

**CALIFORNIA COASTAL COMMISSION**

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**COASTAL DEVELOPMENT PERMIT APPLICATION**

**Application Number** .....3-95-41, Shamel Park (Santa Rosa Creek Bank) Erosion Protection

**Applicant**.....County of San Luis Obispo, Department of General Services

**Project Location** .....5455 Windsor Boulevard, North side of Shamel Park (Mouth of Santa Rosa Creek, East of the Pacific Ocean), Cambria (San Luis Obispo County)

**Project Description** .....Grading for and placement of rock rip rap creek bank protection (120 linear feet of rock protection placed 3' to 4' feet deep and 8' to 12' feet high from finished grade) along corner of park where Santa Rosa Creek meets the Pacific Ocean. Regrade top of bluff to reduce slope and cover with jute netting to prevent surface erosion. Planting and backfill of willow cuttings between rocks and at footing.

**Approvals Received** .....County of San Luis Obispo: Minor Use Permit (D940198P)  
CDFG: Stream Alteration Agreement 93-95 (2/2/95, expires 3/6/95)  
ACOE: CWA Section 404 Authorization 95-50103-TAW (2/6/95, expires 2/6/97)  
RWQCB: Emergency authorization (2/2/95)  
DPR: Temporary Use Permit (2/2/95, expires 4/13/95)

**File Documents** .....County of San Luis Obispo Certified Local Coastal Program; County of San Luis Obispo Minor Use Permit D940198P and Coastal Development Permit D870435P; 3-95-005-G Administrative Record; *Geologic Study for Stream Bank and Shore Protection* (Buena Engineers, Inc., October 5, 1987); *Opinion Regarding Creek Bank Erosion* (letter, Earth Systems Consultants, January 30, 1995); *Biological Evaluation of Bank Stabilization at Shamel Park, Adjacent to Santa Rosa Creek, in Relation to Potential Impacts to Tidewater Goby* (D.W. Alley & Associates, March 20, 1995); *Aquatic Biology Related to Erosion Control Project at Shamel Park* (Tom Dudley, Aquatic Biologist, December 18, 1988); *Botanical Impacts of Shore Protection and Enhancement Project at Shamel Park* (V.L. Holland & David Keil, May 16, 1988); *Reconnaissance Survey Stream and Shore Protection at Shamel Park* (Rivertech, Inc., May 22, 1989).

**Staff Recommendation** ..Approval with Conditions



California Coastal Commission  
August 10, 2000 Meeting in Huntington Beach  
Staff: R. Brooke Approved by: *R.B.*

## **Summary**

The project is located at the northern boundary of Shamel Park, which also forms the southern bank of Santa Rosa Creek, in the community of Cambria, San Luis Obispo County. Due to severe rainstorms in January 1995, the County's Department of General Services requested an emergency permit to install a revetment to reinforce a failing creek bank along the northern side of Shamel Park, and to prevent further damage to the park, its related facilities, and a public accessway to the beach. On February 3, 1995, the Executive Director issued an emergency permit to allow the placement of approximately 120 linear feet (and up to 16 vertical feet) of rock rip rap along a portion of the northern side of Shamel Park, adjacent to Santa Rosa Creek, and the establishment of 1,500 square feet of riparian/willow habitat in and around the revetment. The Applicant is now requesting a coastal development permit to allow for the emergency work that was previously installed.

This portion of Santa Rosa Creek provides habitat for at least two sensitive species, steelhead trout and tidewater goby, and therefore is considered an Environmentally Sensitive Habitat Area. Conditions of the emergency permits required a number of measures to minimize sedimentation and the introduction of hazardous pollutants associated with heavy construction equipment into the creek. Several biological reports that were prepared to determine potential impacts to the riparian and freshwater habitats indicate that neither steelhead trout nor tidewater gobi were significantly affected during construction of the revetment. Additionally, appropriate mitigation measures have been included as special conditions of approval in order to minimize impacts to these sensitive species during future maintenance activities.

The botanical report prepared for the project concludes that the vegetation at the project site is in a highly degraded condition and existing disturbance from foot traffic has maintained the project site's disturbed condition. As such, the report concludes that implementation of the stream bank protective measures will have a minimal impact on vegetation in the area. Mitigation measures, including the replanting of willow cuttings along the southern bank of the creek that were dislodged as a result subsequent storm events, will provide shade to help reduce summer water temperatures and potentially provide more cover for fish and reduce the erodibility of the bank.

Although the public's use of an unmaintained accessway may be temporarily impacted during future construction activities occurring along the creek bank or bluff, two alternative accessways exist within the park itself. Overall public access to the beach will not be diminished because the protective structure is located below the blufftop.

The visual impacts of the project are minimal due to the limited scale of the project and the fact that it is located adjacent to a developed park with a similar rip rap revetment on its western boundary. Additionally, the planting of willows within the revetment and along the Santa Rosa Creek bank will ultimately result in improved aesthetics for the site and provide essential riparian habitat in an area that has been degraded over time. Therefore, the project will not degrade the visual character of the surrounding area.



As a result of this project, erosion of the creek bank in this area will be stabilized, and through mitigation, the riparian corridor and creek-mouth lagoon will be enhanced by planting riparian vegetation within the revetment. Therefore, as conditioned, the proposed project is consistent with the policies of the California Coastal Act and staff is recommending approval.

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## **A. Staff Recommendation on Coastal Development Permit**

**MOTION:**    *I move that the Commission approve Coastal Development Permit No. 3-95-41 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 San Luis Obispo County to carry out their certified Local Coastal Program in conformance with 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.

**B. Conditions of Approval**

**1. 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 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.

**2. Special Conditions**

1. **Scope of Work.** This approval authorizes the prior installation of 120 linear feet of rock rip rap installed pursuant to Emergency Permit 3-95-005-G.
2. **Local Conditions of Approval.** The following San Luis Obispo County conditions of approval



(D940198P) are hereby incorporated as Special Conditions of this coastal development permit: #3 (willow replanting), #4 (tidewater goby), #5 (1,500 square feet of willow cuttings), #7 (red-legged frogs), #8 (supplemental irrigation), #9 (heavy equipment), and #10 (requirement to contact agencies). See Exhibit 5 for the full text of these conditions.

**3. Vegetation Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a vegetation plan to the Executive Director for review and approval. The final plan shall:

- (a) Clearly identify the type, size, extent and location of all plant materials, and other landscape features for the creek bank or blufftop area located between the Santa Rosa Creek channel and the northern boundary of Shamel Park. The plan shall provide for suitable plantings that will grow within the area to minimize the visual impact of the protective structure as seen from the beach and Shamel Park. The plant materials shall be drought and salt-water resistant, non-invasive species native to the Cambria coastal terrace area.
- (b) Include a provision for monitoring the revegetated area by a qualified individual familiar with riparian habitat, on a monthly basis for the first year and thereafter quarterly for at least three years or until the plantings have successfully established. Any remedial work needed shall be completed by the Permittee immediately after it is identified. Annual reports shall be submitted to the Executive Director until he/she determines that the vegetation has become successfully established.

All plans shall be submitted with evidence of review and approval by the appropriate County of San Luis Obispo official.

The Permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

**4. Monitoring and Maintenance Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit to the Executive Director for review and approval a monitoring and maintenance plan prepared by a licensed geotechnical engineer that provides for:

- (a) Evaluation by a licensed geotechnical engineer of the condition and performance of the rock revetment constructed on Assessor Parcel Number 022-101-001. Such evaluation shall at a minimum address whether any significant damage has occurred that would adversely impact its future performance, and identify any structural damage requiring repair to maintain the approved revetment profile. Additionally, surrounding areas of the southern creek bank, especially the area located east of the existing revetment, shall be evaluated for signs of scour, undermining, or accelerated erosion. If such processes are found to be occurring, appropriate alternatives to



address these problems (e.g. additional rip rap, construction of a bulkhead, or removal of existing revetment) shall be evaluated.

- (b) Provision for the submittal of a report to the Executive Director of the Coastal Commission on May 1 of each year (beginning the first year after project approval) for the first three years, and on May 1 of every third year after that for the life of the project. In addition, reports shall be submitted within two months of any major storm event. Each report shall be prepared by a licensed geologist or geotechnical engineer and shall cover the evaluation described in subsection (a) above. Each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the project.
- (c) An agreement that the Permittee shall apply for a coastal development permit or permit amendment within three months of submission of the report required in subsection (b) above (i.e., by August 1) for any necessary maintenance, repair, changes, or modifications to the project, or additional protective work recommended by the report for which the Executive Director of the Coastal Commission has determined that a coastal development permit or permit amendment is necessary.

It is the Permittee's responsibility to maintain the rock revetment in a structurally sound manner and its approved state. The Permittee shall undertake monitoring in accordance with the approved plans. Any change in the design of the project or future additions/reinforcement of the revetment to restore the revetment to its original condition as approved herein, will require a coastal development permit. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

5. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** By acceptance of this permit, the Permittee acknowledges and agrees: (a) that the site is subject to hazards from episodic and long-term bluff retreat, waves, flooding, liquefaction and erosion; (b) to assume the risks to the Permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (c) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (d) 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; and (e) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the landowner.



PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description and site plan of the Permittee's entire property. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

- 6. Construction Responsibilities and Debris Removal.** The Permittee shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored, or otherwise located in the intertidal zone at any time. Within 5 days of completion of the repair of the revetment, the Permittee shall remove from the bluff face and creek area any and all debris that results from construction of the approved development. The Permittee shall also be responsible for the removal of all debris resulting from failure or damage of any portion of the protective device in the future.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

- 7. Condition Compliance and Enforcement.** Within 60 days of the Coastal Commission's approval of this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the Permittee shall satisfy all requirements specified in the conditions hereto that the Permittee is required to satisfy prior to issuance of this permit.

## **C. Recommended Findings and Declarations**

The Commission finds and declares as follows:

### **1. Project Description & Background**

#### **1.1 Project Location**

The project is located at the northern boundary of Shamel Park (5455 Windsor Boulevard), which also forms the southern bank of Santa Rosa Creek, in the community of Cambria, San Luis Obispo County (see Exhibit 1 for location maps and aerial photo). The northern boundary of the site is located adjacent to an irregularly shaped creek bank, approximately 12 to 15 feet in height. The park boundary from the northwest corner to the south is located atop a low coastal bluff fronting the Pacific Ocean, which gradually decreases in height to three or four feet. The park is bordered on the west by the Pacific



Ocean, on the north by Santa Rosa Creek, and residential uses are located to the east and south of the park. Shamel Park, owned and maintained by the County of San Luis Obispo, is widely used by both local community members and tourists visiting the area, as it serves as a major public accessway to the beach.

Santa Rosa Creek typically flows west through the community of Cambria to a point adjacent to Shamel Park where it approaches the beach. The creek terminates in a small lagoon behind a seasonally-formed sandbar that is sufficiently high, except during high winter storm flows, to cause the channel to bend sharply to the north to flow approximately  $\frac{1}{4}$  mile parallel to the beach before emptying into the ocean (see aerial photo in Exhibit 1). The lower reaches of this stream channel is defined by steep-sided banks of alluvial material with a very flat bed composed of unconsolidated sand/silt sediments. The creek serves as potential habitat for steelhead trout (Federally Threatened Species) and the tidewater goby (Federal Endangered Species). Very little riparian vegetation exists along the creek bank at this location and no rare or endangered plants are found in the area, due in large part to the highly eroded state of the creek bank.

## **1.2 Project Background and Description**

Over the past two decades, Shamel Park has experienced damage along its shoreline due to wave action, and erosion of the bank of Santa Rosa Creek due to high flood waters. In 1988, a plan was created to prevent further damage to the park and degradation to the creek, by reducing the risk of erosion during winter storms. The County of San Luis Obispo intended to protect the shoreline and creek bank adjacent to Shamel Park by implementing this plan in two phases. Phase I was completed in 1989 (pursuant to County-issued Coastal Development Permit D870435P) when the County installed a rock rip rap revetment (approximately 440 feet in length) and two public access stairways along the western boundary of Shamel Park. In 1998, the County repaired an eroded section of the existing rock revetment (approximately 40 feet wide) on the western boundary of the park, and created an emergency vehicle access ramp to the beach (pursuant to Commission-issued CDP 3-98-081). Phase II of the protection plan, which has not been completed in its entirety, includes the installation of a stream revetment that connects to the existing rock revetment fronting the Pacific Ocean, along the southern bank of Santa Rosa Creek.

Due to severe rainstorms in January 1995, the County's Department of General Services requested an emergency permit to install a creek bank revetment on the northwest corner of Shamel Park. On February 3, 1995, the Executive Director issued Emergency Permit 3-95-005-G to allow the placement of approximately 120 linear feet (and up to 16 vertical feet) of rock rip rap along a portion of the northern side of Shamel Park, adjacent to Santa Rosa Creek, and the establishment of 1,500 square feet of riparian/willow habitat in and around the revetment (see Exhibit 2 for project plans). The work completed under this emergency permit constitutes approximately one-half of the activities proposed in Phase II of the County's creek bank protection plan. The Applicant is now requesting a coastal development permit to allow for the emergency work that was previously installed.





### **1.3 Standard of Review**

The County of San Luis Obispo has a certified LCP; however, the project site falls within the Commission's retained permit jurisdiction, due to the location of historic tidelands in this area. Therefore, although the County's LCP may be used as guidance, the standard of review in this case is the Coastal Act.

## **2. Geologic Conditions and Hazards**

Coastal Act Section 30236 addresses stream alteration:

*Section 30236. 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.*

Although only advisory in this case, the San Luis Obispo County LCP contains a policy that addresses limitations on the construction of shoreline structures:

*Hazards Policy 4: Construction of shoreline structures that would substantially alter landforms shall be limited to projects necessary for:*

*b. Public beaches and recreation areas in danger of erosion*

### **2.1 Need for Stream Bank Protective Structure**

In this case, the rock rip rap revetment is proposed to stabilize Santa Rosa Creek's southern bank and to protect Shamel County Park, a public recreation area, from further erosion. The Applicant has submitted a geotechnical report that documents the geologic structure and the history of the creek bank in the project area (Buena Engineers, Inc., October 1987), and a more recent letter from Earth Systems Consultants, dated January 30, 1995. The 1987 geotechnical report states in part:

*The site is situated on estuary and/or alluvial deposits of the Santa Rose Creek. The Alluvial deposits consist primarily of silty fine sands with 5 to 20 percent fine gravel and the estuary deposits are generally sand clays with 15 percent fine to coarse gravel. These deposits are underlain by a late Crustaceous Age Arkosic sandstone.... The thickness of the estuarine deposits below the alluvial deposits is estimated to be 80 meters.*

The report continues:

*High erosion potential exists along Santa Rosa Creek adjacent to the Park due to creek*



*impingement (sic). Due to the existing alignment of the creek, inertia of the creek accelerates erosion on this outside bend. Unless the bank is armored to protect it from erosion, the creek would progressively work its way through the park.*

The letter from Earth Systems Consultants, documents not only the emergency status of the situation in January 1995, but also states the following in regard to a long-term potential threat to the park facility:

*Adjacent to the northwest corner of the park, the creek makes a sharp bend from a westerly flow to a northerly flow. The bend is caused by a sand spit that has formed in the mouth of the creek, deflecting its flow to a discharge point by Moonstone Beach. ... [In two days] the erosion near the fence (northern park boundary) had progressed an additional 1/2-foot and the creek channel had moved approximately 15 feet farther to the south.... In addition to the erosion of the bank, the creek has altered its course some 30 feet in two days; 45 feet in four days, and the sand spit has been eroded. The sand spit also appears to be on the verge of breaching. When it does, the creek will follow a nearly straight path to the ocean. This will place the northwest corner of the park directly in the creek's path. Additional, severe erosion and loss of park improvements can be expected when this occurs.*

The letter continues to state that the eroding bank can be a safety hazard, as an individual standing at the top of the bank could be thrown into the creek. Additionally, the creek bank may erode to the point where the fence and cypress trees on the park property would be lost and potentially lodge in the creek, forming a major obstacle and deflecting its flow. Thus, given potential for accelerated erosion on the outside bend of Santa Rosa Creek, the ability of the creek to rapidly alter its course, the documented erosion on the site in a two-day period during a heavy rainstorm, and the low factor of safety on the subject bluff, substantial evidence has been provided to document the flood hazard and erosion danger at the subject location. Therefore, for the purposes of Coastal Act Section 30236 and LCP Hazards Policy 4, the Commission finds that during flood conditions the eroding creek bank is a threat to public safety and the existing recreational facility and related structures at this location are in danger from erosion.

## **2.2 Long Term Structural Stability**

Coastal Act Section 30253 addresses the need to ensure long-term structural integrity, minimize future risk, and avoid additional, more substantial protective measures in the future. Section 30253 provides, in applicable part:

*Section 30253. 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.*

Coastal Act Section 30253 requires the project to assure long-term stability and structural integrity, minimize future risk, and avoid additional, more substantial protective measures in the future. There are two main issues of concern: (1) long-term monitoring and maintenance; and (2) the Applicant's assumption of risk.

### **2.2.1 Monitoring and Maintenance**

If the proposed rock revetment was damaged in the future (e.g. as a result of flooding, landsliding, wave action, storms, etc.) it could threaten the stability of the site, which could lead to need for more bluff alteration. In addition, damage to the revetment could adversely affect the beach by resulting in debris on the beach and/or creating a hazard to the public gaining access to or using the beach. Therefore, in order to find the proposed revetment consistent with the Coastal Act, the condition of the seawall in its approved state must be maintained for the life of the structure. Further, in order to ensure that the Permittee and the Commission know when repairs or maintenance are required, the Permittee must monitor the condition of the retaining wall system annually for three years and at three year intervals after that, unless a major storm event occurs. The monitoring will ensure that the Permittee and the Commission are aware of any damage to or weathering of the retaining wall system and can determine whether repairs or other actions are necessary to maintain the system in its approved state before such repairs or actions are undertaken.

Commission staff has noted that the revetment is currently in a state of disrepair, as seen in the photos of Exhibit 3. It appears that either the rocks from the top of the revetment have tumbled to the bottom, or the toe of the structure has been undermined and the entire revetment has slumped. Therefore, Special Condition 4 of this approval requires the Applicant to submit a monitoring report that evaluates the condition and performance of the revetment and overall site stability, and submit an annual report with recommendations, if any, for necessary maintenance, repair, changes or modifications to the project. Special Condition 4 likewise notifies the Applicant that they are responsible for maintenance of the herein approved stream bank protection; such maintenance includes removal of any debris deposited on the beach during and after construction of the structures (Special Condition 6). Special Condition 4 also indicates that, should it be determined that maintenance of the revetment is required in the future, the Applicant shall contact the Commission office to determine if permits are required.

As mentioned previously, the County has prepared a plan to prevent further damage to Shamel Park and to protect the Santa Rosa Creek bank from additional degradation. The second phase of this plan is directed at stabilizing approximately 260 linear feet of the stream bank along the northern boundary of Shamel Park. The scope of work completed through the emergency permit was less than half (approximately 120 linear feet) of the total area proposed for protection. Thus, the portion of the stream bank directly east of the project site is currently unprotected and experiencing accelerated erosion, creating a situation in which the existing public pool at Shamel Park may be threatened if flood



conditions, similar to those in 1995, reoccur in the next few years. Although erosion of this portion of the creek bank is largely due to the amount of energy produced in this area, as the bank is located on the outside creek bend, the placement of rip rap at the northeast corner of the park shifts the focus of stream energy to the unprotected banks further downstream. Therefore, if the monitoring reports indicate that completion of Phase II of the County's 1988 plan (extending the protective structure approximately an additional 140 linear feet to the east) is necessary to prevent the creek from undermining the existing revetment or to protect the park from further damage, Special Condition 4 requires the Applicant to apply for a coastal development permit, or an amendment to this permit, in order to complete the necessary work.

### **2.2.2 Assumption of Risk**

The experience of the Commission in evaluating the consistency of proposed developments with Coastal Act policies regarding development in areas subject to problems associated with geologic instability, flood, wave, or erosion hazard, has been that development has continued to occur despite periodic episodes of heavy storm damage, landslides, or other such occurrences. Oceanfront development is susceptible to bluff retreat and erosion damage due to storm waves and storm surge conditions. In addition, this site is susceptible to flood hazards during major storms, specifically higher water levels and increased velocity within Santa Rose Creek, which exacerbate erosion of the stream bank in this area. Past occurrences statewide have resulted in public costs (through low interest loans and grants) in the millions of dollars. As a means of allowing continued development in areas subject to these hazards while avoiding placing the economic burden on the people of the state for damages, the Commission has regularly required that Applicant acknowledge site geologic risks and agree to waive any claims of liability on the part of the Commission for allowing the development to proceed.

The risks of the proposed development include that the rock revetment will not protect against damage to the public recreation facility from stream bank erosion. In addition, the structure itself may cause damage either to the park or to neighboring properties by increasing erosion at the sides of the structure. Such damage may also result from wave action that damages the revetment. Although the Commission has sought to minimize these risks, the risks cannot be eliminated entirely. Given that the Applicant has chosen to construct the revetment despite these risks, the Applicant must assume these risks. Accordingly, this approval is conditioned for the Applicant to assume all risks for developing at this location (see Special Condition 5). Specifically, Special Condition 5 requires the Applicant to submit an agreement that evidences their acknowledgment of the risks and that indemnifies the Commission against claims for damages that may be brought by third parties against the Commission as a result of its approval of this permit.

In summary, the Applicant has documented that, during heavy rainstorms and flood conditions, the southern bank of Santa Rosa Creek is highly erodible, a public accessway and a public recreational facility and its related structures are in danger from erosion, and that a hard protective structure is required to stabilize the stream bank and protect the facility from future damage. There are no other less damaging alternatives available to reduce the risk from bluff failure and stream bank erosion. Thus, staff



is recommending that the project be approved, and, only as conditioned can the proposed project be found consistent with Coastal Act Sections 30236 and 30253.

### **3. Marine Resources, Wetlands and Sensitive Habitat**

As mentioned previously, this portion of Santa Rosa Creek provides habitat for at least two sensitive species, steelhead trout and tidewater goby, and therefore, is considered an Environmentally Sensitive Habitat Area (ESHA). Due to the proximity of the emergency work to the environmentally sensitive habitat area, consistency with the following Coastal Act Sections must be evaluated.

Coastal Act Sections 30230 and 30231 provide:

*Section 30230. 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. 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.*

Coastal Act Section 30240 states:

*Section 30240(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.*

*Section 30240(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.*

In addition Coastal Act Section 30233(a), 30233(c) and 30233(d) state:

*Section 30233(a). 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:*

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- (3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.*
- (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
- (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (7) Restoration purposes.*
- (8) Nature study, aquaculture, or similar resource dependent activities.*

**Section 30233(c).** *In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division....*

**Section 30233(d).** *Erosion control and flood control facilities constructed on water courses can impede the movement of sediment and nutrients which would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these*



*facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area.*

### **3.1 Resource Background**

The proposed project is located on the coastal terrace directly above and adjacent to Santa Rosa Creek and its associated lagoon. The work completed under the emergency permit was contained within the limits of the bluff face and does not extend into the creek bed at this location. Although some disturbance to the creek habitat may have occurred during the construction of the revetment, those impacts were temporary in nature. Additionally, several mitigation measures were implemented to reduce the overall impacts to Santa Rosa Creek and its environs, and the revetment itself is located outside of the creek channel, except during heavy rainstorms and flood conditions.

The Applicant has submitted various reports addressing aquatic and riparian biology and botanical resources in the area proposed for development. According to the aquatic biology report (Dudley, 1988), the stream bank adjacent to the park has been degraded by the visitor access path, park development, and fill added to temporarily protect the park from flood damage. Therefore, the stream bank in this area is highly unnatural and provides little habitat for native species. Upstream land uses (commercial, residential, agriculture) exacerbate the erosional processes downstream; however, these land uses, as well as groundwater removal by humans, probably do not seriously alter the problems being addressed by the proposed revetment project.

In Santa Rosa Creek, arroyo willows may be the most critical factor inhibiting erosion from the stream banks. They are abundant upstream from the project, but are reduced in stature, and probably in erosion resistance potential, as the mouth of the river is approached (please see photos in Exhibit 3). Considerable weedy vegetation, cattails, and two species of bulrushes are found within the stream channel.

### **3.2 Project Impacts on Biological Resources**

In his report, Dudley states that,

*Since considerable soil materials must be disrupted from the stream bank adjacent to Shamel Park and from the streambed, erosion, sedimentation and increased turbidity are probably the most severe effects of the project, outside of direct mortality to individuals and loss of habitats.*

Prior to commencement of construction activities along the stream bank, the Applicant installed a temporary siltation fence to minimize sedimentation into the creek, which stayed in place until the work was completed. Efforts were made to minimize impacts to the creek environment as a result of grading



and revetment construction activities, and given the conditions of the creek during construction (high water levels, increased velocity and turbidity), the impacts of the project on the creek habitat were likely minimal. The issue of whether or not sensitive species were directly harmed by the project is discussed in the next section of this report.

Regarding the condition of the stream bank, Dudley continues,

*The south bank of Santa Rosa Creek adjacent to Shamel Park is highly degraded at present. A sparse cover of introduced weedy plants exists (Holland and Keil 1988), but most of this bank is bare and steeply eroded, providing essentially no significant biological value to the aquatic and semi-aquatic community. Nevertheless, there is potential that re-planting with native vegetation could make the banks usable for bank associated fauna as are found within 100 meters upstream, and the rip-rap would probably preclude creating a more natural bank in the future. In general, the project has no detrimental impacts on the streambank in its current condition.*

Dudley notes that aquatic and semi-aquatic plant species found at the project site are fast growing and are able to recover relatively easily from disturbance. Therefore, he does not believe that the loss of these plants will have long-term negative effects on the local aquatic community.

Overall, the report concludes that,

*Major disruption of the habitats for aquatic organisms is probably unavoidable. However, once the project is completed, there should be little difficulty for pools to recover to roughly their current status because the fauna is adapted to strongly changing conditions.*

Additionally, the botanical report prepared for the project (Holland/Keil, 1988) concludes that the vegetation at the project site is in a highly degraded condition; over eighty percent of the plant species on the site are exotic, either ornamental or weeds. In addition, existing disturbance from foot traffic has maintained the project site's disturbed condition. As such, the report concludes that implementation of the stream bank protective measures will have a minimal impact on vegetation in the area.

### **3.3 Sensitive Species**

Although steelhead trout may reside in this area during periods of suitable flow, they are typically not found in the lower section of Santa Rosa Creek because it is dry for part of the year. Tidewater gobi, however, are found in the lower reaches of streams, primarily in the estuarine or lagoon portions. In his report, Dudley concludes that no long-term influences on steelhead trout are anticipated as a result of this project because steelhead spend a relatively short period of time in lagoons or estuaries prior to upstream migration. Additionally, during migration, there is typically a large amount of water present to help reduce human influences. Finally, Dudley states, "since no permanent artificial barriers will be





placed in the stream channel, there will be no block to migration, the main concern for steelhead protection elsewhere in the region."

Thus, Dudley concludes that the tidewater goby is the only species of serious concern in this project proposal. The aquatic biology report prepared by D.W. Alley & Associates (1995) states the following regarding potential impacts to tidewater gobi during construction of the revetment:

*...it is our judgement that tidewater gobies were probably not present in the fill zone because it offered no cover or protection from previously high water velocities caused by the late January stormflows. We would guess that take of tidewater gobies was unlikely. The only existing cover for tidewater gobies at the time of filling would have been offered by the undercut bank, which was not disturbed by the construction project.*

Finally, Dudley states that he does not anticipate long-term difficulties for the population as a result of placing rip rap along the stream bank. Specifically, he states,

*The revetment itself presents no significant negative influence for goby survival as it will modify the streambank rather than the pool itself. If aquatic vegetation cannot be established within the pool, this may be detrimental to goby survival, but probably would not alone eliminate the population; vegetation is not strictly essential for survival, rather it simply promotes a more suitable habitat.*

Mitigation measures proposed by D.W. Alley & Associates include planting willow cuttings along the southern bank of the creek adjacent to the pool habitat. As a part of the emergency work, willow cuttings were planted within the revetment after its construction was completed in 1995; however, subsequent storm events removed much of the vegetation within the restored area. Therefore, the Applicant has agreed to plant additional willow cuttings within the revetment and monitor them until they are successfully established (see Special Condition 2). This riparian vegetation will provide shade to help reduce summer water temperatures, and the overhanging willows will potentially provide more cover for fish and reduce the erodibility of the bank.

In order to minimize impacts to tidewater gobi when future maintenance of the revetment occurs, all work is required be done between May 31 and November 15, pursuant to Special Condition 2 (County's condition of approval # 4 incorporated by reference) of this coastal development permit. Additionally, County conditions requiring the Applicant to consult with necessary agencies prior to conducting further remedial work to the stream bank, and prohibiting heavy equipment in riparian areas, also incorporated as Special Condition 2 of this permit, further protect sensitive species that may inhabit this area of Santa Rosa Creek.



### **3.4 Long-Term Beneficial Impacts of the Project**

In addition to assessing the potential impacts the proposed project may have on the biological resources of Santa Rosa Creek, Dudley analyzed the potential long-term benefits of the project. For example, the control of erosion and long-term stabilization of the heavily disturbed bank can have beneficial biological effects by reducing the entry of silts into the aquatic habitat. Additionally, planting vegetation along the stream bank can provide similar biological benefits by controlling erosion. Regarding the rip rap revetment specifically, Dudley states,

*Below the water line, the crevices can provide habitat and cover for both fish and invertebrates, but probably more important, it would be a superior substrate for aquatic plant attachment. Roots would be able to wedge themselves into the crevices, providing better resistance to disturbance during flooding, and may even act as a cement to stabilize the rocks and inhibit their movement during flooding.*

The project proposal includes the planting of willows within the rock revetment as an additional measure to resist stream bank erosion. The willows root networks work to bind the soil and provide a barrier to erosion, and stabilize the bank to prevent slippage when wet. Willows form dense and extensive root networks and should work to enhance the stability of the revetment rocks above the water by filling in crevices and binding rocks together. Additionally, both the roots and the upper portions of plants can be used by wildlife for food and cover. However, because arroyo willows are not considered to be tolerant of salt and sea-spray, Dudley advises that other species more tolerant of marine conditions should be planted along with the willows to provide better protection from soil erosion.

### **3.5 Conclusion**

As a result of this project, erosion of the creek bank in this area will be stabilized, and through mitigation, the riparian corridor and creek-mouth lagoon will be enhanced by planting riparian vegetation within the revetment. Because the revetment is contained to the pre-existing stream bank limits and does not involve the filling of a wetland, the project is not subject to the limitations set forth by Coastal Act Section 30233. Additionally, given that; 1) all reasonable and appropriate mitigation measures have been applied; 2) additional conditions are attached to this permit requiring on-going monitoring and maintenance of the protective structure, and; 3) applicable County conditions regarding the establishment of riparian vegetation along the stream bank and mitigation measures for future work in and around the revetment have been incorporated as special conditions of this permit, long range protection of the stream environment will be provided consistent with Coastal Act Sections 30230 and 30231. Finally, neither steelhead trout nor tidewater goby were significantly affected during construction of the revetment and a number of measures were implemented to minimize sedimentation and the introduction of hazardous pollutants into the creek during grading activities, consistent with Coastal Act Section 30240.

Therefore, only as conditioned, the proposed project can be found consistent with Coastal Act Sections 30230, 30231, 30233 and 30240.



#### **4. Public Access and Recreation**

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." The proposed project is located seaward of the first through public road (Highway 1). Coastal Act Sections 30210 through 30214 and 30220 through 30224 specifically protect public access and recreation. In particular:

*30210: 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.*

*30211: 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.*

*30212(a)(1): Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.*

*30213: Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

*30214(a): The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*

- (1) Topographic and geologic site characteristics.*
- (2) The capacity of the site to sustain use and at what level of intensity.*
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*

*30221: Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*



*30223: Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Shamel Park is owned and maintained by the County of San Luis Obispo and serves as a major public accessway to the beach. Two stairways along the western boundary of the park allow the public to walk through the park and down onto the beach. Additionally, an unimproved public walkway exists alongside the fence at the northern boundary of the park, directly above Santa Rosa Creek. As seen in the photos of Exhibit 3, this accessway is subject to erosion of the stream bank below. Thus, any measure taken to stabilize the creek bank will also serve to protect the public accessway located above.

The proposed project may impact the public's use of this accessway during construction activities; however, alternative access to the beach exists within the park itself. Because the protective structure will ultimately be located below the blufftop, the extent of the pathway will not be diminished, and it will be further protected and perhaps expanded as a result of the proposed protective measures.

Therefore, as conditioned, the Commission finds that the proposed project would preserve public access and recreational opportunities and, as such, is consistent with Coastal Act Sections 30210 through 30214 and 30220 through 30224.

## **5. Visual Resources**

Coastal Act Section 30251 states:

*Section 30251. 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.*

This portion of Santa Rosa Creek may be visible from Moonstone Beach Drive and it can be viewed from the beach and the unimproved public accessway along the park's northern boundary. The overall visual impacts of the project are reduced due to the limited scale of the project and the fact that it is located adjacent to a developed park with a similar rip rap revetment on its western boundary. Additionally, the planting of willows within the revetment and along the Santa Rosa Creek bank will ultimately result in improved aesthetics for the site and provide essential riparian habitat in an area that has been degraded over time. Therefore, as conditioned, the Commission finds that the proposed project has been designed in such a way as to minimize public view impacts; will result in some scenic enhancement through protection and revegetation of the Santa Rosa Creek riparian area; and will not be incompatible with the visual character of the surrounding area; and, as such, is consistent with Coastal



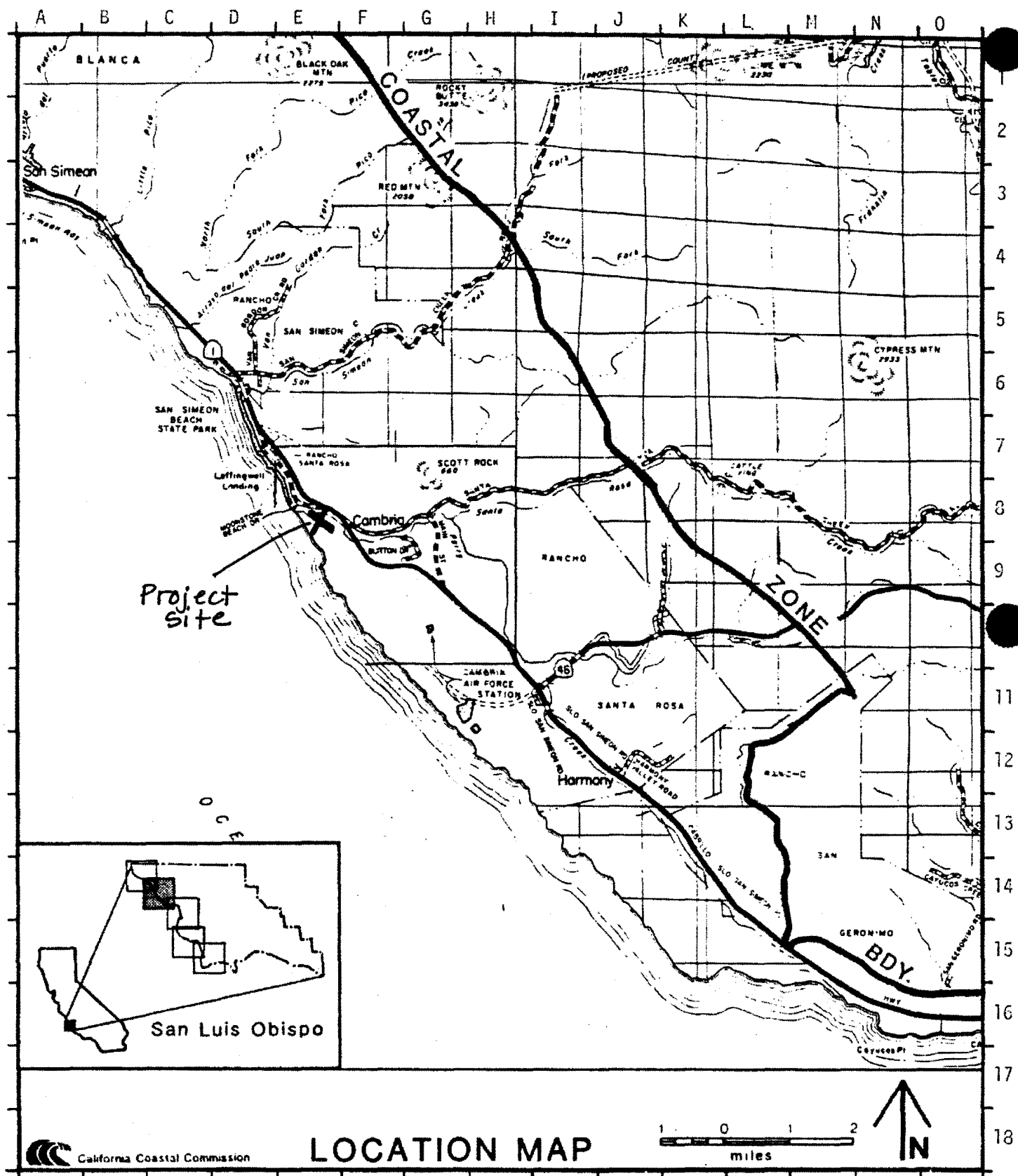
Act Section 30251.

## **6. California Environmental Quality Act (CEQA)**

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of 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.

On April 2, 1999, the County issued a negative declaration for the placement of the rock revetment along the north side of Shamel Park. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The proposed project's coastal resource issues have been discussed in this staff report and appropriate mitigations have been developed to supplement the County's review of the proposed project. Accordingly, the project is being approved subject to conditions which implement the mitigating actions required of the Applicant by the Commission (see Special Conditions of Approval). As such, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.





California Coastal Commission

# LOCATION MAP

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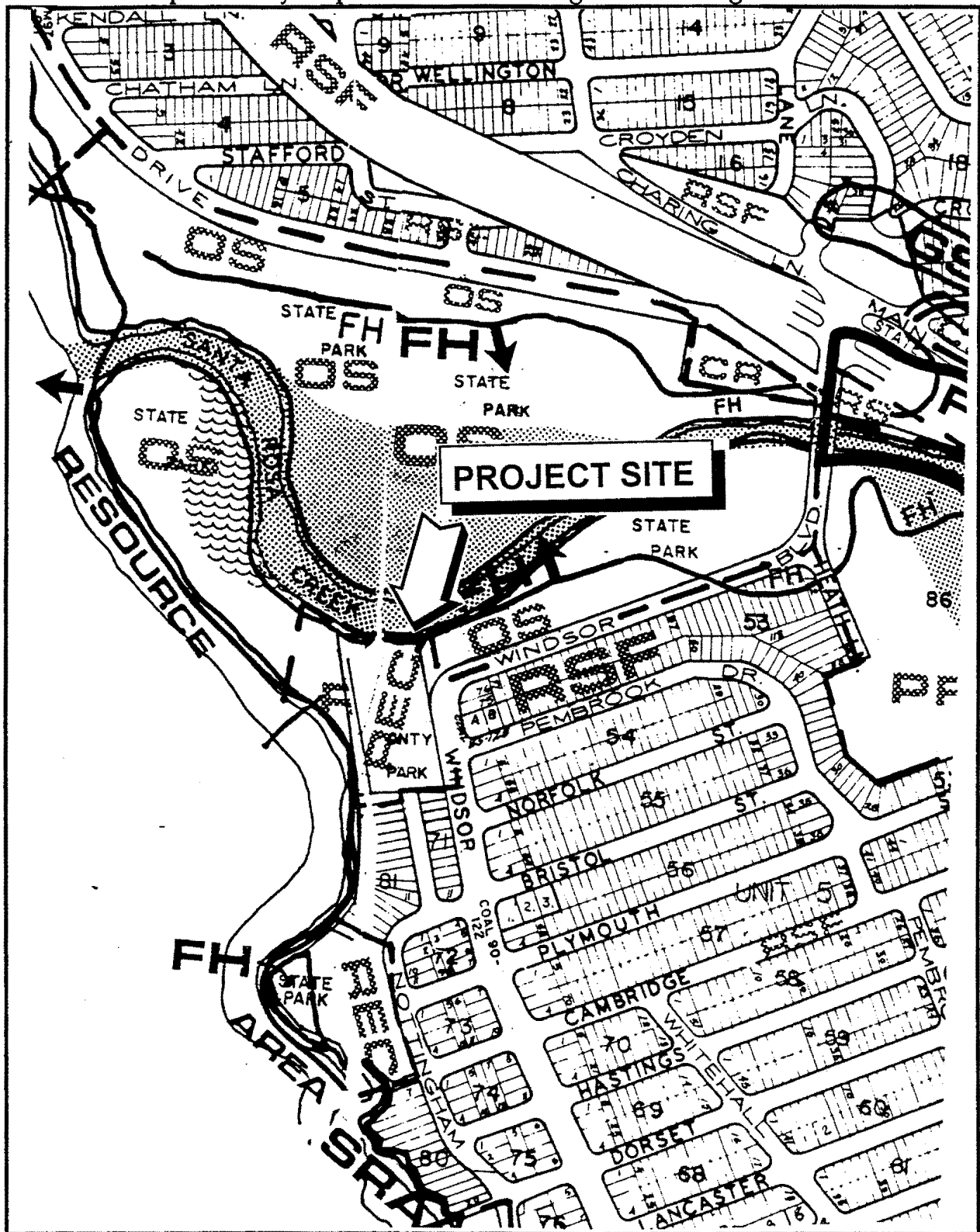


County of San Luis Obispo

Sheet 2 of 5

3-95-41  
Exhibit 1  
(1 of 3)

San Luis Obispo County Department of Planning and Building



Dept. of Gen. Services-Shamel Park/Santa  
Rosa Creek Rip-Rap Revetment  
ED98-217 (D940198P)

LAND USE CATEGORY MAP

Exhibit 1  
(2 of 3)



Shamel Park (Santa Rosa Creek Bank) Protection Project

3-95-041

Exhibit 1  
(3 of 3)



TEMPORARY SILTATION FENCE  
WITH SAND & GRAVEL BASE  
TO HOLD IN PLACE

AREA OF IMPROVEMENTS ON STATE LANDS (PHASE 2)

PHASE 1 EDGE OF ROCK FOOTING AS BUILT

PHASE 2 ROCK FOOTING AND PATH EXTENSION FUTURE WORK

PHASE 2  
SECTION B - B  
FUTURE WORK

SANTA ROSA CREEK

ALTERNATE EXTENSION  
OF ROCK SECTION A-A  
AS-BUILT

PHASE 1  
SECTION A - A  
AS BUILT

PROPERTY LINE

EXISTING FENCE TO REMAIN

ROCK PERIMETER

UPPER EDGE OF ROCK

AREA OF JUTE NETTING (PHASE 1)  
& HYDROSEED (PHASE 2)

REMOVE SECTION OF FENCE

EQUIPMENT ACCESS POINT

## SHAMEL PARK PARTIAL SITE PLAN



COUNTY of  
SAN LUIS OBISPO  
DEPARTMENT of  
GENERAL SERVICES

No. Revision Date By  
County Facility

PGC01

Drawn by P.K.

Checked By

Client Approval

Date 1/27/95

CONTRACTOR SHALL VERIFY ALL  
DIMENSIONS AND EXISTING CONDI-  
TIONS PRIOR TO COMMENCING  
WORK. REPORT ANY DISCREPANCIES  
TO THE OWNER.

Project Title:  
SHAMEL PARK  
CREEK BANK RESTORATION

Sheet Title:  
AS BUILT  
SITE PLAN  
EXHIBIT 'A'

Sheet Number

A-1

1 of 2 Sheets

File No.

Project No. P5270

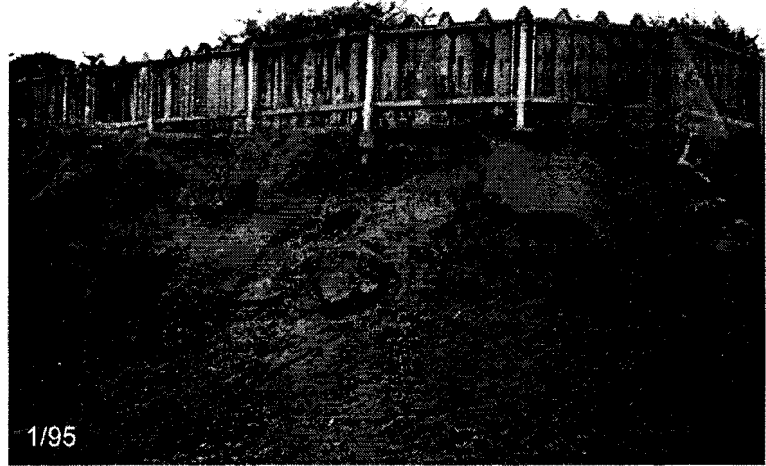
Exhibit 2  
(1 of 2)

Exhibit 2  
(2 of 2)

## Santa Rosa Creek Lagoon Prior to Construction



Santa Rosa Creek near Northern Boundary of  
Shamel Park



Northwest Corner of Shamel Park

## Santa Rosa Creek Lagoon After Construction



Santa Rosa Creek and Northwest Portion of Shamel Park

Project Photos  
Exhibit 3  
(1 of 2)



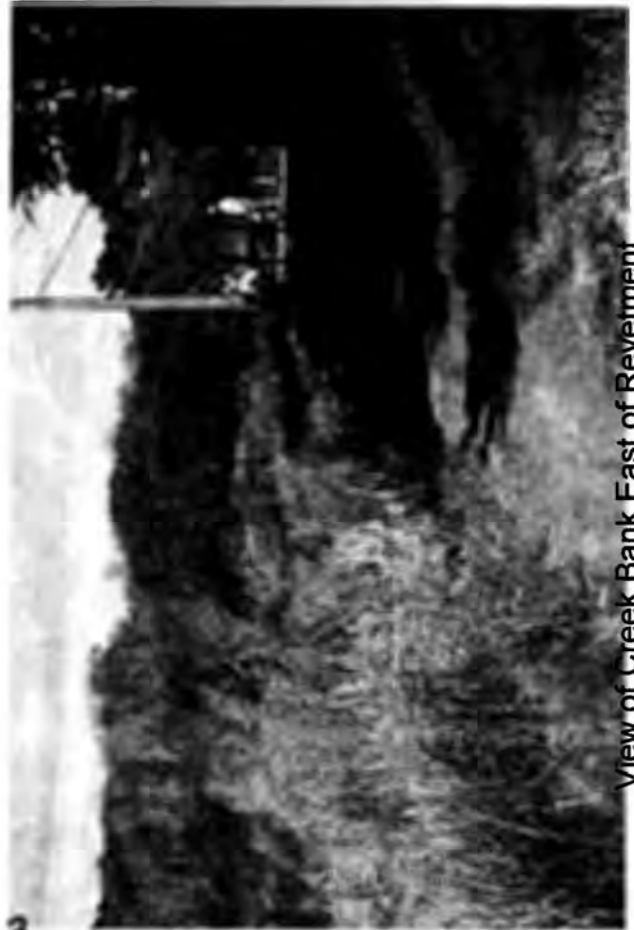
Northern Boundary of Shamel Park (looking west)



View of Revetment from Santa Rosa Creek Channel



Northern Boundary of Shamel Park (looking east)



View of Creek Bank East of Revetment

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

25 FRONT STREET, STE. 300

SANTA CRUZ, CA 95060

(408) 427-4863

HEARING IMPAIRED: (415) 904-5200



Emergency Permit

GENERAL SERVICES

95 FEB -6 AM 10:12

Attn: Kathy MacNeill  
Department of General Services  
San Luis Obispo County  
County Government Center  
San Luis Obispo, CA 93408

February 3, 1995

Date

3-95-005-G

(Emergency Permit No.)

Santa Rosa Creek, Shamel County Park, San Luis Obispo County

Location of Emergency Work

Install creek bank revetment at northwest corner of Shamel County Park and tie into existing rock revetment on west side of park to prevent further erosion of County Park land, as indicated on the attached grading plan.

## Work Proposed

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information that an unexpected occurrence in the form of: heavy winter rains causing severe erosion of creek bank and undercutting of park property requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Admin. Code Section 13009. The Executive Director hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;
- (b) Public comment on the proposed emergency action has been reviewed if time allows; and
- (c) As conditioned the work proposed would be consistent with the requirements of the California Coastal Act of 1976.

The work is hereby approved. See Conditions of Approval on following page.

RECEIVED  
MAR 30 1995

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Very Truly Yours,

Peter M. Douglas  
Executive Director

*Les Strnad*  
Les Strnad

Supervisor of Planning and Regulation

F2: 4/88 0320S

Exhibit 4  
(1 of 3)

CONDITIONS OF APPROVAL:

1. The enclosed form must be signed by the property owner and returned to our office within 15 days.
2. Only that work specifically described above and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed within 30 days of the date of this permit.
4. Within 60 days of the date of this permit, the permittee shall apply for a regular Coastal Permit to have the emergency work be considered permanent. If no such application is received, the emergency work shall be removed in its entirety within 150 days of the date of this permit unless waived by the Director.
5. In exercising this permit the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., California Department of Fish and Game, State Lands Commission, US Army Corps of Engineers, Monterey Bay National Marine Sanctuary).
7. Only clean, large rock shall be used. No fill materials or construction spoils shall be used. Applicant shall promptly remove any rock that becomes dislodged and deposited in the creek or on the beach.
8. Movement and operation of equipment on the beach and along the creek shall be limited to the absolute minimum necessary to gain access to the work site and to carry rock from the stockpile area to the revetment area.

Condition #4 indicates that the emergency work is considered to be temporary work done in an emergency situation. If the County wishes to have the emergency work become a permanent development, a regular coastal development permit must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly.

If you have any questions about the provisions of this emergency permit, please call the Commission Area office.

cc: Local Planning Department  
Department of Parks and Recreation  
Department of Fish and Game

Enclosures: 1) Acceptance Form; 2) Regular Permit Application Form;  
3) Grading Plan.

Exhibit 4  
(2 of 3)

EMERGENCY PERMIT ACCEPTANCE FORM

Emergency Permit No. 3-95-005-G

Instructions: After reading the attached Emergency Permit, please sign this form and return within 15 working days from the Permit's date.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them. I understand that the emergency work is temporary and a regular Coastal Permit is necessary to make it a permanent installation.

*ep Leib* GENERAL SERVICES DIR.  
Signature of property owner or  
authorized representative  
San Luis Obispo County

DUANE P. LEIB, GENERAL SERVICES DIRECTOR  
Name

COUNTY GOVERNMENT CENTER  
Address  
DEPARTMENT OF GENERAL SERVICES

SAN LUIS OBISPO, CA. 93408

FEBRUARY 7, 1995  
Date of Signing

***Tentative Notice of Action***

**San Luis Obispo County Department of Planning and Building**

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**APPROVAL DATE:** February 18, 2000

**LOCAL APPEAL PERIOD ENDS:** March 3, 2000 at 5:00 p.m.

**COASTAL COMMISSION APPEAL PERIOD ENDS:** Approximately March 20, 2000 (Please call Coastal Commission at (408) 427-4863 for definite date.)

**SUBJECT: MINOR USE PERMIT D940198P - COUNTY(DEPARTMENT OF GENERAL SERVICES):** A request to obtain a coastal development permit for emergency work previously done which was installing an approximate 120 linear foot section of rip-rap/ revetment to protect creek side of Shamel Park. The project is located along the north side of Shamel Park, Cambria.

**ENVIRONMENTAL DETERMINATION:** Negative Declaration issued April 2, 1999

**RELATIONSHIP TO LAND USE AND DEVELOPMENT POLICIES AND STANDARDS**

**Land Use Category/Combining Designations:**

Recreation / Flood Hazard, Local Coastal Plan, Streams and Riparian Vegetation

**Does the project conform to the Planning Area Standards:** Yes

**Does the project conform to the Coastal Plan Policies:** Yes

**Does the project conform to the Land Use Ordinance Standards:** Yes

**Land Use Ordinance Standards:** 23.03.045 - Emergency Permit

23.05.090 - Shoreline Structures

23.07.172 - Streams and Riparian Vegetation

23.08.070 - Public Park Facilities

**23.03.045 - Emergency Permit.** Due to extremely heavy rainfall events in early 1995, on January 31, 1995, an emergency permit was issued to install 120 linear feet of rock rip-rap along the northern side of Shamel Park, which is also the southern bank of the Santa Rosa Creek. The intent was to stabilize a failing bank caused by very high creek waters, which was beginning to erode into the existing Shamel Park facility. As a part of this process emergency permits were also obtained from all the appropriate agencies, including Coastal Commission, California Department of Fish and Game, Army Corp of Engineers (U.S. Fish and Wildlife Service), and the State Department of Parks and Recreation. As a part of this effort, a number of measures were required to minimize sedimentation and heavy equipment in the creek during work, as well as plant willows in and around the rip-rap.

**Exhibit 5**  
**(1 of 4)**



**23.05.090 - Shoreline Structures.** Prior to the rock rip-rap installation the existing vegetation was mainly non-native grasses, ice plant and invasive weeds with little, if any, riparian habitat value. The project includes the planting of willows within the rip-rap which has been partially successful. Additional willow plantings will be completed immediately east of the project to improve habitat conditions to better than they were prior to the project.

The rip-rap was installed to protect against damaging high creek flows. The occasional very high tides or extremely heavy surf may contact the structure. However, given its distance from the mean high tide line and its orientation, it will have no effect on sand transport.

This emergency work has been able to retain the coastal access point along the northern edge of the park, which would have likely been lost had the emergency work not been completed.

As a part of the emergency work, the applicant was conditioned to contain work-related sediment from entering the main body of the creek and minimizing heavy equipment from entering the water.

**23.07.172 - Streams and Riparian Vegetation.** The project is adjacent to Santa Rosa Creek, a coastal stream. Aquatic and terrestrial biological reports were prepared (Alley, March, 1995; Holland/Keil, May, 1988) for the project. The applicant has complied with reports' recommendations. The site was monitored for willow planting by a qualified individual during initial rip-rap placement (MacLeod, Feb., 1995). Additional planting will be completed as a part of project approval (see Developer's Statement/ approval conditions). Appropriate permits were obtained from the California Department of Fish and Game and the Corps of Engineers (including USFWS).

Given the degraded condition of the bank prior to the erosion from the flooding, the willow planting within the rip-rap, as well as the proposed planting to the east of the rip-rap work, the site could be considered a slight improvement to previous conditions. In addition, the sedimentation reduction in this particular area could have beneficial impacts to spawning areas for the tidewater gobi.

**23.08.070 - Public Park Facilities.** The existing park is a principally-permitted use in the Recreation land use category. Prior to the work being completed, the unstable bank had the potential to eliminate or severely impact the following park components: public access trail, maintenance road, perimeter fence, restroom facility. The unstable condition was also identified as very unsafe for any individuals venturing near the top of this eroded area (see geological report: Earth Systems, Jan., 1995). The emergency improvements that have been installed have avoided the above-mentioned items from becoming a problem.

**RECOMMENDATION:** Approval with conditions

C:\MyFiles\PROJ\train\Projects\Shame\staffreport

Exhibit 5  
(2 of 4)

**D940198P - County Dept. of General Services - Shamel Park Revetment**  
**CONDITIONS OF APPROVAL**

1. This approval authorizes the prior installation of 120 linear feet of rock rip-rap previously done during the 1995 rainy season (January-March) as a part of an emergency permit and associated remedial work.
2. Development shall be consistent with the approved site plan for Phase I (Phase 2 is not included as a part of this approval).
3. As shown on the attached plans, additional remedial willow replanting will be completed. There shall be no cutting, alteration or disturbance of the existing riparian during or after the remedial replanting work. No work shall be done within the creek bed or interfere with any standing or running creek water.
4. If any work is done below the existing top of bank, to minimize impacts to the tidewater gobi, this work shall be done between May 31 and November 15, preferably in late fall/early winter. Any work above the top of creek bank done between November 15 and May 31, adequate temporary sedimentation and erosion control measures shall be put in place prior to work beginning to avoid sedimentation into nearby existing ponds/deep waters.
5. At least 1,500 square feet of willow cuttings shall be planted. This total shall include both previously planted willows that have successfully survived and the newly proposed restoration work next to Shamel Park. Collection and planting of willow cuttings shall follow the attached "Guidelines for Collecting and Planting Willow Cuttings". This work shall be completed by a qualified individual familiar with riparian habitat restoration.
6. Once planted, the replanted area shall be monitored monthly for the first year by a qualified individual familiar with riparian habitat and thereafter quarterly for at least three years or until successfully established. Any remedial work needed shall be completed by the applicant immediately after it is identified. Yearly reports shall be submitted to the Environmental Division until the county determines that it has been successfully established.
7. To minimize impacts to red-legged frogs during planting, barrier fencing shall be installed around the proposed work area. In the event any red-legged frogs are found within the project limits during construction, they will be allowed to move on their own and outside "project limits" before work will be allowed near the frogs' location(s). Before any work begins, all contractors and subcontractors shall be trained on the red-legged frog's appearance and what to do if they are encountered to avoid impacts.
8. Where necessary, supplemental irrigation shall be provided to the restoration area until the willow are successfully established.
9. No heavy equipment shall be used in the riparian areas. Any refueling shall be done at least 100 feet from the edge of the riparian habitat.
10. While the project does not propose to disturb any riparian habitat, the applicant understands that they should contact the following agencies to determine the need for other state or federal permits for the remaining remedial work: California Department of Fish and Game, U.S. Fish & Wildlife Service, National Marine Fisheries Service, and/or Army Corps of Engineers.

Exhibit 5 (3 of 4)

**FINDINGS**

- A. The proposed project or use is consistent with the land use element of the general plan.
- B. The proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- C. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or detrimental or injurious to property or improvements in the vicinity of the use.
- D. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development.
- E. The proposed use or project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project.
- F. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because it will not inhibit access to coastal waters and recreation areas.
- G. Given the project's orientation and location along the creek, this project will not have an adverse impact on the local shoreline sand supply.
- H. The project is visually compatible with adjacent structures and natural features to the maximum extent feasible.
- I. The project has minimized potential erosion impacts on adjacent properties that may be caused by the rip-rap.
- J. The project does not significantly impact or disrupt fish and wildlife and is consistent with the continuance of the habitat.
- K. The non-structural methods of protection during the emergency high-water situation would have been impractical and infeasible.

**TENTATIVE DECISION**

This tentative decision will become final action on the project, effective on the 10th working day from the receipt of the final action by the California Coastal Commission. The final action will be transmitted to the Commission following the administrative hearing and the required 14 day local appeal period (Please call the California Coastal Commission at (408)427-4863 for a definite date.

Report prepared by: John McKenzie

Exhibit 5  
(4 of 4)

The department has 30 days from date of receipt of a completed application in which to make its recommendations. This time period does not begin until the department receives the appropriate fee (see attached fee schedule).

T.H.P. No. \_\_\_\_\_

Notification No. \_\_\_\_\_ Received \_\_\_\_\_

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
DEPARTMENT OF FISH AND GAME

**FEE EXEMPT  
FLOOD EMERGENCY**

**NOTIFICATION OF REMOVAL OF MATERIALS AND/OR ALTERATION  
OF LAKE, RIVER, OR STREAMBED BOTTOM, OR MARGIN**

A. APPLICANT Pursuant to Sections 1601-1607 of the California Fish and Game Code

I, Kathy MacNeill of Department of General Services,  
Name of Applicant Mailing Address

Representing County of San Luis Obispo, County Government Ctr., San Luis Obispo, CA  
Name and address of Individual, Agency, Company, etc. owning property or doing work 93408

Hereby notify the California Department of Fish and Game of operations to be carried out by or for me

from February 2, 1995 to March 6, 1995 on or affecting  
Starting Date Ending Date

Santa Rosa Creek of Cambria County, tributary to Pacific Ocean  
Name of Stream, River, or Lake Major Water Body

Located at Windsor Blvd. North, at Santa Rosa Creek and Pacific Ocean  
Distance and Direction to Landmarks

Section \_\_\_\_\_ Township Cambria Range \_\_\_\_\_

USGS Map \_\_\_\_\_ Co. Assessor's Parcel No. 022-101-001

Property owners name and address (if different from applicant) \_\_\_\_\_

Kathy MacNeill is responsible for operations at the site.  
Name of Person to Be Contacted at Site During Operations

He/she can be reached at Dept. of General Services, Co. Gvt. Ctr., San Luis Obispo, 934  
Mailing Address Telephone

B. Description of operation 1. The nature of said operations will be as follows:

(805) 781-5200

Check all squares which apply.

- |   |   |
|---|---|
| <input type="checkbox"/> Soil, sand, gravel, and/or boulder removal or displacement | <input type="checkbox"/> Timber harvesting or any related activity required for harvesting timber |
| <input checked="" type="checkbox"/> Water diversion or impoundment                  | <input type="checkbox"/> Temporary, recreational or irrigation dam                                |
| <input type="checkbox"/> Mining—other than aggregate removal                        | <input type="checkbox"/> Fill or spoil in bed, bank, or channel                                   |
| <input type="checkbox"/> Road or bridge construction                                | <input checked="" type="checkbox"/> Other—Describe below  |
| <input type="checkbox"/> Levee or channel construction                              |   |

2. Type of material removed, displaced or added ☒ Soil ☐ Sand ☒ Gravel ☒ Boulders  
Volume 1,000 Tons To 1200 Tons

3. Equipment to be used in the described site Backhoe and Loader

4. Use of water (i.e., domestic, irrigation, gravel, washing, etc.) Irrigation/Willows Quantity As Required/2 times/week

5. Describe type and density of vegetation to be affected, and estimate area involved.

No native plants disrupted, Willow Cuttings will be planted.

6. What actions are proposed to protect fish and wildlife resources and/or mitigate for project impacts? Temporary diversion of Creek Flow at edge of bank

7a. Does project have a local or state lead agency or require other permits? ☒ Yes ☐ No

7b. If 7a answer is yes, please attach or identify any available environmental document.

7c. For state-designated wild and scenic rivers, a determination of the project's consistency with the California Wild and Scenic Rivers Act must be made by the Secretary for Resources. Until the Secretary determines the project is consistent with the Act, the Department cannot issue a valid agreement. A tentative agreement will be issued, conditioned upon a finding of consistency by the Resources Secretary.

7d. THIS AGREEMENT IS NOT INTENDED AS AN APPROVAL OF A PROJECT OR OF SPECIFIC PROJECT FEATURES BY THE DEPARTMENT OF FISH AND GAME. INDEPENDENT REVIEW AND RECOMMENDATIONS WILL BE PROVIDED BY THE DEPARTMENT AS APPROPRIATE ON THOSE PROJECTS WHERE LOCAL, STATE, OR FEDERAL PERMITS OR OTHER ENVIRONMENTAL REPORTS ARE REQUIRED.

8. Briefly describe proposed construction methods. Attach diagram or sketch of the location of your operation to clearly indicate the stream or other water and access and distance from named public road. Indicate locked gates with an "X". Show existing features with a solid line (————) and proposed features with a broken line (-----). Show compass direction. Attach larger scale map if necessary.

**Exhibit 6  
(1 of 14)**

Signature of Applicant

Date



REPLY TO  
ATTENTION OF:

Office of the Chief  
Regulatory Branch

DEPARTMENT OF THE ARMY  
LOS ANGELES DISTRICT, CORPS OF ENGINEERS  
VENTURA FIELD OFFICE  
2151 ALESSANDRO DRIVE, SUITE 255  
VENTURA, CALIFORNIA 93001

February 6, 1995

GENERAL SERVICES

95 FEB -9 AM 9:12

RECEIVED  
MAR 30 1995  
CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Ms. Kathy MacNeill  
County of San Luis Obispo  
Department of General Services  
County Government Center  
San Luis Obispo, California 93408

Dear Ms. MacNeill:

This is in reply to your request (No. 95-50103-TAW) dated February 2, 1995, concerning our permit authority under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344) over your proposal to install rip-rap revetment along Santa Rosa Creek at the northwestern edge on an emergency basis to prevent further bank erosion. The emergency work entails the protection of 60 linear feet with 239 cubic yards of rock rip-rap (of which 210 cubic yards is below ordinary high water), 90 cubic yards of backfill, and willow waddles and the establishment of a 100-foot-long temporary siltation fence with filter fabric and 5 cubic yards of gravel at the base of the fence, outside the keyway, to minimize siltation into the creek and dewater the construction area. The project is located at Shamel County Park, in Cambria, San Luis Obispo County, California.

Regulations for our permit program, published in the Federal Register, include Part 330 - Nationwide Permits (see the enclosure). The Corps of Engineers has determined that your proposed revetment complies with the terms and conditions of the nationwide permit at 33 CFR Part 330, Appendix A(B)(13) for bank stabilization activities necessary for erosion prevention as listed in the enclosure.

In addition, the Corps has determined that your proposed siltation fence complies with the terms and conditions of the nationwide permit at 33 CFR Part 330, Appendix A(B)(33) for temporary structures and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites; provided the associated permanent activity was previously authorized by the Corps of Engineers or the U.S. Coast Guard, or for bridge construction activities not subject to Federal regulation as stated in the enclosure. This nationwide permit does not authorize temporary structures or fill associated with mining activities or the construction of marina basins which have not been authorized by the Corps.

As long as you comply with the nationwide permit conditions described in Part 330, Appendix A(C) and the attached special conditions, an individual permit is not required. This letter of verification is valid for a period not to exceed two years unless the nationwide permit is modified, reissued or revoked before that time. It is incumbent upon you to remain informed of changes to the nationwide permits.

Exhibit 6  
(2 of 14)

A nationwide permit does not grant any property rights or exclusive privileges. Also, it does not authorize any injury to the property or rights of others or authorize interference with any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

If you have any questions, please contact Ms. Tiffany Welch of my staff at (805) 641-2935.

Sincerely,

A handwritten signature in cursive script, reading "David J. Castanon". The signature is written in dark ink and is positioned above the printed name and title.

David J. Castanon  
Chief, North Coast Section

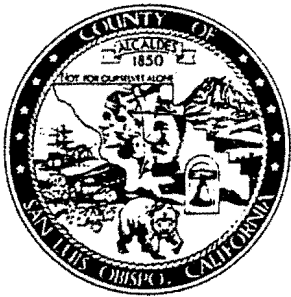
Enclosure(s)

Exhibit 6  
(3 of 14)

SPECIAL CONDITIONS FOR 95-50103-TAW

1. All heavy equipment that would enter the creek is to be washed thoroughly to remove excess contaminants.
2. Sections of newly cut willow stalks (2" diameter) shall be carefully set into the rip-rap in such a way that one end of the stalk is set into moist soil and the other end can easily emerge into daylight. The County shall retain a biologist/botanist familiar with riparian habitat to be on-site to oversee the placement of these willow stalks.
3. All heavy equipment is to be stored overnight in the parking lot at the south end of Shamel Park. All storage of diesel or gas shall be kept at the parking lot at the south end of Shamel Park.
4. Washing of equipment or dumping of any toxic material shall not drain into Santa Rosa Creek.
5. The siltation fence posts shall be hammered into place to minimize disturbance to the creekbed. Upon completion of construction, the siltation fence, filter fabric, and gravel shall be completely removed.
6. The permittee shall retain a biological monitor to be on-site to oversee construction activities to minimize impacts to the Tidewater Goby (Eucyclogobius newberryi), a federally-listed endangered species. Prior to construction, a qualified biologist with a valid Scientific Research Permit from the USFWS [pursuant to Section 10(a)(1)(A) of the Endangered Species Act] shall capture gobies within the silt fencing and relocate to the closest suitable habitat. Efforts shall be made to minimize out of water exposure time and relocation. The permittee shall verify with the USFWS that their permit is valid for this activity. Within 30 days of completion of the activity, the permittee shall submit a report documenting all tidewater goby capture and relocation activities, including total number captured, capture methodology, number survived and released, number dead, date, time, and release location.
7. The permittee shall minimize disturbance within the work area (i.e., limit equipment accessing creek, size of work area).

Exhibit 6  
(4 of 14)



COUNTY OF SAN LUIS OBISPO  
Department of General Services

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5200  
DUANE P. LEIB, DIRECTOR

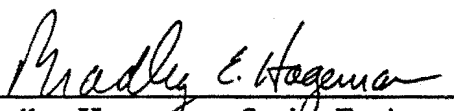
February 2, 1995

Regional Water Quality Control Board  
ATTN.: Bradley Hagemann, Senior Engineer

RE: Shamel Park, Santa Rosa Creek Restoration, Emergency Measures

Pursuant to my visit to your office on February 2, 1995, I explained the County's emergency project at Shamel Park in the Community of Cambria. The emergency work shall include the placement of rip rap rock revetment and willow cuttings along the north edge of the County's Park at the south curve of the Santa Rosa Creek. The project will restore the embankment where excessive erosion and slumping of the bluff threaten further damage to County facilities and creates a hazardous condition to public.

Due the emergency nature of this request, the Regional Water Quality Control Board agrees to waive the requirement of the 401 certificate, and authorizes the County of San Luis Obispo to proceed with emergency measures to Santa Rosa Creek.

  
\_\_\_\_\_  
Bradley Hagemann, Senior Engineer

The County understands that a follow up report documenting the extent and a complete description of the project is required by your office at the completion of the work.  
Thank you for your assistance with this project.

  
Richard Kopecky  
Associate Capital Projects Coordinator

Exhibit 6  
(5 of 14)



STATE OF CALIFORNIA -- RESOURCES AGENCY

DEPARTMENT OF PARKS AND RECREATION GENERAL SERVICES  
SAN SIMEON DISTRICT

95 FEB -7 PM 12:39

TEMPORARY USE PERMIT  
COUNTY OF SAN LUIS OBISPO  
SAN SIMEON STATE PARK  
SHAMEL PARK CREEK BANK RESTORATION PHASE I

This permit is entered into this 2nd day of February, 1995, by and between the STATE OF CALIFORNIA, acting by and through the Department of Parks and Recreation, San Simeon District, hereinafter called STATE, and COUNTY OF SAN LUIS OBISPO, hereinafter called PERMITTEE.

PERMITTEE is hereby granted permission to use, subject to the terms and conditions set forth below, for a period of ten weeks commencing February 2nd, 1995, and ending April 13, 1995, that portion of San Simeon State Park described more fully in Exhibit "B" attached hereto, hereinafter referred to as premises; all exhibits by this reference are made a part hereof.

This permit is issued for the purpose of allowing PERMITTEE temporary use of noted premises as temporary construction and construction buffer zone areas, as well as permitting temporary vehicular, personnel, and equipment access into San Simeon State Park. Proposed activity is related to the construction phase I of the Shamel Park Creek Bank Restoration Project. Said proposal is part of PERMITTEE's project approved by San Luis Obispo County Emergency Permit #P949483E. All activities approved under this permit shall be guided by the principle that the primary use of

Exhibit 6  
(6 of 14)

noted premises is for the permanent preservation and protection of the recreational and natural/cultural resource values associated with the subject State property.

This permit is issued upon the following conditions:

1. That the premises be used only for the purposes specified above.
2. The exercise of any of the privileges granted by this permit constitutes acceptance of all of the conditions of this permit.
3. PERMITTEE, in the exercise of the privileges herein granted, shall at all times, comply with all applicable laws, rules and regulations including, but not limited to, rules and regulations for the State Park System now in effect or hereinafter adopted.
4. This permission is subject to all valid and existing contracts, leases, licenses, encumbrances, and claims of title which may affect said property; and the use of the word "grant" herein shall not be construed as a covenant against the existence of any thereof.
5. PERMITTEE hereby waives all claims and recourse against

Exhibit 6 <sup>2</sup>  
(7 of 14)

STATE, including the right to contribution for loss or damage to persons or property arising from, growing out of, or in any way connected with or incident to this permit.

PERMITTEE shall indemnify, save harmless, and defend STATE, its officers, agents, and employees against any and all claims, demands, damages, costs, expenses, or liability costs arising out of or in any way connected with or incident to this permit.

6. Prior to the issuance of this permit, PERMITTEE shall provide STATE with a final written construction plan (Exhibit A) that includes any and all construction, landscaping, plantings, wildlife management and clean up plans subject to the review and approval of STATE.

7. Prior to the issuance of this permit, PERMITTEE shall prepare and submit to STATE a map (Exhibit B) clearly indicating all construction areas, proposed signing and fencing plans and proposed access route for the ingress and egress of construction equipment.

All construction related activities by PERMITTEE are confined to those areas of the premises specifically approved by STATE. Construction areas shall be signed and fenced in a manner approved by the STATE and shall be consistent with any San Luis Obispo County Development Permit requirements. PERMITTEE shall pay STATE a penalty fee of twenty-five (\$25.00) per square yard

for any disturbance of any area outside of approved construction areas.

The permitted access route for ingress and egress associated with the movement of construction equipment shall be approved by the STATE. Any change to this route shall require prior written approval by the STATE.

8. PERMITTEE shall be solely responsible for repairing any and all damage to all areas and facilities utilized by PERMITTEE that are damaged by PERMITTEE during the course of construction related activities. All such repairs shall be carried out in a manner satisfactory to STATE and shall be completed within the time frame of the noted term of this permit.

9. Upon breach by PERMITTEE of any of the conditions set forth herein, STATE may immediately stop construction related activities allowed under this permit by written notice to PERMITTEE. PERMITTEE shall have seven (7) calendar days to correct any breach of permit terms as determined by STATE. This permit shall terminate at the end of the period as hereinabove provided except that STATE reserves the right to terminate subject permit at any time during said actual period upon giving seven (7) calendar days written notice to PERMITTEE prior to the actual date of termination.

10. Any extension beyond the end of the term of this permit

may be permitted with the prior written consent of STATE.

11. Prior to the termination of this permit, PERMITTEE shall remove all PERMITTEE's property and equipment upon said premises. PERMITTEE shall restore said premises as nearly as possible to the same condition that they were in prior to PERMITTEE's entry upon said premises to a condition satisfactory to STATE; but, if PERMITTEE shall fail to do so, STATE may do so at PERMITTEE's sole cost and expense, to be paid by PERMITTEE on demand.

12. Following construction, all areas damaged or disturbed outside of the approved construction areas (Exhibit B) shall be restored to natural contours and revegetated by PERMITTEE to create a native plant community as required by STATE.

13. This permit shall not, nor shall any interest therein or thereunder, be assigned, mortgaged, hypothecated, or transferred by PERMITTEE, whether voluntary or involuntary or by operation of law, nor shall PERMITTEE let or sublet or grant any license or permit with respect to the use and occupancy of the premises, or any portion thereof, without the prior written consent of STATE.

14. PERMITTEE shall, at all times during the term of this permit, maintain in full force and effect, with respect to this permit, a policy of Comprehensive General Liability insurance.

Said policy shall not exclude damage caused by blasting or excavation.

The County is self-insured in the State of California which replaces commercial insurance. This policy is to be in an amount not less than one million dollars (\$1,000,000.00) providing coverage for Comprehensive General Liability (per occurrence), and in a form satisfactory to STATE, and a complete and signed copy of a Certificate of Insurance thereof shall be submitted to STATE prior to the execution of this permit.

Insurance policies shall contain the following special endorsement:

"The State of California, California State Park and Recreation Commission, Department of Parks and Recreation, their officers, employees, and agents, are hereby declared to be additional insureds under the terms of this policy, both as to the activities of the PERMITTEE and as to the activities of the STATE, the State Park Recreation Commission, the Department of Parks and Recreation, their officers, employees, agents, as related to the activities contemplated in this permit."

"This insurance policy will not be reduced or cancelled without thirty (30) days prior written notice to the Department of Parks and Recreation."

"The State of California is not liable for the payment of any premiums or assessments of this policy.

This cancellation provision shall not be construed in derogation of the duty of the PERMITTEE to furnish insurance during the entire term of the permit.

In the event PERMITTEE fails to keep in effect at all times insurance coverage as herein provided, STATE may, in addition to any other remedies it may have, terminate this permit and all privileges PERMITTEE may have hereunder.

15. During the construction activity herein referred to, PERMITTEE shall provide and install at no cost to STATE adequate signs near all excavations within San Simeon State Park warning the public of any dangerous condition. Sufficient and adequate fencing and/or protection around any excavation and construction areas, as well as adequate warning lights to caution against any open excavation and other dangerous condition created during construction shall be provided and installed by PERMITTEE at no cost to STATE. Appropriate warning signs shall be posted at all locations as required by local and State laws and regulations and permits relating to the activities of the PERMITTEE as well as at all locations deemed necessary by the District Superintendent of San Simeon District.

16. Prior to the issuance of this permit, PERMITTEE shall

provide STATE a copy of all applicable permits required for this project including but not limited to San Luis Obispo County Development Permit, California Department of Fish and Game, Army Corps of Engineers, United States Fish and Wildlife Service, State Water Quality Control Board, etc.

17. STATE shall provide an on site environmental monitor to said project. The monitor shall work with other monitors assigned to said project to protect the STATE's interests and insure PERMITTEE's compliance with all applicable laws, rules, regulations and permit conditions.

18. Notices required to be given hereunder or under any law now or hereafter in effect shall be given by enclosing the same in a sealed envelope addressed to Permittee at County of San Luis Obispo, Department of General Services, San Luis Obispo, CA 93408, Attention: Kathy Mac Neill, and by depositing said envelope with postage prepaid in the United States mail. Notice shall become effective upon such deposit.

19. PERMITTEE shall provide the District Superintendent of San Simeon District two (2) calendar days advance notice in writing, prior to commencement of the proposed construction project. PERMITTEE shall also provide the State a construction schedule including but not limited to the proposed days and hours of construction work.



20. All construction related activity allowed under this Temporary Use Permit is subject to the provisions of all required permits addressing the Shamel Park Creek Bank Restoration Project including any subsequent amendments. The special terms, requirements, and conditions contained in this Temporary Use Permit shall not take the place of, or affect in any way, those conditions, amendments, or special requirements contained in any permit that addresses the interests of the California Department of Parks and Recreation.

STATE OF CALIFORNIA  
DEPARTMENT OF PARKS AND  
RECREATION  
SAN SIMEON DISTRICT

COUNTY OF SAN LUIS OBISPO

APPROVED:

APPROVED:

BY: Deborah Weldon

BY: OP Leib

TITLE: District Superintendent

TITLE: General Services Director

