

**CALIFORNIA COASTAL COMMISSION**

NORTH COAST AREA

45 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260

**W 12e**

Appl. filed: 06-05-98  
49th day: 07-24-98  
180th day: 12-02-98  
Staff: BVB-E  
Staff Report: 08-28-98  
Hearing Date: 09-09-98

**STAFF REPORT: REGULAR CALENDAR**APPLICATION NO.: **1-98-054**APPLICANT: **MARIN COUNTY DEPARTMENT OF PARKS,  
OPEN SPACE & CULTURAL SERVICES**PROJECT LOCATION: On Pine Gulch Creek, approximately 800 feet east of Olema-Bolinas  
Road, Bolinas, Marin County;  
APN 195-290-19.PROJECT DESCRIPTION: Annually remove sediment from a previously-constructed  
sediment pond in Pine Gulch Creek.Lot area: **10.88 acres**  
Zoning: Coastal Open Area

LOCAL APPROVALS RECEIVED: Categorical Exemption

OTHER APPROVALS RECEIVED: Department of Fish and Game Streambed  
Alteration AgreementSUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit Files No. 1-89-13  
and No.1-92-140; Bolinas Lagoon: Summary of Sedimentation and Hydrology, 1967-1969  
(J.R. Ritter, 1973)

STAFF NOTES

1. Standard of Review. The proposed project is located on the west shore of Bolinas Lagoon. Marin County has a certified LCP, but the project site is within the Commission's retained jurisdiction. Therefore, the standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.
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**SUMMARY OF STAFF RECOMMENDATION.**

The major issue raised by the proposed project is the protection of the biological productivity and quality of coastal waters. Staff recommends approval of the project with conditions that limit the extent and timing of sediment excavation, allow the excavation for a five-year period only, and require the submittal of annual reports and evidence of National Marine Fisheries Service steelhead relocation authorization. Staff recommends that the Commission find that the proposed development, as conditioned, is consistent with the Coastal Act, including Coastal Act requirements that public access not be adversely affected by the development.

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**I. MOTION, STAFF RECOMMENDATION AND RESOLUTION.**

1. Motion:

I move that the Commission approve Coastal Development Permit No. 1-98-54. Subject to conditions.

2. Staff Recommendation of Approval:

Staff recommends a YES vote and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

3. Resolution to Approve Permit:

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

**II. STANDARD CONDITIONS:** See attached.

III. SPECIAL CONDITIONS:

1. Extent of Excavation.

Excavation shall be limited to accumulated sediment. Any enlargement of the existing sediment pond shall require a separate coastal development permit or an amendment to Coastal Development Permit No. 1-98-54.

2. Timing of Removal.

Sediment removal shall be limited to the period of August 1 to October 1 – 15.

3. Annual Administrative Approval to Continue Operations.

BEGINNING IN 1999 AND CONTINUING FOR EACH YEAR, at least one month prior to the planned annual excavation of the sediment pond, the applicant shall submit, for the review and approval of the Executive Director, an annual report that contains: (1) a copy of the California Department of Fish and Game's 1601 agreement for the proposed excavation; (2) an estimate of the sediments to be removed; (3) confirmation of the actual amount of sediment removed the previous year; (4) documentation of the number, species and estimated age of fish removed from the sediment pond the previous year prior to excavation; and (5) a copy of any permit required by the National Marine Fisheries Service (NMFS) or evidence that no permit from NMFS is necessary. The Executive Director shall approve the report if it provides the required information and if removal complies with the terms and conditions of this permit. The permittee shall not commence sediment removal until the Executive Director has approved the annual report.

4. Permit Expiration Date.

This permit shall expire on November 1, 2002, and shall not be subject to a time extension. Continued removal of sediment after the expiration date shall require a new coastal development permit.

5. Disposal of Sediments.

Disposal of the excavated sediments within the Coastal Commission's retained coastal development permit jurisdiction, other than in a licensed landfill, shall require approval by the Coastal Commission.

IV. FINDINGS AND DECLARATIONS:

1. Project Background and Description.

a. Background.

On June 13, 1989, the Commission approved Coastal Development Permit No. 1-89-13 for the construction of a sediment pond in Pine Gulch Creek, approximately 800 feet east of Olema-Bolinas Road and one mile northeast of the town of Bolinas (See Exhibits 1 and 2). On September 10, 1992, the Commission approved Coastal Permit No. 1-92-140 for a 5-year permit (Exhibit 4) to annually remove sediment from the previously approved pond. The purpose of the pond is to alleviate flooding and to decrease the amount of sediment reaching Bolinas Lagoon. Sedimentation is an increasing problem in Bolinas Lagoon, which has lost much of its historic tidal prism. The pond was constructed in a portion of Pine Gulch Creek that was sparsely vegetated by riparian habitat, and the project provided additional channel capacity and lowered the stream gradient, causing streamflow velocity to decrease and sediments to settle. These sediments are then excavated during low flow.

Pine Gulch Creek flows for six miles from Inverness Ridge and enters Bolinas Lagoon at the Bolinas Lagoon Nature Preserve (see Exhibit 2). The stream drains a basin underlain chiefly by Monterey Shale, with soils characterized by erodible mudstones with interbedded shales. The 7.8-square-mile drainage basin comprises approximately 45% of the Bolinas Lagoon watershed. Data from stream monitoring during 1968 and 1969 indicate that Pine Gulch Creek yields approximately 90% of the total sediment delivered to Bolinas Lagoon. Thus, controlling sediment from Pine Gulch Creek has the potential to affect a large proportion of the sediment entering the lagoon.

As the sediment pond project approved in 1989 was experimental in nature, the Commission allowed removal of sediments from the pond only through September 1, 1991, and required submittal of a new permit application for continued removal, rather than allowing an extension of Coastal Development Permit No. 1-89-13. Also, Special Condition No. 1 of Coastal Development Permit No. 1-89-13 stated that an assessment of project's impact on plant growth/regrowth and fisheries habitat, and an evaluation of the project's success would be filing requirements for submittal of an application to continue to remove sediment. The Commission did not require revegetation of the disturbed area at the time, but found that a revegetation plan would be required for the long-term operation of the sediment pond.

Soon after construction of the pond was completed, the applicant planted approximately 200 willow and alder trees around the perimeter of the pond, thus obviating the any requirement for a revegetation plan pursuant this permit. These trees provide benefits to fisheries habitat,

through shading, temperature control, bank stabilization and food web contributions. Also, the construction of the pond has decreased the impacts of flooding on the stream channel, such as increased channel scour. As noted in the findings for CDP 1-92-140, the Department of Fish and Game has stated that the sediment pond and revegetation have had a beneficial effect on the fisheries habitat of Pine Gulch Creek. The findings further noted that while no quantitative data assessing plant growth/regrowth and fisheries habitat had been provided to the Commission, qualitative information indicated that negative impacts to Pine Gulch Creek had not occurred, and, in fact, that habitat had improved, consistent with the intent of the requirements of Coastal Development Permit No. 1-89-13.

The project's success can be estimated by comparing recent amounts of sediment trapped to the average annual sediment load of Pine Gulch Creek. The creek's average annual sediment load is approximately 4,000 cubic yards. According to annual reports submitted pursuant to Special Condition No. 3 of CDP No. 1-92-140, 1,080 cubic yards of sediment were removed from the pond in 1995, and 1,128 cubic yards were removed in 1996. No figures are available for 1997, since the County did not exercise its permit that year.

b. Project Description.

Pine Gulch Creek is mapped as a blue-line, perennial stream on the USGS Bolinas quadrangle, but flow can become intermittent during extremely low rainfall years. If the stream is flowing during the time of excavation, stream flow is diverted around the excavation area in a 250-foot-long temporary drainage pipe. All fish in the sediment pond are netted and relocated to another area of the stream during excavation.

An unpaved footpath provides access to the pond from Olema-Bolinas Road that runs along the north banks of Pine Gulch Creek to the sediment pond. No vegetation-needs to be removed to access the pond. Sediment will be excavated using a dragline operated from the banks of the pond, and will be trucked off-site for disposal. The excavated sediments generally consist of 50% gravel and 50% silts. The contractor generally sells the gravels and the silts used as fill or disposed of in a landfill.

2. Dredging of Coastal Waters and the Protection of Water Quality.

Section 30233 of the Coastal Act sets up a three-part test for the diking, filling, or dredging of coastal waters, requiring that it only be allowed where (1) it is one of a number of limited allowable uses, including coastal-dependent facilities, boating facilities, incidental public services, mineral extraction, restoration and resource-dependent activities; (2) there is no feasible less environmentally damaging alternative; and (3) feasible mitigation measures have been provided to minimize adverse environmental effects. In addition, Section 30231 protects the biological productivity and quality of coastal waters, and Section 30240 requires the protection of environmentally sensitive habitat.

Excavation of the trapped sediments is part of an ongoing effort to control sedimentation of Bolinas Lagoon. Therefore, the dredging is for an allowable use under Section 30233(a)(7), as it is for the purposes of restoration. There is no alternative that is less environmentally damaging, as (1) the mechanized equipment that will be used to perform the excavation will not damage the riparian vegetation surrounding the pond because the equipment will be transported to the site via an existing accessway and will excavate from the pond banks without removing any riparian vegetation; and (2) the "no project" alternative is, in fact, more environmentally damaging. Leaving the sediments in the pond would allow them to wash into Bolinas Lagoon and exacerbate the loss of tidal prism. Also, according to the Department of Fish and Game, organic material in the sediments could decompose and cause algae blooms, decreased dissolved oxygen levels and fish mortality in the pond. Therefore, the project meets the first two tests of Section 30233, as it is for an allowable use and is the least environmentally damaging alternative.

Certain mitigation measures are appropriate, however, to ensure that the adverse effects of the sediment removal are minimized. Over-excavation of the pond could destabilize the banks, and release additional sediments into the stream. Additionally, riparian vegetation that has recolonized or been replanted around the pond would be disturbed if excavation were to encroach beyond the current pond configuration. Therefore, the Commission imposes Special Condition No. 1, which requires that excavation be limited to the accumulated sediments only, and that any expansion of the pond will require approval by the Commission.

Additionally, if the sediments were excavated during high flow periods, reintroduction of the flow back into the pond could introduce siltation into the stream flow, inconsistent with Section 30231. Therefore, the Commission imposes Special Condition No. 2, which limits the timing of excavation to the period of August 1 to October 15. Flows are likely to be lowest during this period, and the restriction corresponds to that imposed by the Department of Fish and Game. Additionally, if the excavated sediments were disposed of in a wetland or riparian area, adverse impacts such as burial of sensitive vegetation or siltation of coastal waters could result, inconsistent with Sections 30233, 30231 and 302401. Therefore, the Commission attaches Special Condition No. 5, notifying the applicant that placement of the fill within the Coastal Commission's retained coastal development permit jurisdiction, other than in a licensed landfill, shall require the review and approval by the Commission to ensure protection of these and other sensitive resources.

The applicant has requested a permit to allow annual excavation of the sediment pond, without further review by the Commission. However, it is not appropriate to issue approval in perpetuity for an activity that could be subject to variable environmental conditions. For example, hydrologic conditions in Pine Gulch Creek and its watershed could change over time, rendering the sediment basin design less than optimum for controlling sedimentation in Bolinas

Lagoon. Also, a new species utilizing Pine Gulch Creek could be declared threatened or endangered, or a previously designated species could migrate into the area. Furthermore, as a general practice, the Commission commonly limits the term of permits it grants for new development to a two to five-year period, both to be able to respond to changing conditions and to be able to review ongoing projects in light of policy changes. Therefore, the Commission imposes Special Condition No. 4, limiting the term of the permit to a five-year period only.

During the five-year term of the permitted project, Special Condition No. 3 requires that the applicant submit annual reports for the review and approval of the Executive Director, containing (1) a copy of the California Department of Fish and Game's 1601 agreement for the excavation; (2) an estimate of the sediments to be removed; (3) confirmation of the actual amount of sediment removed the previous year; and (4) documentation of the number, species and estimated age of fish removed from the sediment pond prior to excavation.

There are four reasons for requiring the annual reports. First, the amount of sediments that accumulate and will be excavated will vary from year to year, and the Commission should be informed of the extent of development that will occur each year pursuant to this permit. In addition, review of the annual report will ensure conformance with Special Condition No. 1 of this permit. The requirement for the annual report will also ensure that the applicant secures approval from the Department of Fish and Game each time the pond is excavated. Finally, the annual reports will provide information to assess whether changing environmental conditions need to be addressed in any future applications for continued sediment removal.

An example of a recent change at the pond is the National Marine Fisheries Service's (NMFS) listing (October 1997) of the steelhead trout, a species frequently observed in the pond, as a threatened species. According to Bill Cox of the Department of Fish and Game (August 21, 1998), while the sediment removal project should not adversely affect Pine Gulch Creek steelhead, the steelheads' threatened status requires that any relocation of steelhead from the pond prior to sediment excavation must secure advance authorization from NMFS. Therefore Special Condition No. 3 also requires that as part of the annual report to be submitted for the review and approval of the Executive Director prior to each year's excavation, the permittee must provide a copy of any permit required by the National Marine Fisheries Service (NMFS) or evidence that no permit from NMFS is necessary.

Therefore, as conditioned to limit the extent and timing of excavation, to allow the excavation for a five-year period only and to require the submittal of annual reports and evidence of National Marine Fisheries Service steelhead relocation authorization, the project is consistent with Sections 30233, 30231, and 30240 as the project has incorporated feasible mitigation to minimize the adverse effects of the sediment removal, and sensitive habitat and the quality of coastal waters will be protected.

3. Public Access.

Section 30210 requires in applicable part that maximum public access and recreational opportunities be provided when consistent with public safety, private property rights, and natural resource protection. Section 30211 requires in applicable part that development not interfere with the public's right of access to the sea where acquired through use (i.e., potential prescriptive rights or rights of implied dedication). Section 30212 requires in applicable part that public access from the nearest public roadway to the shoreline and along the coast be provided in new development projects, except in certain instances, such as when adequate access exists nearby or when the provision of public access would be inconsistent with public safety.

In applying Sections 30210, 30211, and 30212, the Commission is limited by the need to show that any denial of a permit application based on those sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on existing or potential access.

The project site is owned by the Marin County Open Space District, and is part of the Bolinas Lagoon Nature Preserve. Public access is available at the preserve, consistent with Section 30212. Furthermore, the project will have no adverse impact on public access that should be mitigated. The project will not increase the demand for access, and any blockage of the access road (which is also used as a trail along Pine Gulch Creek) during the transportation of excavation equipment to and from the pond will be temporary and should not prevent access to other parts of the trail. Therefore, the Commission finds that additional public access is not warranted for the proposed development and the project, which does not include additional public access opportunities, is consistent with the public access policies of the Coastal Act.

#### 4. CEQA.

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

The proposed project has been conditioned to be found consistent with the policies of the Coastal Act. Mitigation measures have been imposed to minimize all adverse environmental effects. These measures, to minimize the adverse effects of the sediment removal and to ensure the protection of sensitive habitat and the quality of coastal waters, include limitations on the extent and timing of excavation, allow the excavation for a five-year period only and require

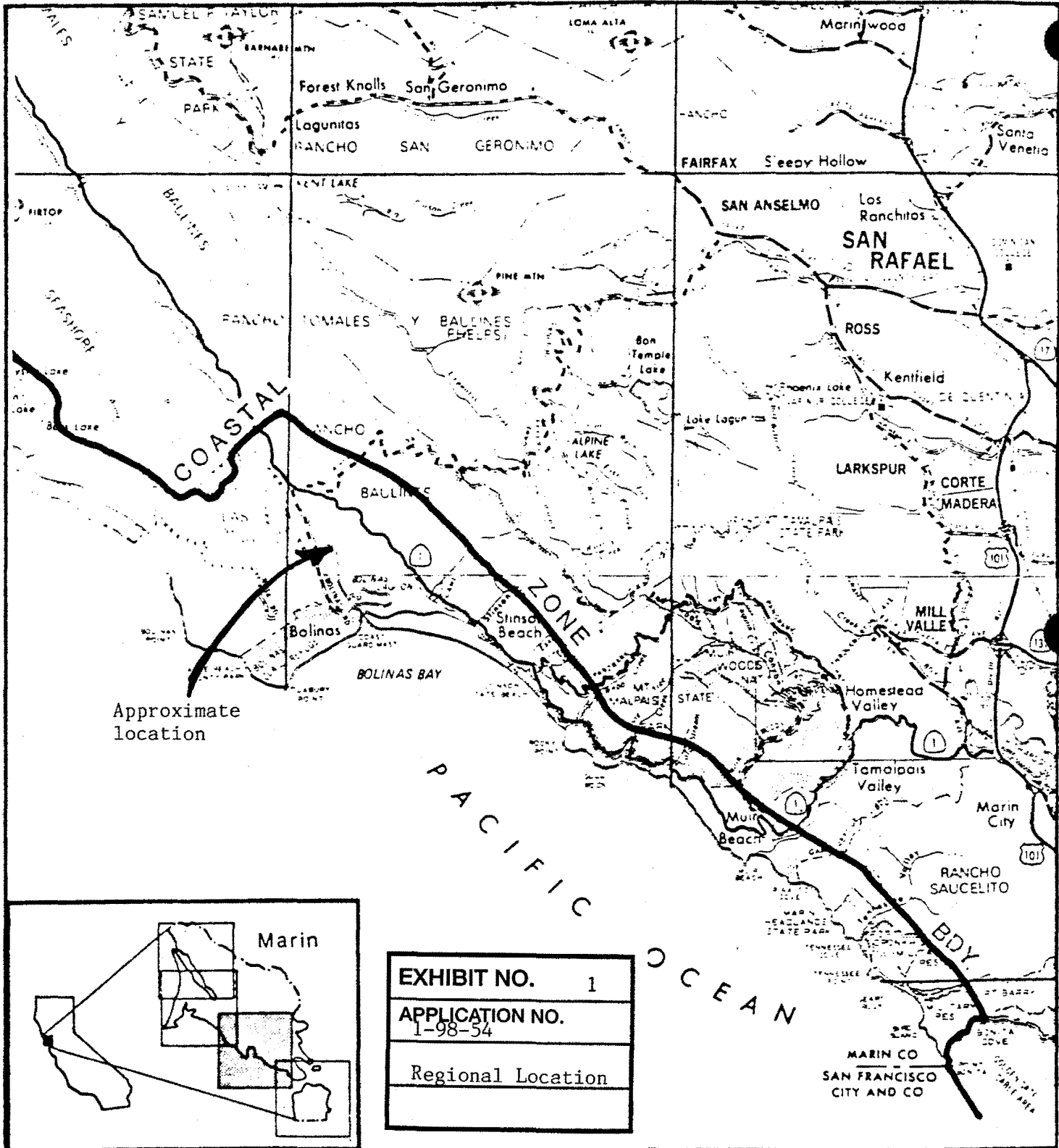


the submittal of annual reports and evidence of National Marine Fisheries Service steelhead relocation authorization.

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

#### EXHIBITS

1. Regional Location Map
2. Site Vicinity Map
3. Site Plan
4. CDP No. 1-92-40 Staff Report



Approximate location

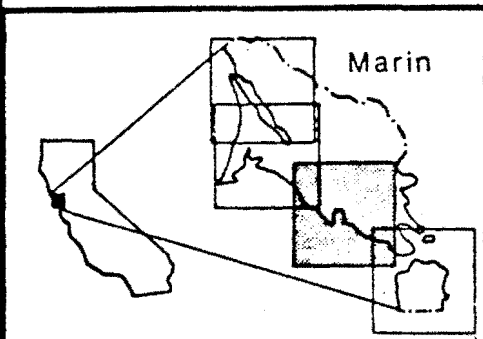
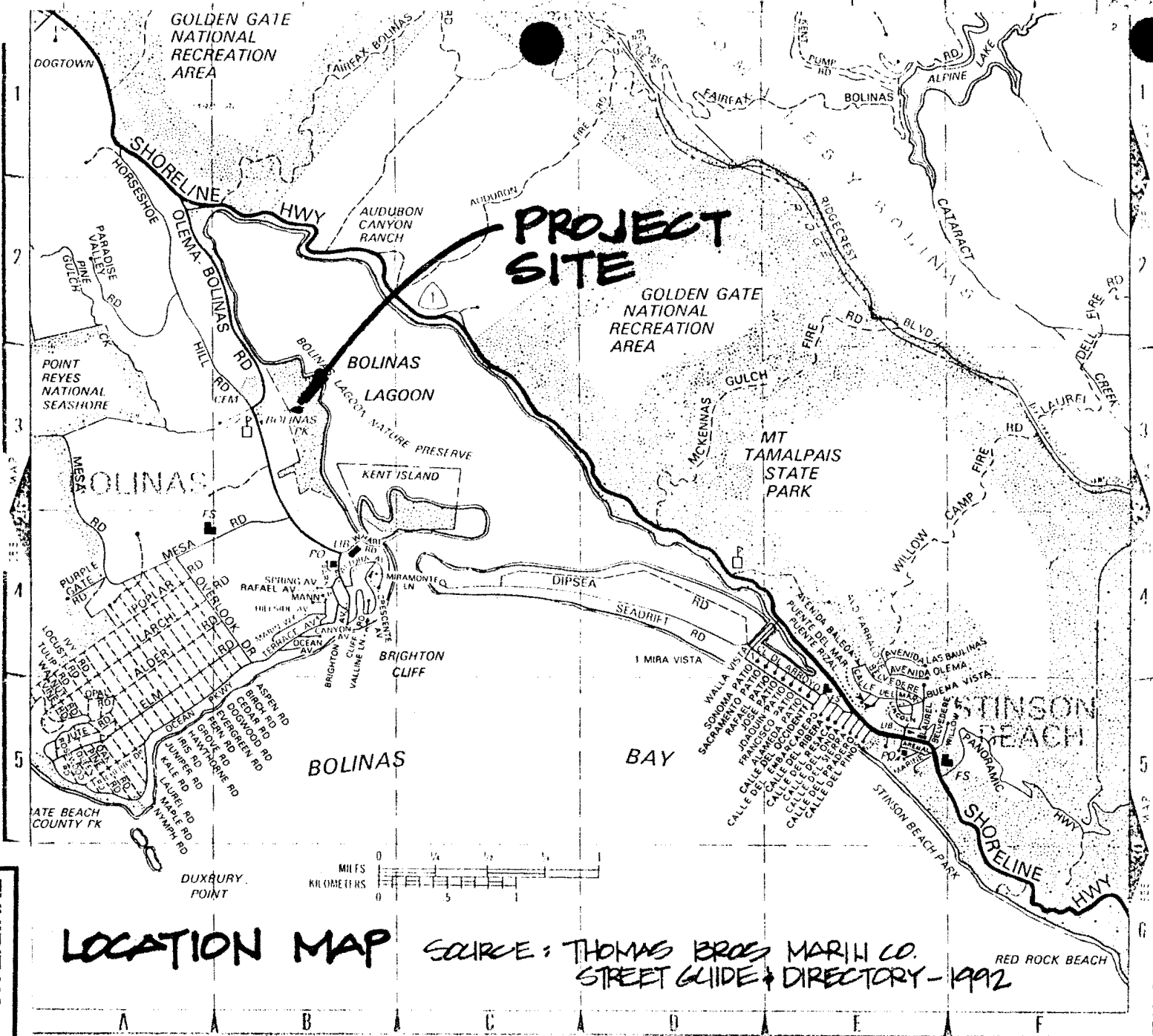


EXHIBIT NO.	1
APPLICATION NO.	1-98-54
Regional Location	



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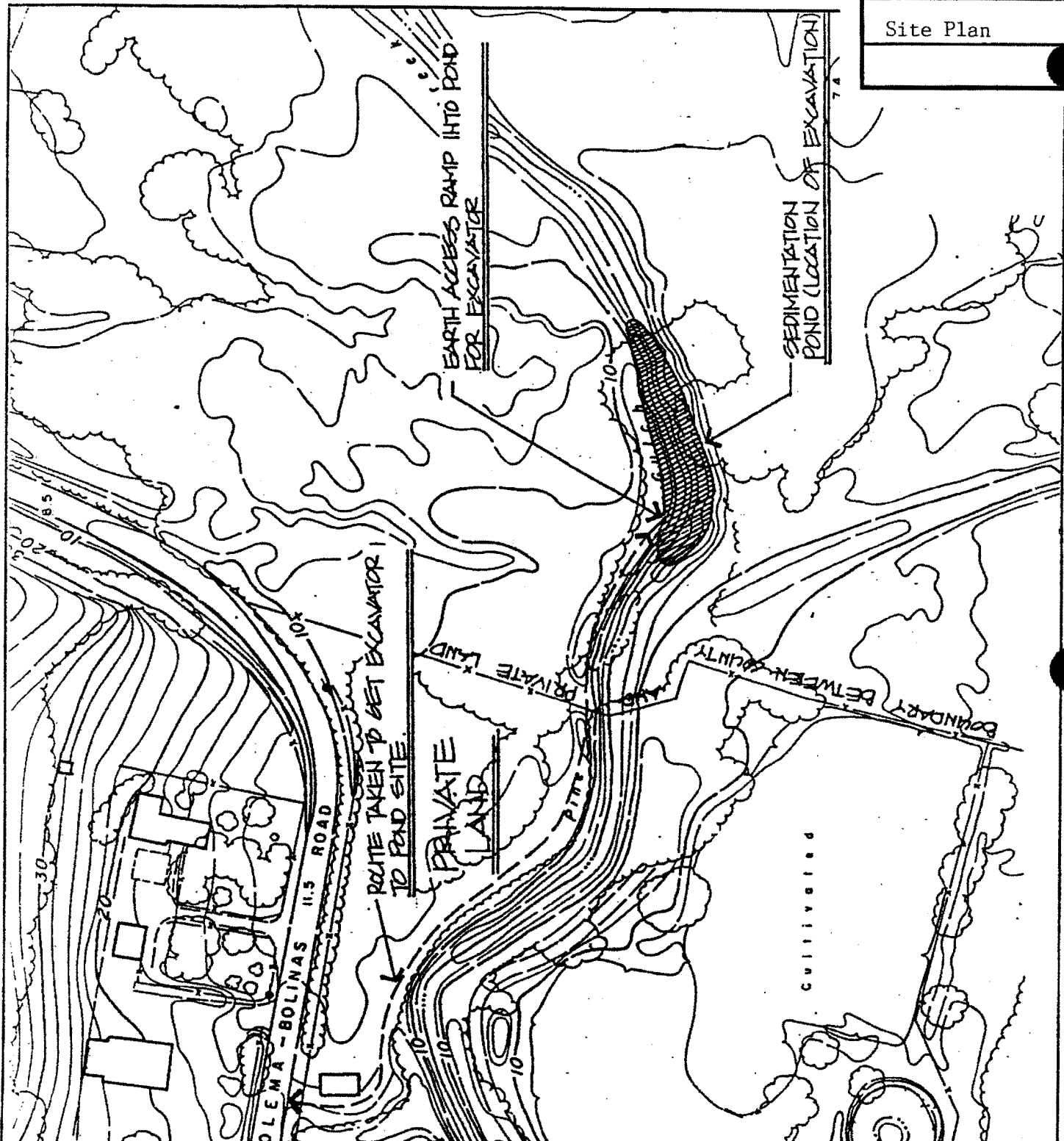
DETAIL



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EXHIBIT NO.	2
APPLICATION NO.	1-98-54
Site Vicinity	

EXHIBIT NO. 3
APPLICATION NO. 1-98-54
Site Plan



Plan View

Date: October 1997  
Scale: 3/4" = 100'



Pine Gulch Creek  
Sedimentation Pond  
Marin County, California  
Marin County Open Space District

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EXHIBIT NO.	4
APPLICATION NO.	1-98-54
Staff Report for	1-92-140
(page of 8 pages)	

Filed: August 20, 1992  
 49th Day: October 8, 1992  
 180th Day: February 16, 1993  
 Staff: S. Strachan-E  
 Staff Report: August 28, 1992  
 Hearing Date: September 10, 1992  
 Commission Action:

STAFF REPORT: REGULAR CALENDARAPPLICATION NO: **1-92-140**APPLICANT: **MARIN COUNTY DEPARTMENT OF PARKS,  
OPEN SPACE & CULTURAL SERVICES**PROJECT LOCATION: On Pine Gulch Creek, approximately 800 feet east of  
Olema-Bolinas Road, Bolinas, Marin County;  
APN 195-290-19.PROJECT DESCRIPTION: Annually remove sediment from a previously-constructed  
sediment pond in Pine Gulch Creek.

Lot area: 10.88 acres  
 Zoning: Coastal Open Area

LOCAL APPROVALS RECEIVED: Categorical Exemption

OTHER APPROVALS RECEIVED: Department of Fish and Game Streambed Alteration  
AgreementSUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit File No. 1-89-13  
Bolinas Lagoon: Summary of Sedimentation and  
Hydrology, 1967-1969 (J.R. Ritter, 1973)STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is between the

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sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. STANDARD CONDITIONS: See attached.

III. SPECIAL CONDITIONS:

1. Extent of Excavation.

Excavation shall be limited to accumulated sediment. Any enlargement of the existing sediment pond shall require a separate coastal development permit or an amendment to Coastal Development Permit No. 1-89-13.

2. Timing of Removal.

Sediment removal shall be limited to the period of August 1 to October 1.

3. Annual Administrative Approval to Continue Operations.

BEGINNING IN 1993 AND CONTINUING FOR EACH YEAR, at least one month prior to the planned annual excavation of the sediment pond, the applicant shall submit, for the review and approval of the Executive Director, an annual report that contains: (1) a copy of the California Department of Fish and Game's 1601 agreement for the proposed excavation; (2) an estimate of the sediments to be removed; (3) confirmation of the actual amount of sediment removed the previous year; and (4) documentation of the number, species and estimated age of fish removed from the sediment pond the previous year prior to excavation. The Executive Director shall approve the report if it provides the required information and if removal complies with the terms and conditions of this permit. The permittee shall not commence sediment removal until the Executive Director has approved the annual report.

4. Permit Expiration Date.

This permit shall expire on November 1, 1997, and shall not be subject to a time extension. Continued removal of sediment after the expiration date shall require a new coastal development permit.

5. Disposal of Sediments.

Disposal of the excavated sediments within the Coastal Commission's retained coastal development permit jurisdiction, other than in a licensed landfill, shall require approval by the Coastal Commission.

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IV. FINDINGS AND DECLARATIONS:

1. Project Background and Description.

a. Background.

On June 13, 1989, the Commission approved Coastal Development Permit No. 1-89-13 for the construction of a sediment pond in Pine Gulch Creek, approximately 800 feet east of Olema-Bolinas Road and one mile northeast of the town of Bolinas (See Exhibits 1 and 2). The purpose of the approved pond is to alleviate flooding and to decrease the amount of sediment reaching Bolinas Lagoon. Sedimentation is an increasing problem in Bolinas Lagoon, which has lost much of its historic tidal prism. The pond was constructed in a portion of Pine Gulch Creek that was sparsely vegetated by riparian habitat, and the project provided additional channel capacity and lowered the stream gradient, causing streamflow velocity to decrease and sediments to settle. These sediments are then excavated during low flow.

Pine Gulch Creek flows for six miles from Inverness Ridge and enters Bolinas Lagoon at the Bolinas Lagoon Nature Preserve (see Exhibit 2). The stream drains a basin underlain chiefly by Monterey Shale, with soils characterized by erodible mudstones with interbedded shales. The 7.8-square-mile drainage basin comprises approximately 45% of the Bolinas Lagoon watershed. Data from stream monitoring during 1968 and 1969 indicate that Pine Gulch Creek yields approximately 90% of the total sediment delivered to Bolinas Lagoon. Thus, controlling sediment from Pine Gulch Creek has the potential to affect a large proportion of the sediment entering the lagoon.

As the sediment pond project was experimental in nature, the Commission allowed removal of sediments from the pond only through September 1, 1991, and required submittal of a new permit application for continued removal, rather than allowing an extension of Coastal Development Permit No. 1-89-13. Also, Special Condition No. 1 of Coastal Development Permit No. 1-89-13 stated that an assessment of project's impact on plant growth/regrowth and fisheries habitat, and an evaluation of the project's success would be filing requirements for submittal of an application to continue to remove sediment. The Commission did not require revegetation of the disturbed area at the time, but found that a revegetation plan would be required for the long-term operation of the sediment pond.

No quantitative information is available documenting the project's impacts on plant growth and fisheries, although certain characteristics indicate habitat has improved. Soon after construction was completed, the applicant planted approximately 200 willow and alder trees around the perimeter of the pond, thus obviating the any requirement for a revegetation plan pursuant this permit. These trees provide benefits to fisheries habitat, through shading, temperature control, bank stabilization and food web contributions. Also, the construction of the pond has decreased the impacts of flooding on the stream

**MARIN COUNTY DEPARTMENT OF PARKS,  
OPEN SPACE & CULTURAL SERVICES**

channel, such as increased channel scour. The Department of Fish and Game has stated that the sediment pond and revegetation have had a beneficial effect on the fisheries habitat of Pine Gulch Creek. The applicant has stated that fish have been observed utilizing the pond. Therefore, while quantitative data assessing plant growth/regrowth and fisheries habitat have not been provided to the Commission, qualitative information indicates that negative impacts to Pine Gulch Creek have not occurred, and, in fact, habitat has improved, consistent with the intent of the requirements of Coastal Development Permit No. 1-89-13.

The project's success can be estimated by comparing the amount of sediment trapped to the average annual sediment load of Pine Gulch Creek. Since pond construction in the summer of 1989, only 200 cubic yards have been removed, in November, 1990. The applicant estimates that an additional 400 cubic yards of sediment have accumulated since that time, and proposes to remove this material in the fall of 1992. This 200-cubic-yard annual average of accumulated sediment is low compared to Pine Gulch Creek's average annual sediment load of approximately 4,000 cubic yards. However, the low sediment accumulation can probably be attributed to the low stream flow levels of the current drought. Given the accelerated sedimentation of Bolinas Lagoon, any sediment that is intercepted should have some beneficial value.

b. Project Description.

Pine Gulch Creek is mapped as a blue-line, perennial stream on the USGS Bolinas quadrangle, but flow can become intermittent during extremely low rainfall years. If the stream is flowing during the time of excavation, stream flow is diverted around the excavation area in a 250-foot-long temporary drainage pipe. All fish in the sediment pond are netted and relocated to another area of the stream during excavation.

Access to the pond is provided by an unpaved footpath from Olema-Bolinas Road that runs along the north banks of Pine Gulch Creek to the sediment pond. No vegetation needs to be removed to access the pond. Sediment will be excavated using a dragline operated from the banks of the pond, and will be trucked off-site for disposal. The excavated sediments generally consist of 50% gravel and 50% silts. The gravels are generally sold by the contractor and the silts used as fill or disposed of in a landfill.

2. Dredging of Coastal Waters and the Protection of Water Quality.

Section 30233 of the Coastal Act sets up a three-part test for the diking, filling, or dredging of coastal waters, requiring that it only be allowed where (1) it is one of a number of limited allowable uses, including coastal-dependent facilities, boating facilities, incidental public services, mineral extraction, restoration and resource-dependent activities; (2) there is no feasible less environmentally damaging alternative; and (3) feasible mitigation measures have been provided to minimize adverse environmental



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effects. In addition, Section 30231 protects the biological productivity and quality of coastal waters, and Section 30240 requires the protection of environmentally sensitive habitat.

Excavation of the trapped sediments is part of an ongoing effort to control sedimentation of Bolinas Lagoon. Therefore, the dredging is for an allowable use under Section 30233(a)(7), as it is for the purposes of restoration. There is no alternative that is less environmentally damaging, as (1) the mechanized equipment that will be used to perform the excavation will not damage the riparian vegetation surrounding the pond because the equipment will be transported to the site via an existing accessway and will excavate from the pond banks without removing any riparian vegetation; and (2) the "no project" alternative is, in fact, more environmentally damaging. Leaving the sediments in the pond would allow them to wash into Bolinas Lagoon and exacerbate the loss of tidal prism. Also, according to the Department of Fish and Game, organic material in the sediments could decompose and cause algae blooms, decreased dissolved oxygen levels and fish mortality in the pond. Therefore, the project meets the first two tests of Section 30233, as it is for an allowable use and is the least environmentally damaging alternative.

Certain mitigation measures are appropriate, however, to ensure that the adverse effects of the sediment removal are minimized. Over-excavation of the pond could destabilize the banks, and release additional sediments into the stream. Additionally, riparian vegetation that has recolonized or been replanted around the pond could be disturbed if excavation were to encroach beyond the current pond configuration. Therefore, the Commission imposes Special Condition No. 1, which requires that excavation be limited to the accumulated sediments only, and that any expansion of the pond will require approval by the Commission.

Additionally, if the sediments were excavated during high flow periods, reintroduction of the flow back into the pond could introduce siltation into the stream flow, inconsistent with Section 30231. Therefore, the Commission imposes Special Condition No. 2, which limits the timing of excavation to the period of August 1 to October 1. Flows are likely to be lowest during this period, and the restriction corresponds to that imposed by the Department of Fish and Game. Additionally, if the excavated sediments were disposed of in a wetland or riparian area, adverse impacts such as burial of sensitive vegetation or siltation of coastal waters could result, inconsistent with Sections 30233, 30231 and 302401. Therefore, the Commission attaches Special Condition No. 5, notifying the applicant that placement of the fill within the Coastal Commission's retained coastal development permit jurisdiction, other than in a licensed landfill, shall require the review and approval by the Commission to ensure protection of these and other sensitive resources.

The applicant has requested a permit to allow annual excavation of the sediment pond, without further review by the Commission. However, it is not appropriate to issue approval in perpetuity for an activity that could be

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OPEN SPACE & CULTURAL SERVICES**

subject to variable environmental conditions. For example, hydrologic conditions in Pine Gulch Creek and its watershed could change over time, rendering the sediment basin design less than optimum for controlling sedimentation in Bolinas Lagoon. Also, a new species utilizing Pine Gulch Creek could be declared threatened or endangered, or a previously designated species could migrate into the area. Furthermore, as a general practice, the Commission commonly limits the term of permits it grants for new development to a two to five-year period, both to be able to respond to changing conditions and to be able to review ongoing projects in light of policy changes. Therefore, the Commission imposes Special Condition No. 4, limiting the term of the permit to a five-year period only.

During the five-year term of the permitted project, Special Condition No. 3 requires that the applicant submit annual reports for the review and approval of the Executive Director, containing (1) a copy of the California Department of Fish and Game's 1601 agreement for the excavation; (2) an estimate of the sediments to be removed; (3) confirmation of the actual amount of sediment removed the previous year; and (4) documentation of the number, species and estimated age of fish removed from the sediment pond prior to excavation.

There are four reasons for requiring the annual reports. First, the amount of sediments that accumulate and will be excavated will vary from year to year, and the Commission should be informed of the extent of development that will occur each year pursuant to this permit. In addition, review of the annual report will ensure conformance with Special Condition No. 1 of this permit. The requirement for the annual report will also ensure that the applicant secures approval from the Department of Fish and Game each time the pond is excavated. Finally, the annual reports will provide information to assess whether changing environmental conditions need to be addressed in any future applications for continued sediment removal.

Therefore, as conditioned to limit the extent and timing of excavation, and to allow the excavation for a five-year period only and to require the submittal of annual reports, the project is consistent with Sections 30233, 30231, and 30240 as the project has incorporated feasible mitigation to minimize the adverse effects of the sediment removal, and sensitive habitat and the quality of coastal waters will be protected.

3. Public Access.

Section 30212 requires that access from the nearest public roadway to the shoreline be provided in new development projects except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby. In applying Section 30212, the Commission is also limited by the need to show that any denial of a permit application based on this section, or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

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The project site is owned by the Marin County Open Space District, and is part of the Bolinas Lagoon Nature Preserve. Public access is available at the preserve, consistent with Section 30212. Furthermore, the project will have no adverse impact on public access that should be mitigated. The project will not increase the demand for access, and any blockage of the access road (which is also used as a trail along Pine Gulch Creek) during the transportation of excavation equipment to and from the pond will be temporary and should prevent access to other parts of the trail.

4. CEQA.

The Marin County Open Space District has determined that the project is categorically exempt from the requirements of CEQA. In addition, the project, as conditioned, does not have a significant adverse effect on the environment, within the meaning of CEQA, as the project is the least environmentally damaging alternative and mitigation measures have been provided that will minimize adverse impacts to water quality, biological productivity, environmentally sensitive habitat and other coastal resources.

3568p

ATTACHMENT A

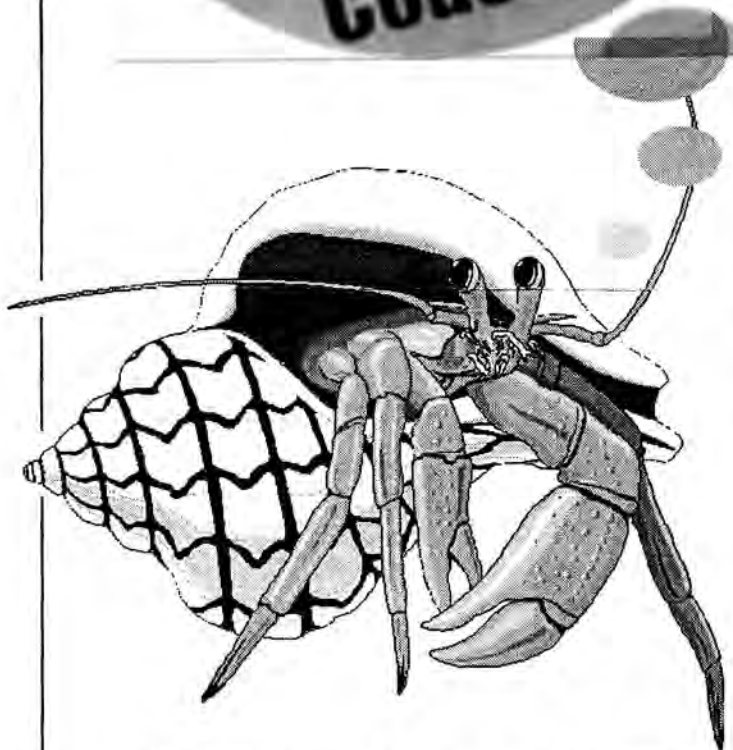
Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

# **P** CALIFORNIA COASTAL COMMISSION **PHOTO CONTEST**

The California Coastal Commission announces an amateur photography competition to commemorate its 25th anniversary and to pay tribute to the resource it is mandated to protect - California's spectacular coast and ocean. In 1972, the citizens of California approved Proposition 20 - the "Coastal Conservation Initiative". The law was crafted to provide long-term protection for California's 1,100 mile coastline for the benefit of current and future generations. The Coastal Commission was established in 1973 and now operates under the authority of the 1976 Coastal Act, adopted by the legislature.

**Focusing  
on the  
California  
Coast!**



## **Deadline October 31, 1998**

### **PRIZE**

**The grand prize** winner will receive a two-night stay for two at your choice of the **Tenaya Lodge at Yosemite**, the **Resort at Squaw Creek in Squaw Valley**, or the **Ritz Carlton Rancho Mirage**, or a one-night stay for two at the **Sonoma Mission Inn**. **Second, third and fourth prize** winners will select from the remaining weekend getaways.

Winning photographs may be displayed on the Coastal Commission's website and may be used in additional printed materials or video produced by the Coastal Commission for governmental purposes. For example, the Coastal Commission may publish a calendar for the year 2000. Photographer credit will be given for every reproduction that is published by the Coastal Commission.

### **GUIDELINES**

The Coastal Commission is seeking photographs that reflect the importance that the coast has for California residents and the role that the Coastal Commission has played in preserving coastal resources. Entrants are encouraged to submit photos in the following categories: the scenic coast, people and the coast, and coastal wildlife. Photographs that document coastal resources protected by Coastal Commission action, including public beaches or public accessways to public beaches, agricultural land, or wetlands are especially encouraged. Photographs must be taken from a public place, and can be either color or black and white.

A "Photographers Consent, Waiver of Liability, Indemnity and Release" form must be signed and submitted at the time of entry in order for the photographs to be eligible. If a photograph contains a readily identifiable person, the photographer must submit the name, address and phone number of each person.

**Entry is free and open to all.**

For an entry form and complete guidelines, call **1-800-COAST-4U**  
or write to; **CCC Photo Contest,**  
**45 Fremont St., Suite 2000, San Francisco, CA 94105**

