's preferred site will have some biotic and agricultural impacts, however, this site will have the least overall environmental impact in relation to the other reasonable alternatives considered. As you are aware, for this project to be economically feasible we need to locate a site in close proximity to the landfill. All potential sites, adequate in size, access and topography, located within a reasonable distance from the landfill are within the coastal zone and zoned for agriculture. The expense also increases significantly as the storage site is located at a greater distance, as documented in our alternative site analysis included with the project records transmitted to your office. All of the alternative sites considered are either too small to accommodate our soil storage needs, result in greater environmental impacts, too costly to develop, or are located very close to residential homes resulting in significant impacts that can not be fully mitigated.

We also hope that your Commission can see the biotic benefits of this project versus any of the more costly or unreasonable alternatives that have been suggested. All involved agencies recognize and accept the fact that the riparian wetland habitat impacted by this project is severely degraded and not highly suitable for either of the two endangered species of concern. The ravine is full of agricultural plastics and farming debris, severely eroded in some areas and heavily

EXHIBIT NO. 7

APPLICATION NO.

3-98-55 Stockpile

Correspondence

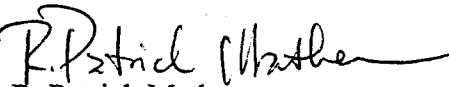
silted in others, receives runoff from active farm operations which likely contain pesticide and fertilizer residuals, and has been leveled and regraded several times in recent history to facilitate ongoing farming activities. You saw this degradation first hand during our March 18, 1998, tour of the landfill and project site. The County's approved project will significantly improve upon the biotic conditions on this property by: 1) adding nearly two acres of high quality riparian wetland in exchange for the one acre of degraded riparian wetland lost to the project; 2) placing protective erosion control measures along the defined wetland corridor in the southern ravine to improve this potential upland habitat migration corridor; 3) restricting poor farming practices on-site to reverse some of the ongoing habitat degradation; 4) implementing additional protective measures aimed at improving the on-site habitat suitability for local indigenous and endangered species; and 5) regrading steep on-site slopes to gentler grades, at project completion, to improve future agricultural use viability and reduce erosion.

As the County Board of Supervisors has approved this project, our office is now in the process of preparing the final design, construction and operating documents for this project. A six to eight month lead time is required to complete designs, bid for construction, and complete site improvements before we can begin to excavate soil. Timing is now a critical concern for this project. Should an appeal be filed by others, we will be unable to complete the project designs until your agency has responded to such an appeal. If an appeal is filed and accepted for consideration, we would appreciate any and all assistance you can provide in processing the appeal expeditiously. Our landfill has less than two years of life remaining and this project is essential for maintaining future landfill capacity for over 180,000 residents in our County. We would like to again thank you and your office for moving this project forward and look forward to your final determination on this matter. Please contact the undersigned if you have any additional questions regarding this issue, (408) 454-2160.

Yours truly,

JOHN A. FANTHAM
Director of Public Works

By:



R. Patrick Mathews
Solid Waste Division Manager

RPM:bbs

Attachments

Copy to: Sally Bull, Harding Lawson and Associates
Dana McRae, County Counsel
Ray Dodson, Public Works
Kim Tschantz, Planning Department

SMB

3-98-55

DEPARTMENT OF
PUBLIC WORKS

GOVERNMENTAL CENTER

JOHN A. FANTHAM
DIRECTOR OF PUBLIC WORKS



COUNTY OF SANTA CRUZ

RECEIVED

100 OCEAN STREET, SANTA CRUZ, CALIFORNIA 95060-4070

(408) 454-2160

FAX (408) 454-2385

JUN 23 1998

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

June 23, 1998

MR. RICK HYMAN, COASTAL PLANNER
CALIFORNIA COASTAL COMMISSION
725 Front Street
Santa Cruz, CA 95060

SUBJECT: BUENA VISTA LANDFILL SOIL MANAGEMENT PROJECT

Dear Mr. Hyman:

In response to your June 8, 1998, letter to the County Board of Supervisors and as follow up to our June 17, 1998, discussion we are providing you with additional information to assist in your final review of our project. Attached you will find a complete copy of the Board of Supervisors agenda packet for the subject project with the executed minute order, a 1" to 200' scale color photo of the landfill and project site (please return when it's no longer needed), and a reduced black and white photo with color outlines of key project areas. The Board's agenda packet includes all the agenda packets from the four previous Planning Commission meetings, minutes from those meetings, permit conditions and findings, and staff and public correspondence on the subject project. To assist you in your review I have flagged several pertinent sections of this agenda packet that provide specific responses to some of your agency's comments.

As you stated in your June 8, 1998, correspondence the County has scaled back the project significantly to reduce wetlands impacts and reduce the temporary take of agricultural lands for this project. The northern ravine on the project site was originally planned as part of the stockpile area, but has been eliminated from the project impact area. In response to public comments, we redesigned the landfill's development plan to accommodate as much soil as structurally possible (350,000 cubic yards) on top of the partially completed landfill areas. This project modification reduced the required offsite stockpiling area by approximately 25%. As most of the onsite stockpiling will occur on the current active landfill area (Module 3), soil stockpiling on the landfill cannot occur until the next landfill section (Module 4) is constructed and operational. This reduction in project size has two benefits.

1. The northern ravine will be protected from agricultural activities by improved erosion control and placement of 30' wide vegetative filter strips/buffer along the channel length on both sides, allowing the channel to return to a more natural state. This will create and protect a potential biotic connection from the riparian area at the western end of the

property to the lower riparian corridor along Buena Vista Drive and into Gallighan Slough. The southern ravine is a dead-end surrounded by active agricultural farm lands and has no such direct upland connection.

2. The reduced project size will also allow for continuation of onsite agricultural uses in the northern ravine. The northern ravine has gentler slopes and is more conducive to agricultural use than the steeper sloped southern ravine designated for our project.

As stated in previous correspondence, all potential sites, adequate in size, access and topography, and located within a reasonable distance from the landfill are in the Coastal Zone and zoned for agriculture. All of the alternative sites considered are either too small to accommodate our soil storage needs, result in greater environmental impacts, are cost prohibitive, or are located very close to residential homes. All of the alternatives considered would result in significant impacts that cannot be fully mitigated. As documented throughout the attached agenda materials, for the project to be economically feasible the stockpile must be located as close as possible to the landfill operations. Any form of offsite trucking would increase the costs and impacts significantly by requiring the hauling of soil to and from a distant site in trucks on public roadways. This option has been dismissed by the County as cost prohibitive and too great an environmental impact. With this restriction in mind, we were very limited in our options and focused our reviews on adjacent parcels that would allow for direct haul with heavy earthmoving equipment or conveyor. We have flagged all the reports in the attached information that reference the various alternative site reviews we conducted. No feasible or cost effective alternative exists that would completely eliminate the impacts to riparian wetlands or agricultural lands.

However, the County's project is designed to enhance the existing degraded riparian corridor lost to the project with the construction of a high grade riparian habitat at a ratio of two acres of new habitat to one acre of lost habitat. The project site has a long history of agricultural activity including cattle grazing which was the primary use for the southern ravine until the mid-1980s. The quality of riparian habitat in this ravine is very poor and well documented in the EIR and Biotic Assessment. We have reviewed aerial photos of the area dating back to the 1930s and found no evidence of any mature riparian corridor ever existing in the southern ravine area. We have copies of a few of these photos if you wish to review them. If this project were not to occur, the existing riparian corridors on this site will continue to be degraded due to erosion from steep slopes and impacts from farming activities. No improvements will likely occur without the County's conditioned project. The project conditions also require regrading of the steep slopes at conclusion of the project to facilitate better farming operations and reduce the historic erosion problem in this ravine. We hope that your Commission can clearly see the positive biotic benefits this project will provide to a severely degraded habitat and twenty acres substandard agricultural land.

While we also concur that a phased return of agricultural activity on the project site would be preferable, it is not practical considering the existing steep slopes and relatively narrow project footprint. As the soil is returned to the landfill, it is possible that some extension of existing onsite farming could move onto the slopes at the top of the ravine, but erosion from freshly tilled, loose soils would pose an overall erosion management problem for the site. It is not until completion of the project that regrading of the site would occur to reduce steep slopes and

minimize erosion potentials. This is not a practical option and we would not recommend implementing this approach.

You also suggested that we maximize onsite stockpiling and aggressively market excess soil. As stated above, our consultant engineer, CH2M Hill, was directed by the County to determine the maximum amount of onsite stockpiling that could occur on the landfill without compromising the structural integrity of the landfill itself. It was determined that a maximum of 350,000 cubic yards of soil could be placed on the partially completed sections of the landfill without increasing the risk of a slope failure. Our department's June 8, 1998, letter to the Board of Supervisors includes copies of the development plan drawings that define the available onsite soil stockpile area and the remaining landfill development sequence. Use of the landfill for onsite soil storage is of course contingent upon the project construction commencing by this fall. If the project is delayed further, some or all of the airspace designated for temporary soil storage will have to be filled with refuse.

The County also does not want to market the balance of soil remaining onsite, as most or all the soil will be needed for covering operations and final landfill closure over the next 20+ years. Our current best estimate is that there is only about 120,000 cubic yards of excess soil beyond that needed for landfill operations and closure. While Granite Construction has rights to utilize some of this soil through May 2002, they do not have an obligation to utilize it and the County would be financially remiss to encourage excessive removal of the soil. If too much soil is removed, landfill closure costs will increase significantly due to soil import costs associated with purchasing and trucking in soil from an outside source.

Regarding your suggestion of redesigning the remaining landfill space with six modules as originally planned, we have in fact followed that plan in concept. Modules 3 and 4 of the original plan were smaller than all the other individual modules. As such, we elected to construct all of Module 3 and about three quarters of Module 4 at once. We planned to construct all of Module 4, but onsite stockpiling space constraints prevented full development of Module 4. The combined construction of Module 3 and 4 were done for key financial reasons. The next module of the landfill fell under the more stringent Federal Sub-Title D design standards requiring a more expensive multi-layered composite liner system. By constructing these modules together, we were able to achieve significant savings through volume purchases and one time installation costs for each of the liner components. We also eliminated one design and bid process which by itself resulted in our saving over \$300,000 in engineering and construction expenses. For all intents and purposes we are now preparing to construct Module 5 of the original plans. Due to the nature of the excavation for Module 4 which is constrained on two sides by Harkins Slough Road, it is not reasonable or financially prudent to construct this site in three modules. The resulting excavated base footprint of a reduced module would be very small, limit operational flexibility (especially after a natural disaster), increase public expense, and have a relatively short life of only two to three years (compared to five to six years as planned). The cost increase for an added design and bid process alone would be significant and negate all the previous savings we were able to achieve.

Alternate module construction sequencing would also create a problem with stormwater management for the project. The current stormwater sedimentation pond for the

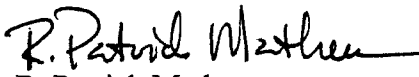
landfill is sized to accommodate not only the active landfill area, but more importantly the onsite borrow area (future Module 4 & 5). This pond was designed and placed strategically to provide for stormwater collection and sedimentation removal through the completion of Module 5 excavation. Its relatively large size is necessary to accommodate the additional sediments released from the borrow operations. At completion of Module 5, the pond would be relocated permanently to the west of Module 5 and reduced in size consistent with diminished stormwater sedimentation control needs after borrow operations cease. This eliminates the suggested possibility of constructing Module 5 first.

Finally, regarding riparian wetland mitigation and management, you will find included with the EIR documents a comprehensive riparian wetland mitigation and monitoring plan for the project along with several development permit conditions that will protect and enhance new and existing riparian wetlands on the project site. We also have aerial photo documentation, available for your review, that clearly depicts a significant measurable improvement and enlargement of the existing riparian wetland along Buena Vista Drive since construction of the landfill expansion in 1985. The two-acre mitigation area will be managed in accordance with approved plans and permit conditions along with the protection of the existing southern ravine and Buena Vista Drive riparian corridors.

The County Board of Supervisors has approved this project and our office is now in the process of preparing the final design, construction and operating documents for this project. A six to eight month lead time is required to complete designs, bid for construction, and complete site improvements before we can begin to excavate soil. Timing is now a critical concern for this project. Our landfill has less than two years of life remaining and this project is essential for maintaining future landfill capacity for over 180,000 residents in our County. We request that your office assist us in moving this important public project forward as expeditiously as possible to avoid any additional unnecessary public expense or inconvenience. Please contact the undersigned if you have any questions or need additional information regarding this issue, (408) 454-2160.

Yours truly,

JOHN A. FANTHAM
Director of Public Works

By: 
R. Patrick Mathews
Solid Waste Division Manager

RPM:bbs

Attachments

Copy to: Sally Bull, Harding Lawson and Associates
Dana McRae, County Counsel
Ray Dodson, Public Works
Kim Tschantz, Planning Department

SMPB

Miyashita/Love Alternative Proposal
to Dept. Public Works Proposal #97-0309

July 8, 1998

To All Concerned Parties,

On June 9, 1998 the County Board of Supervisors voted 3-2 to go ahead with DPW proposal #97-0309 to expand Buena Vista Landfill operations across Buena Vista Drive to the west because DPW stated "no alternative plan was feasible." Supervisor Symons stated "there must be a better way to do this." Supervisor Wormhoudt stated "I can't help but believe the proposal can be scaled back to create fewer impacts." Supervisors Symons and Wormhoudt voted "NO" to the proposal.

Until now, perhaps the perfect alternative plan was not presented, close, but certainly not thru the efforts of the DPW. In response to the Supervisors vote, we must continue to work towards presenting the best possible alternative, not solely due to the exorbitantly high cost of the DPW proposal, but specifically the resulting series of grossly negative impacts upon our community. This project will last until 2022 and beyond.

Fifty families living within one mile of this project are slowly being physically and psychologically tortured by the actions occurring at the Buena Vista Landfill. We have been deceived by the DPW and The Planning Dept. on several occasions. We are continually witnessing our quality of life fragment and disappear.

We ask the Board of Supervisors to curtail this insanity affronting our homes. We ask the Supervisors to choose the enclosed alternative proposal that will restrict all landfill activities to the east side of Buena Vista Drive as recommended by California Fish and Game.

We ask the Supervisors to establish a permanent buffer zone from the Landfill operation. Please draw the line at Buena Vista Drive for the health, safety and welfare of the community.

David Barlow - Representative
Buena Vista Community Association

Soil Quantities, Sequencing and Scheduling

Incorporating Dept. of Public Works figures, specifically relating to quantities, sequencing and scheduling of soil to be excavated at the Buena Vista Landfill, the following facts are noted;

1. The quantity of soil is 1,540,000 cu yds as of the Nov. 1997 aerial survey. Module 4 = 1,040,000 cu yds, Module 5 = 500,000 cu yds
2. The annual soil quantity consumed for daily cover and other soil requirements at the Landfill is 50,000 cu yds. per year. (DPW report to the Board of Supervisors June 8, 1998.)
3. Quantity of soil to be stockpiled on site on top of Module 3 is 350,000 cu yds. (Planning Dept. report to Commissioners, Sept 29, 1997.)
4. DPW states, "Module 4 must be excavated and operational prior to stockpiling on top of Module 3." (June 8, 1998 report)
5. The rough excavation of Module 4 must be completed by Nov. 1999 and Module 5 completed by Nov. 2003 (Report of Sept 29, 1997)

First Phase - Stockpiling on Miyashita/Love Site Alternative
Module 4 = 1,040,000 cu yds. To be excavated.

- 100,000 cu yds Excavated from Module 4 and consumed as daily cover at Module 3 from Nov 1997, aerial survey, until Nov 1999 excavation of Module 4 completed, 2 yrs.

Remaining 940,000 cu yds Excavated and Transported utilizing SCRAPERS

- 940,000 from Module 4 to the Miyashita/Love stockpile site.

⊖ Module 4 rough excavation completed by Nov. 1999

Second Phase - Stockpiling on site

Module 5 = 500,000 cu yds. To be excavated.

- 350,000 cu yds. Excavated and stockpiled on site on top of the closed Module 3.

Remaining 150,000 cu yds. Consumed as daily cover from Module 5 to Module 4 during the next three years, 2003.

- 150,000 cu yds

⊖ Rough excavation of Module 5 completed by Nov. 2003, Two years ahead of schedule.

Time Frame Utilizing Caterpillar 627 SCRAPERS Page 3

The most efficient and inexpensive method to move soil a short distance, such as from the Buena Vista Landfill to the Miyashita/Love Soil Stockpile Site, is by utilizing Cat 627 SCRAPERS because they self load, haul, deposit and compact in one continuous motion.

The cost to move soil for this purpose is one dollar (\$1.00) per cubic yard.

The County presently operates two Cat 627 SCRAPERS at the Buena Vista Landfill because of their efficiency and low cost.

The County could lease two additional SCRAPERS, for one year, at a cost of @ \$150,000.00 each.

The load capacity is 21 cu. yds. An average load is 18 cu yds.

The estimated trip time is 12 minutes = 5 trips per hour.

18 cu yds per load
x 5 round trips per hour
90 cu yds moved per hour
x 8 hour work day
720 cu yds moved per day
x 26 days work per month (6 days per week)
18,720 cu yds moved per month per SCRAPER
x 4 Cat 627 SCRAPERS

74,880 cu yds moved per month by 4 Cat 627 SCRAPERS.

Amount of soil to be moved is 940,000 cu yds.

74,880 divided into 940,000 equals 12.5 months Total time to complete the excavation of Module 4 which is achieved within the Nov. 1999 time frame projected by DPW.

Since the soil is only handled once, dust, noise, amount of equipment and emissions, time and cost are significant reduced.

DPW proposed conveyor system requires over 2 years to move 1,250,000 cu yds and cannot meet DPW own time frame.

Projected Cost Using the Miyashita/Love Stockpile Site

Page 4

- Item 1. The Miyashita property is for sale and consists of ± 25 acres with 165,000 sqft. of greenhouses and a 1000 sq. ft. residence. The remaining area has been fallow for 12 years. The asking price is $\$2,500,000.00$. The County could negotiate a fair price for this property.
- Item 2 The Love property consists of ± 14 acres with a 2800 sqft. residence. The majority of the area is and has been fallow for many years. A neighbor, Mrs. Howard, leases 4 acres from Mr. Love to graze 3 or 4 horses. (The placement of the soil stockpile would not cover this grazing area.) The fair market value of Love's property is $\$400,000.00$.
- Item 3 The cost to excavate and haul 940,000 cu yds of soil to the Miyashita/Love site is $\$940,000.00$.
- Item 4 The County would lease two Cat 627 SCRAPERS for 1 year. Cost @ $\$300,000.00$ for both from Quinn Co., Salinas.
- Item 5 Miscellaneous. Site prep, drainage, hydroseed, etc. $\$500,000.00$.

| | |
|---------|-------------------------------------|
| Item 1. | $\$2,500,000.00$ |
| 2. | $400,000.00$ |
| 3. | $940,000.00$ |
| 4. | $300,000.00$ |
| 5. | $500,000.00$ |
| | <u>$\\$4,640,000.00$</u> |

Note: ① County could lease out the Miyashita and Love residences and generate $\$330,000.00$ over 11 year period the stockpile is dormant, Nov 1999 until 2011.

| | | | |
|--------------------------|---|-------------------------------------|------------------|
| Projected cost reduction | ① | $330,000.00$ | Lease properties |
| | ② | $1,000,000.00$ | Sell properties |
| | | <u>$\\$3,310,000.00$</u> | |

* Comparable properties listed for @ $\$1,500,000.00$

② At the end of this 20 year project these properties are sold, further reducing the cost of the project by at least $\$1,000,000.00$.

Traffic Safety - Environment - Noise - Dust - View & Solar Access

Page 5

Traffic Safety - Harkins Slough Road is lightly traveled and is closed every year during our rainy season for six or more months. The Sheriff's Detention Center would be the only traffic using the road during those six months. It would be much safer having heavy equipment crossing Harkins Slough Road at any time rather than Buena Vista Drive which is much more frequently traveled by school buses, commuters, residents, beach goers and 300-600 trucks delivering waste to the Buena Vista Landfill daily.

Line of sight on Harkins Slough Road is more than 600' for southbound traffic which is adequate. Northbound traffic line of sight is 400'. If needed, a flagman or stop signs for even safer traffic control can be implemented.

Environmental Impacts - Army Corps of Engineers, Molly Martindale and Calif. Fish & Game, Patricia Anderson have recently been on the Miyashita/Love site. ACDE has nothing to report at this time. Calif. F & G, Patricia Anderson has sent a preliminary report dated May 29, 1998. The report states; "Environmental impacts and mitigations may be greatly reduced if this area (Miyashita/Love) is utilized. No seeps or riparian areas were observed which greatly reduces the impact. Most notable, confining the habitat disturbance to only one side of Buena Vista Drive results in much less alteration of a watershed and less dissection of habitat."

Noise - The only heavy equipment operating on the Miyashita/Love soil stockpile site will be Cat 627 SCRAPERS and a water truck. It will take 12½ months to stockpile 940,000 cu yds. of soil. The site will be closed for 11 years or until all soil on the Buena Vista Landfill is exhausted. The northern edge of the soil stockpile will be

placed at least 600 feet from the Fasundes and Howard properties. The stockpile will act as a buffer to block out noises coming from the Buena Vista Landfill which presently impacts the Miyashita, Love, Fasundes and Howard homes.

Mrs. Howard operates an equestrian center on her property which is surrounded by tall, dense trees and buildings. DPW has expressed concern that the sound of heavy equipment 600 feet from the horses might cause the horses to "spook" and be injured. That is not likely because the horses have adapted to the noise from 300-600 trucks daily driving along Buena Vista Drive just 200 feet to the west, heavy equipment operating on the Landfill 900 feet to the south, airplanes taking off from the Watsonville Airport 300'-1000' overhead and the loud speaker system Mrs. Howard uses to call out instructions during her riding classes.

The Fasundes house is surrounded by open areas and buildings. The view to the south is of the Miyashita greenhouses and the Buena Vista Landfill. The soil stockpile will block the sight of the landfill and act as a noise buffer. The distance from the Fasundes home is at least 600' from the Miyashita/Love soil stockpile.

Note: The Dept of Public Works has sited a full-on landfill operation at the Buena Vista Landfill within 600 feet of the Miyashita home and 700 feet of the Love's home. Also, DPW designed to site a soil storage site within 550 feet of the Cole home. DPW record indicates 600 feet to be acceptable.

Dust - No conflicts with adjacent ag production shall occur because ag activities are not present.

View & Solar Access - The soil stockpile's highest point is 50' and will not block solar access to anyone's property.

Gross Deception or Incompetence?

..... regarding DPW's dilemma, where to store 1,250,000 cu yds of soil?

DPW Solid Waste Division Management claims that Granite did not remove enough soil from the Buena Vista Landfill from 1985 until now and that is why a soil storage area has to be created offsite.

It is not appropriate for DPW to attempt to fix blame on Granite or in any way suggest Granite is responsible for this dilemma.

Granite's records from prior years clearly show no more than 10,000 - 15,000 cu yds of soil removed prior to 1985 and that annual rate continues today.

Considering DPW can only find storage space to stockpile 350,000 cu yds. on site of the 1,600,000 cu yds. to be excavated, then logically that means Granite would have had to remove 1,250,000 cu yds. since 1985 in order for DPW to maintain all soil storage on the landfill site.

Did DPW plan poorly and overestimate Granite's needs or is there another reason for having 1,250,000 cu yds. of soil with no place on site for storage?

In 1985, when The Buena Vista Landfill expansion was approved, an area to the southwest in the vicinity of the Sheriff's Detention Center was designated for future soil stockpiling. Soon after, that area was used to enlarge the Sheriff's Detention Center.

Is it possible that the Planning Dept. and Dept. of Public Works devised a plan to expand the Buena Vista Landfill to the west across Buena Vista Drive? To achieve that goal, the soil storage site across Buena Vista Drive became an integral part of the ploy to eventually expand the Landfill. The history of events and facts support this conclusion.

David Barlow

Rick Hyman



SANTA CRUZ COUNTY *Farm Bureau*

June 8, 1998

Board of Supervisors
County of Santa Cruz
701 Ocean St.
Santa Cruz, CA 9060

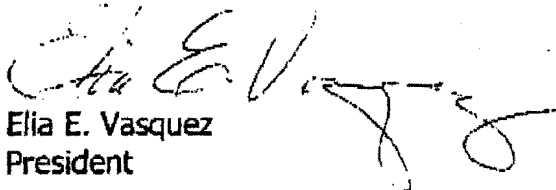
Dear Members of the Board:

On behalf of the Santa Cruz County Farm Bureau I would like to express our opposition to the Public Works' proposal to expand the Buena Vista land fill by transporting 1.25 million cubic feet of soil back and forth across Buena Vista onto 70 acres of prime agricultural land. You have made a strong commitment to protect prime agricultural land. It is important that this policy be followed in all cases.

It is our understanding that the Buena Vista Community Association is willing to work with the Public Works Department to find an alternative site that is less costly. We ask you to direct the Public Works Department to develop a plan that does not impact prime agricultural land.

Thank you for considering our comments on this matter.

Sincerely,



Elia E. Vasquez
President

EEV/rk

LAW OFFICE OF JONATHAN WITTWER

365 LAKE AVENUE
POST OFFICE BOX 1184
SANTA CRUZ, CA 95061
(408) 475-0724
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RECEIVED

JUL 24 1998

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

OF COUNSEL
JULIANNE WARD

July 24, 1998

California Coastal Commission
Central Coast Area Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

**RE: APPEAL NO. A-3-SCO-98-055
BUENA VISTA LANDFILL SOIL MANAGEMENT PROJECT ("Landfill
Project")**

Dear Members of the Coastal Commission:

This office represents the Buena Vista Community Association (BVCA) and the following comments are submitted on behalf of this organization. This letter supports a June 25, 1998, Appeal from a June 9, 1998 Coastal Permit Decision of the County of Santa Cruz. Specifically, BVCA is appealing actions taken by the Board of Supervisors ("Board") for the County of Santa Cruz ("County") to approve offsite soil stockpiling as part of what the County identifies as the proposed Buena Vista Landfill Soil Management/Stockpile Project ("Landfill Project").

OVERVIEW

The proposed Landfill Project violates the California Coastal Act and LCP provisions mandating preservation of prime agricultural lands and soils (Public Resources Code Section 30241 and 30243) and protection of biotic resources (Public Resources Code Section 30240). **The County has not given serious consideration to viable alternatives that could reduce or eliminate the Landfill Project's adverse Coastal Zone impacts.** Furthermore, the documents prepared for the Landfill Project do not contain sufficient information to determine whether stockpiling soil offsite is even necessary, and if so how much. It is BVCA's understanding that such information is just now being prepared.

3-98-55

In addition, the County is rezoning the property from CA-O to CA, which constitutes an amendment to the LCP under Public Resources Code Section 30514(e). However, the County has failed to process the rezoning as an amendment and make the requisite findings therefor.

Furthermore, County officials have stated that the site chosen for the proposed stockpiling would be the logical location for further (future) expansion of the Landfill and the County has acquired a seventy acre parcel when it only needs twenty acres for the stockpiling project. Thus, the County's approval of the current Landfill Project may be seen as a de facto attempt to acquire a site for future expansion of the Buena Vista Landfill without analyzing the environmental effects. Such a maneuver would constitute piecemealing the project and violates State law (CEQA and/or the functional equivalency requirements under the Coastal Act. For all of the foregoing reasons, must be returned to the County for reconsideration.

I FACTUAL BACKGROUND

A. The Landfill

During the 1960's, the County of Santa Cruz acquired the Buena Vista Landfill for use as a Class III, or nonhazardous, solid waste landfill. The Buena Vista Landfill currently serves both commercial haulers and private individuals. In 1985 the County obtained permits to expand the landfill onto the current site. The Buena Vista Landfill Development Plan divides the landfill into five or six modules. Use is phased so that when each module reaches capacity it is covered and capped and the next module is excavated for use. The newly excavated soil is then used both as incremental fill and to cap the module once the next module has reached capacity. When the County initially approved expansion of the landfill in 1985, the excavated materials for each module were to be stored onsite (see May 18, 1995 letter from Coastal Commission staff to the County).

As of 1998, the first two modules have been filled to capacity and are closed. Module 3 is currently in use and is expected to be filled by 2001. Modules 4 and 5 have not yet been excavated. The County proposes to revise the next phase of the project to consist of excavating and stockpiling 1.6 million cubic yards of soil from modules 4 and 5. The excavation and stockpiling would occur in two phases over a ten year period. Approximately 1.25 million cubic yards of the excavated soil would be transported across

Buena Vista Road via an overhead conveyor system and stockpiled on approximately twenty acres of land, currently in commercial agricultural (strawberry) production, located just to the north of the existing Buena Vista Landfill. The remaining 350,000 cubic yards of excavated soil would be stockpiled on the existing Landfill site.

According to the Landfill Project's environmental documents, the onsite stockpile would be used as cover during the first seven years of the Project. Once the onsite soil has been utilized, the County would begin to transport the 1.25 million cubic yards of soil stockpiled offsite back to the landfill site for use as daily cover. The estimated time that commercial agricultural land would be covered with stockpiled soil from Modules 4 and 5 is twenty years.

The site chosen for the stockpiling is a seventy acre parcel located within the Coastal Zone, zoned for Commercial Agriculture, with overlay zoning for the Open Space Combining District, located on the west side of Buena Vista Drive, across from the Landfill. The stockpiling would occur on twenty acres of prime agricultural soil that is currently in commercial agricultural (strawberry) production and would also result in the filling of wetland and riparian habitat. The site is currently subject to an Open Space Easement.

In addition to the excavation activities and construction and operation of the overhead conveyor system, major components of the Landfill Project include grading and installation of drainage, erosion control, and air quality or dust control measures. The cost of the Landfill Project has been estimated at over \$14,000,000.

B. The Buena Vista Community Association

The Buena Vista Community Association is an unincorporated community organization. BVCA members are concerned with the preservation of prime agricultural land and soils; biotic resources; riparian corridors; wetlands; and the general ecosystem and open space in the area surrounding Buena Vista Drive. Members of BVCA are also concerned with the Landfill Project's potential adverse impacts including traffic, noise, dust and air pollution.

Representatives of BVCA have been actively involved in the Project's planning process since becoming aware of it and have submitted numerous letters, attended scheduled meetings with staff, and have attended one or more of the County's four public Planning Commission meetings (June 25, 1997; August 13, 1998; September 24, 1997; December 10, 1997) and the Board of Supervisors meeting (June 9, 1998) concerning the

Landfill Project. At every opportunity, members of BVCA have introduced testimony and other information concerning the Landfill Project's adverse environmental impacts and inconsistencies with County Land Use policies and regulations, and members of BVCA have proposed viable alternatives to the Landfill Project that could reduce these impacts. Unfortunately, the County has shown little interest in BVCA's concerns or ideas and has proceeded to give top priority to its landfill operations rather than the preservation of agricultural land and biotic resources as required by law.

BVCA's concerns with the proposed Landfill Project are multiple. First, BVCA feels that the County failed to undertake a full assessment of the Landfill Project's environmental impacts or to consider a reasonable range of project alternatives. Specifically, throughout the Landfill Project process, the County has not placed the legally required top priority on preserving agricultural land in production and protecting environmentally sensitive areas from development and did not vigorously pursue alternatives to the Project with lower or no environmental impacts. Furthermore, County officials have stated that the entire seventy acre parcel would be the logical location for further (future) expansion of the Landfill thereby removing additional agricultural land from production and filling in additional riparian corridors and damaging additional environmentally sensitive habitat. However, the County has not addressed this issue in any of the environmental documents prepared on the Landfill Project. Members of BVCA fear that the current stockpiling project is simply the first step in the County's plans to expand the Buena Vista Landfill onto seventy acres of prime agricultural land. The County's decision to purchase a seventy acre parcel outright rather than simply lease the twenty acres needed for the soil stockpiling for the twenty year estimated lifespan of the project, lends additional credence to the suspicion that the County's ultimate intention for the Rocha property is an expanded Buena Vista Landfill.

The County's actions approving the Landfill Project violate provisions of both the Coastal Act (Public Resources Code section 30000 et. seq.) generally, and the Santa Cruz County's Local Coastal Plan (LCP), as well as requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 et seq. The County's actions are set forth in the Minute Order for Item No. 55 in the Board's June 9, 1998 Agenda, a copy of which is on file at the County. (hereinafter "County's Landfill Actions"). To the extent that the Landfill Project is actually a de facto attempt to expand the Buena Vista Landfill on seventy acres of prime agricultural land, such an action would also clearly violate the Coastal Act and CEQA. We respectfully request that the Coastal Commission grant the appeals filed by BVCA, as well as the appeals filed by

Coastal Commissioners Sara Wan and Pedro Nava, with respect to the County's Landfill Actions and return the Project to the County for consideration of other alternatives.

II PROCEDURAL BACKGROUND

The environmental review process for the Landfill Project began in 1995 with plans for the preparation of the EIR. In 1996, the County of Santa Cruz circulated a Draft Environmental Impact Report ("DEIR") on the Landfill Project for public comment and in May 1997, completed preparation of a Final EIR ("FEIR") for the Landfill Project. As a result of concerns raised by members of the public and by the California Department of Fish and Game and the U.S. Fish and Wildlife Service during the environmental review process, the County decided to prepare a supplemental EIR. A Draft Supplemental EIR ("DSEIR") was prepared and circulated in February 1998. The Final Supplemental EIR ("FSEIR") was issued in May 1998. The Santa Cruz County Planning Commission declined to make a recommendation on the Landfill Project and took the extremely unusual action of passing the project up to the Board of Supervisors without a recommendation. The Board certified the Final EIR and the Final Supplemental EIR for the Landfill Project at a meeting held on June 9, 1998.

On June 24, 1998, two Coastal Commissioners filed Commissioner's Appeals regarding the County's June 9, 1998, County's Landfill Actions. On June 25, 1998, the BVCA, through its representative David Barlow, filed an appeal of the County's approval of the Landfill Project with the California Coastal Commission's Central Coast Area Office. BVCA was prepared to file a CEQA challenge to the County's certification of the EIRs by July 9, 1998. However, the Santa Cruz County Counsel has agreed that any Statute of Limitations to challenge the County's Actions has not and shall not commence running until the Coastal Commission Review of the Landfill Project is complete.

II BASIS OF THE APPEAL

The County failed to undertake a full and accurate assessment of several of the Landfill Project's environmental impacts or its inconsistencies with the Coastal Act, County Land Use Regulations, and Voter-Adopted Land Use Policies. Because the Landfill Project is located within the Coastal Zone of Santa Cruz County, the Coastal Act applies to this project. The Coastal Act contains an entire Chapter on "COASTAL

RESOURCES PLANNING AND MANAGEMENT POLICIES" (Pub. Res. C. Sec. 30200 et.seq.). Section 30200 expressly provides that:

"... the policies of this Chapter shall constitute the standards by which ... the permissibility of proposed developments subject to the provisions of [the Coastal Act] are determined."

The Landfill Project violates several standards contained in these Coastal Act policies.

A. Impact on Agricultural Land

Because the Landfill Project would adversely affect prime agricultural land that is currently in production, it is inconsistent with the requirements of the Coastal Act and the Santa Cruz County Local Coastal Plan and Voter-Adopted Policies. There are alternatives which would avoid using agricultural land currently in strawberry production.

(1) Coastal Act Policies

The California Coastal Act recognizes the value of agricultural lands and soils in the California Coastal Zone, makes the preservation of coastal agricultural lands and soils a top priority, and establishes strict requirements for the protection of such resources. Public Resources Code Section 30241 mandates the standards for preservation of prime agricultural land in the Coastal Zone, as follows:

"The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy."

Section 30243 further provides:

"The long-term productivity of soils ... shall be protected."

The Coastal Act defines "prime agricultural land" by reference to the definition of the term contained in Government Code Section 51201. Section 51201 establishes five distinct methods for land to qualifying as "prime agricultural land". Under Section 51201 (c)(5), prime agricultural land includes:

"Land planted with ... crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre."

Strawberries are an extremely high value crop. Clearly the proposed project site falls within the Coastal Act's definition of "prime agricultural land", on this ground alone.

The Landfill Project violates sections 30241 and 30243 of the Coastal Act. The Landfill Project's soil stockpiling would remove at least twenty acres of coastal prime agricultural land from production and cover up that land with landfill stockpile for at least twenty years.

It is obvious that removal of twenty acres of prime agricultural land from strawberry production (and probably discouraging production on adjoining agricultural land currently in production) precludes the required finding under Section 30241 that the maximum amount of prime agricultural land has been maintained in production. Additionally, covering agricultural soils with up to sixty feet of landfill excavate will decrease the productivity of the existing agricultural soils, thereby precluding a finding of consistency with Section 30243. The County's acknowledged interest in expanding the Landfill on the site now proposed for stockpiling would further preclude the required findings.

Rather than search for an alternative to the Landfill Project that would not adversely impact prime agricultural land and soil productivity, as required by Public Resource Code sections 30241 and 30243, the County has tried to downplay the significance of the project on agricultural land. According to the County, violations of Coastal Act policies requiring priority be given to protecting agricultural land do not constitute a significant impact because the stockpiling use is "temporary" and forty acres of the Project site that will not be used for stockpiling will remain in agricultural production.

Although the environmental documents purport to assure that the Project area will be returned to agricultural production upon completion of the stockpiling, the documents provide no discussion, information, or analysis of the feasibility of this proposal. The members of BVCA are concerned that severely compacting the earth with a 1.25 million cubic acre pile of soil for more than ten years will adversely affect the viability of this area for future agricultural production.

In addition, the County has provided no discussion or analysis of the potential impacts of the stockpile operation on the immediately adjacent fifty acres. It is extremely unlikely that a 1.2 million cubic acre pile of dirt would have no impact on the immediately adjoining strawberry fields. Members of BVCA, including farmers, concur that dust from the Landfill Project would deleteriously affect the commercial viability of nearby prime agricultural land and render some prime agricultural land unusable. The Santa Cruz County Farm Bureau also opposes the Landfill Project based on its adverse impacts to prime agricultural land. See letter attached as Exhibit A.

Furthermore, if the County did use the site for future expansion of the Landfill, it is reasonable to expect that the site would be removed from crop production permanently. California law establishes strict requirements for landfill closure and post-closure maintenance. These regulations would preclude future use of the site for the growing of crops. 27 California Code of Regulations Section 20950 states that one of the top goals for landfill closure is to minimize infiltration of water into the waste. Section 20950 (a)(2)(A) 1. Accordingly, Section 21090, which sets the standards for closure and post-closure, requires that former landfills be covered with plants that minimize irrigation needs. Section 21090 (a)(3) d. Because growing commercial crops on the site would require extensive irrigation, it is likely that if the area was removed from agricultural production for use as a landfill, it could not later return to crop production. The County has acknowledged that once an area has been taken out of crop production for use as a landfill, it cannot return to crop production. According to the staff report for the April 23, 1985 Board of Supervisors Hearing on the 1985 landfill expansion, the Regional Water Quality Control Board leachate control requirements preclude irrigated agriculture on a closed landfill. Thus, the only future agricultural use that could be made of the parcel once it was used as a landfill would be grazing.

(2) Local Coastal Plan

(a) Violation of LCP

The proposed Landfill Project would violate the Santa Cruz County Local Coastal Plan, including the implementing ordinances. Over the years, the Electorate and the Board of Supervisors of Santa Cruz County have consistently recognized the vital importance of agricultural lands to the County's economy and has adopted numerous policies and provisions designed to protect and preserve agricultural land. These provisions are contained in the County General Plan, Local Coastal Plan and County Code provisions.

Section 13.10.311 of the County Code describes the purpose of Commercial Agriculture (CA) zoning as follows:

"to preserve the commercial agricultural lands within Santa Cruz County which are a **limited and irreplaceable natural resource**, to maintain the economic viability of the farm units comprising the agricultural area of the County, [and] to implement the agricultural preservation policy of Section 16.50.010 of the Santa Cruz County Code."

Section 16.50.010, of the County Code, in turn, makes the explicit finding that:

"it is in the public interest to preserve and protect [commercial agricultural] land for **exclusive agricultural use**."

The Santa Cruz County Local Coastal Program Land Use Plan provides that agriculture is to be recognized as a "priority land use" and mandates resolution of "policy conflicts in favor of preserving and promoting agriculture on designated commercial agricultural lands." See LCPLUP Objective 5.13 in the County General Plan. Furthermore, the County LCP Land Use Plan generally prohibits conversion of agricultural land to nonagricultural use. See General Plan Section 5.13.20.

The LCP definition of "Prime Farmland Soils" (LCP/GP G-15) refers the reader to "the [County's] 1980 LCP Agriculture Background Report." Pages 2-3 of that Report (copy enclosed as Exhibit B) state that "all of [the County's] Coastal Zone agricultural lands can be considered as prime in terms of Coastal Act requirements."

The proposed Landfill Project is clearly not consistent with these Santa Cruz County LCP provisions which give top priority to preservation of agricultural land in production and generally prohibit conversion of agricultural land to nonagricultural uses. The Draft EIR, at page 13, expressly acknowledges that "Implementation of the proposed project may be inconsistent with General Plan Policy" and specifically that "[t]he use proposed by the project is not an agricultural use." The County Zoning Ordinance provides at Section 13.10.312 (an LCP implementing ordinance) for commercial agricultural land to be used as a "publicly owned sanitary landfill ... subject to the provisions of Section 13.10.639." However, the Draft EIR expressly states that "the project is not by itself a sanitary landfill." Thus, the County's policy interpretation that the Project is a conditionally permitted interim use in the Commercial Agriculture (CA) Zone District violates the LCP.

In addition, County Code Section 13.10.314 (also an LCP implementing ordinance) establishes special findings that must be made before a discretionary use can be approved on a parcel zoned CA. Amongst the required findings: (1) that the use will "enhance or support the continued operation of commercial agriculture on the parcel and will not reduce, restrict or adversely affect agricultural resources"; (2) "that the use ... is ancillary, incidental or accessory to the principal agricultural use of the parcel or that no other agricultural use is feasible for the parcel"; (3) that "uses will not conflict with commercial agricultural activities on site, where applicable, or in the area"; and (4) that "the use will be sited to remove no land from production (or potential production) if any nonfarmable potential building site is available, or if this is not possible, to remove as little land as possible from production."

The Landfill Project cannot be seen as enhancing or supporting continued agriculture on the parcel as it will take twenty acres of strawberries out of production and adversely impact adjoining crops. Nor can the soil stockpile be considered ancillary, incidental or accessory to agricultural use of the parcel. Furthermore, the Landfill Project would certainly conflict with the commercial activities onsite and on adjoining parcels and has not been sited to remove no land from production. Nor has the County presented any convincing evidence that the Landfill Project has been designed to remove as little land as possible from production. **In fact, the County has not yet prepared its projections as to the amount of soil that could be stockpiled on site as of the date of this letter.**

(b) Amendment of LCP Without Proper Procedure

The County's rezoning of APN 046-121-03 from Commercial Agriculture with Open Space Overlay Zoning to Commercial Agriculture, and accompanying actions to extinguish Open Space Easement Contract 75-1262, in order to facilitate the soil stockpiling project, constitutes an amendment of the County's Local Coastal Plan implementing ordinances and has not been processed as such.

Public Resources Code Section 30514 provides that:

"(a) A certified local coastal program and all local implementing ordinances and regulations, and other actions may be amended by the appropriate local government, but no such amendment shall take effect until it has been certified by the commission."

and that:

“(e) For purposes of this section, ‘amendment of a certified local coastal program’ includes, but is not limited to, any action by a local government that authorizes the use of a parcel of land other than a use that is designated in the certified local coastal plan as a permitted use of the parcel.”

As will be shown in the analysis following, the County’s action in rezoning the Rocha Parcel (APN 046-121-03) on which it proposes to stockpile soil for use in its Buena Vista Landfill from CA-O (Commercial Agriculture with and Open Space Overlay District) to CA (Commercial Agriculture) was an action that authorized a use of a parcel of land for a use other than the use designated in the certified County LCP as a permitted use of the parcel. As a result, such action constituted an “amendment of a certified local coastal program” and must be processed as such. The County has not processed the rezoning of the Rocha Parcel as an amendment of its certified LCP.

The LCP includes, under Public Resources Code Section 30108.6, both zoning ordinances and zoning district maps. The “O” Overlay Zoning Combining District is authorized by County Code Section 13.10.460. This section is expressly included as an implementing ordinance of the County’s certified LCP at County Code Section 13.03.050. Thus, the removal of the “O” Overlay Zoning constitutes an amendment of the LCP. In addition, such removal of the “O” Combining District constitutes the authorization of the use of a parcel of land other than a use designated in the certified local coastal plan as a permitted use of the parcel. That is because County Code Section 13.10.462 provides that those parcels which are restricted with an Open Space Easement shall be designated with an “O” Combining District and the Draft EIR provides at page 4 that in order for the project to be implemented, the Open Space Easement Contract would have to be terminated.

As a result, the rezoning was required to be processed as an amendment of the County’s certified local coastal program. This required specific findings as set forth at 14 Code of California Regulations Section 13450. No such processing or findings were done by the County. Among those required findings are consistency with the Coastal Act and the absence of feasible alternatives or mitigation measures lessening environmental impacts. The proper processing and findings for such rezoning is a prerequisite to the County’s Development Permit approval which is before your Commission. Hence, the entire County approval should be referred back to the County and consistency with the Coastal Act reevaluated.

(3) Voter-Adopted Policies

The approval of the Landfill Project also violates agricultural land preservation policies adopted by the voters of the Santa Cruz County by referenda in 1978 and again in 1990, which policies may not be amended except by majority vote of the voters of the County of Santa Cruz voting at a duly called and conducted election.

County Code Section 17.01.030(a) duly adopted by the voters in 1978 provides as follows:

“Preserve Agricultural Lands. It shall be the policy of Santa Cruz County that prime agricultural lands and lands which are economically productive when used for agriculture shall be preserved for agricultural use.”

Said policy is based on the finding duly adopted by the voters on that same date and set forth in County Code Section 17.01.020(d) 1. that agricultural land is: “being lost to development, and the continued viability of commercial agriculture in Santa Cruz County is threatened by rapid population growth and inappropriately placed development.”

County Code Section 16.90.030.10 duly adopted by the voters in 1990 provides that: “it shall be the policy of the Santa Cruz County Government to use its powers and resources to ensure that the future growth and development of Santa Cruz County . . . does not lead to the loss of prime agricultural land.”

The Landfill Project would remove at least twenty acres of agricultural land from production, replacing strawberry crops with over a million cubic yards of dirt. Such project, together with removal of the “O” Combining District, has the effect of amending or violating the voter-adopted policies set forth at County Code Section 17.01.030(a) and 16.90.030.10 without a vote of the People of the County.

The County is required to obtain approval of the voters at a duly called and conducted election before approving or adopting said amendments of the County Zoning Ordinance because said amendments contravene a voter adopted policy for the preservation of agricultural land for agricultural purposes.

B. Impact on Environmentally Sensitive Habitats

The Landfill Project would also result in removal of riparian and wetland habitat which are considered sensitive by the California Department of Fish and Game, are designated as "special aquatic sites" under the criteria set out in Section 404 of the Clean Water Act (and thus come under the jurisdiction of the U.S. Army Corps of Engineers) and are protected under the Coastal Act and Santa Cruz County General Plan. Additional riparian habitat will be impacted by the Project's proposed wetland and riparian mitigation plan.

Resource protection agencies including the California Coastal Commission, California State Department of Fish and Game (hereinafter "Fish and Game"), and the United States Department of the Interior's Fish and Wildlife Service (hereinafter "Fish and Wildlife") have all voiced concern over the Landfill Project's adverse impacts on wetlands, riparian corridors, and endangered and threatened species and have recommended that the Landfill Project be designed to completely avoid, or minimize to the greatest extent feasible, impacts on riparian corridors and wetland areas. See May 18, 1995 letter from Coastal Commission staff to County; Nov. 10, 1997 letter from Fish and Wildlife to County; and Dec. 10, 1997 letter from Fish and Game to County.

Of particular significance is the fact that the Landfill Project will result in filling of a section of riparian corridor that has been identified as potential habitat for the Santa Cruz long-toed salamander and the California red-legged frog. The Santa Cruz long-toed salamander is recognized as endangered under both the Federal and California Endangered Species Acts and is fully protected under the California Fish and Game Code. The California red-legged frog is recognized as threatened under the Federal Endangered Species Act and as a "Species of Special Concern" by the California Department of Fish and Game.

The Fish and Wildlife Service is concerned with the project's potential to impact both the state and federally listed Santa Cruz long-toed salamander and the threatened California red-legged frog, specifically noting that limited surveys of the Project site for these species are inadequate to demonstrate the absence of the species. Fish and Wildlife therefore recommended that the Landfill Project "assume that these species are present on the project site" and suggested that the project be modified to avoid filling any wetland. A copy of this letter is attached as Exhibit C. According to the FSEIR, neither California red-legged frogs nor Santa Cruz Long-toed salamanders are expected to be present on the project site (FSEIR, Appendix A at 9). However, the Biological

Assessment noted that the range of each species is up to one mile and that breeding populations of Santa Cruz long-toed salamanders exist at locations .95 miles and 1.4 miles from the project site and that several California red-legged frogs have been documented at locations varying from 300 feet from the project site to 1.4 miles from the project site (DSEIR, Appendix A at 6-8).

Public Resources Code Section 30240 establishes the Coastal Act standard for development affecting environmentally sensitive habitat areas, as follows:

“(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas ... shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat ... areas.”

An “environmentally sensitive area” is defined as:

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

Because the wetland and riparian corridor which will be filled in as part of the Landfill Project, are potential habitat for endangered and threatened species, they qualify as environmentally sensitive habitat areas.

The Landfill Project would violate Public Resource Code Section 30240 for several reasons. Most obvious is the fact that **the Landfill Project is not a use dependent on the special aquatic site or the riparian corridor.** Furthermore, filling in and destroying the special aquatic site or the riparian corridor clearly constitutes a significant disruption of habitat values and is incompatible with the continuance of those habitat areas. Thus, the Landfill Project as proposed is not allowed under the Coastal Act. This conclusion has been supported by the Court of Appeal in *Sierra Club v. California Coastal Commission* (1993) 12 Cal.App.4th 602.

Significantly, the Court in *Sierra Club* rejected the County of Mendocino's argument that it was not required to designate (and thus protect from development) all pygmy forests as ESHAs because significant portions of these forests were already protected in parks and reserves throughout the County. The Court disagreed: "To allow the destruction of ESHA areas through development simply because some of the habitat is preserved in parks would undermine the protective goal. It would relegate parts of rare habitat to parks and hasten the same habitat's loss elsewhere." *Id.* at 613.

Similarly, in this case, the County argues that because biological surveys of the project site did not discover individual Santa Cruz long-toed salamanders or California red-legged frogs, the Landfill Project's destruction of potential habitat for these endangered and threatened species does not constitute a failure to "protect[] against any significant disruption of habitat values." Clearly, if the County limits habitat protection to the specific areas where examples of the endangered or threatened species have actually been sighted and does not protect potential habitat (or at least potential habitat within the immediate range of known individuals), the standards of the Coastal Act will be violated.

C. Impact on Air Quality

The Landfill Project will deleteriously affect air quality, yet the full extent of air quality degradation was not discussed in the environmental documents prepared for the Project. Given that an LCP Amendment is part of this project, there is a required finding that there are no feasible alternatives or mitigation measures for lessening the impact of this Project. During the EIR process, the County stated that the PM¹⁰ emission for the soil stockpiling project will not exceed 82 lbs/day and will produce a PM¹⁰ emission of only 51 lbs. The County based this PM¹⁰ emission rating on moving only 2,640 cubic yards per day during Phases I and II. In fact, the County admits that the actual amount of soil moved during Phases I and II is 5,400 cubic yards of soil.¹ The amount of soil actually being moved during Phases I and II is more than double the amount used to calculate the PM¹⁰ emission set forth in the EIR process. This doubling, as well as other PM¹⁰ sources at the Landfill will probably cause the 82 lbs/day standard to be exceeded.

The County did not disclose the PM¹⁰ emissions of existing landfill operations in conjunction with the Landfill Project. All PM¹⁰ emissions set forth in the various EIR's

¹See FSEIR Response to David Barlow's Letter, Section F8

reflect the revised phase currently proposed by the County and do not address the combined air quality degradation of both the soil stockpiling and existing landfill activities. The actual combined PM¹⁰ emissions of both of these activities should be provided by the County and needs careful evaluation. The presentation of PM¹⁰ emissions in this fashion is an unlawful attempt to piece-meal negative air quality effects. Furthermore, the air quality figures set forth in the EIRs are based on models and no actual PM¹⁰ emissions were based on existing conditions at the landfill.

III ALTERNATIVES

The County failed to seriously consider a range of alternatives that are capable of achieving the Landfill Project's goals while reducing its impacts. Specifically, the EIR failed to discuss and the County failed to seriously consider information regarding the feasibility of stockpiling the soil onsite as originally planned. It is remarkable that, to date, calculations regarding such feasibility have not been done. Other viable alternatives that should have been considered include selling the excess soil, giving it away, or paying to have it removed.²

During the planning and environmental review stages of the Landfill Project, members of BVCA proposed a variety of alternatives to the project. At an August 13, 1997 Planning Commission Meeting, the Santa Cruz County Planning Commission directed Public Works to consider some of these alternatives. As a result, public meetings were held and on September 29, 1997, County Planning staff issued a report discussing some of the alternatives. In spite of this ostensible attention to community generated alternatives, the County's quick dismissal of the various alternatives developed by BVCA members demonstrates a certain degree of myopia: the County appears to have decided on its preferred site and is not really interested in considering alternatives. All six of the alternatives considered were rejected as infeasible or too costly. The County failed to take into account the fact that legally it must give higher priority to compliance with the Coastal Act (including preservation of productive prime agricultural land and biotic resources). In other words, the County has to be willing to be more creative or pay slightly more for its Landfill in order to give the legally required priority to the Coastal Act.

²Furthermore, the main Southern Pacific railroad line runs along the southern boundary of the existing Buena Vista Landfill, thus it may be possible to transport excess materials by rail.

A. Onsite Storage

None of the documents prepared for the Landfill Project provide any projections or other information justifying the County's assumption that they cannot stockpile the soil onsite. BVCA is currently in the process of hiring a soils engineer to assess the capacity of the current Landfill site for stockpiling and to determine if it is possible to store more, if not all, of the soil onsite. Preliminary discussions with experts have indicated that the information provided in the Landfill Project documents is not sufficient to assess the stockpile capacity of the existing Landfill, the daily cover needs of the Landfill, or final capping needs. Without this type of concrete information, it is simply not possible to determine the feasibility of storing more, or all, or the soil onsite. BVCA has just learned that the County is currently in the process of preparing such projections. They should have been available to the public for a public hearing during the County's processing of the project.

B. Removal of Granite Construction Stockpiled Soil

This alternative would keep all Landfill operations on the existing Landfill site. In 1985, Santa Cruz County purchased the current Buena Vista Landfill site from Granite Construction ("Granite"). Under the terms of the purchase agreement, Granite Construction has the right to remove soil from the existing Landfill. The entire Landfill Stockpiling Project is caused by the need to store 1.25 million cubic yards of soil for the next twenty years³. According to the County, the current search for a stockpile site was precipitated by the fact that Granite did not remove soil as anticipated. Under Section 6, paragraph (A) of the purchase agreement, the County has the right to give 30 days notice of abandonment to Granite Construction, after which Granite Construction will be deemed to have abandoned its interest in the stockpiled material on the Landfill site. The County should explore the possibility of giving this notice or having Granite remove this soil immediately, giving the soil away, paying to have the soil removed by Granite or other entities.

On multiple recent occasions, members of BVCA have observed Granite Construction importing large amounts of soil to the Landfill from various offsite locations. Trucks have also been seen carrying export material away from the Landfill. To the extent that the amount of soil being imported exceeds the amount being exported,

3. See May 28, 1998 Letter from County Staff, to Board of Supervisors, page 2.

this additional soil exacerbates the County's existing need for stockpile capacity. The importation of offsite soil also raises concerns about potential contamination of any eventual stockpile site. Throughout the environmental review process for the Landfill Project, the County has repeatedly assured members of BVCA that the only soil that would be stockpiled on the Rocha Property (and immediately adjoining their own properties) would be "clean" soil excavated from modules 4 and 5. With Granite Construction now importing soil to the Landfill from various construction sites, the County can no longer guarantee that all of the soil to be stockpiled will be "clean" soil from the Landfill. Members of BVCA are extremely concerned with the potential for this offsite soil to contaminate the stockpile as well as underlying or adjoining soils.

C. Miyashita/Love Site

The Miyashita/Love properties are located immediately across Harkins Slough Road from the Buena Vista Landfill. The Miyashita property alone was considered by the County in their original alternative analysis but was rejected as too small, based on an initial assessment that it could only hold 100,000 cubic yards of soil. In response to the County's quick rejection of this Alternative, neighbors performed their own analysis of the site, but included a portion of the adjacent Love Property. At the direction of the Planning Commission and at the specific request of the Army Corps of Engineers, County staff did perform additional analysis of this option, considering both parcels. More complete analysis of the feasibility of using both properties was conducted by the County and by two private engineering firms: Bowman and Williams and CH2M HILL. The three analyses differ significantly. According to Bowman and Williams, the site could hold 1,200,000 cubic yards of stockpile. According to the County's revised estimates, the site could hold 800,000 cubic yards of stockpile and according to CH2M HILL, it could hold 500,000 cubic yards.

In its December 9, 1997, Report to the Planning Commission, County staff rejected this site based partially on concern that it could adversely impact a nearby equestrian facility and neighboring houses. Other reasons cited for rejecting this option include its creation of a "large visual impairment" and traffic impacts. Although BVCA is certainly sympathetic to the concerns of neighbors, BVCA is of the opinion that it is possible to design a project at this site that could largely avoid the impacts identified by the County.

The County's concern over traffic impacts with this site are not supportable. In fact, since Harkins Slough Road is closed to through traffic for approximately six months

out of the year, the traffic impacts of this Alternative could be greatly reduced over the preferred site. Furthermore, this site is located immediately across Harkins Slough Road, very close to modules 4 and 5 which could further facilitate transportation of excavated soil from the Landfill.

Visual impacts could be reduced if the County stockpiled to a maximum height of fifty or sixty-five feet as suggested by the two private engineering firms that considered this site, rather than the one hundred foot stockpile considered by the County.

Based on a site visit, a representative from the California Department of Fish and Game determined that there is no riparian habitat at the Miyashita/Love properties and that this alternative would reduce the Landfill Project's impacts on environmentally sensitive habitat areas and wetlands.

Furthermore, utilizing this alternative would not require condemnation of prime agricultural lands because both owners have indicated a willingness to sell. Mr. Miyashita is willing to sell his property to the County and, though zoned Commercial Agricultural, his property has not been in nongreenhouse agricultural production for 15 years. Mr. Love communicated to a member of BVCA that he might also be willing to sell his property to the County. Acquisition of the County's proposed project site would, however, require condemnation proceedings, as Mr. Rocha does not appear willing to sell his strawberry farm.

D. Harkins Slough Road Site

The County analyzed an 87 acre site located just across Harkins Slough from the Buena Vista Landfill. The site is zoned Commercial Agriculture but is currently used for cattle grazing and is described by the County as "heavily impacted." The site has not been used for agricultural production for many years and the cattle onsite rely largely on supplemental feed. The Harkins Slough Alternative was rejected based primary because it was thought that trucking material to this site via Highway One was cost prohibitive.

According to County staff, use of this site would require soil to be hauled either directly across Harkins Slough or via Highway One. The Harkins Slough access route would require costly road improvements and was considered environmentally problematic due to its vicinity to the Slough. However, the County has already set aside \$200,000 for these road improvement and may be eligible for federally matched funds to repair this road. Additionally, a biologist with the California Department of Fish and Game has

stated that improvements to the current road over the Slough could be environmentally beneficial to the Slough ecosystem if the road improvements were constructed in a manner that would facilitate water flow to and from the Slough. Regarding alternatives to crossing Harkins Slough, the County dismissed the Highway One access route as too lengthy to be feasible but did not address the possibility of hauling to this alternative site via Ranport Road, a much more direct route that would also bypass the Slough. Thus, the County appears to have dismissed this Alternative without any serious attempt to address its feasibility.

E. Combination Alternative

Finally, the County should have considered an alternative made up of a combination of one or more of the following (1) phasing the Landfill Project; (2) improved efficiencies of onsite stockpiling; (3) giving excavated soil away or paying to have it removed; and/or (4) stockpiling a smaller amount of soil offsite at one of the alternative locations. A combination Alternative could substantially reduce or eliminate the overall impact of the Landfill Project on prime agricultural land, riparian corridors, and wetlands.

CONCLUSION

For all the reasons cited above, we respectfully request that the Coastal Commission grant the appeal filed by the Buena Vista Community Association, as well as the appeals filed by Coastal Commissioners Sara Wan and Pedro Nava, with respect to the County's Landfill Actions and return the Project to the County for consideration of other alternatives.

Sincerely,



Jonathan Wittwer, Esq.
Attorney for
Buena Vista Community Association

Encl.



SANTA CRUZ COUNTY
Farm Bureau

June 8, 1998

Board of Supervisors
County of Santa Cruz
701 Ocean St.
Santa Cruz, CA 9060

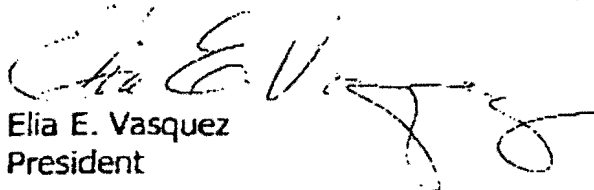
Dear Members of the Board:

On behalf of the Santa Cruz County Farm Bureau I would like to express our opposition to the Public Works' proposal to expand the Buena Vista land fill by transporting 1.25 million cubic feet of soil back and forth across Buena Vista onto 70 acres of prime agricultural land. You have made a strong commitment to protect prime agricultural land. It is important that this policy be followed in all cases.

It is our understanding that the Buena Vista Community Association is willing to work with the Public Works Department to find an alternative site that is less costly. We ask you to direct the Public Works Department to develop a plan that does not impact prime agricultural land.

Thank you for considering our comments on this matter.

Sincerely,


Elia E. Vasquez
President

EEV/rk

There are shortcomings with this approach, however. Primarily, the definition does not recognize local combinations of soil and climate which are very well suited for certain crops. This aspect is particularly important in the Coastal Zone where the coastal climate creates a production advantage for a variety of crops on soils which do not meet the first two Government Code criteria. The definition also omits range land and thus ignores the contribution of the livestock industry, \$2.5 million for Santa Cruz County in 1979, to the agricultural sector. The one animal unit per acre definition is not a range land concept, but rather refers to irrigated pasture. Ex B

The United States Department of Agriculture, Soil Conservation Service (SCS) is now utilizing a set of criteria¹ other than the soil capability rating system (Class I, II) to determine prime farmland soils. The application of these criteria to soil types in Santa Cruz County indicates that ten Class III soils and one Class IV soil, in addition to the Class I and II soils, qualify as prime farmland soils.

The California Department of Food and Agriculture (CDFA) in 1978, at the request of the Legislature, prepared a report dealing with the problems of the existing Government Code definition of prime agricultural land. This report suggests a new definition of prime agricultural land and the definition reflects not only the SCS criteria² for prime soils, it also recommends criteria for identifying prime rangeland² and unique farmland of statewide importance³, that is, productive agricultural lands which are on soils other than prime farmland soils.

In 1978 the County established an Agricultural Task Force which undertook a program for identifying commercial agricultural land for the purposes of applying agricultural land preservation measures. This process utilized the above mentioned SCS and CDFA criteria and provided, among other things, a comprehensive delineation of Coastal Zone agricultural lands, all of which can be considered as prime in terms of the Coastal Act requirements. The County process made a distinction between what was termed "Viable Agricultural Land" (Type 1) and "Limited Agricultural Land" (Type 2) based on the presence of one or more factors limiting productivity, such as soil type or topography. However, review of the agricultural lands in the Coastal Zone indicates that the County's "Limited Agricultural Land" qualifies as prime agricultural land on the basis of one or more of the criteria outlined below.

In summary then, the criteria utilized to identify prime agricultural land in the Coastal Zone of Santa Cruz County for purpose of meeting the objectives of the Coastal Act include:

- a) Land which meets the USDA SCS criteria of prime farmland soils and which are available (i.e., open land not forested or urbanized) for agricultural use;
- b) Land which meets the California Department of Food and Agriculture criteria for prime rangeland soils and which are available for agricultural use;
- c) Land planted with fruit or nut-bearing trees, vines, bushes or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period on an annual basis from the production of unprocessed plant production not less than \$200 per acre;



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

November 10, 1997

Kim Tschantz
Planning Department
County of Santa Cruz
701 Ocean Street
Santa Cruz, California 95060

Subject: Recommendations on the Buena Vista Landfill Soil Management Plan, Santa Cruz County, California

Dear Mr. Tschantz:

This letter is a follow-up to our meeting with you on the Buena Vista Landfill Soil Management Plan. Staff from the U.S. Fish and Wildlife Service (Service), the Army Corps of Engineers (Corps), the California Department of Fish and Game (Department), and the County of Santa Cruz (County) met on October 17, 1997 to discuss the proposed project and to visit the project site. This meeting occurred as a result of the Service's September 15, 1997 letter to the County in which we expressed concerns regarding the effects that the project may have on the endangered Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*) and the threatened California red-legged frog (*Rana aurora draytonii*).

At the October 17 meeting, the County informed the Service that it has modified the preferred alternative described in the final environmental impact report on the project. The proposed project would involve excavating approximately 1.6 million cubic yards of soil from the landfill and storing this soil on a parcel that is adjacent to the landfill. As modified, storage of the excavated soil would fill in a canyon on approximately 20 acres of land and would occur over a 10-year period. During the next ten years, this soil would incrementally be returned to the landfill as cover material. A riparian wetland that occurs along the length of this canyon would be eliminated by this project. The property is currently in agricultural use. Agricultural uses would continue on the parcel in areas not used for the landfill project. The project site would be returned to agricultural use after the soil is removed. The County has proposed to restore a riparian area and to create a seasonal wetland on the site to mitigate the loss of the wetland habitat.

Based on the characteristics of the site, the ecology of the Santa Cruz long-toed salamander and California red-legged frog, and their known occurrence within the vicinity of the project site, these species have the potential to occur within and adjacent to the project site. However, these species are not always easy to detect at a site because of temporal variations in behavior and habitat use. Therefore, the limited surveys for amphibians conducted at the project site are not adequate to demonstrate the absence of these species. We recommend all further planning for this project assume that these species are present on the project site because surveys to demonstrate their presence would be very complicated and would take several years to complete.

At our meeting, staff from the Corps stated that the wetland to be filled is within its jurisdiction and that the County will need a permit from the Corps pursuant to section 404 of the Clean Water Act. In addition, given that the soil could not be placed in the canyon without filling the wetland, the Service believes that the Corps' jurisdiction would extend over the entire project area and not just the fill to be placed in the wetland. Therefore, the Corps, as the lead Federal agency, has the responsibility to review the proposed activities to determine whether the Santa Cruz long-toed salamander or the California red-legged frog may be affected. The Corps' evaluation should contain a complete description of the project and analysis of effects including a discussion of erosion into adjacent wetland habitats and the role of the riparian wetland as a movement corridor. If the Corps determines that either of these species will likely be adversely affected, the Corps would request, in writing through our office, formal consultation pursuant to section 7 of the Act. Informal consultation may be used to exchange information and resolve conflicts with respect to listed species prior to a written request for formal consultation.

The County's modification of the proposed project, which entirely eliminated filling of a canyon and associated wetland, would reduce the potential for this action to affect the Santa Cruz long-toed salamander and California red-legged frog. However, the project would still eliminate riparian and wetland areas that may be habitat for these species. These effects could be reduced further, and possibly entirely eliminated, by altering the project so the wetland is not affected. Other minimization measures include placing the fill in the summer when these species are less mobile, implementing erosion control measures that allow for water to continue to run off into the adjacent slough but which hold back sediments, and restoring the riparian and wetland areas as habitat once the soil has been removed. Potential mitigation measures include designing the riparian restoration and seasonal wetland creation so that those areas provide potential habitat for the Santa Cruz long-toed salamander and California red-legged frog (including controlling exotic plant and animal species), controlling erosion from agricultural activities into the remaining wetland habitat on the parcel, avoiding the use of pesticides and herbicides on the property, and placing all remaining aquatic habitat on the parcel into permanent easements that protect these areas in perpetuity. In addition, to mitigate the permanent loss of habitat for the Santa Cruz long-toed salamander and California red-legged frog, the Service recommends that the County use tipping fees from the landfill to fund regional conservation efforts for these species in Santa Cruz County.

Kim Tschantz

3

Thank you for considering our comments on this project. If you have any questions, please contact Catherine McCalvin of my staff at (805) 644-1766.

Sincerely,



Diane K. Noda
Acting Field Supervisor

Note: NO residences beyond this point to Highway 1 @ 1 mile ↑



Howard Property

Fagundes Property

APN 052-011-09
CA zone

Love Property



APN 052-011-11

CA zone

Miyashita Property



Harkins Slough Road

Buena Vista Landfill

Module 5 Area
500,000 cu yds.

Module 4 Area
1,000,000 cu yds.

PF zone

Soil Stockpile Slope 3:1
Capacity @ 46'el. = 940,000 cu yds.
" @ 50'el = 981,733 cu yds.
" @ 56'el = 1,040,000 cu yds.

Scale 1" = 20'

Designed by David Harlow 7-8-98

