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STATE OF CALIFORNIA - THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION

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Commission Action	Denied
Staff:	AAV T
Staff Report:	04/18/02

GRAY DAVIS, Governor



# STAFF REPORT: REGULAR CALENDAR REVISED FINDINGS

APPLICATION NO.: 4-01-075

APPLICANT: State of California, Department of Parks and Recreation

AGENTS: Chris Peregrin

PROJECT LOCATION: Crags Road and Malibu Creek, Malibu Creek State Park, Los Angeles County

COMMISISON DECISION: Denied.

DATE OF COMMISSION ACTION: March 6, 2002 in Monterey.

**COMMISSIONERS ON PREVAILING SIDE:** Commissioners Dettloff, Estolano, Hart, Kruer, Ruddock, Nava, Potter, Reilly, Woolley and Wan.

**PROCEDURAL NOTE:** Adoption of the revised findings requires a majority vote of the members from the prevailing side present at the March 6, 2002 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings. The associated motion and resolution are located on Page 2 of this report.

**PROJECT DESCRIPTION:** Stream corridor restoration project for Malibu Creek consisting of removal of failed creek crossing/culvert and construction of a new crossing 20 ft. wide and 170 ft. long, including series of ten, 6x6, 20 ft. long reinforced steel box culverts designed to restore stream flow and accommodate fish passage, buried concrete aprons covered by 4 ft. layer of 455 cu. yds. of rock rip-rap on the up and down stream side of crossing, and approximately 2,050 cu. yds. of excavated streambed material, 1,442 cu. yds. to be replaced. The proposed project also includes riparian and wetland mitigation and restoration of disturbed habitat, and creek bank stabilization.

LOCAL APPROVALS RECEIVED: N/A

**SUBSTANTIVE FILE DOCUMENTS:** State of California, Department of Parks and Recreation, Project Evaluation Form and CEQA Notice of Exemption, 11/13/00; California Department of Fish and Game, Streambed Alteration Agreement 5-2001-0119, 1/10/01; California Regional Water Quality Control Board, Clean Water Act Section 401 Water Quality Certification, File No. 01-031; U.S. Army Corps of Engineers, Memo Regarding Permit No. 2001-00884-AOA; Geotechnical/Hydrological Evaluation of Draft Construction Drawings, Malibu Creek Crossing, Malibu Creek State Park, by Group Delta Consultants, Inc., 6/18/01, Biological Assessment, Repair Arizona Crossing, Malibu Creek, 4/5/01, prepared by Chris Peregrin, Associate Resource Ecologist, State Parks.

# SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission **adopt** the following revised findings in support of the Commission's decision on March 6, 2002, to **deny** the proposed project. The Commission found that the proposed project is inconsistent with applicable Chapter Three policies of the Coastal Act.

Because staff recommended conditional approval of the proposed project in the staff report prepared for the previous hearing of March 6, 2002, and because the Commission denied the proposed project, revised findings are necessary to reflect the action taken by the Commission. Staff recommends, therefore, that the Commission adopt the following resolution and revised findings in support of its action to deny the permit for the proposed project.

# I. STAFF RECOMMENDATION

<u>MOTION</u>: I move that the Commission adopt the revised findings in support of the Commission's action on March 6, 2002, denying Coastal Development Permit 4-01-075.

# **STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings, as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the March 6, 2002, hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

# **RESOLUTION TO ADOPT REVISED FINDINGS:**

The Commission hereby adopts the findings set forth below for denial of Coastal Development Permit 4-01-075 on the ground that the findings support the Commission's decision made on March 6, 2002, and accurately reflect the reasons for that decision.

# II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

## A. Project Description, Environmental Setting and Background

## **Project Description**

The applicant is proposing to remove a failed Arizona-type creek crossing/culvert and to construct a new creek crossing with a series of culverts to restore stream flow and facilitate passage of fish and other aquatic species in Malibu Creek at Crags Road within Malibu Creek State Park (Exhibit 1). The proposed crossing will be constructed in the same location as the existing crossing, and will be 20 ft. wide and 170 ft. long (surficially), and will include a series of ten, 6x6, 20 ft. long reinforced steel box culverts designed to accommodate additional stream flow and fish passage (Exhibits 2-4). The proposed crossing will also consist of buried inclined, concrete aprons covered by a 4 ft. layer of 455 cu. vds. of rock rip-rap on the up and down stream side of crossing. Construction of the proposed creek crossing will require excavation of approximately 2,050 cu. yds. of native streambed material. Approximately 1,442 cu. yds. of the excavated streambed material is expected to be replaced and 608 cu. yds. will be exported from the site. The surficial portion of the proposed creek crossing will encompass approximately the same surface area as the existing structure, however, the proposed crossing will include a substantial foundation that will increase the overall footprint of the structure from 3,172 to 7,875 sq. ft. As such, the proposed structure will permanently displace adjacent habitat area presently unoccupied by the existing structure. The applicant is proposing to mitigate sensitive habitat lost as a result of the proposed project and to restore all areas adjacent to the crossing site disturbed during construction. Additionally, the applicant is proposing to restore an approximate 100 foot length of degraded stream corridor just upstream of the project site (approximately 500 ft.) including eradication of invasive vegetation, restoration of sensitive riparian habitat and stabilization of the adjacent creek bank.

The proposed project will require construction activity in the form of grading/excavation in the streambed, temporary damming and diversion of stream flow during construction, and filling of the streambed in designated riparian and wetland zones (Exhibit 5). Construction staging areas will be established in upland areas adjacent to the creek. Restoration efforts both at the crossing site and at the restoration site located upstream will involve removal of non-native invasive vegetation and revegetation with native plant species appropriate to riparian habitat of the Santa Monica Mountains. In addition, restoration of the riparian corridor upstream of the crossing site will include implementing non-structural BMPs to minimize run-off, erosion and sedimentation occurring from an alternative dirt access road (the "High Road") located immediately upslope of this portion of the creek. The applicant has obtained conditional approval from the Regional Water Quality Control Board, Department of Fish and Game, with decisions from the Army Corps and Fish & Wildlife pending.

## **Environmental Setting**

The project site is located at Crags Road where it crosses Malibu Creek in Malibu Creek State Park (Exhibit 1). Crags Road is a gated, dirt road that is used by authorized personnel and emergency vehicles to access this portion of the park from the main park entrance road. Crags Road serves as a pedestrian access point by park visitors from the main road, however, members of the public only have motorized access along Crags Road when authorized and/or when guided by Park staff. The proposed project is located where Crags Road crosses an approximate 500-600 ft. wide flood plain coupled with Malibu Creek just before the road reaches a visitor center and staff housing facility located a short distance from the creek. The project site and near vicinity contain designated environmentally sensitive habitat area (ESHA) in the form of riparian, wetland and non-vegetated streambed habitat (Exhibit 5). Grassland and individual oak trees also exist near the project site in upland areas, although no oak trees occur in the expected zone of influence of the proposed project.

The habitat area at the project site has been disturbed for several years due to the original construction of the existing creek crossing in the late 1950's. The existing crossing was not designed to convey a substantial amount of stream and sediment flow through the culvert system and has resulted in a significant amount of sediment accumulation and pooling upstream of the site. Additionally, due to the existing crossing's lack of a sufficient foundation the structure has resulted in deep scouring of the streambed directly underneath and downstream of the crossing, eventually causing a sectional failure, further restricting stream flow and exacerbating sediment accumulation and shallow pooling upstream of the crossing (Exhibit 8).

The pooling effect of the existing stream channel crossing, and the barrier effect of the existing crossing to many aquatic species, has resulted in an alteration in plant and animal species composition and diversity normally expected to occur within the subject riparian corridor. In particular, State Parks ecologist staff members have indicated that the presence of large bullfrogs, sunfish and carp, as well as the occurrence of a small area consisting of wetland vegetation, are relatively unnatural components of the ecosystem. State Parks staff has indicated that the exotic, invasive species occurring at the site would likely not occur in this stretch of Malibu Creek if the artificial pooling conditions had not been caused by the existing crossing. Thus, existing site conditions have substantially altered natural stream morphology, vegetation patterns and fish and wildlife composition and diversity expected to exist at the site. On two site visits to the

subject area, however, Commission staff, including staff ecologist Jon Allen, Ph.D., noted that significant native riparian habitat occurs in the proposed project location and adjoining areas as well.

The applicant has submitted a biological assessment of the project area, prepared by Chris Peregrin, Associate Resource Ecologist for State Parks, indicating that no sensitive fish and wildlife species were surveyed as present at the site on the date(s) of field assessment. The applicant has also submitted information that indicates that the area proposed for replacement of the existing crossing does, however, provide habitat for several potentially occurring sensitive species including least Bell's vireo, southwestern willow flycatcher, western pond lizard, coast horned lizard, coastal whiptail, silvery legless lizard; coast patchnose, San Bernardino ringneck or two-striped garter snakes; southwestern pond turtle, arroyo toad, California red-legged frog, arroyo chub and steelhead.

Of particular interest to the applicant and relative to the proposed project is the potential for steelhead trout to occur at the project site. Presently, steelhead do not occur at the site due to the presence of Rindge Dam, located downstream, constituting a barrier to migration of the anadromous fish species up to this location and the further reaches of Malibu Creek. However, recognizing that Rindge Dam is slated to be decommissioned and torn down, it is possible that the Malibu Creek watershed will be available as steelhead habitat ranging from Malibu Lagoon through the upper reaches of Malibu Creek to the project site. The Malibu Creek Steelhead Assessment, prepared by ENTRIX, Inc., May 1989, states that the reaches of Malibu Creek above Rindge Dam provide a combination of high quality spawning and rearing habitat ideal for steelhead. The existing crossing is identified by ENTRIX, Inc. as the next significant barrier to steelhead passage from Rindge dam up the Malibu Creek Watershed. Realizing the need to replace the existing crossing for operational purposes, in conjunction with the potential for steelhead habitat to be re-established within this reach of Malibu Creek in the near future, the applicant has taken the opportunity to design the proposed new crossing such that it will facilitate passage of steelhead and other aquatic life, as well as result in an overall improvement of natural stream morphology.

In addition to restoring disturbed sensitive habitat area at the crossing site, the applicant is proposing to mitigate for the permanent loss of sensitive habitat expected to occur from construction and is proposing an approximate 100 foot stretch of riparian habitat restoration area (along both banks), located approximately 500 ft. upstream of the project site (Exhibits 7,9,10)). The applicant has indicated that the upstream restoration site has suffered significant degradation that may have resulted from past, long-term use of the area as a movie ranch. The applicant has also indicated that the sediment accumulation caused by the existing crossing downstream at the project site is likely impacting this section of the stream channel. Additionally, an alternative dirt access road (High Road) parallels this portion of the creek through an oak woodland area just upslope of the stream channel, for which drainage structures have been installed to convey run-off under the road, causing erosion and rutting at some portions of the creek bank. The restoration site contains some strands of native plant species, but

much of the area is stifled with exotic peppergrass (*Lepidium latifolium*), giant cane (*Arundo donax*) and spiny clotbur (*Xanthium spinosum*). The applicant is proposing to remove exotic plant species and re-establish native riparian vegetation along the proposed restoration area of the stream corridor, and to implement non-structural BMP measures (examples include, but are not limited to, vegetated swales and green filters) to address the issue of erosion and sedimentation impacts associated with run-off from the High Road.

## Background

The intent of the proposed project is to remove and replace an existing crossing with a new creek crossing that will reestablish motorized access across the creek, and which includes a culvert foundation system that will better withstand high flood events, allow for increased stream flow, and thus improve the sensitive habitat areas established along this section of Malibu Creek. The proposed project is also designed with the intent to increase migration efficiency for fish and other aquatic life.

The existing creek crossing was originally constructed in the late 1950's and covers a surface area of approximately 3,172 sq. ft., and consists of five, 2 ft. diameter corrugated metal culverts that can conduct an approximate 25 ft. wide stream flow through the structure within the creek bed (Exhibit 8). The existing crossing is over topped during high flood events and, over the years, has been undercut by stream flow eventually causing deep scouring around the structure undermining its foundation and facilitating a sectional collapse of the crossing's concrete shell (Exhibit 8).

The applicant has indicated that a creek crossing is required at the project site to maintain necessary vehicular access for Park staff and emergency response personnel within this reach of Malibu Creek State Park. The project site is located at Crags Road where it crosses Malibu Creek within a 500-600 ft. floodplain in Malibu Creek State Park. In this location Crags Road is a dirt road accessed by authorized park and emergency vehicles and public pedestrian access only. Public vehicular use of the road is restricted from the park entrance road by a locked gate. Members of the public may drive into the park on the main entrance road, park in a number of available public parking lots, then access this portion of the park along Crags Road by foot. Presently, all vehicular access along Crags Road across Malibu Creek at the crossing site has ceased due to the existing crossing's failure in early 1998.

Crags Road previously supported vehicular access of Park staff and emergency personnel from the entrance road, across Malibu Creek, to several popular destination sites in the park including a visitor center, Rock Pool, Century Lake and Dam, the former M\*A\*S\*H film set location, and several climbing areas. A year-round residence housing Park staff is also accessed via Crags Road in this location. Just beyond the visitor center and staff residence Crags Road crosses Malibu Creek again via a bridge constructed several years ago by the Las Virgenes Municipal Water District. The bridge has a limited weight capacity (8000 lbs.), therefore large maintenance and emergency vehicles exceeding 8,000 lbs. that may need to access park areas beyond the bridge

(Century Dam and Lake, filming locations, etc.) can not use Crags Road at this location past the visitor center and staff housing facility. When access via Crags Road is restricted into park areas beyond the visitor center by the limited weight capacity of the bridge, or when the crossing at the project site is flooded and impassable, vehicular access is diverted to the alternative access road (High Road), which also accesses park areas beyond the bridge (Exhibit 6).

Just before Crags Road approaches and crosses Malibu Creek at the project site, the road splits into another section of dirt road referred to as the High Road. The High Road does not cross the creek at the project site, but veers off to continue along the creek bank for approximately one mile where it eventually merges into Crags Road beyond the visitor center and just past the bridged section of the creek (Exhibit 6). Due to failure of the existing crossing in 1998, the High Road presently constitutes the only passable vehicular access point from the main park entrance road into this portion of the park. The visitor center and staff residence are currently accessed via the High Road as it merges with Crags Road just past the visitor center and bridge, which then circles back across the bridge to the visitor center and staff housing (Exhibit 6).

The High Road has provided adequate access to the visitor center and staff housing facility up to this point, however, Park personnel have expressed concerns with designating the High Road as the only readily accessible route. Parks staff state that large maintenance and emergency vehicles can not reach the visitor center and staff residence via the High Road due to weight limitations of the creek bridge, and during times of substantial rainfall when the High Road may become extremely muddy and impassable. The applicant has also indicated, and Commission staff concurs, that continued use of the High Road as a primary, or sole access road is undesirable due the potential of damage to natural resources occurring along this road as a result of increased and routine use. The High Road parallels the creek for approximately 1 mile and is directly upslope and adjacent to the creek bank. Vehicular use of this alternative dirt road has caused erosion and run-off impacts along the creek bank and resultant discharge of sediment into the stream corridor. Additionally, the alternative access roadbed (High Road) is located directly within an oak woodland and adjacent to a open field vegetated with native bunch grass.

On the other hand, designating the proposed Crags Road stream crossing as the only access route to this portion of the park presents similar problems. Large emergency and maintenance vehicles cannot access those portions of the park via Crags Road past the bridge due the limited weight capacity of the bridge. The weight limitation imposed on vehicular access via Crags Road and the bridge route prevents access by larger maintenance and emergency vehicles which may be deployed for projects associated with maintaining Century Dam, prescribed burns, or fighting wildfire hazards. An additional dirt road within Malibu Creek State Park accesses the project area from the opposite direction off of Corral Canyon Road or Mulholland Highway. This access road originates some distance from the project site and therefore is not readily accessible. As such, use of this Road would result in significant delays for responding emergency vehicles. Park staff has indicated that this road is in poor condition,

particularly during the rainy season, and has been used in the past only when the existing crossing has been flooded and when the High Road is muddled and impassable during severe rainfall events. Thus, the Corral Canyon/Mulholland route is not a feasible alternative to either the High Road or the creek crossing routes into the subject section of Malibu Creek State Park.

As described above, the applicant has provided information regarding the need for an additional access route into this section of the Park via the proposed creek crossing in addition to the High Road for the purposes of Park maintenance and emergency response. However, as discussed in detail in <u>Section B. Hazards</u>, the Commission finds that though the proposed project is also intended to accommodate increased stream and sediment flow within the creek channel, thereby providing immediate hydraulic benefits over existing site conditions that would ensure stability of the structure and adjacent banks, such benefits would be short-term as the subject structure is designed with a limited capacity to convey only the most frequent flood flows expected to occur within the watershed. As such, the proposed creek crossing will be subject to periodic flooding and over topping, ultimately resulting in scouring and erosion of the streambed over time with consequent destabilization of the structure and adjacent creek banks. Therefore, the proposed project will not serve to minimize erosion and maintain structural integrity of the structure and site stability, and is therefore in conflict with the requirements of Section 30253 of the Coastal Act.

In addition, the project proposal to remove and replace the existing failed creek crossing with a new crossing designed to improve stream morphology, despite the anticipated immediate environmental benefits and habitat restoration components of the proposed development, cannot be defined as a habitat restoration project. The proposed project is driven by the need for a creek crossing to restore vehicular access across the creek into this section of the Park. As such, the primary purpose of the proposed project is to restore motorized access across the creek in conjunction with the benefits of improving environmental resources of the site. Therefore, the proposed project is not consistent with allowable development types for fill in wetlands, significant alteration of streams, and in environmentally sensitive habitat areas (ESHA) as provided for in Sections 30233, 30236 and 30240 of the Coastal Act. The proposed project involves filling of wetland habitat for a stream crossing that provides private vehicular access for authorized park vehicles only, a development type which is not consistent with the allowable use provisions of Section 30233 of the Coastal Act. Additionally, independent of the project's inconsistency with the allowable use test for fill of wetlands and the anticipated resource benefits of the project, the proposed project does not appear to be the least damaging feasible alternative as required by Section 30233. In addition, despite the fact that the proposed project is designed to improve the adjacent habitat area for fish and wildlife, the Commission finds that this function is not the primary purpose of the proposed structure, therefore, the proposed project is not consistent with Section 30236 of the Coastal Act. Furthermore, the proposed project is located in a well established riparian corridor mapped as ESHA, and though the project includes a substantial restoration component, the primary purpose of the project to

restore vehicular access across the creek does not qualify as a resource dependent use as required by Section 30240 of the Coastal Act.

Furthermore, though the proposed creek crossing with an enlarged culvert system will result in some immediate, improved hydraulic and sediment conveyance conditions of the stream channel, the project proposal includes construction of hard surface structures in the streambed with a limited capacity to convey stream flow. Such structures that even minimally constrict stream flow and are subject to over topping characteristically have a tendency to result in increased erosion and sedimentation of the creek channel over time, as is evident by the degraded site conditions which presently exist at the site with the existing crossing. As such, the proposed creek crossing with culvert foundation will result in long-term erosion and sedimentation of the creek channel, eventually resulting in adverse impacts to water quality and habitat values. Therefore, the proposed project is inconsistent with Sections 30230 and 30231 of the Coastal Act.

Finally, as discussed under <u>Section E. Alternatives</u>, there exist a range of alternatives available to the applicant, which may eliminate the need to construct a creek crossing at the site entirely and thus allow for complete restoration of the disturbed stream corridor habitat, or that would provide a creek crossing and necessary access to the site and would avoid, or significantly reduce, potential project impacts with feasible mitigation measures to reduce any potential impacts that cannot be fully avoided.

The proposed project is not exempt from coastal permitting requirements as a repair and maintenance project or disaster replacement as provided for under Section 30610 of the Coastal Act. The proposed crossing is a larger structure consisting of an extensive foundation, which will occupy approximately 2.5 times more subsurface area than the existing crossing. In addition, the proposed replacement and upgrade of the creek crossing will require the use of heavy operating equipment for grading/excavation, removal of natural vegetation and placement of structures and fill in a sensitive habitat area with potentially occurring sensitive fish and wildlife species. Therefore, repair of the crossing would constitute development with the potential to result in significant adverse impacts to coastal resources.

# B. <u>Hazards</u>

The proposed development is located in the Santa Monica Mountains area, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

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

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

Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, neither create or contribute to erosion and instability, and to minimize risks to life and property in areas of high geologic, flood, and fire hazard. The purpose of the proposed project is to remove a failed Arizona-type creek crossing and to construct a new creek crossing with a culvert foundation that will restore and maintain motorized access for personnel and emergency vehicles across this portion of Malibu Creek, and which will better withstand high flood events, minimize erosion and scour, and also accommodate a more substantial stream flow. The proposed project will require construction activity in the form of grading/excavation in the streambed, temporary damming and diversion of stream flow during construction, and filling of the streambed. Construction staging areas will be established in upland areas adjacent to the creek. The proposed project also includes implementation of non-structural BMP measures to address the issue of erosion and sedimentation impacts along the creek bank associated with run-off conveyed from and under the High Road, which is located upslope and adjacent to the proposed restoration site.

The proposed creek crossing is designed to improve hydraulic and sediment conveyance through the structure within the stream channel, and would be able to convey a 5-year flood event through a culvert foundation. The project site is located in an expansive flood plain, however, the proposed crossing will be located only within the immediate stream channel that normally conducts average stream flows through the flood plain. The proposed crossing is designed to convey a 5-year flood event through a series of ten, 6'x6' boxed culverts, and will also include a substantial enlargement and deepening of the foundation than that of the failed crossing. As such, the crossing is expected to convey more frequent flood flows and sediment through the new structure than the previously existina structure. The applicant has submitted а Geotechnical/Hydrological Evaluation of Draft Construction Drawings, Malibu Creek Crossing, Malibu Creek State Park, prepared by Group Delta Consultants, Inc., dated 6/18/01 which states in part:

The existing low-flow structure consists of five 24 inch diameter corrugated metal pipes intended to convey low flows, with higher flows submerging and spilling over the structure. The relatively small hydraulic conveyance would create a backwater behind what was, in essence, a submerged weir, with significant accumulation of sediment upstream of the low-flow crossing. The recent failure of the structure has necessitated its repair with the currently

# proposed upgrades, a significant hydraulic benefit to more effectively convey the more frequent flood flows and sediment through the new structure.

The proposed creek crossing will include construction of a larger culvert system than what presently exists at the project site and is designed to accommodate a 5-year flood event. However, because the proposed structure would have a limited capacity to convey a maximum 5-year flood event, the structure will be subject to extreme flooding and debris flows. The Commission finds that structures such as the proposed creek crossing that are subject to periodic flood events and over topping characteristically have a tendency to result in increased scouring and erosion of the streambed and adjacent banks. Extreme flooding and debris flows where maximum flow velocities and uplift pressures exist could potentially undermine the proposed structure, and/or dislodge the structure, causing increased scour and erosion of the stream bed, thus destabilizing the structure and the stream channel. In addition, construction of hard structures such as the proposed culverts and riprap in streambeds and along creek banks effectively hardens stream channels thus increasing the rate and volume of stream flow, resulting in excessive scouring and erosion, and destabilization of the structure and adjacent creek banks downstream.

Therefore, the Commission finds that though the proposed project is expected to provide some immediate benefits of increased hydraulic and sediment conveyance of the stream channel over existing conditions at the site, such benefits would be short-term as the structure is designed to convey only a maximum 5-year flood event and will therefore be subject to flooding and over topping, resulting in increased scouring and erosion of the stream channel. The Commission finds that the proposed project is not designed to maintain maximum hydraulic conveyance of the stream channel at the site, which would assure maximum stability and structural integrity of the structure, and that would minimize erosion and potential instability of the site and surrounding area as required by Section 30253 of the Coastal Act.

For the reasons set forth above, the Commission finds that, the proposed project is inconsistent with the Section 30253 of the Coastal Act.

# C. Water Quality, Fill of Wetlands, Stream Alteration and Sensitive Resources

# Water Quality and Sensitive Species

Section **30230** of the Coastal Act states that:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes. Section 30231 of the Coastal Act states:

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, minimizing alteration of natural streams.

Section 30230 of the Coastal Act requires that marine resources be maintained, enhanced and restored and that special protection be given to areas and species of special biological importance or economic significance. Section 30230 of the Coastal Act further requires that uses of the marine environment sustain the biological productivity and the quality of coastal waters and streams and maintain healthy populations of all species and marine organisms. Section 30231 of the Coastal Act mandates that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through means such as minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The project site and near vicinity contain designated environmentally sensitive habitat area (ESHA) in the form of riparian, wetland and streambed habitat. Grassland and individual oak trees also exist near the project site in upland areas, although no oak trees occur in the expected zone of influence of the proposed project. The stream located at the project site is designated as a blueline stream by the United States Geologic Service and is a perennial waterway with stream flow occurring throughout the year. Coastal streams and drainages, such as the blueline stream located at the subject site, and other primary waterways, provide important habitat for sensitive plant and animal species. In past permit actions the Commission has found that new development within coastal streams and natural drainages results in adverse impacts to sensitive habitat and marine resources from obstruction of natural stream flow, increased erosion and sedimentation, disturbance of fish and wildlife, and loss of riparian plant and animal habitat.

The habitat area at the project site has been disturbed for several years due to the original construction of the existing creek crossing. The existing crossing was not designed to convey a substantial amount of stream and sediment flow and has resulted in a significant amount of disturbance to the natural resources at the site. The pooling effect of the stream channel, and the fact that the existing crossing constitutes a barrier to many aquatic species, has resulted in an alteration in plant and animal species

composition and diversity normally expected to occur within a riparian corridor such as that which exists at the site. Thus, the existing structure has substantially altered the natural stream morphology, vegetation patterns and fish and wildlife composition and diversity expected to exist at the site. Additionally, the existing crossing has been identified as a barrier to fish passage by ENTRIX Inc. in the 1989 report titled Malibu Creek Steelhead Habitat Assessment.

The proposed project involves removal of the failed creek crossing and construction of a new creek crossing with a culvert foundation designed accommodate increased stream flow and to facilitate migration of fish and other aquatic species, according to Parks staff. The proposed project will require construction activity in the form of grading/excavation in the streambed, temporary damming and diversion of stream flow during construction, and filling of the streambed. Construction staging areas will be established in upland areas adjacent to the creek. The proposed project also includes mitigation for habitat permanently displaced by the proposed structure and includes restoration of a significantly degraded riparian area located approximately 500 ft. upstream of the project site. The proposed mitigation and restoration will include restoring both creek banks adjacent to the crossing site and of an approximately 100 ft. stretch of stream corridor upstream, and implementation of non-structural BMP measures to address the issue of erosion and sedimentation impacts along the creek bank associated with run-off conveyed from the High Road, which is located upslope and adjacent to the proposed restoration site.

In addition, the applicant is proposing to mitigate adverse effects to riparian and wetland habitat resulting from the proposed project, by restoring all disturbed areas at the project site and by implementing a restoration program over a significantly disturbed portion of the creek corridor located approximately 500 ft. upstream of the project site. The proposed mitigation will include restoring both creek banks at the project site and an approximately 100 ft. stretch of stream corridor at the mitigation site, and implementation of non-structural BMP measures to address the issue of erosion and sedimentation impacts along the creek bank at the proposed restoration site. The applicant's proposal to restore both the disturbed areas at the project site and the degraded riparian corridor upstream will serve to establish and maintain natural vegetation buffers which would improve water quality and creek habitat of the coastal stream, and which would provide new riparian habitat for the benefit of fish and wildlife. The revegetation and restoration component of the proposed project is intended to ensure significant improvement and maintenance of the habitat area for healthy populations of marine organisms by reducing sediment input into the creek, and by providing structure and cover and habitat diversity within the stream channel.

The applicant has submitted a biological assessment of the project area, prepared by Chris Peregrin, Associate Resource Ecologist for State Parks, indicating that no sensitive fish and wildlife species were surveyed at the site. However, the applicant has submitted information that indicates the habitat area may provide habitat for several potentially occurring sensitive species including least Bell's vireo, southwestern willow

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flycatcher, western pond lizard, coast horned lizard, coastal whiptail, silvery legless lizard; coast patchnose, San Bernardino ringneck or two-striped garter snakes; southwestern pond turtle, arroyo toad, California red-legged frog, arroyo chub and steelhead. Of particular interest to the applicant, and relative to the proposed project, is the potential for steelhead trout to occur at the project site. Presently, steelhead do not occur at the site due to the presence of Rindge Dam downstream acting as a barrier to migration of the anadromous fish species up to this location and the further reaches of Malibu Creek. However, recognizing that Rindge Dam is slated to be decommissioned and torn down it is highly possible that the Malibu Creek watershed will again be available as steelhead habitat ranging from Malibu Lagoon through the upper reaches of Malibu Creek up to the project site. The existing crossing at the project site has been identified as the next significant barrier to steelhead passage up the Malibu Creek Watershed, stream habitat that may provide a combination of high quality spawning and rearing habitat ideal for steelhead. Realizing the need to replace the existing crossing for operational purposes in conjunction with the potential for steelhead habitat to be reestablished within this reach of Malibu Creek in the near future, the applicant states that the design of the proposed new crossing is such that it will facilitate passage of steelhead and other aquatic life, as well as result in an overall improvement of natural stream morphology and sediment conveyance.

The proposed project also includes restoration and mitigation for habitat disturbed during construction at the site and for that habitat which will be permanently displaced by the proposed structure. The applicant has identified a significantly degraded riparian area approximately 500 ft. upstream of the project site for a proposed mitigation and restoration site. The proposed project will include restoring both creek banks directly adjacent to the crossing site, and of an approximate 100 ft. stretch of stream corridor. The proposed project also consists of implementation of non-structural BMP measures along the creek bank of the restoration site to address the issue of erosion and sedimentation impacts associated with run-off conveyed from the High Road, which is located upslope and adjacent to the restoration site. The applicant's proposal to restore both the disturbed areas at the crossing site and the degraded riparian corridor at the proposed restoration site is intended to establish and maintain natural vegetation buffers which would improve water quality and creek habitat of the coastal stream. Chris Peregrin, Associate Resource Ecologist for State Parks, discusses the importance of the restoration component of the proposed project to ensure significant improvement and maintenance of good water quality and optimum populations of marine organisms at the project site:

Vegetative restoration of the creek bank and associated upland areas will benefit native amphibians, aquatic invertebrates and fishes of Malibu Creek by reducing sediment input to the creek and by providing structure and cover and habitat diversity. The restoration reach has several points of erosion that input sediment to Malibu Creek with each run-off event. In California's coastal stream systems, high sediment loads are often associated with poor water quality and as a result, decreased aquatic invertebrate, amphibian and fish populations. Large amounts of sediment will also negatively effect the stream environment by settling to the stream floor (substrate) and reducing habitat quality for aquatic invertebrates as well as covering potential spawning substrates for fishes. Restoring vegetation throughout this reach will decrease sediment run-off and help to improve water and substrate quality.

Malibu Creek supports exotic fish species such as mosquitofish, common carp and a variety of sunfishes (bluegill, green sunfish and largemouth bass). These exotic fish species compete with and/or prey upon native fishes. Largemouth bass taken from Malibu Creek during fish surveys have been found to have stomachs full of arroyo chub. Because riparian vegetation, such as mulefat and willow exted their branches over the stream edge and often into the water column, they provide structure which may be used by native fishes for refuge from predation. Fallen branches, logs and the roots from larger willows and sycamore trees will offer cover for use by native fishes as well. This riparian vegetation will also provide 'holding cover' for native fishes during high flow events. In particular, the arroyo chub is specialized to use in-stream cover, such as riparian vegetation to avoid being washed down stream during flood events.

Other benefits of riparian vegetation involve increased habitat diversity, which is often associated with increased bio-diversity. Diverse aquatic habitats with pools, riffles, runs and a well-developed riparian zone, often support diverse aquatic invertebrate populations. A diverse assemblage of aquatic invertebrates serves as an important food base for the native fish community. The importance of a diverse food source is especially critical due to the presence of exotic fish species that compete for resources. Riparian vegetation will also provide in-stream shade from the sun, which is associated with cooler water temperatures and reduced metabolic stress for fish. This may be critical for fish survival during low water years and drought.

The Commission notes that the proposed mitigation and restoration component for disturbed and displaced habitat resulting from the proposed project would potentially result in significant benefits to water quality and sensitive habitat values and species. In addition, construction of the proposed creek crossing with a new, larger culvert foundation would result in a structure able to convey a 66 ft. wide stream flow, as compared to the existing crossing's ability to conduct only a 25 ft. wide stream flow. The overall increase in stream flow conveyance would reduce some existing interference with surface water flow and result in restoring a portion of the creek's natural meandering configuration while facilitating sediment flow through the structure, thereby correcting the existing pattern of sediment accumulation and shallow pooling upstream of the crossing site, and scouring and erosion directly adjacent to the crossing site. As such, the enlarged culvert design would result in improved conveyance of stream flow and sediment through the stream corridor which would likely also result in some immediate benefits to water quality and sensitive habitat values of the site. However, the Commission finds that the proposed project is not likely to result in sustained, longterm benefits to the water quality and habitat values of Malibu Creek due to the unstable nature of creek culverts regularly subject to high flows and over topping, and the tendency of hard surface structures constructed in natural streams to cause scour and erosion, and sedimentation over time.

As discussed previously, the proposed structure is designed with a limited capacity to convey a maximum 5-year flood event, thus the structure will at times be subject to extreme flooding and debris flows. The Commission finds that structures such as the proposed creek crossing that are subject to continued flood events and over topping characteristically have a tendency to increase the rate and volume of stream flow, resulting in excessive scouring and erosion directly adjacent to the structure and sedimentation to downstream habitat. Erosive storm events which scour sediment from the proposed structure foundation will not only increase sedimentation to downstream creek habitat, thereby degrading that habitat with increased turbidity, but will also temporarily eliminate any soft bottom habitat of aquatic organisms adjacent to the proposed structure. Therefore, the Commission finds that though the proposed project is expected to provide some immediate benefits of increased hydraulic and sediment conveyance of the stream channel over existing conditions at the site, such benefits would be short-term as the structure is designed to convey only a maximum 5-vear flood event and will therefore be subject to flooding and over topping, resulting in increased erosion and sedimentation of the stream channel. As such, the Commission finds that the proposed project is not designed to maintain maximum, long-term hydraulic conveyance of the stream channel at the site, which would serve to protect water quality and marine sources as required by Sections 30230 and 30231 of the Coastal Act.

For the reasons discussed above, the Commission finds that the proposed project is inconsistent with Sections 30230 and 30231 of the Coastal Act.

## **Wetland Habitat**

The proposed project is located within a stream corridor that contains a small wetland area within a more extensive riparian habitat area (Exhibit 5). Wetlands are defined in Section **30121** of the Coastal Act as follows:

'Wetland' means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

The Commission regulations provide a more explicit definition of wetlands. Section 13577(b) of Title 14 of the California Code of Regulations defines wetlands as follows:

Wetlands are lands where the water table is at, near or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent or drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salt or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep water habitats.

The above definition requires the presence of one of three common wetland attributes of hydrology, hydrophytic vegetation, or hydric soils. It should be noted that this definition is more inclusive than those of other agencies, such as Army Corps of Engineers, which requires a site to exhibit all three of those attributes to be considered a wetland.

As described previously, the proposed creek crossing is designed to withstand high flood events and minimize erosion with an increased ability to conduct sediment and stream flow, and is intended to enhance the riparian and aquatic habitat of the project area. Though the proposed project is intended to benefit coastal resources, because the proposed structure must be larger than that which presently exists to achieve the restoration benefits intended (i.e. larger foundation and culvert system to minimize erosion and facilitate improved stream conveyance and passage of aquatic life), the new structure will encompass a larger surface area than that presently affected by the existing creek crossing. Therefore, the proposed project will result in some new displacement of habitat.

Much of the increased footprint of the proposed larger crossing will encompass surface area presently disturbed by the existing structure. However, the applicant has submitted project plans that illustrate sensitive habitat areas occurring in the project area, prepared by Chris Peregrin, Associate Resource Ecologist, State Parks. The plans delineate the project area and the entire habitat area which will be impacted by the proposed project (including all probable limits of work and staging areas, Exhibit 5). The proposed project will impact 26,571 sq. ft. of surface area (approximately 0.61 acres) which includes approximately 95 total linear feet of streambed (includes both banks of the stream channel). Of the 0.61 acres of surface area affected by the proposed project, 566 sq. ft. is wetland habitat, 4,835 sq. ft. vegetated streambed, and 6,403 sq. ft. unvegetated streambed. The proposed structure will occupy and therefore permanently displace a small percentage of the affected habitat square footage described, resulting in approximately 113 sq. ft. of wetland habitat, 340 sq. ft. vegetated streambed and 449 sq. ft. unvegetated streambed habitat permanently lost as a result of constructing the new creek crossing.

In addition, Section **30233** of the Coastal Act specifically addresses allowable uses for placement of fill in Wetlands. Section 30233 (a) states, in relevant part, that:

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

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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 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 then 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.

The proposed project is for the removal a failed Arizona-type creek crossing and construction of a new creek crossing with a culvert foundation that will restore a more substantial, natural stream flow and better withstand high flood events. The proposed project will require construction activity in the form of grading/excavation in the streambed, temporary damming and diversion of stream flow during construction, and filling of the streambed. Construction staging areas will be established in upland areas adjacent to the creek. The proposed project also includes restoration of disturbed habitat and mitigation for habitat permanently displaced by the proposed structure. The applicant has identified a significantly degraded riparian area approximately 500 ft. upstream of the project site for the proposed mitigation and restoration efforts. The proposed mitigation will include restoring both creek banks adjacent to the crossing site and of an approximate 100 ft. stretch of stream corridor. The proposed restoration area

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upstream of the crossing site will include implementation of non-structural BMP measures to address the issue of erosion and sedimentation impacts along the creek bank associated with run-off conveyed from the High Road, which is located upslope and adjacent to the proposed restoration site.

The proposed project involves filling the streambed to accommodate the increased size of the proposed creek crossing therefore the project will result in permanent displacement of creek habitat. As mentioned, the current state of stream morphology and habitat are in a disturbed and degraded condition due to long-term and continual impacts of the existing creek crossing. The pooling effect of the stream channel, and the fact that the existing crossing constitutes a barrier to many aquatic species, has resulted in an alteration in plant and animal species composition and diversity normally expected to occur within a riparian corridor such as that which exists at the site. Additionally, the occurrence of wetland habitat in a high-energy alluvial environment such as the stream channel at the site, is a relatively unnatural component of the ecosystem. Thus, the existing structure has substantially altered the natural stream morphology, vegetation patterns and fish and wildlife composition and diversity expected to exist at the site. In addition to restoring motorized access across the Malibu Creek at the project site, the applicant is proposing to restore the natural habitat in the described above. The above Coastal Act policies set forth a number of limitations on which projects may be allowed in wetland areas. For analysis purposes, the limitations can be categorized into three tests:

- 1. The purpose of the project is limited to one of eight allowable uses
- 2. The project has no feasible less environmentally damaging alternative; and
- 3. Adequate mitigation measures to minimize the adverse impacts of the proposed project on habitat values have been provided.

# 1. Allowable Use for Fill

The first general limitation set forth by the above mentioned policies is that only proposed fill for specific limited uses is allowable. As described previously, the proposed project is expected to improve stream morphology and habitat values at the project site and has incorporated a substantial restoration component in the proposed development, however, the project is primarily intended to construct a creek crossing to provide private vehicular access for State Parks personnel to the park area beyond the project site, as well as to provide emergency access to the area and public vehicular access when approved and/or guided by park personnel. As such, though the proposed project includes a significant habitat restoration component and is intended to be environmentally beneficial, the project is to provide a creek crossing for vehicular access. The proposed project is not consistent with Section 30233 of the Coastal Act, as construction of the proposed creek crossing to support a private access road does not qualify as one of the eight explicit allowable uses under Section 30233(a).

Commission finds that the proposed project is inconsistent with Section 30233 (a) of the Coastal Act.

## Stream Alterations

# Section 30236 states:

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

Section 30236 of the Coastal Act limits substantial alteration of streams to three (3) specific types of development as set forth above. The applicant's proposal to construct the new stream crossing within the Malibu Creek stream corridor constitutes a substantial alteration of the stream. While the project proposal maximizes the mitigation of adverse impacts to fish passage that might otherwise by imposed by alternative crossing designs, the proposed project is nevertheless a substantial alteration of a stream for a purpose that is not authorized by Section 30236. Therefore, the Commission finds that the proposed project is not consistent with Section 30236 of the Coastal Act.

#### **Riparian Habitat**

Section 30240 states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values, and that only uses dependent on such resources shall be permitted in an environmentally sensitive habitat area. The project is entirely located in an area mapped and designated as an inland environmentally sensitive habitat area. In addition to the wetland habitat addressed in the subsection below, the project site contains sensitive riparian and streambed habitat.

As explained above, the proposed project would reduce the disruption of habitat values at the site by restoring some features of the area to a more natural condition and by reestablishing a stream channel that will facilitate passage of fish and other aquatic species. However, the proposed creek crossing is primarily intended to provide private vehicular access for State Parks personnel to the park area beyond the project site, as well as to provide emergency access to the area and public vehicular access when approved and/or guided by park personnel. As such, the proposed creek crossing is not a resource dependent use and is therefore not authorized under Section 30240. Therefore, the Commission finds that the proposed project is not consistent with Section 30240 of the Coastal Act.

# D. <u>Alternatives</u>

The purpose of the proposed development is to restoring motorized access across Malibu Creek at the project site. A secondary goal of the proposed project is to restore the natural habitat area of the site described. Although the Commission is denying the applicant a coastal development permit for this proposed development, the applicant is not barred from applying for a permit for, or pursuing an alternative to the current proposal, which would address adverse impacts related to coastal hazards, water quality, wetlands, stream alterations and environmentally sensitive habitat areas. Feasible alternatives to the proposed project exist that could avoid or reduce environmental impacts of the proposed project, and feasible mitigation measures exist to reduce project impacts that cannot be fully avoided. Feasible project alternatives such as constructing a free span, column supported, or submersible bridge, in conjunction with implementation of appropriate mitigation measures, may not have significant adverse impacts to water quality and stream habitat, and/or may not require fill of wetland habitat, significant alteration of the stream and/or development directly within an ESHA. A bridge alternative to the proposed project would likely be the least environmentally damaging alternative as it would eliminate impeding structures within the stream channel, thereby avoiding adverse impacts of erosion and sedimentation, and reestablishing natural stream morphology to the maximum extent feasible. Although the applicant stated that a full span and/or column supported bridge would be prohibitively expensive, it is not clear that this would not be a feasible alternative in the future. In addition, other potential project alternatives exist which have not been reviewed for the proposed project, that would provide the necessary access to the site and minimize the impacts of erosion, channel destabilization and sedimentation which occur when hard structures within the stream channel are subject to flood events. Such alternatives include movable structures (such as modified flat flatcars) and prefabricated bridges with movable transitions designed to support access vehicles, which may be deployed for access purposes when needed, then removed from the stream channel during flood events.

In past Commission actions, the Commission has denied coastal development permits in situations where feasible alternatives were available to an applicant with fewer adverse impacts to environmental resources. The Commission's decisions to deny those projects were based, in part, on the alternatives that were available to those applicants that would have a lesser adverse effect on coastal resources. Therefore, the Commission finds that the proposed development is not consistent with the coastal hazards, water quality, or environmentally sensitive habitat area protection policies of the Coastal Act and further finds that alternatives are available that would be preferable with lesser adverse impacts.

# E. Local Coastal Program

Section 30604 of the Coastal Act states:

A) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project would not be in conformity with the provisions of Chapter 3 of the Coastal Act. The proposed development would result in adverse effects and is found to be inconsistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development would prejudice the County of Los Angeles' ability to prepare a Local Coastal Program which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

## F. California Environmental Quality Act

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

The Commission finds that the proposed project would result in significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970 and that there are feasible alternatives that would not have significant impacts on coastal access or visual resources. Therefore, the proposed project is determined to be inconsistent with CEQA and the policies of the Coastal Act.

















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Exhibit 8 4-01-075 Existing Crossing



Exhibit 9 4-01-075 Restoration Site (Looking toward High Road)



Exhibit 10 4-01-075 Restoration Site (Opposite Bank from High Road)

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