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STAFF RECOMMENDATION

ON CONSISTENCY DETERMINATION

Consistency Determination No.	**CD-010-04**
Staff:	LJS-SF
File Date:	2/17/2004
60th Day:	4/17/2004
75th Day:	5/2/2004
Extended through:	5/14/04
Commission Meeting:	5/12/2004

FEDERAL AGENCY: **Federal Aviation Administration**

DEVELOPMENT LOCATION: Santa Barbara Municipal Airport, Santa Barbara County (Exhibits 1-4)

DEVELOPMENT DESCRIPTION: Installation and operation of a new Airport Surveillance Radar, Model 11 (ASR-11)

SUBSTANTIVE FILE DOCUMENTS: See Page 20.

EXECUTIVE SUMMARY

The Federal Aviation Administration (FAA) has submitted a consistency determination for the installation of an advanced radar at the Santa Barbara Airport. The Airport Surveillance Radar (ASR-11) would improve detection and tracking of aircraft in the vicinity of the airport, and would replace the existing ASR-8 which is nearing the end of its design lifespan. The proposed ASR-11 system would be located on a 200 ft. by 200 ft. parcel of land 300 feet southeast of the existing ASR-8 (Exhibit 4). Approximately 3,900 cu.yds. of soil would be imported to construct an

engineered fill pad four feet above existing grade to reduce the facility's exposure to flood hazards (similar to the ASR-8 pad). The ASR-11 tower would be located within a 160-ft. by 160-ft. fenced area in the center of the parcel. A gated, eight-foot-high chain-link perimeter fence, topped with strands of barbed wire, would secure the facility. Two radar antennas – a primary surveillance radar (PSR) and a monopulse secondary surveillance radar (MSSR) – would continually rotate and be mounted together on a steel-lattice tower with a height of 77 feet above ground. Lightning protection rods would extend the total height of the ASR-11 tower structure to 106 feet above ground. Construction is scheduled to begin in June 2004 and last approximately one year, with full operation of the ASR-11 facility expected in 2006. Decommissioning of the ASR-8 facility is expected to occur one to three years after the ASR-11 is in operation.

The FAA has proposed a 1:1 mitigation ratio for the proposed 500 sq.ft. of permanent loss of wetland habitat. This ratio, combined with and the lack of a commitment to construct the mitigation project concurrently with installation of the radar facility, would lead to adverse effects on wetlands habitat. The Commission normally requires a 4:1 ratio, regardless of the level of disturbance of the existing wetland. While the proposed project meets the allowable use and alternative tests of Section 30233(a), the project does not include adequate mitigation for wetland impacts and is therefore inconsistent with the wetland protection policy (Section 30233) of the Coastal Act. The proposed project will not generate adverse effects on environmentally sensitive habitat areas surrounding the project site, or on bird species dependent on those adjacent habitat areas, and is therefore consistent with the environmentally sensitive habitat policy (Section 30240) of the Coastal Act.

The proposed ASR-11 facility would not create or be exposed to an increased risk of flood hazards over existing conditions at the Santa Barbara Airport. The project is therefore consistent with the hazards policy (Section 30253) of the Coastal Act. The proposed radar tower is a structure common to airport developments and would not be out of character with the overall visual landscape at the Santa Barbara Airport when viewed from the surrounding public viewpoints. While the new tower would be significantly taller than the existing tower, it would not create an adverse impact on visual resources in this area of the coastal zone and is therefore consistent with the visual resource policy (Section 30251) of the Coastal Act. With the commitments made by the FAA to monitor excavation and suspend work should potentially significant artifacts be uncovered, the proposed project is consistent with the cultural resource policy (Section 30244) of the Coastal Act. The project site is located within the airport boundary in an area closed to the general public for safety and security requirements. Construction of the ASR-11 tower would not affect any existing public access or recreational resources in the coastal zone adjacent to the airport. The project is therefore consistent with the public access and recreation policies (Sections 30211, 30212, 30220, and 30223) of the Coastal Act.

STAFF SUMMARY AND RECOMMENDATION

I. **Project Description.** The Federal Aviation Administration (FAA) proposes to install an advanced radar at the Santa Barbara Airport on land leased from the City of Santa Barbara (Exhibits 1 and 2). The Airport Surveillance Radar, Model 11 (ASR-11) would improve detection and tracking of aircraft in the vicinity of the airport and would replace the existing ASR-8, which is nearing the end of its design lifespan. The existing ASR-8 facility and the proposed ASR-11 site are located on the airport. Adjacent and nearby land uses consist of airport runways, taxiways, airport facilities, and the conservation and open space areas of the Goleta Slough. The proposed ASR-11 system would be located on a 200 ft. by 200 ft. parcel of land 300 feet southeast of the existing ASR-8 (Exhibits 3 and 4). Approximately 3,900 cu.yds. of soil would be imported to construct an engineered fill pad four feet above existing grade to reduce the facility's exposure to flood hazards (similar to the ASR-8 pad). The ASR-11 tower would be located within a 160-ft. by 160-ft. fenced area in the center of the parcel. A gated, eight-foot-high chain-link perimeter fence, topped with strands of barbed wire, would secure the facility.

A 75 ft. by 100 ft. temporary construction staging area would be located immediately adjacent to the south side of the proposed project site, providing space for the delivery and temporary storage of materials, equipment, and a trailer. Construction vehicles would access the ASR-11 site using an existing dirt road located west of Runway 15R-33L and the project site. The existing paved road to ASR-8 cannot be safely or practicably used as a construction accessway due to the number of runway and taxiway crossings this route would entail. Due to the expected number of trips by construction vehicles and equipment (several dozen per day), runway crossings would result in an unacceptable interference with and safety risks to airport operations. However, when the ASR-11 is operating, occasional vehicle access to the site can safely use the existing ASR-8 road and the proposed 300-foot-long, 16-foot-wide paved road extension to the ASR-11 site without affecting airport operations (as is the present case for the existing ASR-8). Construction is scheduled to begin in June 2004 and last approximately one year, with full operation of the ASR-11 facility expected in 2006. Decommissioning of the ASR-8 facility would occur one to three years after the ASR-11 is in operation.

Two radar antennas – a primary surveillance radar (PSR) and a monopulse secondary surveillance radar (MSSR) – would continually rotate and be mounted together on a steel-lattice tower with a height of 77 feet above ground. Lightning protection rods would extend the total height of the ASR-11 tower structure to 106 feet above ground (Exhibits 5 and 6). The PSR antenna transmits a radio signal and receives return echoes to determine aircraft location and direction within a 60-mile radius, and collects weather data. The MSSR collects and transmits aircraft data to verify aircraft location within a 120-mile radius, and provides timely identification of emergency beacons.

The *Preliminary Final Environmental Assessment (January 2004)* for the project states that:

> *The ASR-11 radio transmitter and other electronic equipment necessary to operate the radar would be located in a one-story shelter located at the base of the tower. A 135-kilowatt (kW)*

engine-generator providing secondary electric power (i.e., in case of failure of the primary power supplied by electric power lines) and a 1,000 gallon, double-walled, aboveground diesel-fuel tank would be located at the base of the tower. The existing paved ASR-8 access road would be extended about 300 ft to provide vehicle access to the ASR-11. Electric power and fiber optic lines would be installed underground for a distance of about 3,500 ft to the Airport Traffic Control Tower (ATCT). The ASR-11 would be unstaffed, and FAA personnel based at the nearest FAA Systems Support Center (SSC) at SBA would perform the necessary maintenance and repairs. The ASR-11 would not require water service and would not generate wastewater.

Construction of the ASR-11 would occur during 2004 and 2005. Commissioning of the ASR-11 (i.e., formal acceptance of this facility as part of the National Airspace System) is planned for 2006. After completion and commissioning of the new ASR-11, the existing ASR-8 tower and antenna would be removed. The existing masonry building housing ASR-8 electronic equipment would be retained by the FAA and used to store equipment.

The FAA states that the proposed ASR-11 is not intended to increase capacity at Santa Barbara Airport or to change flight paths at the airport. Rather, the *Preliminary Final Environmental Assessment* describes the technical and safety benefits associated with the proposed ASR-11 system. Compared to the ASR-8 it would replace, the ASR-11 would:

- *Improve detection of targets in areas of radar clutter;*
- *Increase the detection of tangential targets;*
- *Reduce the reporting of false weather caused by anomalous propagation of the ASR-11 radio signal;*
- *Reduce the incidence of reporting of false targets; and*
- *Increase system reliability and availability (i.e., percentage of the time the system is operating).*

In addition, the ASR-11 would: (1) be technically compatible with the FAA's planned Standard Terminal Automation Replacement System, the FAA's advanced air traffic control system; (2) primarily provide low altitude coverage in the vicinity of SBA but would also provide radar coverage for several of the region's airports; and (3) greatly assist the new Central California Terminal Radar Approach Control in successfully managing responsibility for new airspace to the north, east, and south of SBA.

II. Status of Local Coastal Program. The standard of review for federal consistency determinations is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal Program (LCP) of the affected area. If the LCP has been certified by the Commission and incorporated into the California Coastal Management Program (CCMP), it can provide guidance in applying Chapter 3 policies in light of local circumstances. If the LCP has not been incorporated into the CCMP, it

cannot be used to guide the Commission's decision, but it can be used as background information. The City of Santa Barbara's Goleta Slough/Airport LCP has been certified by the Commission and incorporated into the CCMP.

III. Federal Agency's Consistency Determination. The Federal Aviation Administration has determined the project consistent to the maximum extent practicable with the California Coastal Management Program.

IV. Staff Recommendation.

The staff recommends that the Commission adopt the following motion:

MOTION: I move that the Commission **concur** with consistency determination CD-010-04 that the project described therein is consistent to the maximum extent practicable with the enforceable policies of the California Coastal Management Program (CCMP).

STAFF RECOMMENDATION:

Staff recommends a **NO** vote on the motion. Failure of this motion will result in an objection to the determination and adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is required to pass the motion.

RESOLUTION TO OBJECT TO CONSISTENCY DETERMINATION:

The Commission hereby **objects** to the consistency determination made by the Federal Aviation Administration for the proposed project, finding that: (1) the project is not consistent with the California Coastal Management Program; and (2) the project is not consistent to the maximum extent practicable with the California Coastal Management Program.

V. Applicable Legal Authorities. Section 307 of the Coastal Zone Management Act (CZMA) provides in part:

> *(c)(1)(A) Each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs.*

A. Procedure if the Commission finds that the proposed activity is inconsistent with the CCMP.

Section 930.43(a) of the federal consistency regulations (15 CFR § 930.43(a)) requires that, if the Commission's objection is based on a finding that the proposed activity is inconsistent with the CCMP, the Commission must identify measures, if they exist, that would bring the project into conformance with the CCMP. That section states that:

> *(a) In the event the State agency objects to the Federal agency's consistency determination, the State agency shall accompany its response to the Federal agency with its reasons for the objection and supporting information. The State agency response shall describe: (1) How the proposed activity will be inconsistent with specific enforceable policies of the management program; and (2) The specific enforceable policies (including citations).(3) The State agency should also describe alternative measures (if they exist) which, if adopted by the Federal agency, would allow the activity to proceed in a manner consistent to the maximum extent practicable with the enforceable policies of the management program. Failure to describe alternatives does not affect the validity of the State agency's objection.*

As described in Section VI.A of this report below, the proposed project is not consistent to the maximum extent practicable with the CCMP. Pursuant to the requirements of Section 930.43 of the federal regulations implementing the CZMA, the Commission is responsible for identifying measures, if they exist, that would bring the project into compliance with the CCMP. The Commission believes that it would be possible to bring this project into compliance with the CCMP if the Federal Aviation Administration implements the following measure:

1. **Increase Mitigation Ratio**. Increase the habitat mitigation ratio from 1:1 to 4:1 for coastal salt marsh impacts (including disturbed, seasonal, non-tidal coastal salt marsh).

B. Consistent to the Maximum Extent Practicable.

Section 930.32 of the federal consistency regulations provides, in part, that:

> *(a)(1) The term ''consistent to the maximum extent practicable'' means fully consistent with the enforceable policies of management programs unless full consistency is prohibited by existing law applicable to the Federal agency.*

The Commission recognizes that the standard for approval of federal projects is that the activity must be "consistent to the maximum extent practicable" (CZMA Section 307(c)(1)). This standard allows a federal activity that is not fully consistent with the CCMP to proceed, if compliance with the CCMP is "prohibited [by] existing Federal law applicable to the Federal agency's operations."[1] The FAA did not provide any documentation to support a maximum extent practicable argument in its consistency determination or in any subsequent documents. Therefore, there is no basis to conclude that existing law applicable to the Federal agency prohibits full consistency.

C. Federal Agency Response to Commission Objection. Section C(a)(i) of Chapter 11 of the CCMP requires federal agencies to inform the Commission of their response to a Commission objection. This section provides:

> *If the Coastal Commission finds that the Federal activity or development project ... is not consistent with the management program, and the federal agency disagrees and decides to go forward with the action, it will be expected to (a) advise the Coastal Commission in writing*

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1 15 CFR Section 930.32.

that the action is consistent, to the maximum extent practicable, with the coastal management program, and (b) set forth in detail the reasons for its decision. In the event the Coastal Commission seriously disagrees with the Federal agency's consistency determination, it may request that the Secretary of Commerce seek to mediate the serious disagreement as provided by Section 307(h) of the CZMA, or it may seek judicial review of the dispute.

The federal consistency regulations reflect a similar obligation; 15 CFR §930.43 provides:

State agency objection. ...

(d) In the event of an objection, Federal and State agencies should use the remaining portion of the 90-day notice period (see §930.36(b)) to attempt to resolve their differences. If resolution has not been reached at the end of the 90-day period, Federal agencies should consider using the dispute resolution mechanisms of this part and postponing final federal action until the problems have been resolved. At the end of the 90-day period the Federal agency shall not proceed with the activity over a State agency's objection unless: (1) the Federal agency has concluded that under the ''consistent to the maximum extent practicable'' standard described in section 930.32 consistency with the enforceable policies of the management program is prohibited by existing law applicable to the Federal agency and the Federal agency has clearly described, in writing, to the State agency the legal impediments to full consistency (See §§930.32(a) and 930.39(a)), or (2) the Federal agency has concluded that its proposed action is fully consistent with the enforceable policies of the management program, though the State agency objects.

(e) If a Federal agency decides to proceed with a Federal agency activity that is objected to by a State agency, or to follow an alternative suggested by the State agency, the Federal agency shall notify the State agency of its decision to proceed before the project commences.

VI. Findings and Declarations:

The Commission finds and declares as follows:

A. Wetlands and Environmentally Sensitive Habitat. The Coastal Act provides the following:

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.

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:

(l) 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 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.

(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.

1. Wetlands.

(a) Site Conditions. The *Preliminary Final Environmental Assessment* (PFEA) for the ASR-11 project describes the current habitat conditions on and adjacent to the project site. Generally, the land surrounding the proposed ASR-11 site is undeveloped fill placed during the construction of the airfield in the 1940s. It consists of non-native grassland dominated by Italian ryegrass, Mediterranean barley, and coyote brush. However, there are small isolated seasonal Coastal Act wetlands that are associated with man-made disturbances scattered across the upland, and the pickleweed-dominated tidal wetlands of Goleta Slough are located southwest of the project site and across an airport maintenance road (Exhibit 7).

The FAA's January 2004 *Wetland Delineation, Airport Surveillance Radar, ASR-11, Santa Barbara Airport (SBA)* provided additional information on these Coastal Act wetlands beyond that contained in the *PFEA*. The January 2004 *Wetland Delineation* summarizes the presence of Coastal Act wetlands at the ASR-11 site, along the underground utility route in the existing ASR-8 roadway, and along the underground utility route as it crosses the airport runways and infield runway safety areas (RSAs) between the north end of the ASR-8 roadway and the airport control tower (Exhibit 8):

> *ASR-11 site. Five wetland areas were identified during the October 2003 field surveys at and within the proposed ASR-11 site, as shown on Figure 10a and b. These wetland areas occur in a flat area with no offsite drainage. Hence, there may be prolonged soil moisture in certain years that could support wetland type plants. However, none of the wetlands areas displayed an obvious impoundment or depression. The only evidence of possible wetland hydrology was scattered barren areas where water had evaporated from the soil and left a light salt encrustation. A list of plant species observed in the wetland areas is presented in Table 3.*
>
> *ASR-8 roadway. No Coastal Act or Corps wetlands occur in the utility corridors, which are located on the slopes of the road embankment.*
>
> *Runway and RSAs. Halophytic vegetation that is considered a wetland under the Coastal Act definition is currently present in the infield areas traversed by the proposed conduit. About 90 percent of the total length of the easement (about 1,000 feet) traverses this vegetation type. However, this vegetation is not considered a wetland for purposes of acquiring a federal consistency determination by the CCC because these wetlands have colonized area that were legally cleared of wetlands under a previous CCC approval.* [CDP 4-97-134] *The loss of these wetlands was fully mitigated by the creation of nearby wetlands. The CDP and the consistency determination do not have any requirement to protect new wetlands that may re-emerge or become established in the RSAs at the Airport. The Airport can legally remove these opportunistic wetlands at any time, if necessary to maintain the RSA. No Corps wetlands are present.*

The January 2004 *Wetland Delineation* additionally notes that the sizes of the five wetland areas observed in October 2003 at and near the proposed ASR-11 site ranged between 390 and 4,585

sq.ft. and totaled 10,325 sq.ft. These five wetland areas were not observed during wetland field investigations in 1996 and 2000, due in large measure by the fact that this upland area was cleared and grubbed in accordance with an approved coastal development permit (4-97-134) for the Santa Barbara Airport Safety Area Grading Project, and was used as a construction staging area for wetland restoration work (associated with the grading project) in the adjacent Goleta Slough. The area was then abandoned and allowed to revegetate naturally, except that the southern half of the area continues to be used as a parking area for maintenance crews.

The January 2004 *Wetland Delineation* stated that the proposed project would permanently remove between 500 and 2,000 sq.ft. of "opportunistic Coastal Act wetlands determined to have low ecological value." However, the FAA clarified the areal extent of expected wetland impacts from the proposed project in an April 2, 2004, e-mail to Commission staff:

> *Section 5.5 of the Preliminary Final Environmental Assessment (PFEA) states that between 500 and 2,000 sq. ft of area of Coastal wetlands would be permanently removed by construction of the ASR-11 access road, depending on the final design and location of the ASR-11 access road. This area of wetlands affected differs somewhat from the area of wetlands given in Table 6 of the Wetlands Delineation Report in Appendix E of the PFEA. The reason for this difference is that the wetlands delineation report gives the total area of all Coastal wetlands occurring within the 50 ft wide ASR-11 access/utility easement. However, only a portion of the easement would actually be disturbed during construction of the ASR-11 access road. The access road would have a 16 ft wide road surface and roughly 2 ft wide shoulders and would be centered in the easement. As a result, only portions of Coastal wetland areas 4 and 5 listed in Table 6 would be permanently removed. We calculate the area of Coastal wetlands permanently removed at no more than 500 sq. ft.*

Finally, up to 1,960 sq.ft. of wetlands could be temporarily affected due to the construction of a construction vehicle accessway connecting the proposed ASR-11 pad and the existing dirt road on the berm separating the airport uplands and the Goleta Slough.

(b) Allowable Use Test. The proposed project entails both temporary and permanent fill in wetlands as defined under the Coastal Act, and therefore triggers the 3-part test under Section 30233(a): (1) the allowable use test; (2) the alternatives test; and (3) the mitigation test. Under the first of these tests, a project must qualify as one of the eight stated uses allowed under Section 30233(a). Since the other allowable uses clearly do not apply, the Commission must determine whether the proposed project can be permitted under Section 30233(a)(5), which authorizes fill for:

> *Incidental public service purposes, including but not limited to, burying cables, pipes or inspection of piers and maintenance of existing intake and outfall lines.*

In order to be for an "incidental public service purpose" a proposed fill project must satisfy two tests: (1) the project must have a "public service purpose"; and (2) the purpose must be "incidental" within the meaning of that term as it is used in section 30233(a)(5). Because the

project will be constructed by a public agency for the purpose of increasing safety of aircraft operations at Santa Barbara Airport, the fill is for a public service purpose. Thus, the project satisfies the first test under section 30233(a)(5).

With respect to the second test, in 1981 the Commission adopted the "Statewide Interpretive Guidelines for Wetlands and Other Wet Environmentally Sensitive Habitat Areas" (hereinafter, the "*Guidelines*"). The *Guidelines* analyze the allowable uses in wetlands under Section 30233 including the provision regarding "incidental public service purposes." The *Guidelines* state that fill is allowed for:

> *Incidental public service purposes which temporarily impact the resources of the area, which include, but are not limited to, burying cables and pipes, inspection of piers, and maintenance of existing intake and outfall lines (roads do not qualify).*

A footnote (no. 3) to the above-quoted passage further states that:

> *When no other alternative exists, and when consistent with the other provision of this section, limited expansion of roadbeds and bridges necessary to maintain existing traffic capacity may be permitted.*

The Court of Appeal has recognized the Commission's interpretation in the *Guidelines* of the term "incidental public service purposes" as a permissible one. In the case of *Bolsa Chica Land Trust et al., v. The Superior Court of San Diego County* (1999) 71 Cal.App.4th 493, 517, the Court found that:

> *... we accept Commission's interpretation of sections 30233 and 30240... In particular we note that under Commission's interpretation, incidental public services are limited to temporary disruptions and do not usually include permanent roadway expansions. Roadway expansions are permitted only when no other alternative exists and the expansion is necessary to maintain existing traffic capacity.*

In past cases the Commission has considered the circumstances under which fill associated with the expansion of an existing "roadbed or bridge" might be allowed under Section 30233(a)(5). In such cases the Commission has determined that, consistent with the analysis in the *Guidelines*, the expansion of an existing road or bridge may constitute an "incidental public service purpose" when no other alternative exists and the expansion is necessary to maintain existing traffic capacity.

The Commission previously granted to the Cities of Seal Beach and Long Beach a coastal development permit (5-00-321) for the construction of bridge abutments and concrete piles for the Marina Drive Bridge located on the San Gabriel River. The Commission found that the project involved the fill of open coastal waters for an incidental public service purpose because the fill was being undertaken by a public agency in pursuit of its public mission, and because it maintained existing road capacity.

The Commission has also determined in connection with a project (El Rancho Rd. Bridge) proposed by the U.S. Air Force (USAF) that permanent impacts to wetlands are allowable under Section 30233(a)(5) of the Coastal Act as an incidental public service because the USAF was undertaking the fill in the pursuit of a public service mission and because the "permanent fill [was] associated with a bridge replacement project [that] would not result in an increase in traffic capacity of the road." (CD-70-92, and reiterated in CD-106-01).

Thus, based on past interpretations, fill for the expansion of existing roadways and bridges may be considered to be an "incidental public service purpose" if: (1) there is no less damaging feasible alternative; (2) the fill is undertaken by a public agency in pursuit of its public mission; and (3) the expansion is necessary to maintain existing traffic capacity. An important question raised in this case is the applicability of this interpretation to the extension of an internal airport road providing service access to the airport's radar facility, as compared to more common "roadbeds and bridges" cited in the aforementioned *Guidelines* footnote no. 3.

The Commission has also found safety improvements involving runway extensions at the Santa Barbara airport involving wetland fill to qualify for the same exception as an incidental public service, finding in CC-58-01:

> *The proposed improvements are strictly, not loosely defined, as safety measures to ensure the safe operation of aircraft. In addition, the project will not increase the existing capacity of runway and airport operations, and does not include a permanent roadway or runway expansion. While the location of the primary runway will be shifted to accommodate the runway safety areas prescribed by the FAA, the primary runway length and width (6,052 feet by 150 feet) and the capacity of the runway as designed will not change. The Commission therefore concludes that, as an incidental public service under Section 30233(a)(5), the project constitutes an allowable use for the fill of wetlands.*

The proposed ASR-11 facility and the road extension to that facility are safety measures to ensure the safe operation of aircraft at and within the airspace surrounding the Santa Barbara Airport. These improvements will not increase the existing capacity of runway and airport operations and are necessary to maintain existing airport capacity. Thus, for reasons comparable to those discussed in the previous Santa Barbara Airport safety improvements, the Commission concludes that the project qualifies as an incidental public service under Section 30233(a)(5) and constitutes an allowable use for fill of wetlands.

(c) Alternatives Test. The *Preliminary Final Environmental Assessment* describes how the FAA conducted an extensive site-selection process for the ASR-11 radar facility at Santa Barbara Airport. For each potential site, the FAA collected data on the projected radar coverage of navigational airspace and fixes, runway approach and departure routes, permanent radar echoes, and satellite airports to be served. The FAA also obtained and reviewed data on site size and availability, installation costs, availability of road access, power and telecommunications service, and environmental resources and conditions. A detailed analysis was prepared documenting the degree to which each potential site complied with the pre-determined site-evaluation criteria.

Fifteen sites were examined for suitability to support the ASR-11 facility (Exhibit 9). The *Preliminary Final Environmental Assessment* states that:

> *Fifteen candidate sites for the ASR-11 to serve SBA were evaluated using the predetermined exclusionary, restrictive, and selective siting criteria developed by the FAA. The locations of the preferred site for the ASR-11 (also known as Site 3) and the alternative sites considered by the FAA are shown in Figure 6. The FAA conducted a phased screening process that applied the site-selection criteria to identify sites that would provide the best radar coverage of the SBA area and would best satisfy environmental and constructional criteria. Environmental factors that were considered include wetlands, floodplains, water resources, unique habitat, threatened and endangered species, scenic highways, and cultural resources. Explanations of all screening criteria are provided in Appendix A. Sites not carried forward were rejected because they provided inferior radar coverage or because rights-of-entry could not be obtained for survey activity. The candidate sites that would provide the most complete radar coverage of the SBA area and would best satisfy the air traffic control requirements for this proposed ASR-11 are Sites 3, 5, and 12. The FAA conducted additional studies of these three sites, including more detailed screening of the site against selection criteria and on-site measurement of trees, buildings, and topographic features that could affect radar coverage. The FAA selected the preferred site (Site 3) for the ASR-11 to serve SBA based on data and analysis contained in the Airport Surveillance Radar (ASR-11) Final Site Survey report for Santa Barbara Municipal Airport, Santa Barbara, California (FAA, 2001a).*

The FAA concluded that Site 3 (the proposed ASR-11 site), when compared to Sites 5 and 12, would provide effective radar coverage of Santa Barbara Airport and surrounding areas (i.e., improved detection of targets in areas of radar clutter, reduction of false weather reports, and increased system reliability and availability), while avoiding the environmental and construction costs associated with placing the ASR-11 outside the airport at Sites 5 or 12. Based on these considerations, the FAA concluded that the proposed site is the only feasible alternative for installation of the ASR-11 radar facility.

The potential wetland impacts associated with the initial location for the proposed ASR-11 were examined in the FAA's *Draft Environmental Assessment* for the project. Subsequent to the publication of that document and the receipt and analysis of public comments, the FAA shifted the facility footprint 70 feet to the east and 50 feet to the south to further reduce wetland impacts (Exhibit 8). This site adjustment avoids wetlands within the 200 ft. by 200 ft. ASR-11 footprint and reduces the area of permanent wetland impacts within the new access road corridor to 500 sq.ft. The Commission agrees and concludes that the FAA shifted the location of the facility to minimize wetland and environmentally sensitive habitat impacts, that the proposed project represents the least environmentally damaging feasible alternative, and that the project is therefore consistent with the alternatives test of Section 30233(a) of the Coastal Act.

(d) Mitigation Test. The FAA delineated wetlands based on both the Coastal Act and the U.S. Army Corps of Engineers definitions, noting that the Coastal Act definition is more inclusive than that contained in the Corps' manual. No federal jurisdictional wetlands would be affected by the proposed project. However, using the broader Coastal Act definition, the FAA determined that the proposed project would generate 500 sq.ft. of permanent wetland fill and up to 1,960 sq.ft. of temporary wetland fill.

The FAA proposed the following wetland mitigation measures for the proposed project:

- Replace permanent wetland impacts at a 1:1 ratio by removing a portion of the existing ASR-8 fill pad, planting wetland species, and monitoring establishment of wetlands flora for a period of three years.

- To restore wetlands temporarily impacted during construction, re-seed those areas with seeds from wetlands type vegetation in Goleta Slough.

- A soil erosion control plan and a water quality mitigation plan for construction and operation of the ASR-11 and dismantling and removal of the ASR-8 would be prepared. The plans would provide best management practices to prevent erosion and washing of soils from the site. These practices could include placement of straw or hay bales across drainages, installation of silt fences at the perimeter of disturbed areas, grading to control runoff and trap sediment, and prompt revegetation of denuded areas.

- To conform to LCP Policy C-14, site preparation and earth-moving activities for the ASR-11 would occur outside the November 1 through April 1 rainy season.

- To prevent adverse effects on water quality, the FAA would comply with requirements of Storm Water General Permit Order No. 99-08-DWQ, including preconstruction notification of the state and preparation of and adherence to a Storm Water Pollution Prevention Plan.

- The existing drainage culvert located between the preferred ASR-11 site and the existing ASR-8 would be replaced if damaged during construction of the ASR-11.

- To ensure that no construction activities would occur within Goleta Slough Reserve (i.e., to the southwest of the nearby dirt road), the FAA would expressly direct all construction workers and contractors to avoid that area.

Regarding the aforementioned monitoring of the replacement wetland habitat to be created at the old ASR-8 pad site as mitigation for project impacts, the FAA has subsequently committed to developing a monitoring plan that will include monitoring methodology, performance and success criteria, contingency remediation measures to assure the success of the revegetation efforts, and an annual reporting process. Furthermore, at the request of the Commission staff, the FAA has agreed to submit this plan to the Commission staff for its review and approval, prior to the commencement of construction.

However, the FAA has not agreed to increase its proposed mitigation ratio for replacement of the 500 sq.ft. of wetland habitat that would be permanently lost due to construction of the access road from the existing ASR-8 facility to the proposed ASR-11 facility. In addition, the FAA has not yet confirmed that construction of the wetland mitigation project would occur concurrently with construction of the ASR-11 facility. As noted above, the FAA proposed a 1:1 replacement mitigation ratio for this habitat loss, while the Commission typically requires a 4:1 mitigation ratio for permanent fill of wetland habitat, and with mitigation occurring concurrent with project construction. That the subject wetlands are non-tidal, disturbed, and have existed on the project site for less than five years does not negate the fact that this habitat meets the Coastal Act definition of wetlands (as the FAA acknowledges). Nor does it negate the fact that the Commission has a long record of ensuring that any loss of such habitat (for an allowable use and if the least environmentally damaging alternative) must be fully and sufficiently mitigated in order to find that development is consistent with the wetland fill policies of the Coastal Act.

In the subject project, the Commission finds that the proposed 1:1 mitigation ratio for the proposed permanent loss of wetland habitat would lead to adverse effects on such habitat, and additionally finds that without a commitment to construct the mitigation project concurrently with the radar facility, further adverse effects on wetland habitat would occur. The Commission normally requires a 4:1 ratio, regardless of the level of disturbance of the existing wetland. Many Commission-issued coastal development permits and federal consistency reviews have required a mitigation ratio of 4:1 to compensate for wetland acreage and functional capacity lost during the re-establishment and maturation of the mitigation area. In some cases, larger mitigation ratios have been required to ensure that at least some compensation occurs in the event the mitigation project is only partially successful. Thus, the Commission finds that the FAA's proposed 1:1 mitigation ratio is inadequate and that the project does not meet the mitigation test of Section 30233(a).

2. <u>Environmentally Sensitive Habitat</u>.

The *PFEA* notes that the Environmental Impact Statement/Report for recent improvements at Santa Barbara Airport (the subject of consistency certification CC-058-01) included an extensive analysis of biological resources, including legally protected species, present at or near the airport. A number of threatened or endangered wildlife species are present (or were present in the recent past) within or near the Goleta Slough Reserve, located across an existing, bermed dirt road 40 feet southwest of the boundary of the project site: California brown pelican, light-footed clapper rail, Belding's savannah sparrow, California red-legged frog, tidewater goby, and steelhead trout. Of these species, however, only the Belding's savannah sparrow would possibly be affected by the ASR-11 project.

Regarding the Belding's savannah sparrow, the *PFEA* states that:

> *Belding's savannah sparrow is a bird species listed as endangered by the CDFG, which permanently inhabits and breeds in Goleta Slough Reserve and other coastal marshes in Santa Barbara County. A survey in 1994 counted 117 to 140 pairs in Goleta Slough*

Reserve. This species nests in the upper littoral zone of coastal marshes, especially in areas vegetated with pickleweed. It prefers to forage within the low to mid-marsh regions, but may also forage in grassy areas near runways (FAA, 2001b). Construction of the ASR-11 would permanently remove about 1 acre of grassy upland from possible foraging use by Belding's savannah sparrow. Use of this area by the sparrow is limited and large areas of similar grassy uplands would remain at the airport after construction of the ASR-11.

The Biological Survey of the preferred site and vicinity found suitable nesting habitat for the Belding's savannah sparrow in Goleta Slough about 200 ft from the ASR-11 preferred site. That nesting habitat would not be directly affected by ASR-11 construction. Construction noise would be audible at that habitat and would be an indirect effect. However, that area is currently subject to noise from airport operations, including the departure and landing of aircraft, at levels that are equivalent to the noise that would be produced during ASR-11 construction. For that reason, the biologist believes that noise generated during construction would be unlikely to adversely affect nesting birds in Goleta Slough. Implementation of the proposed action would not be expected to cause significant impacts on this species.

The U.S. Fish and Wildlife Service concurred with the FAA's determination that no effects on threatened or endangered species, including the Belding's savannah sparrow, would occur from the proposed ASR-11 project (Exhibit 10).

The FAA also examined potential impacts on birds in flight due to collisions with the proposed ASR-11 tower and radar antenna. The ASR-11 tower would extend 77 feet above ground level (AGL), 106 feet AGL with lightning protection rods. This height is far shorter (by several hundred feet or more) than the heights for other towers which are reported to cause significant numbers of bird collisions. The U.S. Fish and Wildlife Service is responsible for enforcing the Migratory Bird Treaty Act. Under that authority, the Service organized a working group that developed guidelines for use when locating and constructing communication towers to minimize the potential collision hazard to migratory birds. The FAA examined the twelve guidelines and concluded that the ASR-11 would comply with the applicable guidelines to minimize bird collision risks and would not be a significant hazard to migratory birds. In addition, to assess the degree of collision hazards to migratory birds and assist in measures to reduce bird mortality, if needed, the FAA will allow the U.S. Fish and Wildlife Service to assess the ASR-11 site, collect bird carcasses, and perform related studies as feasible, in keeping with security and safety concerns.

The ASR-11 tower would be 106 feet AGL (with lightning protection rods) as compared to 46 feet AGL (with lightning rods) for the existing ASR-8 tower. The difference in height is due to a taller steel-lattice tower for the ASR-11. The existing tower and tall trees in and near the Goleta Slough Reserve provide opportunities for perching by raptors. As a result, the FAA believes that replacing the ASR-8 tower with the taller ASR-11 tower would not significantly affect perching opportunities for raptors, and that no significant effects on the number of raptors in the area or the number of prey caught by those raptors is expected.

Based on the above analysis, the Commission finds that the proposed project will not generate adverse effects on environmentally sensitive habitat areas adjacent to and surrounding the project site, or on bird species dependent on those adjacent habitat areas, and is therefore consistent with Section 30240 of the Coastal Act.

3. Conclusion

In conclusion, the project would include measures to protect water quality and be consistent with the water quality policy (Section 30231) of the Coastal Act. In addition, it would be consistent with the allowable use and alternatives tests of the wetland policy (Section 30233(a)), as well as with the environmentally sensitive habitat policy (Section 30240) of the Coastal Act. However, it does not include sufficient wetland mitigation commitments to enable the Commission to find it consistent with the mitigation test of Section 30233(a) of the Coastal Act. If the project were to be revised to include a 4:1 mitigation commitment for permanent wetland impacts, it could be found consistent with this policy.

B. Flood Hazard. Section 30253 of the Coastal Act provides in part that:

> *New development shall:*
>
> *(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard . . . .*

The *Preliminary Final Environmental Assessment* (PFEA) for the proposed ASR-11 project examines potential risks to the facility due to its location in a 100-year floodplain:

> *Executive Order (E.O.) 11988, Floodplain Management, requires that federal agencies locate facilities outside the 100-year or base floodplain, unless there is no practicable alternative location (President, 1977a). SBA is located in a topographic basin that has a history of flooding. The past land filling in the local area has reduced the volume available to store floodwaters as compared to natural conditions. In addition, construction of impervious surfaces as part of urban development results in accelerated runoff of floodwaters.*

The previous section of this report detailed the alternative sites considered by the FAA for the proposed ASR-11 facility. The floodplain section of the PFEA reports that the preferred site is the best location for the ASR-11 and that other potential sites outside the 100-year floodplain would not satisfy the FAA project criteria to the same extent as the preferred site. The PFEA further states that:

> *There is no practicable alternative to constructing the ASR-11 at the preferred site. To reduce flood hazards to the ASR-11, the facility would be constructed on a raised fill pad so that occupied structures and electronic equipment susceptible to flood damage would be above the flood level. The elevation of the 100-year flood has not been determined; however, raising structures and equipment roughly 3 ft to 4 ft above the existing ground level (i.e., the height of the existing ASR-8 pad) would likely provide sufficient flood*

protection. Based on many years of experience with the nearby ASR-8, the FAA believes that this raised fill pad would provide sufficient flood protection. The underground utilities for the ASR-11 would also cross the floodplain. Those facilities are waterproof by design and would not be subject to damage in the case of a flood.

Construction of the ASR-11 fill pad and access road extension from the existing ASR-8 pad would reduce the size of the floodplain by approximately one acre, a small portion of the 160-acre flood storage volume currently present in the Goleta Slough. The proposed removal of a portion of the ASR-8 fill pad would partially offset the decrease in storage volume due to construction of the ASR-11 facility. Less than 0.1 acre of new impervious surfaces consisting of concrete pads, walkways, and structures, and less than one acre of semi-pervious surfaces covered by crushed rock, would be constructed for the ASR-11 facility. Storm runoff from the project site currently flows into culverts under the dirt road/berm located immediately southwest of the site and into the Goleta Slough Reserve. No significant changes in drainage patterns in this area would result from construction of the project.

In conclusion, the Commission finds that the proposed ASR-11 facility would not create or be exposed to an increased risk of flood hazards over existing conditions at the Santa Barbara Airport, and that the project is consistent with the Section 30253 hazards policy of the Coastal Act.

C. Visual Resources. Section 30251 of the Coastal Act provides that:

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

The FAA states that the proposed project "would be a conspicuous visual element." The ASR-11 tower would extend 77 feet above ground level (AGL), and lightning protection rods would bring the total height of the 25-foot-wide structure to 106 feet AGL. The proposed structure would be visually similar to the existing nearby ASR-8 tower, which presently includes an antenna equal in size to the ASR-11 antenna, but whose total height (including lightning rods) is 46 feet AGL. The *Preliminary Final Environmental Assessment* for the project includes six photo simulations of the proposed tower, each from prominent publicly accessible areas (SBA baggage claim area, roads, and foot and bicycle paths) north, south, east, and west of the proposed tower site (Exhibits 11 and 12). The Commission finds that the proposed tower is a structure common to airport developments and would not be out of character with the overall visual landscape at the Santa Barbara Airport when viewed from the aforementioned viewpoints. While the new tower would be significantly taller than the existing tower, it would not create an

adverse impact on visual resources in this area of the coastal zone. In conclusion, the proposed project is consistent with the Section 30251 visual resource policy of the Coastal Act.

D. Cultural Resources. Section 30244 of the Coastal Act provides that:

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

The Preliminary Final EA addresses the project's potential effects on cultural resources and states that:

> *No properties on the NRHP* [National Register of Historic Places], *California register, California Landmarks, or California Points of Historic Interest databases occur within ¼ mile of the preferred site, access easement, or fiber optic/utility easement. One archaeological site is located about ¼ mi from the northern terminus of the proposed fiber optic/utility easement and consists of midden deposits containing faunal remains, shells, and fire-stone tools dating to prehistoric times. Based on a records search and a pedestrian survey, no places listed or eligible for listing on the NRHP are present at or near the preferred site and fiber optic/utility easement for the ASR-11..*
>
> . . .
>
> *There is a slight possibility that American Period/Early Twentieth Century artifacts could be uncovered during excavation to install underground utility lines between Cook Place and the ATCT* [Air Traffic Control Tower]. *Excavation within that area would be monitored by a qualified archaeologist who would be available to preserve and evaluate any potential artifacts that are uncovered.*
>
> . . .
>
> *If potentially significant artifacts are uncovered during excavation for construction of the ASR-11, construction activities that have the potential to damage the find would be suspended and the California SHPO* [State Historic Preservation Officer] *would be notified so that a qualified archaeologist could determine the significance of the find.*

The proposed project is not expected to adversely affect cultural resources. With the commitments made by the FAA to monitor excavation and suspend work should potentially significant artifacts be uncovered, the Commission concludes that the proposed radar tower project is consistent with the cultural resource policy (Section 30244) of the Coastal Act.

E. Public Access and Recreation. The Coastal Act provides the following:

Section 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.

Section 30212(a). Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

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

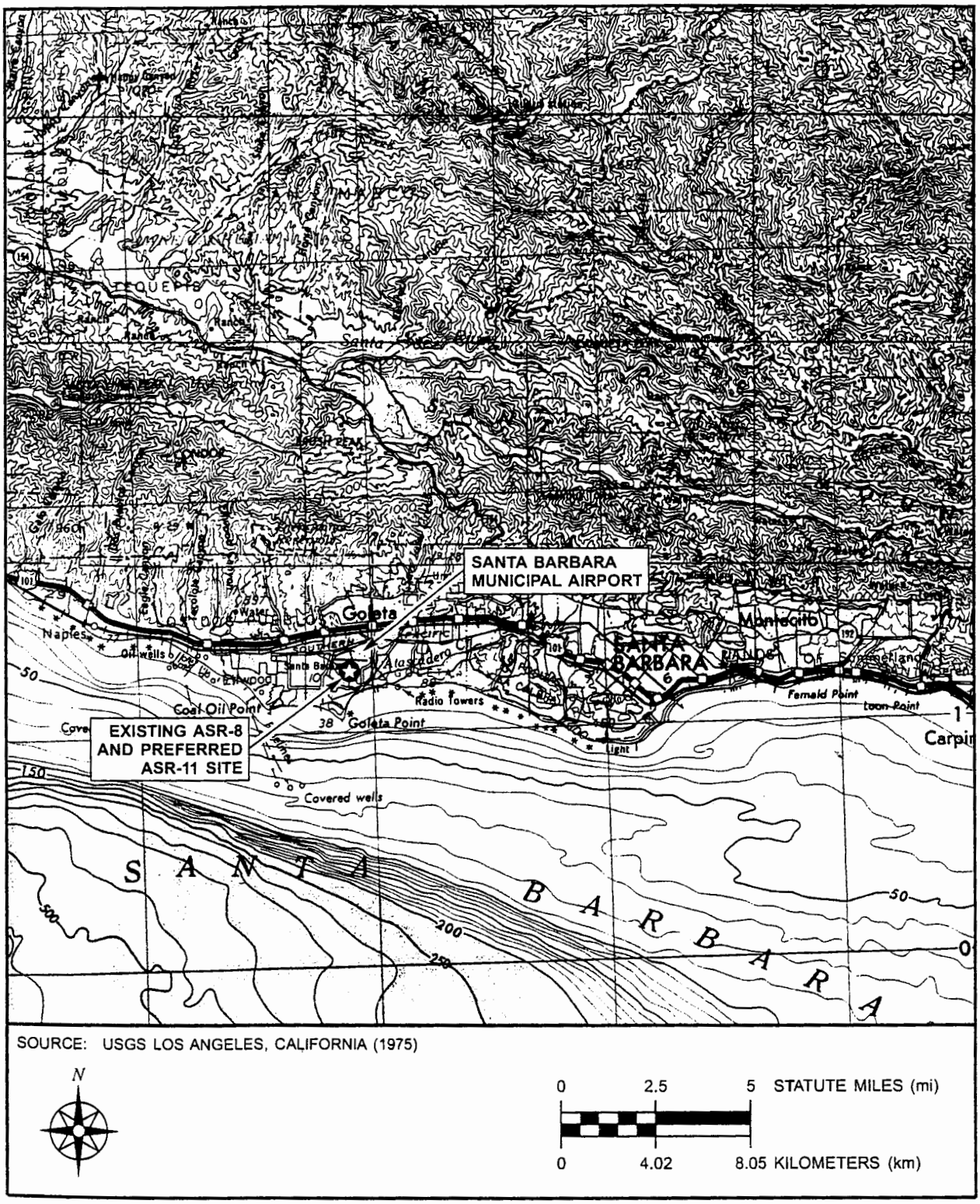
Section 30220. Coastal areas suited for water-oriented recreational activities that cannot be readily provided at inland water areas shall be protected for such uses.

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

The proposed ASR-11 radar facility is designed to improve aviation safety and the accuracy of the air traffic control system at the Santa Barbara Airport. The proposed ASR-11 site is located within the airport boundary in an area closed to the general public for safety and security requirements. Construction of the ASR-11 facility would not affect any existing public access or recreational resources in the coastal zone adjacent to the airport. The Commission concludes that the proposed ASR-11 radar project is consistent with the public access and recreation policies (Sections 30211, 30212, 30220, and 30223) of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS:

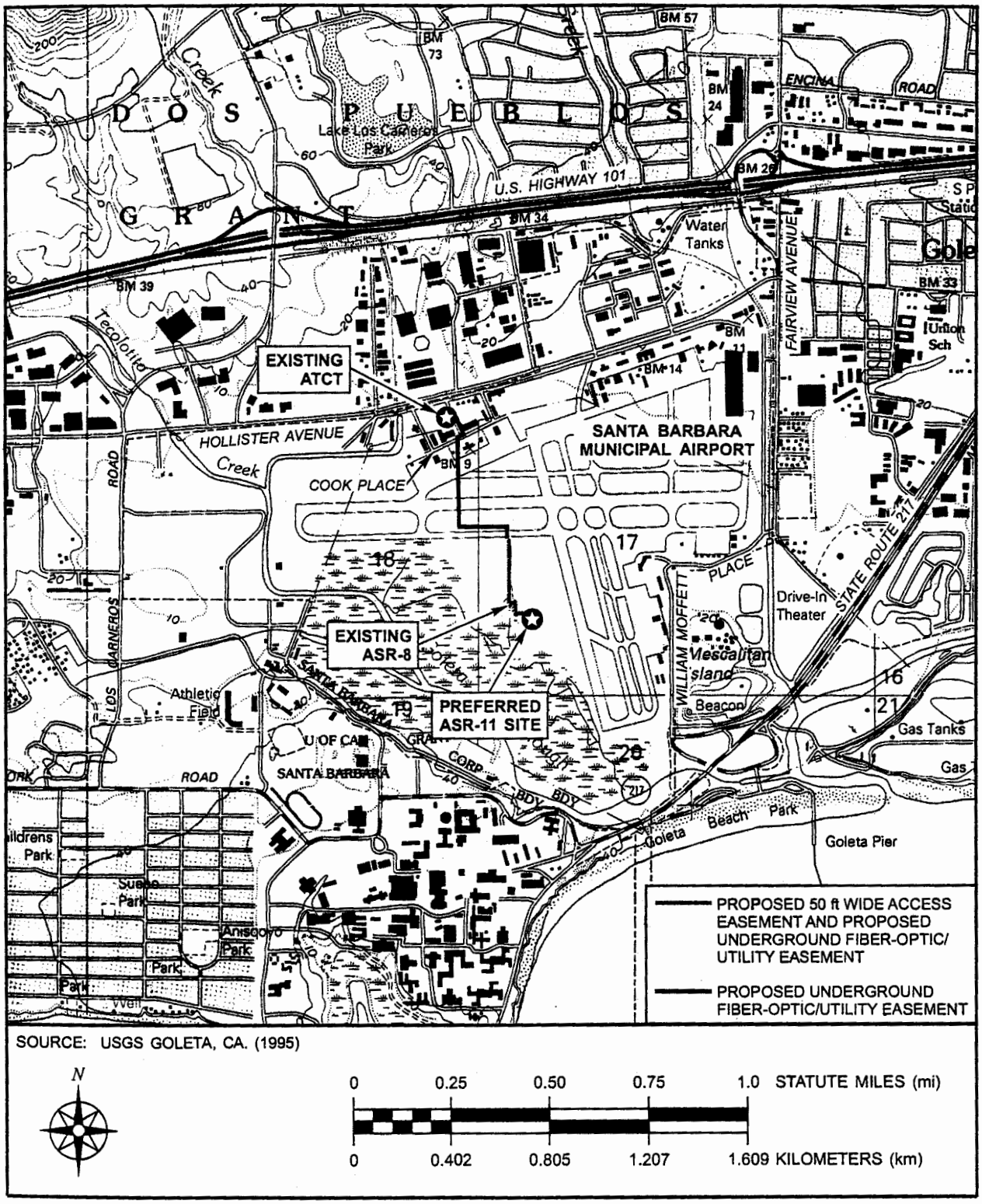
1. Consistency Certification CC-058-01 (City of Santa Barbara; airport improvements)
2. Coastal Development Permit 4-97-134 (City of Santa Barbara; wetland restoration)
3. City of Santa Barbara Coastal Plan – Airport and Goleta Slough, 1982
4. Coastal Development Permit 5-00-321 (Cities of Seal Beach and Long Beach; roadway bridge)
5. Consistency Determination CD-070-92 (U.S. Air Force; roadway bridge)
6. Consistency Determination CD-106-01 (U.S. Air Force; roadway bridge)



(a) EXISTING AND PROPOSED FACILITIES — 1:250,000 SCALE

FIGURE 2 SITE LOCATION MAP — PREFERRED SITE FOR ASR-11 TO SERVE SANTA BARBARA MUNICIPAL AIRPORT (SBA), SANTA BARBARA, CALIFORNIA

EXHIBIT NO. 1
APPLICATION NO.
CD-010-04



(b) EXISTING AND PROPOSED FACILITIES — 1:24,000 SCALE

FIGURE 2 SITE LOCATION MAP — PREFERRED SITE FOR ASR-11 TO SERVE SANT MUNICIPAL AIRPORT (SBA), SANTA BARBARA, CALIFORNIA

EXHIBIT NO. 2
APPLICATION NO.
CD-010-04
California Coastal Commission

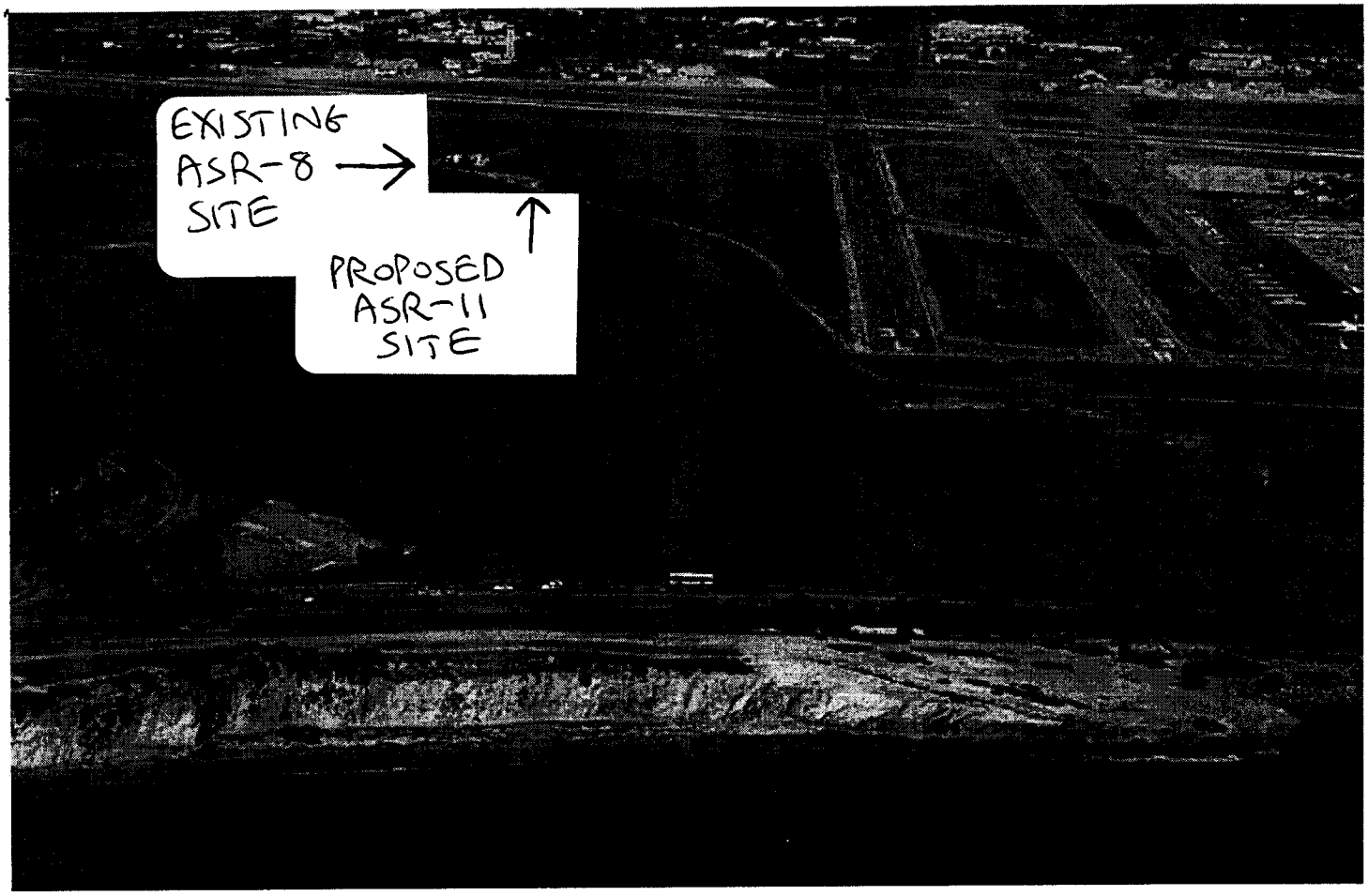
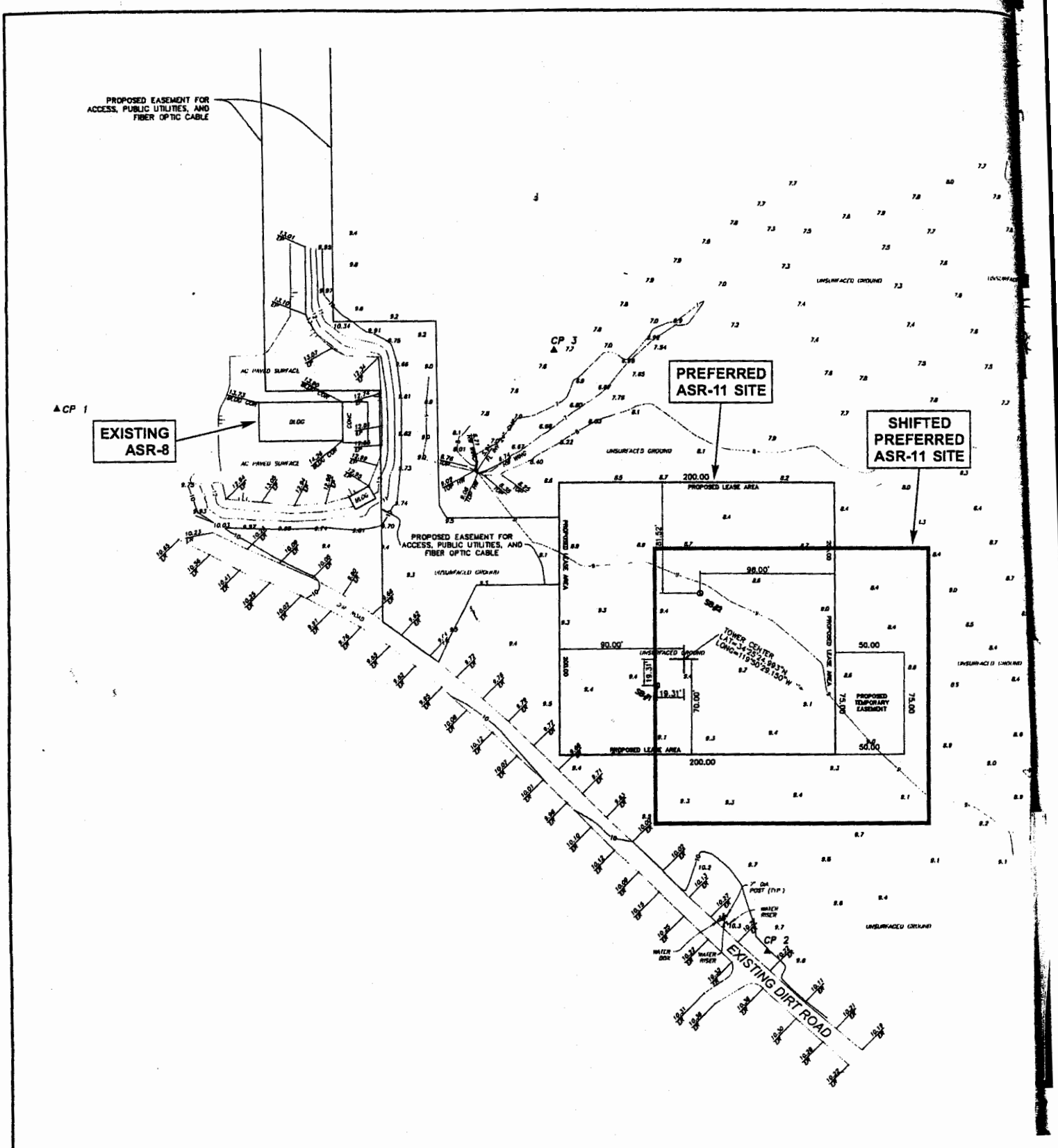


EXHIBIT NO. 3
APPLICATION NO.
CD-010-04
California Coastal Commission



REFERENCES:	BENCHMARK:	CLIENT:	NO.	DATE	
DRAWING FILE: 14816TD1.DWG	SEE SURVEYOR'S NOTES	RAYTHEON TECHNICAL SERVICES CO.	1	9/6/02	REVISED LOCATIO
DATA FILE:		2 WAYSIDE ROAD			
PROJECT FILE:		BURLINGTON, MA 01803			
VIEW NAME:	DATUM:	BRUCE DAVIS			
XREF NAME(S):	SEE SURVEYOR'S NOTES				
DATE: 9 SEPT 2002					

FIGURE 2(c) SITE LOCATION PLAN — PREFERRED SITE FO

EXHIBIT NO. 4

APPLICATION NO.

CD-010-04

California Coastal Commission

FIGURE 5 EXISTING ASR-8 SERVING SANTA BARBARA MUNICIPAL AIRPORT (SBA), SANTA BARBARA, CALIFORNIA, TO BE REMOVED

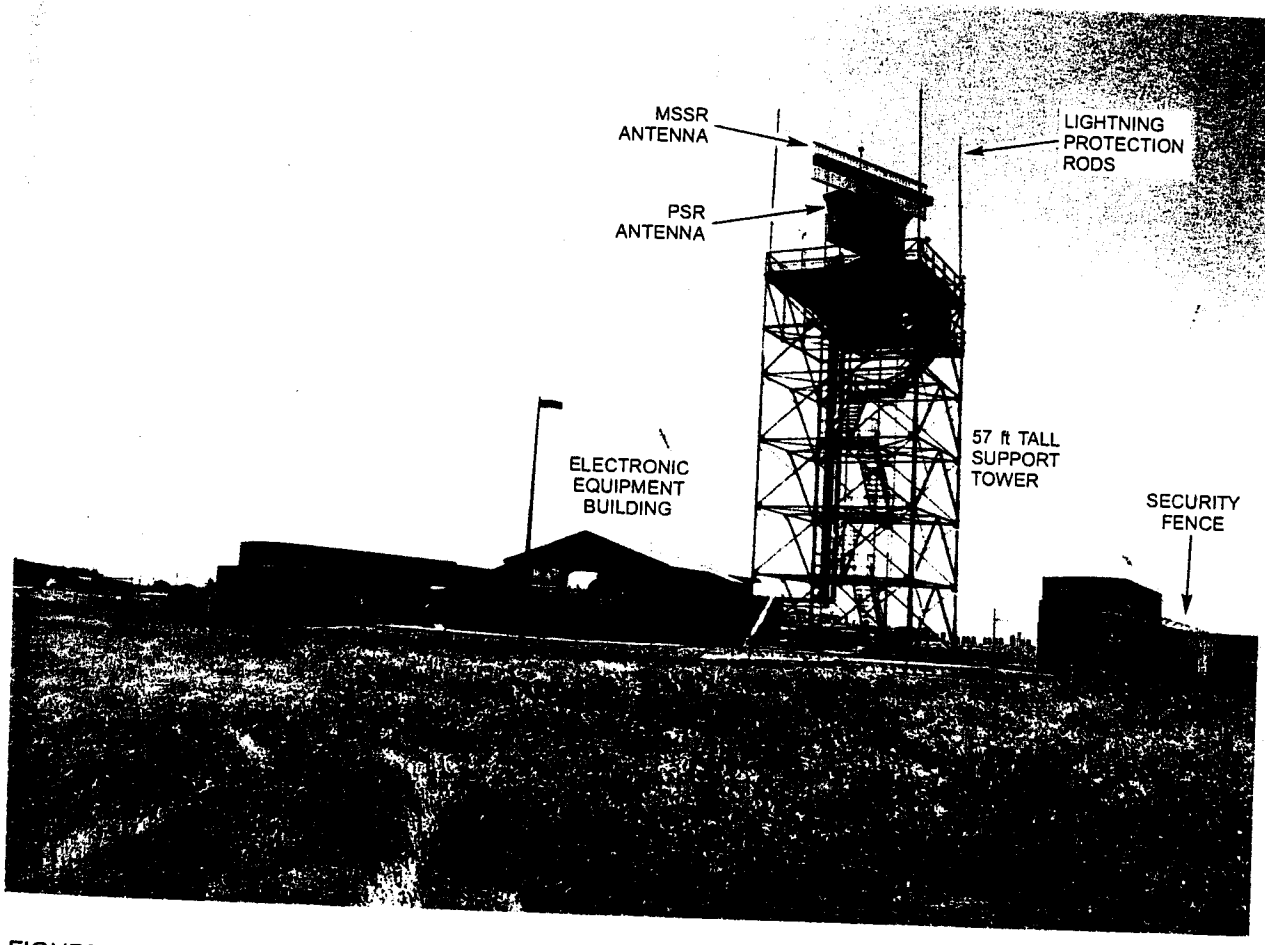


FIGURE 1 ASR-11 FACILITY, STOCKTON METROPOLITAN AIRPORT (SCK), STOCKTON, CALIFORNIA

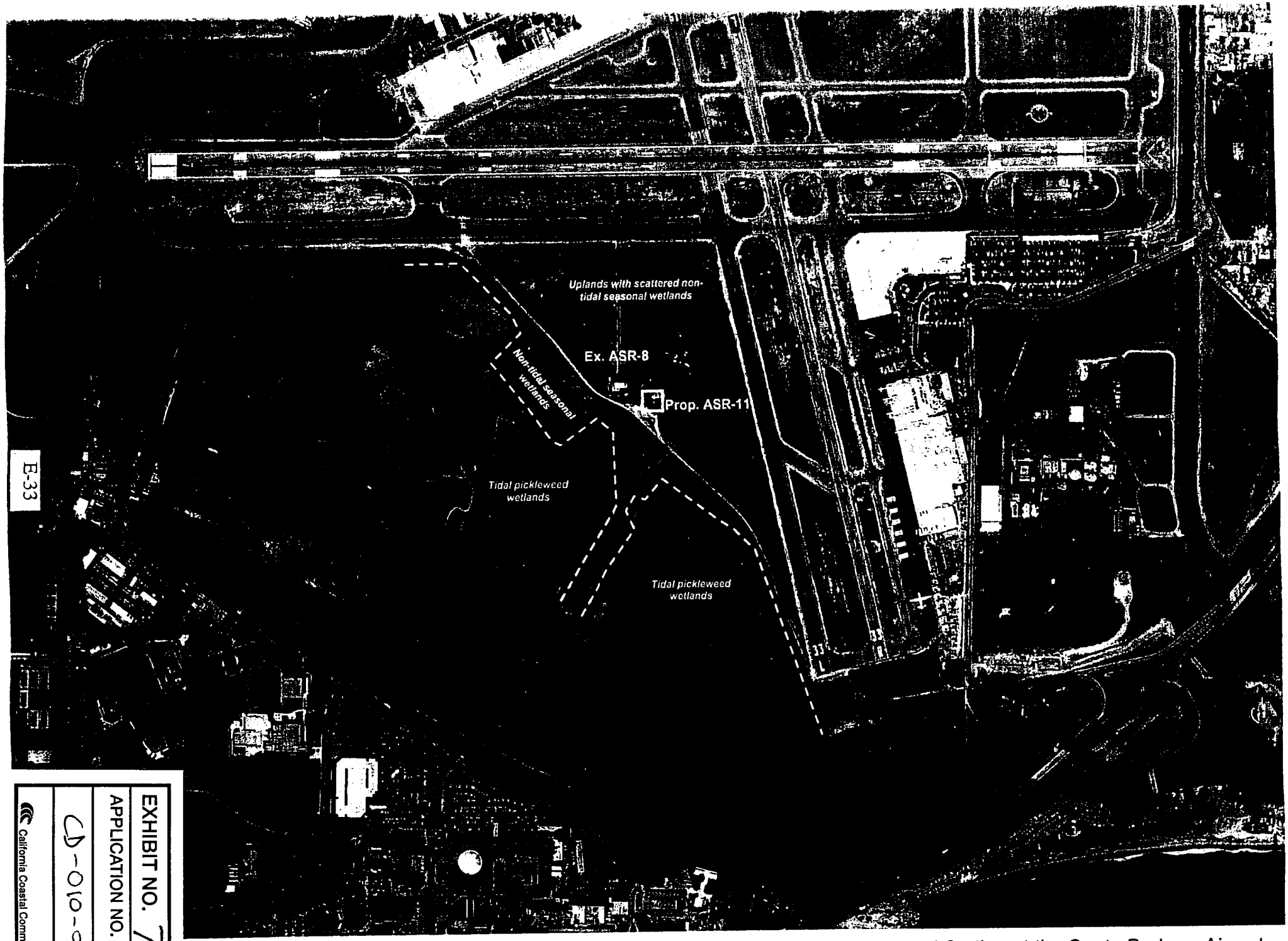


Figure 4. Environmental Setting at the Santa Barbara Airport

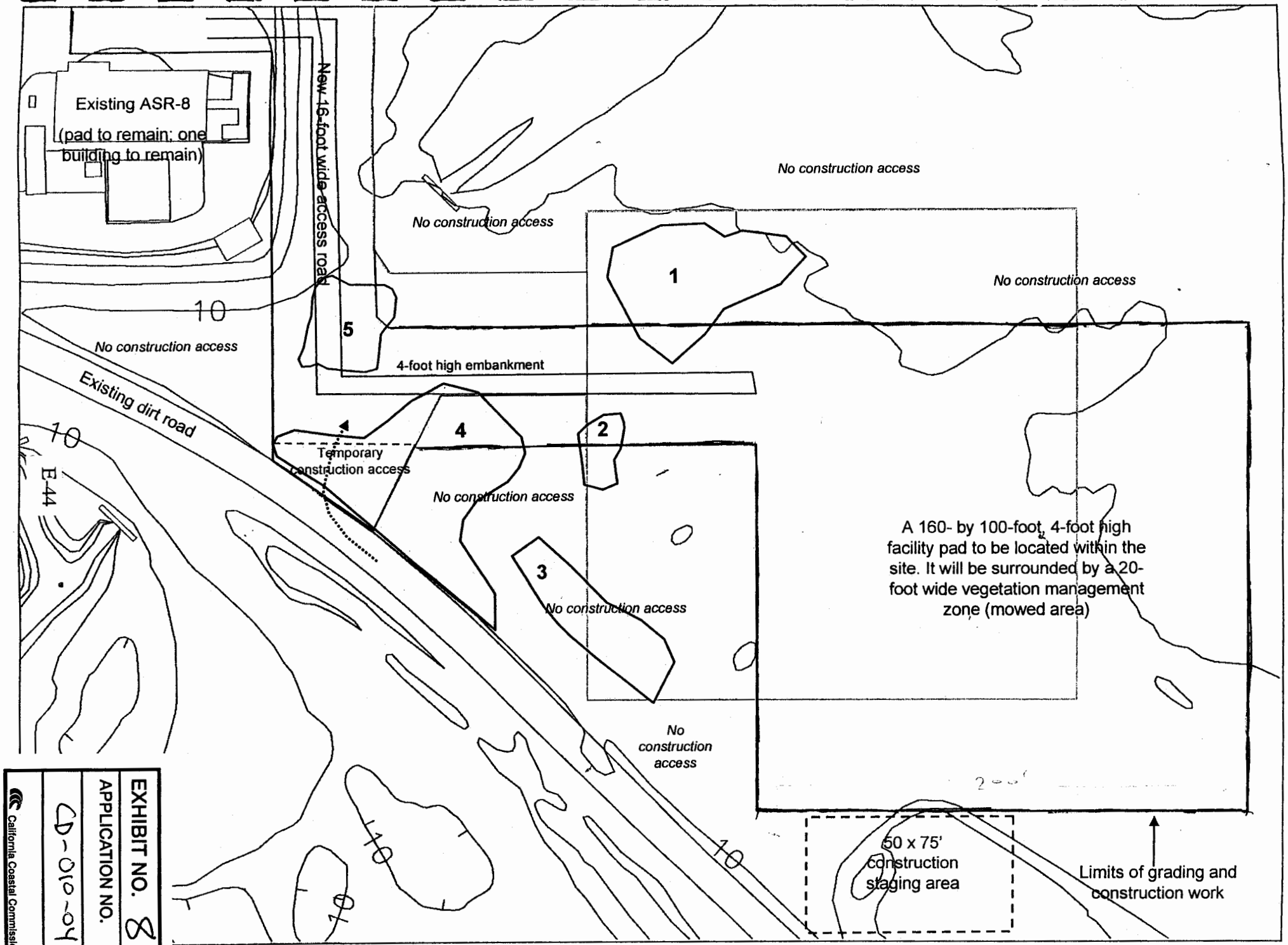
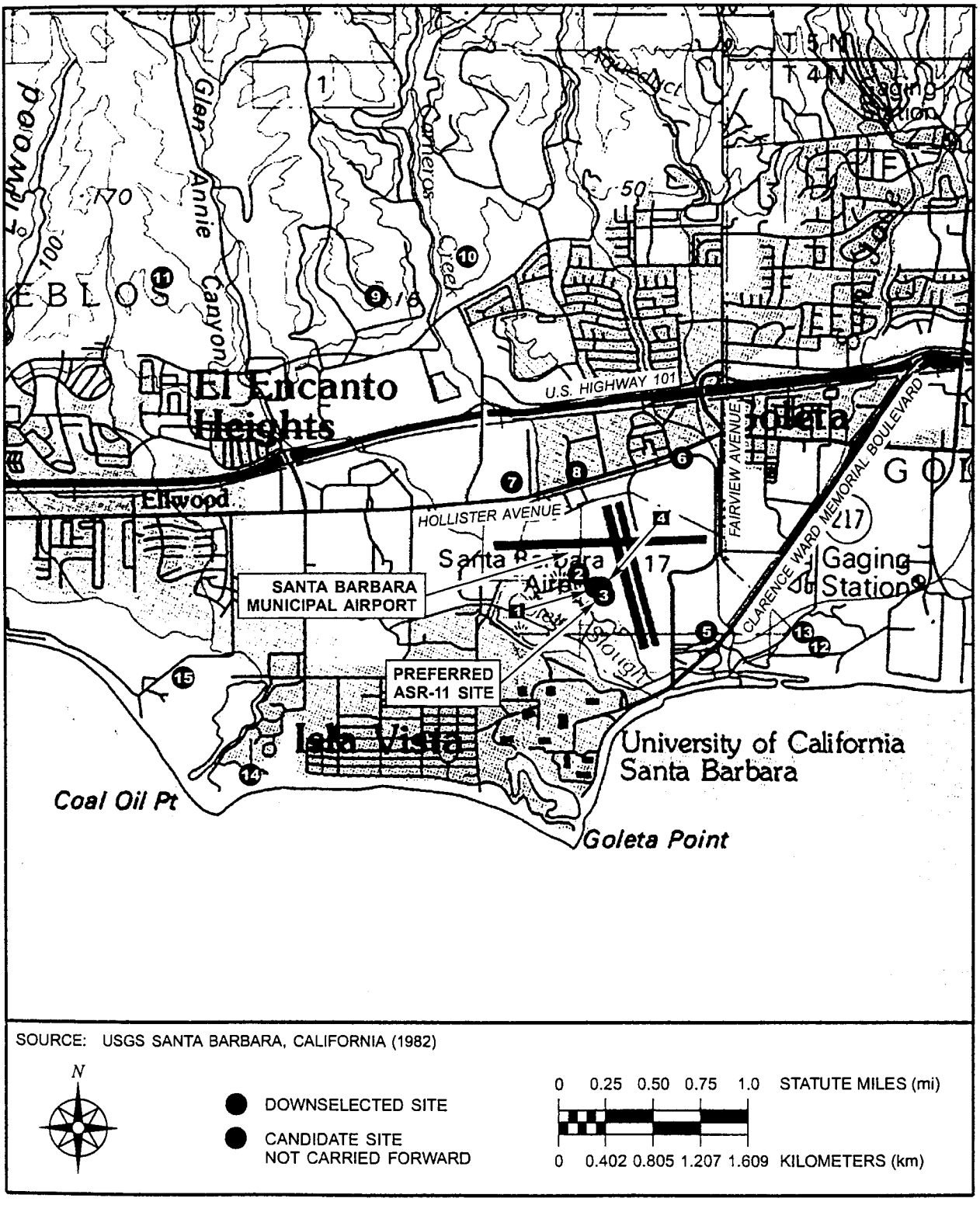


Figure 12. Modified ASR Facility Site to Reduce Wetland Impacts (Preferred Site)



EXISTING AND PROPOSED FACILITIES — 1:50,000 SCALE

FIGURE 6 ALTERNATIVE SITES CONSIDERED FOR ASR-11 TO SERVE SANTA BAF MUNICIPAL AIRPORT (SBA), SANTA BARBARA, CALIFORNIA

EXHIBIT NO. 9
APPLICATION NO.
CD-010-04
California Coastal Commission

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

March 8, 2001

Keith Lusk
ANI-930.C (1st Floor)
Federal Aviation Administration
15000 Aviation Boulevard
Lawndale, California 90261

Subject: Species List for the Airport Surveillance Radar Project, Santa Barbara Municipal Airport, California

Dear Mr. Lusk:

This letter is in response to your request, dated December 26, 2000, for information on threatened and endangered species which may be present at or near the Santa Barbara Municipal Airport, Santa Barbara County. The Federal Aviation Administration (FAA) is proposing to construct and operate an Airport Surveillance Radar (ASR-11) system at the airport, which would replace an existing, outdated ASR-8. The ASR-11 would require an approximate 200 by 200-foot square plot of land. The alternative locations of the ASR-11 have been narrowed to three areas near the Santa Barbara Municipal Airport. Based upon a review of the information you have provided, the potential locations of the radar facility, and our knowledge of federally threatened and endangered species in the area, we have determined no federally listed species occur within these alternative project areas.

This response fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act of 1973, as amended (Act). If the final preferred location for the ASR-11 is not one of the three indicated in your letter, you should contact this office to determine if any federally listed species are within the any new alternative locations. The FAA, as the lead federal agency for the proposed action, has the responsibility to review its proposed activities and determine whether any listed species may be affected. If the proposed action requires the preparation of an environmental impact statement, the FAA has the responsibility to prepare a biological assessment to make a determination of the effects of the action on the listed species. If the FAA determines that a listed species is likely to be adversely affected, it should request, in writing through our office, formal consultation pursuant to section 7 of the Act. Informal consultation may be used to exchange information and resolve conflicts with respect to threatened or endangered species prior to a written request for formal consultation. During this review process, the FAA may engage in planning efforts but may not make any irreversible commitment of resources. Such a commitment could constitute a violation of section 7(d) of the Act.

Only listed and proposed species receive protection under the Act. However, other sensitive species should be considered in the planning process in the event they become listed or proposed for listing prior to project completion. We recommend that you review information in the California Department of Fish and Game's Natural Diversity Data Base and that you contact the California Department of Fish and Game at (916) 324-3812 for information on other sensitive species that may occur in this area.

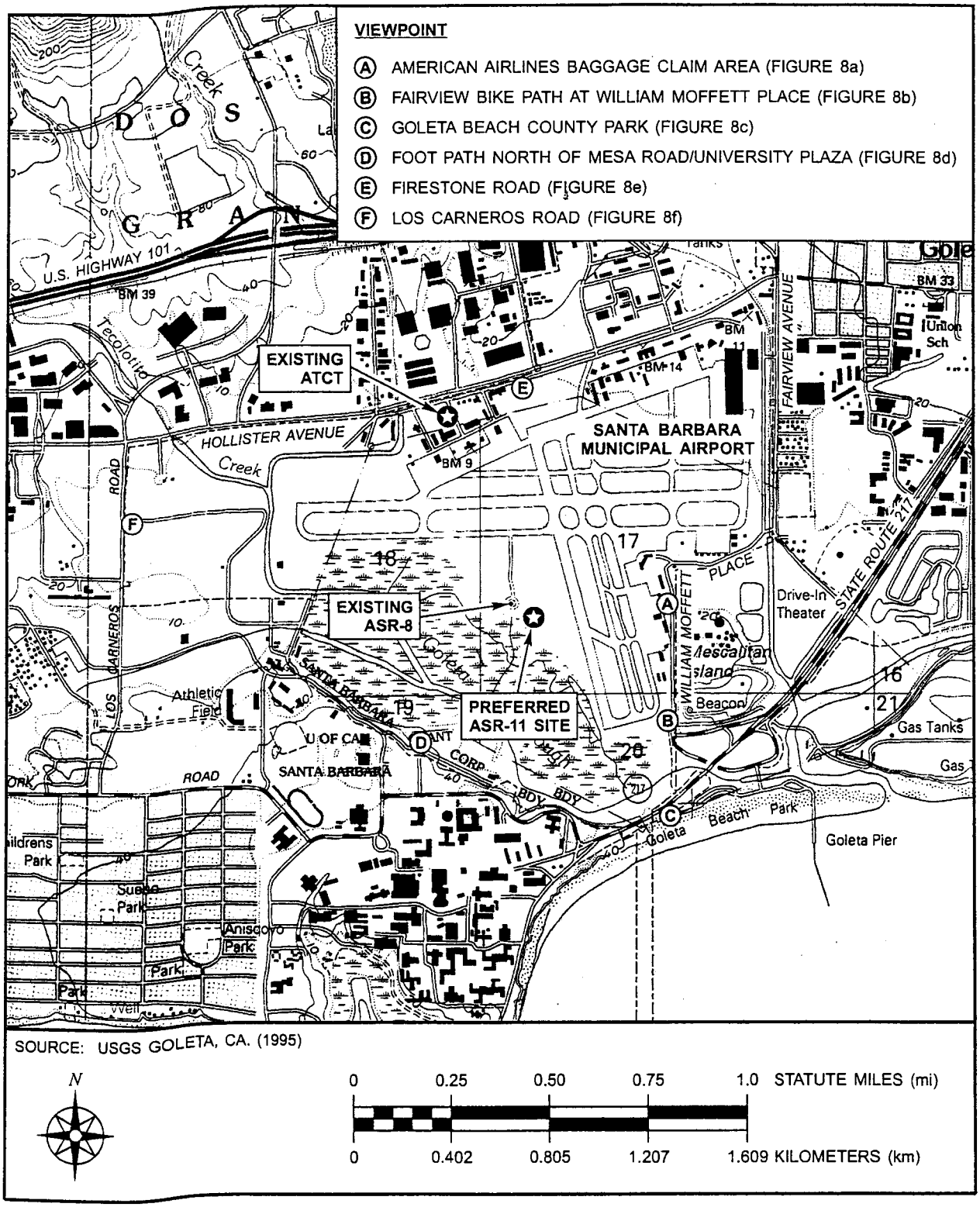
If you have any questions, please call Lisa Roberts of my staff at (805) 644-1766.

Sincerely,

Diane K. Noda

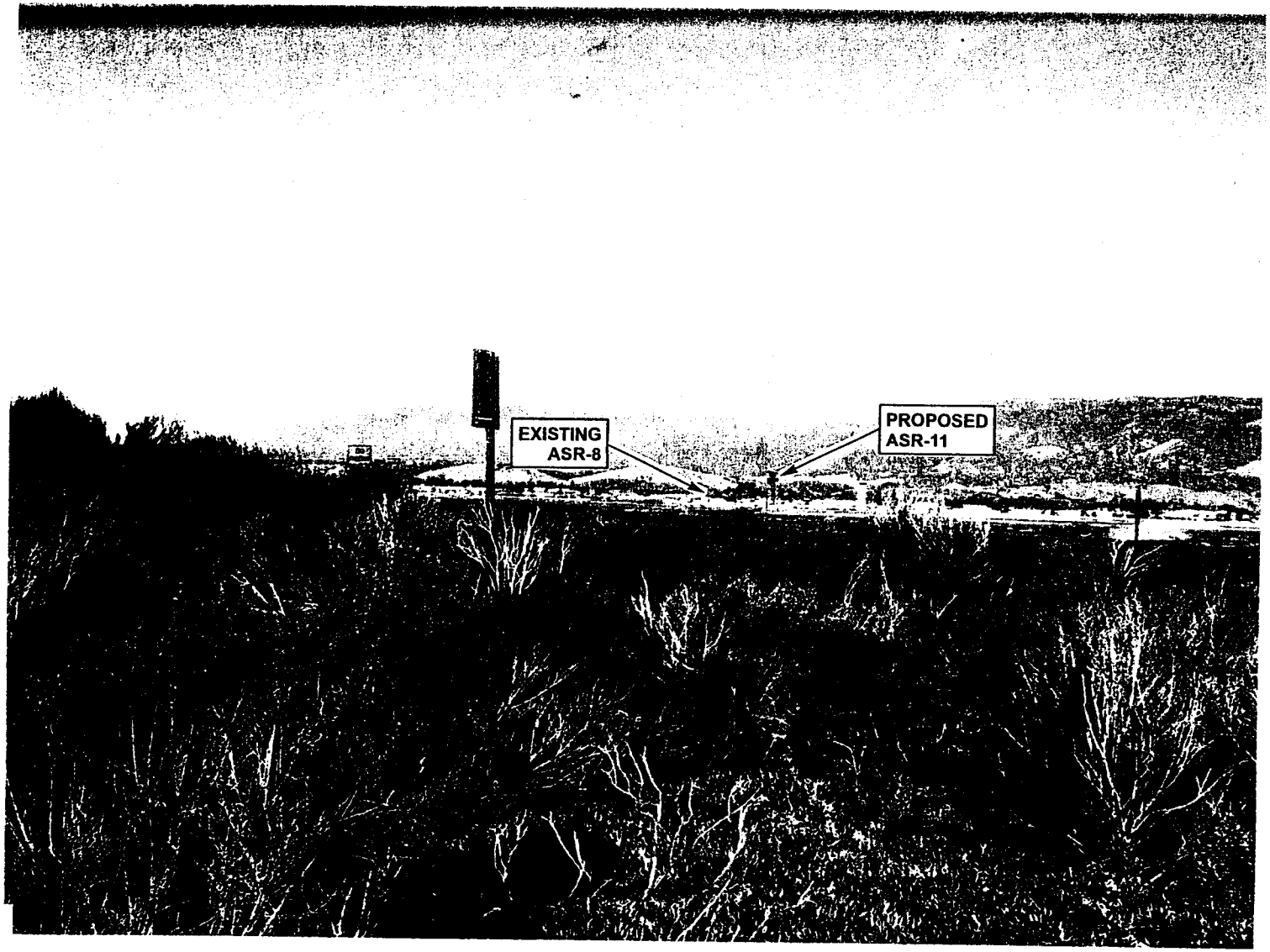
Diane K. Noda
Field Supervisor

EX. 10, CONT.



EXISTING AND PROPOSED FACILITIES — 1:24,000 SCALE

FIGURE 7 LOCATIONS OF VIEWPOINTS FOR PHOTOSIMULATIONS OF PROPOSED / SANTA BARBARA MUNICIPAL AIRPORT (SBA), SANTA BARBARA, CALIFOR



(c) PROPOSED ASR-11 VIEWED FROM FOOT/BIKE PATH AT GOLETA BEACH COUNTY PARK (3,200 ft SOUTH-SOUTHEAST OF PREFERRED SITE)

FIGURE 8 PHOTOSIMULATIONS — ASR-11 AT PREFERRED SITE TO SERVE SANTA BARBARA MUNICIPAL AIRPORT (SBA), SANTA BARBARA, CALIFORNIA (continued)