

**CALIFORNIA COASTAL COMMISSION**

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**STAFF REPORT AND RECOMMENDATION  
 ON CONSISTENCY DETERMINATION**

Consistency Determination No.	<b>CD-077-99</b>
Staff:	JRR-SF
File Date:	7/27/99
45th Day:	9/10/99
60th Day:	9/25/99
Commission Meeting:	9/14/99

**FEDERAL AGENCY: FISH AND WILDLIFE SERVICE**

**DEVELOPMENT LOCATION:** Humboldt Bay National Wildlife Refuge (Exhibit 1)

**DEVELOPMENT DESCRIPTION:** Maintain existing riprap protecting a levee and extending the riprap to cover the entire levee. (Exhibit 2)

**EXECUTIVE SUMMARY**

The U.S. Fish and Wildlife Service (Service) submitted a consistency determination for the placement of rock riprap along 525 feet of existing levee on the Salmon Creek Unit of the Humboldt Bay National Wildlife Refuge (Refuge). The remaining 1,975 feet of the existing levee is already protected with riprap and the unprotected sections are subject to wave and wind erosion and are in danger of failing. If the levees fail, they would adversely affect wetland resources behind the dikes.

The proposed project is consistent with the wetland fill policies of the Coastal Act. Because it protects and allows for the continued restoration of wetland resources, the project is an allowable use for fill of wetlands (30233(a)(7)). Additionally, all of the alternatives to the proposed project would be more environmentally damaging because they would not prevent flooding of wetlands behind the dikes, would result in more wetland fill than the proposed project, or would allow repeated fill and sedimentation

into Humboldt Bay. Finally, the project mitigates for its adverse impacts to wetland resources for the following reasons: (1) the amount of wetland loss from the project is small, a maximum of 1,050 square feet (0.02 acres); (2) the riprap will provide some habitat value; and (3) the Service has preserved, maintained, enhanced, and restored a large amount of wetlands, 1,081 acres, behind the dikes within this unit of the Refuge. Therefore, the project is consistent with the Section 30233(a) of the Coastal Act. The project is also consistent with Sections 30210 and 30212 of the Coastal Act because it does not interfere with existing access to the area and protects access from interference caused by dike failure and subsequent flooding. Finally, the project is consistent with Section 30251 of the Coastal Act because it is visually consistent with the existing riprap protected levees.

**SUBSTANTIVE FILE DOCUMENTS:**

1. CD-001-82, Fish and Wildlife Service, Hookton Slough, Humboldt Bay, Placement Of Riprap Along Existing Dike.
2. CD-007-88, Fish and Wildlife Service, McBride Ranch, South Humboldt Bay, Acquisition Of Land For Restoration Of Habitat Values.
3. CD-040-91, Fish And Wildlife Service, Humboldt Bay, Management Plan For Humboldt Bay National Wildlife Refuge.
4. CDP 1-98-102, C. J. & Carol Ralph, Lanphere Road, Arcata, Humboldt County, Reconstruct and armor 2,720 lineal feet of an existing dike and add earthen fill land ward of dike to maintain height and bulk of dike.

**STAFF SUMMARY AND RECOMMENDATION:**

I. **Project Description.** The U.S. Fish and Wildlife Service (Service) proposes to place approximately 100 to 200 cubic yards of riprap along an existing levee. The project is located within the Salmon Creek Unit of the Humboldt Bay National Wildlife Refuge (Refuge). The existing levee is approximately 2,500 feet long and most of it is protected with riprap. There are two sections, one 200 feet long and one 325 feet long, that have not been armored. These sections are around tips of land that jut to the north and are eroding. The levees were originally constructed to convert wetlands to agricultural uses. The Service purchased this property in the 1980s and has restored some of the wetland resources to the area. As money becomes available, the Service continues with its restoration efforts. Because of land subsidence and critical shortage of freshwater wetlands in the region, the Service has created freshwater wetlands on the site rather than the original saltmarsh.

**II. Status of Local Coastal Program.**

The standard of review for federal consistency determinations is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal Program (LCP) of the affected area. If the Commission certified the LCP and incorporated it into the CCMP, the LCP can provide guidance in applying Chapter 3 policies in light of local circumstances. If the Commission has not incorporated the LCP into the CCMP, it cannot guide the Commission's decision, but it can provide background information. The Commission has incorporated the Humboldt County LCP into the CCMP.

**III. Federal Agency's Consistency Determination.**

The Fish and Wildlife Service has determined the project to be consistent to the maximum extent practicable with the California Coastal Management Program.

**IV. Staff Recommendation:**

The staff recommends that the Commission adopt the following motion:

MOTION. I move that the Commission concur with the Fish and Wildlife Service's consistency determination.

The staff recommends a YES vote on this motion. A majority vote in the affirmative will result in adoption of the following resolution:

**A. Concurrence**

The Commission hereby **concurs** with the consistency determination made by the Fish and Wildlife Service for the proposed project, finding that the project is consistent to the maximum extent practicable with the California Coastal Management Program.

**V. Findings and Declarations:**

The Commission finds and declares as follows:

**A. Wetland Resources.** Section 30233 of the Coastal Act provides for the protection of wetland resources.

*The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been*

*provided to minimize adverse environmental effects, and shall be limited to the following:*

...

(7) *Restoration purposes....*

The Service proposes to place between 100 to 200 cubic yards of riprap along existing levees for erosion control. The project will result in a loss of between 525 and 1,050 square feet (0.01 and 0.02 acres) of intertidal mudflats. The habitat is not vegetated, but supports benthic organisms and birds and fish that forage on those benthic resources. Because the proposed project includes fill of wetlands, it must be analyzed for consistency with Section 30233(a) of the Coastal Act. That section identifies three tests for wetland fill activities: allowable use, alternatives, and mitigation tests.

The proposed project is an allowable use pursuant to the requirements of Section 30233(a)(7) of the Coastal Act. That section allows for wetland fill projects that are for restoration purposes. The purpose of the proposed project is to maintain an existing levee that provides for protection of wetland resources. In the late 1980s, the Service purchased this site for the purpose of protecting and restoring wildlife habitat. The Commission has reviewed and approved a management plan that allows for the restoration of wetland habitat behind these dikes (CD-40-91). Pursuant to that approval, the Service has protected and restored 1,081 acres of wetlands in this area. The levee protects these wetlands and the riprap is necessary to prevent erosion of the levees and saltwater intrusion into the freshwater wetlands and excess flooding of the saltwater wetlands. Additionally, the levee improvements will allow the Service to continue with its efforts to restore the wetland values of this area.

The Commission recently approved a similar project that involved the placement of rock riprap on an existing levee on the Mad River Slough (1-98-102, C. J. & Carol Ralph). In that project, the Commission found the riprap to be inconsistent with allowable use requirements of Section 30233(a). However, the Commission also found that the project created a conflict between Coastal Act policies and found that the proposed riprap is on balance more protective of coastal resources. Although the physical nature of that project and the Service's proposal are similar, the purposes of these two projects are different. The sole purpose of the Service's project is to protect and allow for continued restoration of wetlands. On the other hand, the purpose of the Ralph project is for the protection of private property, residential uses, agricultural soils, and wetlands. This distinction is also supported by a previous Commission review of a consistency determination by the Service for a similar project on Hookton Slough, just south of the currently proposed project (CD-1-82). In that project, the Commission found the proposed riprap to be an allowable use for restoration purposes. Therefore, the Commission finds that the proposed project is for the purpose of protecting and

restoring wetland resources and is, therefore, an allowable use pursuant to Section 30233(a)(7).

Section 30233(a) of the Coastal Act also requires the Commission to consider alternatives to the proposed wetland fill. In this case, the proposed project is the least damaging feasible alternative. The proposed project will result in a loss of 0.02 acres (1,050 square feet) of intertidal mudflats. All of the construction work will be done from the top of the levees with no construction impacts to the wetlands. The purpose of the project is to protect restored and restorable freshwater and saltwater wetlands. If the Service does nothing to reinforce the levees, they could fail and allow saltwater inflow into the area. The salinity will damage the existing freshwater wetlands and the excess water would flood most of the area because of subsidence. Therefore, the no project alternative would result in destruction of the freshwater wetlands and the conversion of most of the site into subtidal habitat. Because of their scarcity, the loss of the freshwater wetland resources would be more damaging than the benefits to subtidal habitat.

Another alternative is to rebuild the dike with dirt instead of riprap. This alternative would be more damaging than the proposed project. Since most of the levees within this portion of the Refuge are already protected with riprap, the wind and wave energy is focused on the unprotected sections. This condition would result in continued erosion of these sections of the levee and would require repeated placement of dirt fill to reinforce the dikes. Each maintenance event would result in impacts to intertidal mudflats and increased turbidity into the estuary. The re-occurring impact from the repeated use of dirt to reinforce the levees would, therefore, be more damaging than the one-time use of riprap proposed by the Service. Finally, the Service could replace the earthen levees with a hard structure, such as a vertical wall. This alternative would be significantly more damaging than the proposed project. It would require either removal of the existing levee with associated impacts to the existing wetlands behind the dikes from saltwater intrusion and temporary construction impacts to the mudflats in front of the levees, or the loss of significant amount of wetland habitat from the construction of the wall seaward of the levees. Therefore, the Commission finds that the proposed project is consistent with the alternative test of Section 30233(a) of the Coastal Act.

Section 30233(a) also requires mitigation for the loss of wetlands. The Service does not specifically propose to create new habitat to mitigate for the project's impact. However, the Commission finds that, for the following reasons, no additional mitigation is necessary. First, the proposed riprap will be placed within the original footprint of the levee. Although the project will result in a loss of habitat, it is a habitat that was recently created from the erosion of the levee. Additionally, the placement of riprap in the intertidal zone will not result in a total loss of habitat. The intertidal portion of the rocky surface of the riprap will provide some habitat for marine organisms. Finally, the

Service has created a significant amount of wetlands behind the dikes in this area. When the Service purchased this unit of the Refuge, the area was used primarily for agricultural purposes. Although it had some value as a seasonal wetland, the resource was in a degraded condition because of the extensive cattle grazing on the site. The Service now manages the area primarily for its wetland values and has restored and maintains 1,081 acres of freshwater and saltwater wetlands in this area. Although the type of habitat created by the Service is different from the area affected by the project, this out-of-kind mitigation is acceptable because of the small amount of impact from the project and the scarcity and value of the wetland types created by the Service. Therefore, the Commission concludes that the proposed project impacts are fully mitigated.

In conclusion, propose project is an allowable use for filling of wetlands, is the least environmentally damaging feasible alternative, and provides for adequate mitigation. Therefore, the Commission finds that the proposed project is consistent with Section 30233(a) of the Coastal Act, and thus the wetland fill policies of the CCMP.

**B. Public Access.** The Coastal Act requires the provision of public access for projects between the first public road and the sea. Sections 30210 provides that:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30212 of the Coastal Act provides, in part, that:

(a) *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*

(1) *it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*

(2) *adequate access exists nearby, or,*

(3) *agriculture would be adversely affected....*

The proposed project is located between the first public road and the sea. As part of its management, the Service has opened up this area to public use and continues to facilitate that use through the construction of visitor facilities, such as the recently proposed visitor center. The proposed riprap will not interfere with the existing access and recreational use. In addition, by maintaining the levees, the access resources of

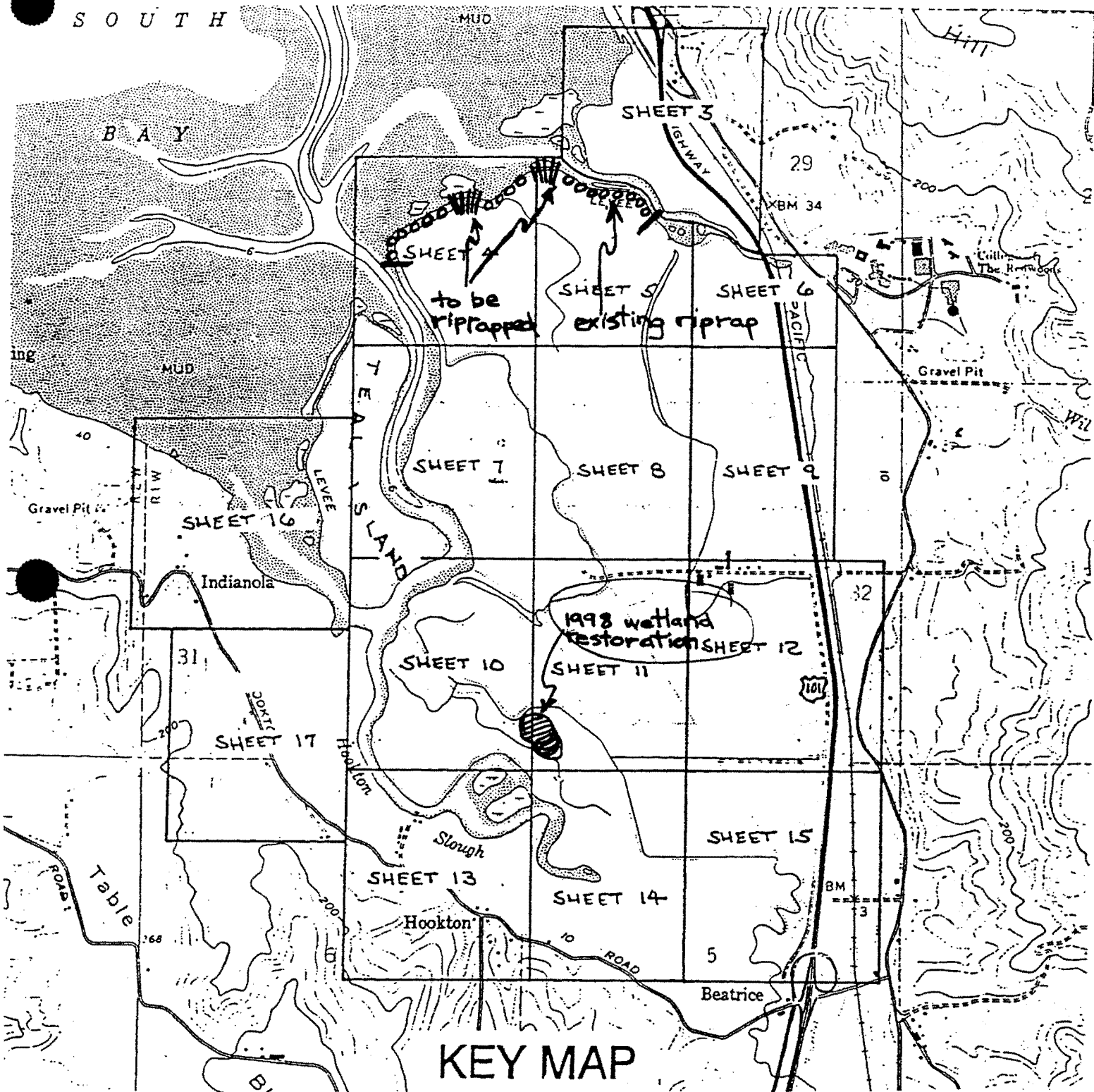
the area are protected from interruption caused by dike failure and subsequent flooding. Therefore, the Commission finds the project consistent with Sections 30210 and 30212 of the Coastal Act, and thus consistent with the access policies of the CCMP.

**C. Visual Resources.** The Coastal Act provides for the protection of visual resources of the coastal zone. Section 30251 of the Coastal Act provides that:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

The proposed project will not adversely affect visual resources of the coastal zone. The Service proposes to place riprap on 525 feet of levee. The remaining portions of the levee, 1,975 feet are already reinforced with riprap. Therefore, the proposed project will be visually consistent with the remaining levee. In conclusion, the Commission finds that the proposed project is consistent with Section 30251 of the Coastal Act, and thus consistent with the visual policy of the CCMP.

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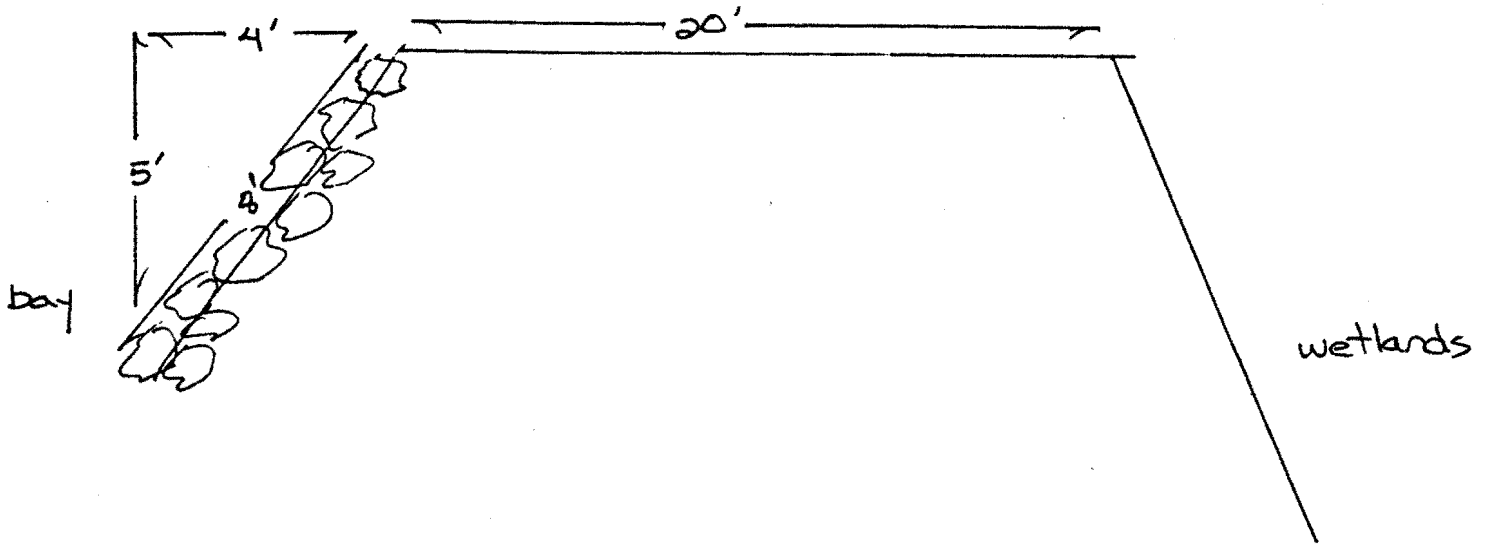


PURPOSE: Wetland Restoration / Enhancement  
 DATUM: U. S. G. S. (N.G.V.D.) = 0.0  
 ADJACENT PROPERTY OWNERS:  
 See Attachment to Application

IN Salmon Creek Wetlands  
 AT South Humboldt Bay  
 COUNTY OF Humboldt STATE CA.  
 APPLICATION BY U. S. Fish and  
 Wildlife Service



**PROFILE OF LEVEE WITH EXISTING RIPRAP**



**PROFILE OF LEVEE WITHOUT RIPRAP**

