

CALIFORNIA COASTAL COMMISSION

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Commission Action:

**RECORD PACKET COPY****STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 4-00-206

APPLICANT: Santa Barbara County Flood Control District

AGENT: Karl Treiberg

PROJECT LOCATION: Southeast portion of Goleta Slough (*including the lower reaches of Atascadero Creek, San Jose Creek, San Pedro Creek, and the main channel of Goleta Slough*) and Goleta Beach County Park, Goleta; Santa Barbara County.

PROJECT DESCRIPTION: Implement an annual desilting program for portions of Goleta Slough. The program will involve dredging the lower reaches of Atascadero Creek, San Jose Creek, San Pedro Creek, and the main channel of the slough on a periodic basis (removal of no more than 200,000 cu. yds. of sediment/year). The program also includes breaching the mouth of Goleta Slough approximately 1-3 times/year and placement of all suitable dredged material in the surfzone at Goleta Beach County Park. Dredged material unsuitable for beach disposal will be stockpiled adjacent to the creek approximately 30 to 100 ft. in distance from the top of the bank.

SUBSTANTIVE FILE DOCUMENTS: Proposed Final Supplemental Environmental Impact Report (93-EIR-4) by Santa Barbara County Flood Control District and Science Applications International Corporation dated September 2000; Final Environmental Impact Report (93-EIR-4) by Santa Barbara County Flood Control District and Science Applications International Corporation dated November 1993; Biological Analysis by Larry Fausett of Santa Barbara County Flood Control District dated 10/11/00; and Intensive Cultural Resources Survey by Archaeological Systems Management dated April 1982.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with seven (7) special conditions regarding a revegetation program, dredging program, project monitoring and responsibilities, duration of permit, archaeological resources and monitoring, required approvals, and assumption of risk.

The proposed dredging activity will be located within Goleta Slough (and its related stream courses) one of the 19 major wetland habitats specifically identified in Chapter 3 of the Coastal Act. The purpose of the proposed desilting program is to maintain the flood water carrying capacity in Atascadero Creek to reduce the likelihood of flood damage to adjacent residential areas, including the Santa Barbara City Airport.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-00-206 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. 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. **Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
4. **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.
5. **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.

III. Special Conditions

1. Revegetation Program

Prior to issuance of a coastal development permit, the applicant shall submit a revegetation program, prepared by a qualified biologist or environmental resource specialist, for review and approval by the Executive Director. The program shall specify that all upland areas on the subject site disturbed as a result of this project shall be planted and maintained for habitat restoration and erosion control purposes as soon as possible after disturbance has occurred. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

- (a) All revegetation shall consist of native plant species endemic to riparian habitat and wetland areas. Invasive, non-indigenous plant species which tend to supplant native species shall not be used. Such planting shall be adequate to provide 90 percent coverage within five (5) years, and this requirement shall apply to all disturbed soils;
- (b) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;

2. Dredging Program

- A. All dredging activities shall occur only during the period between October 15 through April 1, unless additional time is granted by the Executive Director for good cause. Dredge operation shall be limited to no more than 10 hours/day in the event that streamflow velocity within Maria Ygnacio Creek are between 10 and 30 cfs. In the event that streamflow velocities exceed 30 cfs, then dredging operations shall cease until streamflow velocities decrease to less than 30 cfs.
- B. Prior to any dredging activity, the applicant shall submit a suitability analysis, for the review and approval of the Executive Director, of the sediment within the creek to be removed to determine its suitability for beach disposal/nourishment. All dredged material shall be transported for disposal to Goleta Beach for beach nourishment purposes unless determined to be unsuitable for such use. The analysis shall include confirmation by the U.S. Army Corps of Engineers that the material to be excavated meets the minimum criteria necessary for placement on the sandy beach or within the surf zone.
- C. In the event that any dredged material is not suitable for disposal within the surf zone at Goleta Beach, the material may be temporarily stockpiled on site in order to allow for adequate dewatering of the material. Stockpiled materials shall be located as far from the stream or wetland areas on site as feasible and in no event shall materials be stockpiled less than 30 ft. in distance from the top edge of the stream bank. Temporary erosion control measures (such as sand bag barriers, silt fencing, swales, etc.) shall be implemented in the event that temporary stockpiling of material is required. These temporary erosion control measures shall be monitored and maintained until all stockpiled fill has been removed from the project site. Permanent stockpiling of material on site shall not be allowed. The applicant shall provide evidence to the Executive Director of the location of the permanent disposal site for all excavated material prior to removal of the

material from the project site. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required.

3. Project Monitoring and Responsibilities

Prior to issuance of the coastal development permit, the applicant shall retain the services of a qualified biologist or environmental resource specialist with appropriate qualifications acceptable to the Executive Director. All dredging and sediment disposal, activities shall be carried out consistent with the following:

- (a) The environmental resource specialist shall conduct a survey of the project site each day prior to commencement of any dredging or beach disposal activities to determine whether any sensitive wildlife species are present. In the event that any sensitive wildlife species are present on the project site, the environmental resource specialist shall either: (1) initiate a salvage and relocation program prior to any excavation/maintenance activities to move sensitive species and significant wildlife features (such as breeding bird nests, etc.) by hand to safe locations elsewhere along the project reach or (2) as appropriate, implement a resource avoidance program with sufficient buffer areas to ensure adverse effects to such resources are avoided.
- (b) Herbicide use shall be restricted to the use of Glyphosate *Rodeo*™ herbicide for the elimination of non-native and invasive vegetation located within upland areas of the project site for purposes of habitat restoration only. The environmental resource specialist shall conduct a survey of the project site each day prior to commencement of vegetation removal and eradication activity involving the use of herbicide to determine whether any native vegetation is present. Native vegetation shall be clearly delineated on the project site with fencing or survey flags and protected. In the event that non-native or invasive vegetation to be removed or eradicated is located in close proximity to native riparian vegetation or surface water, the applicant shall either: (a) remove non-native or invasive vegetation by hand (*Arundo donax* shall be cut to a height of 6 inches or less, and the stumps painted with Glyphosate *Rodeo*™ herbicide), or (b) utilize a plastic sheet/barrier to shield native vegetation or surface water from any potential overspray that may occur during use of herbicide. In no instance shall herbicide application occur if wind speeds on site are greater than 5 mph or 48 hours prior to predicted rain. In the event that rain does occur, herbicide application shall not resume again until 72 hours after rain.
- (c) In the event that sediment disposal/beach nourishment activities occur during the seasonally predicted run period and egg incubation period for California grunion as identified by the California Department of Fish and Game, then the environmental resource specialist shall be present on the project site beach each night from one hour before the beginning of each predicted grunion run until one hour after the end of each run to monitor the presence of any grunion present on the site. If any adult grunion are present on the project site beach, then no disposal activities shall be allowed until after the next predicted grunion run in which no adult grunion have been observed on the project site and it has been determined by the environmental resource specialist that all previously deposited grunion eggs have successfully incubated (allowing juvenile grunion to return to the ocean) or that the previously deposited eggs are no longer viable, or unless otherwise approved by the Executive Director. The environmental resource specialist shall immediately notify the Executive Director after each monitored run whether grunion were found to be present.

The environmental resource specialist shall require the applicant to cease work should any breach in permit compliance occur or if any unforeseen sensitive habitat issues arise. If significant impacts or damage occur to riparian and/or wetland environment or to sensitive wildlife species on site beyond the scope of work allowed for by this permit, the applicant shall be required to submit a revised, or supplemental, restoration program to adequately mitigate such impacts. The revised, or supplemental, restoration program shall be processed as an amendment to this coastal development permit.

4. Duration of Permit

This permit is valid for a period of five (5) years from the date of Commission action, after which time the permit shall expire. Any dredging, breaching, or sediment disposal activities after the expiration of this permit will require the issuance of a new coastal development permit.

5. Archaeological Resources and Monitoring

By acceptance of this permit, the applicant agrees to have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all dredging activities which occur within or adjacent to the archaeological sites in the project area. Specifically, the dredging operations on the project site shall be controlled and monitored by the archaeologist(s) with the purpose of locating, recording and collecting any archaeological materials. In the event that any significant archaeological resources are discovered during operations, all work in this area shall be halted and an appropriate data recovery strategy be developed, subject to review and approval of the Executive Director, by the applicant's archaeologist and the native American consultant consistent with CEQA guidelines.

6. Required Approvals

By acceptance of this permit, the applicant agrees to obtain all other necessary State or Federal permits that may be necessary for all aspects of the proposed project (including the California Department of Fish and Game, California State Lands Commission, Regional Water Quality Control Board, and the U.S. Army Corps of Engineers).

7. Assumption of Risk, Waiver of Liability and Indemnity Agreement

Prior to issuance of the coastal development permit, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, which states that the applicant acknowledges and agrees (i) that the site may be subject to hazards from storm waves, surges, erosion, and flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The proposed project is for the implementation of an annual desilting program for portions of Goleta Slough. The program will involve dredging the lower reaches of Atascadero Creek, San Jose Creek, San Pedro Creek, and the main channel of the slough on a periodic basis (removal of no more than 200,000 cu. yds. of sediment/year). The program also includes breaching the mouth of Goleta Slough approximately 1-3 times/year and placement of all suitable dredged material in the surfzone at Goleta Beach County Park. Dredged material unsuitable for beach disposal will be stockpiled adjacent to the creek approximately 30 to 100 ft. in distance from the top of the bank.

The proposed project will involve two potential methods of sediment removal: hydraulic dredging and dragline desilting. Hydraulic dredging is proposed as the primary method of sediment removal and involves floating a dredge within the creeks to be desilted. A 10-12 inch diameter polyurethane discharge pipeline is floated in the channels behind the dredge to transport dredged material to Goleta Beach for disposal within the surfzone. In the event that sediments to be removed are determined to be unsuitable for beach disposal/nourishment, then sediments will be removed from the creeks by the dragline desilting method. Dragline desilting involves operation of a crane rigged as a dragline (bucket scoop) from the adjacent creek banks. Removed sediments would be stockpiled adjacent to the creek approximately 30 to 100 ft. in distance from the top of the bank. All excavated material removed by the dragline method would be made available to members of the public until all material has been hauled away by private parties. Annual dredging activities will occur between October 15 and April 1. Dredging activities may occur on less than an annual basis depending on the quantity of sediments present and the necessity for removal.

In addition, the proposed project also includes periodic breaching of the mouth of Goleta Slough on as needed basis. The slough mouth is expected to require breaching approximately 1-3 times/year. Breaching involves the use of a bulldozer to create a trench from the ocean to the slough. The trench varies in length depending on the width of the beach, but is typically 200 ft. long by 40 ft. wide. Approximately 1,000 cu. yds. of sand is pushed up out of the trench onto the beach.

The proposed dredging activity will be located within Goleta Slough (and its related stream courses) one of the 19 major wetland habitats specifically identified in Chapter 3 of the Coastal Act. The slough is the drainage basin for five creeks that originate on the southern slopes of the nearby Santa Ynez Mountains: Atascadero Creek, San Jose Creek, San Pedro Creek, Carneros Creek, and Tecolotito Creek. Although the Commission has previously certified a Local Coastal Program (LCP) for Santa Barbara County, the proposed dredging activity is located within a portion of the Coastal Zone

subject to the Commission's retained permit issuance jurisdiction and, therefore, requires a coastal development permit issued by the Commission. Two of the five creeks where dredging will occur (Carneros and Tecolotito) however, are not located within the Commission's retained permit issuance jurisdiction and are, therefore, not part of this permit application.

All portions of the project site are designated as environmentally significant habitat areas by the Santa Barbara County Local Coastal Program. The Goleta Slough, including the three creeks to be dredged, are identified wetlands areas. Three identified archaeological sites (SBA-45, SBA-46, and SBA-1696) are located adjacent to the three creeks where dredging will occur. Public bicycle/pedestrian trails are located adjacent to several of the creeks to be dredged and public access is available along the entire length of Goleta Beach where sediment disposal/beach nourishment activities will occur.

In addition, during the course of processing this application, staff has discovered development on the subject site which has occurred without the required coastal development permit. A desiltation program for the project area, similar to the proposed project, was previously approved by the Commission on March 17, 1994, pursuant to Coastal Development Permit (CDP) 4-93-205. CDP 4-93-205 allowed for dredging of the subject portions of Goleta Slough and breaching of the slough mouth for a period not to exceed 5 years in duration. However, CDP 4-93-205 expired on March 17, 1999. Since March 17, 1999, the applicant has continued to repeatedly breach the mouth of Goleta Slough (involving approximately 1,000 cu. yds. of excavation to create a 200 ft. long, 40 ft. wide channel) without the required coastal development permit.

B. Environmentally Sensitive Habitat and Marine Resources

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges- and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation,

maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30236 of the Coastal Act states:

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

Section 30240 of the Coastal Acts states:

(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 and parks and recreation 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 and recreation areas.

Section 30231 requires that the biological productivity and quality of coastal waters be maintained. Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. Section 30236 allows for alterations to streambeds when required for flood control projects where no other less damaging alternative is feasible and when necessary to protect public safety or existing development. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas shall be protected and that development within or adjacent to such areas must be designed to prevent impacts which could degrade those resources.

The proposed project is for the implementation of an annual desilting program for portions of Goleta Slough. The program will involve dredging the lower reaches of Atascadero Creek, San Jose Creek, San Pedro Creek, and the main channel of the slough on a periodic basis (removal of no more than 200,000 cu. yds. of sediment/year). The program also includes breaching the mouth of Goleta Slough approximately 1-3 times/year and placement of all suitable dredged material in the surfzone at Goleta Beach County Park. Dredged material unsuitable for beach disposal will be stockpiled adjacent to the creek approximately 30 to 100 ft. in distance from the top of the bank. Annual dredging activities will occur between October 15 and April 1. Dredging activities may occur on less than an annual basis depending on the quantity of sediments present and the necessity for removal). The dredge would operate 24 hours/day, 5 days/week for most of the project area. The dredge would operate 10 hours/day when working in the vicinity of the ranger's residence near Goleta Beach Park and the mobile home park located between San Jose Creek and Atascadero Creek.

The proposed dredging activity will be located within Goleta Slough (and its related stream courses) one of the 19 major wetland habitats specifically identified in Chapter 3 of the Coastal Act. All portions of the project site are designated as environmentally significant habitat areas by the Santa Barbara County Local Coastal Program. The slough is the drainage basin for five creeks that originate on the southern slopes of the nearby Santa Ynez Mountains: Atascadero Creek, San Jose Creek, San Pedro Creek, Carneros Creek, and Tecolotito Creek. Two of the creeks (Carneros and Tecolotito) will also be periodically dredged; however, these two creeks are not located within the Commission's original permit issuance jurisdiction and are, therefore, not part of this permit application.

Historically, Goleta Slough was a relatively deep water lagoon environment. Since the 1850's, progressive sedimentation from these five creeks have transformed the Goleta Slough from a deep water wetland habitat to a shallow coastal salt marsh crossed by numerous tidal channels. Additional fill has occurred as a result of development on site, including the Santa Barbara Airport, a highway, and various urban development. The current slough is approximately 300 acres in area (occupying an area less than 40% of its pre-World War II size).

The Goleta Slough provides perennial and seasonal habitat for several endangered and sensitive wildlife species including Belding's Savannah Sparrow, Steelhead trout, White-tailed kite, light-footed clapper rail, plover, heron, egret, and at least 26 other bird species. The applicant has indicated that previous biological surveys indicate that Tidewater goby are not present within in the slough. Vegetation within the undisturbed portion of the slough is dominated by salt tolerant native wetland plant species such as perennial pickleweed, which comprises about 90% of the sloughs vegetative cover. In addition to salt tolerant species, several smaller areas of the slough also support freshwater marsh vegetation as well.

Steelhead trout have historically entered Goleta Slough to migrate up the tributary streams for spawning. Southern steelhead occur in coastal streams and creeks in Central and Northern California, and Oregon. The populations that occur between Los Angeles County and northern Santa Barbara County constitute the South-Central Evolutionary Significant Unit (ESU) which has been designated an endangered species by the National Marine Fisheries Service. Southern steelhead are anadromous (migrating from freshwater to the ocean as juveniles and returning to freshwater as an adult to spawn). Spawning occurs from December through June when higher winter stream flows occur.

The Final Supplemental Environmental Impact Report (94-EIR-1) dated September 2000, indicates that no recent evidence of migration and spawning of steelhead has been observed in the slough. However, the EIR also indicates that individual steelhead have been observed in Maria Ygnacio Creek (an upstream tributary). As such, the EIR determines that the project area may potentially contain steelhead migrating upstream in search of spawning habitat which may be adversely affected

by the proposed dredging activities. The potential occurrence of steelhead within the project reach is expected to be rare, and would generally consist of migrating fish. The Final Supplemental EIR (93-EIR-4) dated September 2000 states:

Dredging activities have a low potential to adversely affect steelhead migrating into the streams tributary to Goleta Slough because few individuals are expected to use the area (i.e., low potential for the dredge and steelhead to come in contact)...In years when rainfall begins late, the potential for impacts would be negligible. In early rainfall years, steelhead migrating past the dredge (if it is operating at that time) could potentially be injured by the suction cutterhead. Due to the noise and turbidity associated with the cutterhead operation, steelhead would be expected to avoid the vicinity of the dredge, and dredging for 24 hours per day could interfere with their migration upstream.

As noted above, the proposed project may result in adverse effects to steelhead (a federally listed endangered species) if the proposed excavation/dredging activities or maintenance discing activities occur while steelhead are migrating. The proposed dredging activities will occur between October 15 and April 1 of any given year during the project period and may, therefore, result in potential adverse effects to steelhead.

The Final EIR indicates that steelhead are not expected to be actively migrating upstream during the fall and winter season if the stream is not flowing at an adequate rate. The County has indicated that steelhead are not expected to occur within the project area if streamflows are less than 10 cubic feet per second (cfs). In order to minimize potential adverse effects to steelhead from the proposed project, the County is proposing to limit dredging operations to no more than 10 hours/day in the event that streamflow velocity within Maria Ygnacio Creek (a tributary of Atascadero Creek where steelhead trout have been found) is between 10 and 30 cfs. In the event that streamflow velocities exceed 30 cfs, then dredging operations shall cease in order to minimize potential impacts to steelhead migrating during increased flow events. Therefore, in order to ensure implementation of the proposed timing limitations for dredging activities and to minimize potential adverse effect to steelhead, Special Condition Two (2) requires that dredge operation shall be limited to no more than 10 hours/day in the event that streamflow velocity within Maria Ygnacio Creek are between 10 and 30 cfs. In the event that streamflow velocities exceed 30 cfs, then dredging operations shall cease until streamflow velocities decrease to less than 30 cfs.

In addition, the proposed project also includes periodic breaching of the mouth of Goleta Slough on as needed basis. The slough mouth is typically breached by the applicant approximately 1-3 times/year using a bulldozer to create a trench from the ocean to the slough. The trench varies in length depending on the width of the beach, but is typically 200 ft. long by 40 ft. wide. Approximately 1,000 cu. yds. of sand is pushed up out of the trench onto the beach. The Santa Barbara County Flood Control District has indicated that the proposed breaching of the slough mouth is necessary in

order to both maintain water quality within the slough (in order to prevent fish kill due to oxygen depletion) and prevent flooding of the Santa Barbara City Airport. The County has indicated that the airport, which was constructed on an artificial fill pad within the slough, would be subject to potential flooding due to rising water levels within the slough prior to natural breaching of the slough during the winter storm season.

In past permit actions, the Commission has found that artificially breaching estuaries may result in potential significant adverse effects to Tidewater goby (a federally listed endangered species) who are unable to resist the increased tidal action and are subsequently swept out to sea. However, in this case, the applicant has submitted information which indicates that no Tidewater goby are present within Goleta Slough and that, therefore, no adverse effects to Tidewater goby will occur. In addition the Commission's biologist, Dr. John Dixon, has indicated that, although artificially breaching particular estuaries may result in some potential adverse effects to marine habitat and certain fish species in other wetland areas (particularly smaller stream estuaries) in the case of Goleta Slough (a historic deepwater area) such breaching is necessary in order to maintain adequate water quality and wetland habitat. In addition, the County has also submitted information which indicates that the proposed breaching of the slough mouth is not expected to result in any significant adverse effects to wetland habitat and is, in fact, necessary to maintain adequate water quality within the slough. The Biological Analysis dated 10/11/00 states:

*There are relatively few impacts associated with breaching the slough mouth. There is the possibility of small estuarine fish such as killifish or various species of gobies being entrained in the flow going out when the actual breaching occurs. This is expected to involve at most a small number of individuals since the higher speed flow is localized and short lived. There are no Tidewater gobies *Eucyclogobius newberryi* (1993 Swift, 1996 Santa Barbara County P&D Energy Department), in the estuary so there would not be an adverse impact on that species. The sand that is pushed aside as part of the breaching has almost no fauna such as clams and of course there is no flora at the site where the breaching is done.*

...

Periodic opening of the slough mouth could benefit juvenile steelhead by improving water quality in the slough and by allowing access to the ocean. The opening could have adverse effects through allowing predatory fish from the ocean to enter the slough and feed on the young steelhead and could allow steelhead to enter the ocean before they have developed enough to increase their survival rate in the ocean. These benefits and detriments are expected to about balance, although improved water quality may be more important to steelhead survival. Impacts to steelhead would be less significant (Class III).

As such, the Commission notes that the proposed project is necessary in order to prevent flooding of existing development and to maintain wetland habitat and water quality within Goleta Slough. In addition, the Commission notes that alteration of streambeds, as proposed by this project, is consistent with Section 30236 of the Coastal Act when required for flood control projects to protect public safety or existing development and when adverse effects have been mitigated to the maximum extent feasible. In this case, the Commission notes that the proposed flood control project

may result in some potential adverse effects to surrounding habitat due to unintentional disturbance from construction equipment and dredging activity. Therefore, to ensure that all recommendations of the environmental consultant are properly implemented, and to ensure that any potential adverse effects to sensitive riparian habitat, wetlands, and beach environment are minimized during actual dredging activities, Special Condition Three (3) requires that a qualified environmental resource specialist shall conduct a survey of the project site each day prior to commencement of any dredging or beach disposal activities to determine whether any sensitive wildlife species are present. In the event that any sensitive wildlife species are present on the project site, the environmental resource specialist shall either: (1) initiate a salvage and relocation program prior to any dredging or beach disposal activities to move sensitive species and significant wildlife features (such as breeding bird nests, etc.) by hand to safe locations elsewhere along the project reach or (2) as appropriate, implement a resource avoidance program with sufficient buffer areas to ensure adverse effects to such resources are avoided. The monitor shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. If significant impacts or damage occur to the beach, slough, or marine environment on site beyond the scope of work allowed for by this permit, the applicant shall be required to submit a revised, or supplemental, restoration program to adequately mitigate such impacts. The revised, or supplemental, restoration program shall be processed as an amendment to this coastal development permit.

In addition, the Commission notes that the sandy beach on the subject site has been identified as a potential grunion spawning location. Sediment disposal/beach nourishment activities may occur within the seasonally predicted run period and egg incubation period of the California grunion. The disposal of large quantities of sediment into the surf zone may result in adverse effects to grunion due to direct disturbance by construction activity and use of heavy equipment on the sandy beach as well as indirect impacts from smothering of eggs previously deposited on the sandy beach. Therefore, in order to ensure that any potential adverse effects to grunion are minimized, Special Condition Three (3) also requires that in the event that sediment disposal/beach nourishment activities occur during the seasonally predicted run period and egg incubation period for California grunion as identified by the California Department of Fish and Game, then the environmental resource specialist shall be present on the project site beach each night from one hour before the beginning of each predicted grunion run until one hour after the end of each run to monitor the presence of any grunion present on the site. If any adult grunion are present on the project site beach, then no disposal activities shall be allowed until after the next predicted grunion run in which no adult grunion have been observed on the project site and it has been determined by the environmental resource specialist that all previously deposited grunion eggs have successfully incubated (allowing juvenile grunion to return to the ocean) or that the previously deposited eggs are no longer viable, or unless otherwise approved by the Executive Director. The environmental resource specialist shall immediately notify the Executive Director after each monitored run whether grunion were found to be present.

Further, although dredging activities will be primarily limited to open water and streambed areas (from toe of bank to opposite toe of bank), the proposed project will still result in some adverse effects to upland areas of the site due to vegetation removal for staging areas, disturbance from laying pipeline and pumping facilities over portions of upland areas, potential stockpile areas, etc. Removal of native vegetation and disturbance to upland areas would result in adverse effect to the habitat value of the site. In addition, the Commission finds that the minimization of erosion on site will minimize the project's potential individual and cumulative contribution to adversely affect the streams and wetland areas on site. Erosion can best be minimized by requiring the applicant to revegetate all disturbed areas of the site with native plants compatible with the surrounding environment. Therefore, to ensure that the project site is adequately revegetated, Special Condition One (1) requires submittal of a revegetation program. The program shall specify that all upland areas on the subject site disturbed as a result of this project shall be planted and maintained for habitat restoration and erosion control purposes as soon as possible after disturbance has occurred.

The proposed project will involve work within streams, wetland areas, and tidally influenced portions of the sandy beach and will also require approval from the United States Army Corps of Engineers, California State Lands Commission, California Department of Fish and Game, and the Regional Water Quality Control Board. Therefore, Special Condition Seven (7) requires the applicant to agree to obtain all other necessary State or Federal permits that may be necessary for all aspects of the proposed project.

As such, the Commission notes that the proposed project, as conditioned, will serve to minimize adverse effects to existing habitat and wildlife resources on site while meeting necessary flood control requirements. However, the Commission also notes that the wetland habitat and wildlife resources on site are subject to potential changes over time as new species migrate into the area or as potential unidentified impacts from the proposed dredging operation may be discovered over time. Therefore, in order to ensure that any potential changed circumstances which may be discovered at some future point in time, such as new information regarding sensitive habitat and wildlife resources on site or new impacts from the dredging project, are considered, Special Condition Four (4) specifically limits the duration of all activities approved by this permit (including dredging, breaching, and sediment disposal) to a period of no more than five (5) years from the date of Commission action, after which time this permit shall expire. Any dredging, breaching, or sediment disposal activities after the expiration of this permit will require the issuance of a new coastal development permit.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, 30236, and 30240 of the Coastal Act.

C. Hazards and Shoreline Processes

Section 30253 of the Coastal Act states in part that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Section 30253 of the Coastal Act mandates that new development minimize risks to life and property in areas of high geologic, flood, and fire hazard. The purpose of the proposed desiltation program is to maintain the flood water carrying capacity in Atascadero Creek to reduce the likelihood of flood damage to adjacent residential areas, including the Santa Barbara City Airport. The proposed project will involve two potential methods of sediment removal: hydraulic dredging and dragline desilting.

Hydraulic dredging is proposed as the primary method of sediment removal and involves floating a dredge within the creeks to be desilted. A 10-12 inch diameter polyurethane discharge pipeline is floated in the channels behind the dredge to transport dredged material to Goleta Beach for disposal within the surfzone. However, specific information regarding the suitability of sediment to be removed to be used for beach nourishment has not been submitted as part of this application. Therefore, Special Condition Two (2) requires that prior to any excavation/dredging activity, the applicant shall submit a suitability analysis, for the review and approval of the Executive Director, of the sediment within the creek to be removed to determine its suitability for beach disposal/nourishment. All excavated material shall be transported for disposal to Goleta Beach for beach nourishment purposes unless determined to be unsuitable for such use. The analysis shall include confirmation by the U.S. Army Corps of Engineers that the material to be excavated meets the minimum criteria necessary for placement on the sandy beach or within the surf zone.

In the event that sediments to be removed are determined to be unsuitable for beach disposal/nourishment, then sediments will be removed from the creeks by the dragline desilting method. Dragline desilting involves operation of a crane rigged as a dragline (bucket scoop) from the adjacent creek banks. Removed sediments would be stockpiled adjacent to the creek approximately 30 to 100 ft. in distance from the top of the bank. All excavated material removed by the dragline method would be made available to members of the public until all material has been hauled away by private parties. However, the Commission notes that excavated materials that are placed in stockpiles are subject to increased erosion and potential adverse effects to adjacent streams and wetland areas from resedimentation and increased turbidity. The Commission also notes that additional landform alteration would result if the excavated

material were to be retained on site. Therefore, in order to ensure that dredged material will not be permanently stockpiled on site and that erosion and resedimentation of the streams on site are minimized during any temporary stockpiling activities, Special Condition Two (2) also requires any stockpiled materials shall be located as far from the stream or wetland areas on site as feasible and in no event shall materials be stockpiled less than 30 ft. in distance from the top edge of the stream bank. Temporary erosion control measures (such as sand bag barriers, silt fencing; swales, etc.) shall be implemented in the event that temporary stockpiling of material is required. These temporary erosion control measures shall be monitored and maintained until all stockpiled fill has been removed from the project site. Permanent stockpiling of material on site shall not be allowed. The applicant shall provide evidence to the Executive Director of the location of the permanent disposal site for all excavated material prior to removal of the material from the project site. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required.

In addition, the Commission notes, based on the information submitted by Santa Barbara County Flood Control District, that the proposed development is located in an area of the Coastal Zone which has been identified as subject to potential hazards from flooding. The applicant has indicated that the developed areas adjacent to the project site, such as the airport and nearby residential development (which are located within the identified flood plain) may be subject to seasonal flood events during the winter storm season. As such, the Commission notes that evidence exists that the project site is subject to potential risks due to storm waves and surges, high surf conditions, erosion, and flooding.

The Commission further notes that although the proposed development is intended as a flood control project and will serve to reduce the potential for flooding of the developed areas immediately upland of the project site, there remains some inherent risk to any flood control projects. The Coastal Act recognizes that certain types of development, such as the proposed project, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property. As such, the Commission finds that due to the unforeseen possibility of storm waves, surges, erosion, and flooding, the applicant shall assume these risks as a condition of approval. Therefore, Special Condition Seven (7) requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk; will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30253.

D. Public Access and Visual Resources

Coastal Act Section 30210 states 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.

Coastal Act Section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

In addition, Section 30251 of the Coastal Act states 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 subordinated to the character of its setting.

Coastal Act sections 30210 and 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. In addition, Coastal Act Section 30251 requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored.

The proposed project will be located adjacent to and within public recreational areas including Goleta Beach County Park and the Atascadero Creek Bikeway system. Public bicycle/pedestrian trails are located adjacent to several of the creeks where dredging will occur and public access is available along the entire length of Goleta Beach where sediment disposal/beach nourishment activities will occur.

Public access along the sandy beach is available along the entire approximately 4/5 mile length of Goleta Beach County Park. The County has indicated that during calendar years 1998 and 1999, the park received 1,766,305 and 1,580,933 visitors, respectively. The period of heaviest use is from July through September (38 percent), followed by the period from April through June (22 percent). Twenty-one percent of

visitors use the park from October through December and 18 percent use the park from January through March.

The proposed project includes disposal of dredged sediments within the surfzone at Goleta Beach in order to provide for beach nourishment and reduce erosion of the sandy beach on site and downcoast areas. The Commission notes that disposal of the dredged sediments within the surfzone is intended to function as part of a regional beach nourishment program. Beach nourishment programs serve to enhance public recreational activities along the coast by creating wider sandy beach areas available for public access. In addition, beach nourishment activities also provide some additional protection to beachfront development (including the public facilities located on site at Goleta Beach County Park) due to creation of a wider beach which, in turn, allows for greater dissipation of wave energy to occur.

However, beach nourishment activities also result in some temporary adverse effects to public access including closure of portions of the beach to public use during nourishment activities. Sediment dredged from the slough is expected to contain significantly higher levels of bacteria (including fecal coliform) and organic matter than beach sand. Operation of the dredge outlet pipe in the surf zone could have safety impacts to nearby swimmers and waders due to elevated levels of fecal coliform bacteria. The degradation of water quality would be localized and short-term in nature. To avoid potential safety impacts to beach users, the portion of the beach and water within 200 feet of the mouth of the dredge pipe will be closed to public access for the duration of the dredging. Advisories will be posted on site by the County advising beachgoers of the potential elevated levels of fecal coliform in ocean waters during dredging activities.

In addition, the Commission notes that the dredging activities are proposed during the fall and winter months when visitor-use of Goleta Beach County Park is lowest. The Commission also notes that closure of portions of the beach to public use during spring and summer months (during maximum visitor-use of the park) would result in significant impediment to the public's ability to fully utilize the public beach areas on site. In order to minimize disturbance to park users, as balanced with minimizing impacts to wildlife on site, the County is proposing to limit dredging operations between the period of October 15 through April 1. Therefore, in order to ensure that the applicant's proposal to limit the duration of the proposed dredging project is implemented and to ensure that adverse effect to public access and recreation are minimized, Special Condition Two (2) limits dredging activities to the period between October 15 and April 1, unless additional time is granted by the Executive Director for good cause.

The proposed dredging activities will also result in some potential temporary disruption to the public's ability to use the bicycle/pedestrian trails on site resulting from construction vehicles crossing the bicycle path during dredging operations. Disruptions are expected to be minor and would not result in the closure of any bicycle or pedestrian paths.

In addition, in the event that dredged sediments are determined to be unsuitable for beach disposal/nourishment, then sediments will be removed from the creeks by the dragline desilting method and temporarily stockpiled adjacent to the creek approximately 30 to 100 ft. in distance from the top of the bank until removed by members of the public. Temporary stockpiles would be expected to remain on site for periods of approximately 12 months until all material has been adequately dewatered and removed from the site by members of the public. Stockpiled materials, which would be visible from several public viewing areas including the bicycle/pedestrian trails on site, would result in some adverse temporary impacts to public views.

The Commission notes that excavated materials that are placed in stockpiles are subject to increased erosion and that additional landform alteration would result if the excavated material were to be permanently retained on site. Therefore, in order to ensure adverse to public views resulting from landform alteration and increased erosion on site are minimized Special Condition Two (2) requires the in the event that any dredged material is not suitable for disposal within the surf zone at Goleta Beach, the material may be temporarily stockpiled on site in order to allow for adequate dewatering of the material. Stockpiled materials shall be located as far from the stream or wetland areas on site as feasible and in no event shall materials be stockpiled less than 30 ft. in distance from the top edge of the stream bank. Temporary erosion control measures (such as sand bag barriers, silt fencing; swales, etc.) shall be implemented in the event that temporary stockpiling of material is required. These temporary erosion control measures shall be monitored and maintained until all stockpiled fill has been removed from the project site. Permanent stockpiling of material on site shall not be allowed. The applicant shall provide evidence to the Executive Director of the location of the permanent disposal site for all excavated material prior to removal of the material from the project site. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required. In addition, to ensure that all disturbed areas (including temporary stockpile areas) are adequately revegetated, Special Condition One (1) requires that all upland areas on the subject site disturbed as a result of this project shall be planted and maintained for habitat restoration and erosion control purposes as soon as possible after disturbance has occurred.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30210, 30211, and 30251 of the Coastal Act.

D. Archaeological Resources

Coastal Act Section 30244 of the Coastal Act states that:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Archaeological resources are significant to an understanding of cultural, environmental, biological, and geological history. The coastal act requires the protection of such resources to reduce the potential adverse impacts through the use of reasonable mitigation measures. Degradation of archaeological resources can occur if a project is not properly monitored and managed during earth moving activities and construction. Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be permanently lost. In the past, numerous archaeological sites have been destroyed or damaged as a result of development. As a result, the remaining sites, even though often less rich in materials, have become increasingly valuable as a resource. Further, because archaeological sites, if studied collectively, may provide information on subsistence and settlement patterns, the loss of individual sites can reduce the scientific value of the sites which remain intact.

The applicant has submitted a Intensive Cultural Resources Survey by Archaeological Systems Management dated April 1982 which indicates that Native American Archaeological resources have been identified within three separate portions of the subject site (SBA-45, SBA-46, and SBA-1696). The archaeological sites are immediately adjacent to areas of the site where dredging will occur. In order to minimize the potential for adverse effects to cultural resources, the proposed dredging will only occur in the same areas of stream channel where dredging has occurred in previous years. In addition, in order to avoid disturbance to cultural resources on site, the buffer areas have been delineated adjacent to all identified resource areas where dredging activities shall be prohibited. However, the Commission notes that potential adverse effects to those resources may still occur due to inadvertent disturbance during dredging activity. To ensure that impacts to archaeological resources are minimized, Special Condition Five (5) requires that the applicant have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all dredging activities within or adjacent to the archaeological sites in the project area identified in the Intensive Cultural Resources Survey by Archaeological Systems Management dated April 1982. The number of monitors shall be adequate to observe the earth moving and cable installation activities of each piece of active earth moving equipment. Specifically, the dredging operation on the project site shall be controlled and monitored by the archaeologist(s) with the purpose of locating, recording and collecting any archaeological materials. In the event that any significant archaeological resources are discovered during operations, all work in this area shall be halted and an appropriate data recovery strategy be developed, subject to review and approval of the Executive Director, by the applicant's archaeologist and the native American consultant consistent with CEQA guidelines.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30244 of the Coastal Act.

E. Violations

During the course of processing this application, staff has discovered development on the subject site which has occurred without the required coastal development permit including periodic breaching of the Goleta Slough Mouth (involving approximately 1,000 cu. yds. of excavation to create a 200 ft. long, 40 ft. wide channel). A desiltation program for the project area, similar to the proposed project, was previously approved by the Commission on March 17, 1994, pursuant to Coastal Development Permit (CDP) 4-93-205. CDP 4-93-205 allowed for dredging of the subject portions of Goleta Slough and breaching of the slough mouth for a period not to exceed 5 years in duration. However, CDP 4-93-205 expired on March 17, 1999. Since March 17, 1999, the applicant has continued to repeatedly breach the mouth of Goleta Slough (involving approximately 1,000 cu. yds. of excavation to create a 200 ft. long, 40 ft. wide channel) without the required coastal development permit.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

F. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application 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 Commission finds that, the proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

SMH-VNT

File:smh/permits/regular/4-00-206 s.b. county report

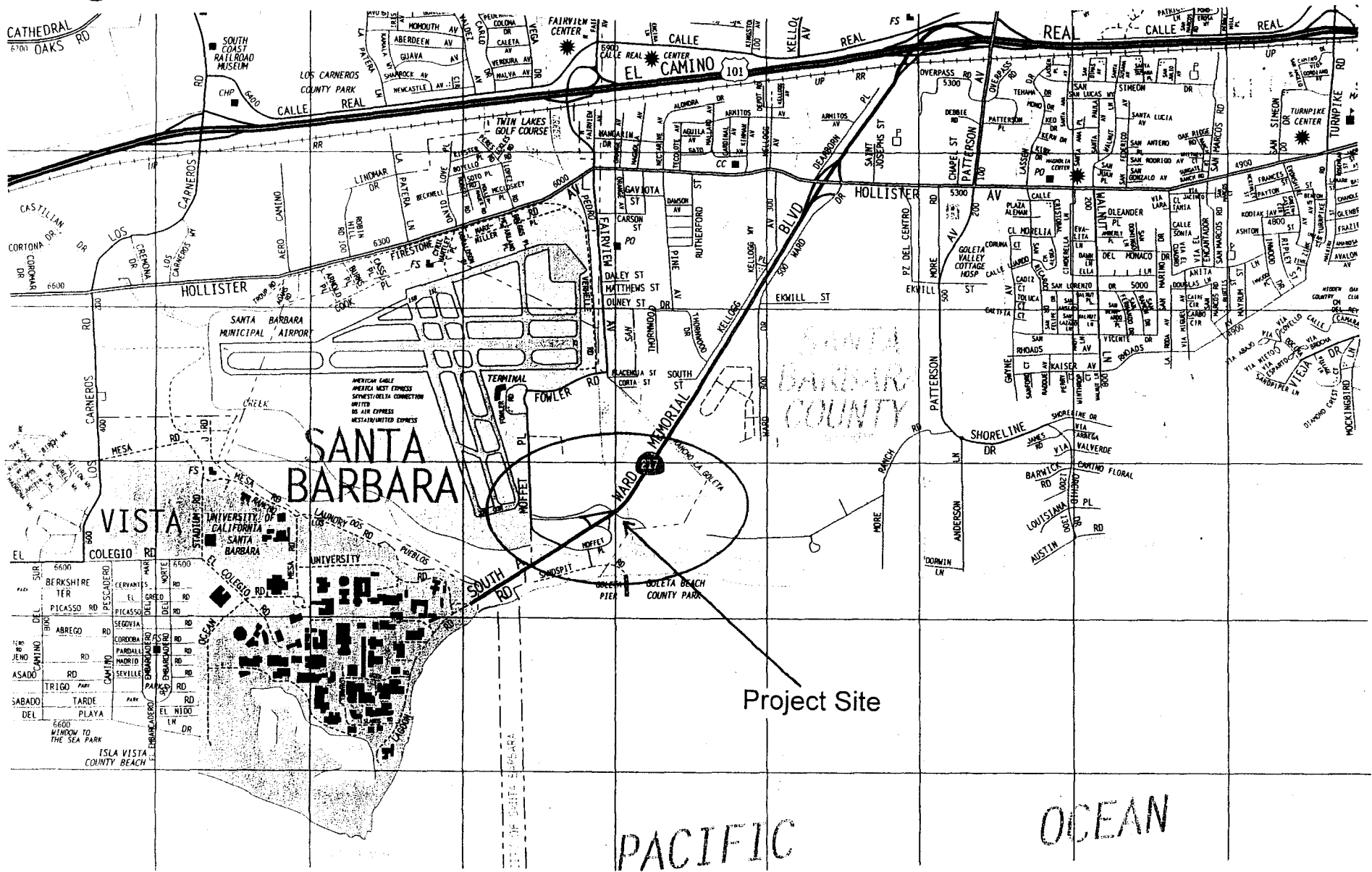
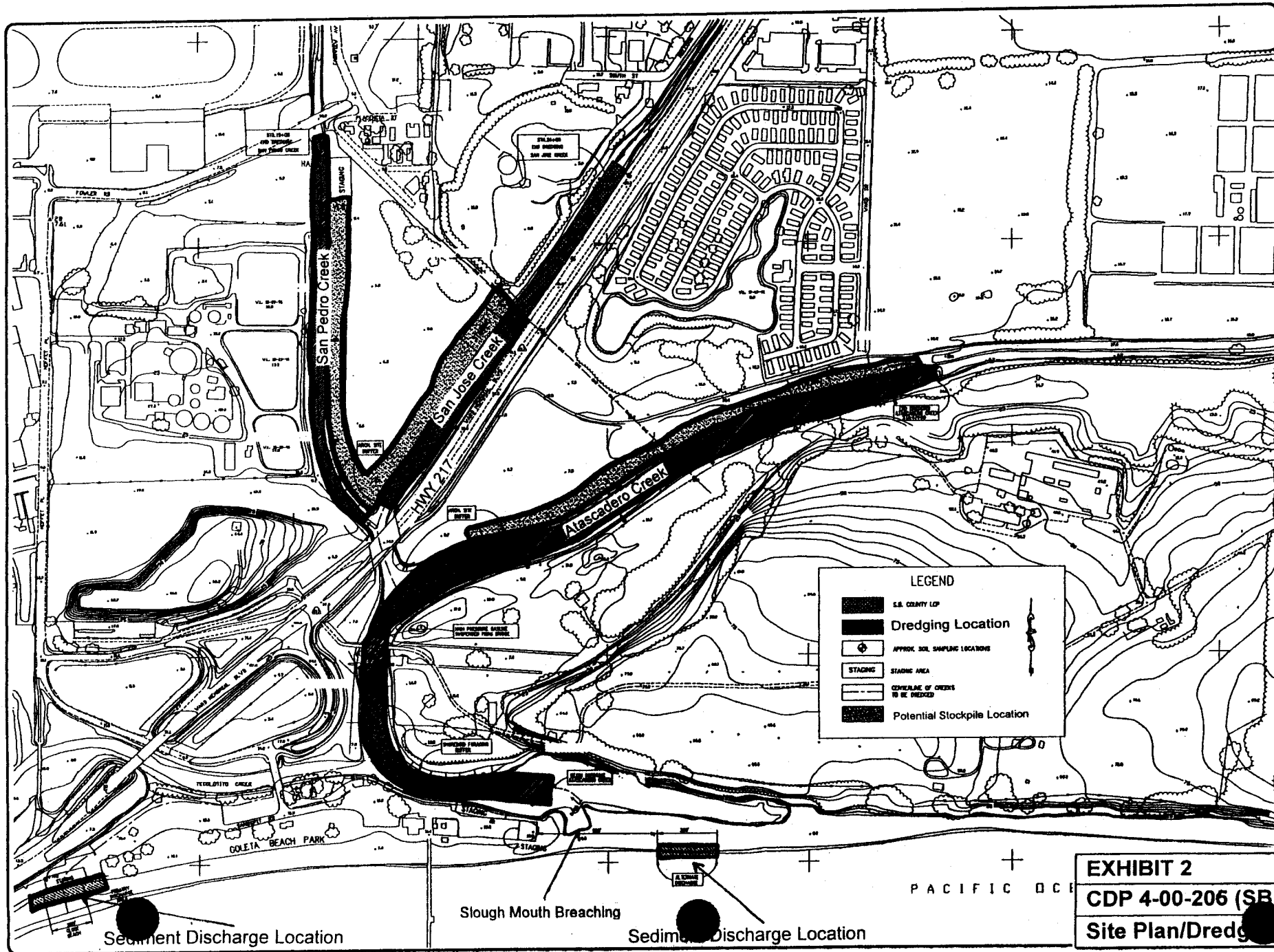


EXHIBIT 1
CDP 4-00-206 (SB County)
Area Map



BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

GOLETA SLOUGH DREDGING PROJECT 2000
 SAN PEDRO, SAN JOSE & ATASCADERO CREEKS
 C.M.L.S. PROJECT # SCB302

APPROVED	DATE
PROJECT ENGINEER	DATE
DESIGNED BY	DATE
CHECKED BY	DATE
IN CHARGE	DATE

DATE: 10/10/00