

**CALIFORNIA COASTAL COMMISSION**

NORTH COAST DISTRICT OFFICE

710 E STREET • SUITE 200

EUREKA, CA 95501-1865

VOICE (707) 445-7833

FACSIMILE (707) 445-7877

MAILING ADDRESS:

P. O. BOX 4908

EUREKA, CA 95502-4908

**RECORD PACKET COPY****Th16c**

Filed:	July 14, 2003
49 <sup>th</sup> Day:	September 1, 2003
180 <sup>th</sup> Day:	January 10, 2004
Staff:	Diane Landry
Staff Report:	June 30, 2005
Hearing Date:	July 14, 2005
Commission Action:	

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NUMBER: 1-03-021****APPLICANT: City of Arcata, Julie Neander, Resource Specialist****PROJECT LOCATION:** Arcata Marsh and Wildlife Sanctuary, Klopp Lake Dike and Islands, South I Street and City of Arcata Oxidation Pond Dikes, 600 G Street, City of Arcata, Humboldt County.**PROJECT DESCRIPTION:** Repair of eroded dikes and islands as follows: placement of 700 cubic yards of 1/4<sup>th</sup> ton, 1/2 ton and 12 to 14 inch diameter rip rap along 740 lineal feet of island shoreline within Klopp Lake, placement of 900 cubic yards of fill (rock slope protection and rip rap) along 2000 linear feet of the inboard area of the Klopp Lake dike, 3000 Cubic yards of fill along 2210 linear feet of the outboard side of the Klopp Lake dike and 1250 cubic yards of concrete and rip rap material along 1050 linear feet of the outboard side of the Oxidation Pond dike. Ten year permit for routine repair and maintenance of the Oxidation Pond and Klopp Lake and islands.**LOCAL APPROVALS:** City of Arcata Planning approval, April 4, 2003

**SUMMARY OF STAFF RECOMMENDATION:**

The City of Arcata is proposing the project to repair and maintain the existing dikes around Klopp Lake and the Oxidation Ponds that are part of the City's wastewater Treatment System. The purpose of the project is to repair and maintain the dikes so that they will not fail and cause loss of public access to the trail network along the levees, inland flooding, loss of bird habitat and release of primary treated sewage effluent into Arcata Bay.

The proposed project includes the following three elements:

**Emergency Permit Follow-up Coastal Development Permit for Culvert**

**Replacement:** The first part of the project is a follow up permit to an Emergency Permit (E 1-03-065-G) granted by the North Coast District Office in October of 2003 for the repair of 1050 linear feet of eroded dike at the Oxidation Pond. The Emergency Permit allowed the placement of 600 cubic yards of rip rap ( 6" to 10" in size) overlain by 18" to 24" diameter rock along the outboard side of the levee. All work was done within the original footprint of the levee. The erosion damage was repaired consistent with the conditions placed on the Emergency Permit regarding the type of materials to be used in the repair of this section of the levee.

**Repair and Maintenance of Klopp Lake levee and Islands.** The second element of this project is the repair of eroded areas of the inboard and outboard sides of the Klopp Lake levee and around the eroded margins of the three small islands ( East Island, West Island and Center Island) in the lake that provide resting areas for various shorebirds. The Klopp Lake levee work will be undertaken within the existing footprint of the levee and entails the placement of 900 cubic yards of rock slope protection and cement rip rap along 2000 linear feet of the inboard side of the levee and 3000 cubic yards along 2210 linear feet of the outboard side of the levee. The islands margins will be protected by 700 cubic yards of ¼ and ½ ton and 12" to 14" rip rap.

**Ten Year Permit for Ongoing Repair and Maintenance Activities:** The final element of the project is a proposal for a ten-year period of authorization to undertake routine repair and maintenance of the levee system at Klopp Lake and the Oxidation Ponds. All of the work is proposed within the existing footprint of the levee and will not result in any encroachment into Arcata Bay.

Although the City is seeking a long term permit for repair and maintenance activities, they have provided little detail as to the type of work to be covered under this permit or any protocols for undertaking the work in order to minimize impacts on wetland resources. Staff is therefore recommending conditions that limit the initial period of repair and maintenance authorization to five years, establish parameters for fill and armoring materials, provide for pre-construction training for the contractor, and limit

repair and maintenance activities to dry weather, avoid sensitive species, require the replanting of sensitive disturbed areas and require periodic monitoring.

As conditioned, Staff recommends approval. The motion to adopt the staff recommendation is on page 4.

---

### Staff Report Contents

Summary of Staff Recommendation.....	1
1. Staff Recommendation on Permit.....	3
2. Conditions of Approval.....	4
A. Standard Conditions.....	4
B. Special Conditions.....	4
3. Findings and Declarations.....	7
A. Project Location and Description.....	7
B. Permit Authority: Extraordinary Methods of Repair and Maintenance.....	8
C. Public Access.....	11
D. Water Quality.....	14
E. Marine Resources.....	17
F. California Environmental Quality Act (CEQA).....	18
4. Exhibits	
A. Vicinity Map	
B. Emergency Permit 1-03-065-G	
C. Project Plans	
D. Staging Area Location	

### **STAFF NOTES:**

#### **1. Standard of Review**

The proposed development will be performed on levees located within state tidelands and public trust lands in the City of Arcata. Pursuant to Section 30519 of the Coastal Act, the Coastal Commission retains jurisdiction over the review and issuance of Coastal Development Permits in these areas even though the City of Arcata has a certified Local Coastal Plan. The standard of review for projects located in the Commission's original jurisdiction is Chapter 3 of the Coastal Act.

#### **2. Commission Action Necessary**

The Commission must act on the application at the July 14, 2005 meeting to meet the requirements of the Permit Streamlining Act.

**I. MOTION, STAFF RECOMMENDATION, AND RESOLUTION OF APPROVAL:**

The staff recommends that the Commission adopt the following resolution:

**Motion:**

I move that the Commission approve Coastal Development Permit Number 1-03-021 pursuant to the staff recommendation.

**Staff Recommendation of Approval:**

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

**Resolution to Approve a Coastal Development Permit:**

The Commission hereby approves the coastal development permit on the ground that the development as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the amended development on the environment.

**II. STANDARD CONDITIONS See attached.**

**III. SPECIAL CONDITIONS**

**1. Length of Development Authorization**

Repair and maintenance activities are only authorized by this permit for five (5) years from the date of Commission approval (until July 14, 2010). One request for an additional five-year period of repair and maintenance authorization may be accepted, reviewed and approved by the Executive Director for a maximum total of 10 years of

repair and maintenance authorization, provided the request would not substantively alter the project description, and/or require modifications of conditions due to new information or technology or other changed circumstances. The request for an additional five-year period of repair and maintenance authorization shall be made prior to July 14, 2010. If the request for an additional five-year period would substantively alter the project description, and/or require modifications of conditions due to new information or technology or other changed circumstances, an amendment to this permit will be necessary.

**2. Standards for Repair and Maintenance Work**

- a. Armoring Rock: All new revetment material to be used shall consist of either clean quarry rock or concrete rubble materials that are free of asphalt and waste materials. The revetment materials shall not be greater than three feet in any one direction or smaller than one cubic foot in size. All exposed reinforcement bar shall be removed prior to installation of any concrete rubble riprap. Armoring rock shall be stockpiled outside of Arcata Bay, Klopp Lake, and the oxidation ponds. No rock shall be placed outside of the existing footprint of the levee system as generally depicted on Exhibits C and D of the staff recommendation.
- b. Fill Material: Only dry, clean fill may be used for levee repairs and must be free of debris (vegetation, asphalt etc.). Fill material shall be stockpiled outside of Arcata Bay, Klopp Lake, and the oxidation ponds. No fill shall be placed outside of the existing footprint of the levee system as generally depicted on Exhibits C and D of the staff recommendation.
- c. Placement of Materials: Materials placed on the levees to be repaired, including all riprap, shall not extend into Arcata Bay, Klopp Lake or the oxidation ponds beyond the footprint of the levee as it existed before the repair. The determination of the location of the front of the levee shall be made through a 'string line' method, whereby the portions of the levee that are not in need of repair or restoration on each side of the areas that is in need of repair shall be used to determine the maximum extent of the repair. Revetment material shall not be end-dumped, but placed in an interlocking fashion along the levee face to avoid spreading beyond the former footprint of the levee and to provide a structurally integrated revetment.
- d. Revegetation Of Disturbed Areas: When repair and maintenance activities disturb more than 100 square feet of area within the existing footprint of the levee, the disturbed area shall, immediately upon completion of the repair and maintenance activity, be revegetated with appropriate native plants.

- e. Disposal of Excess Material and Vegetation: All construction debris and cut vegetation shall be removed from the site and disposed of only at an authorized disposal site. Side casting of such material or placement of any such material within Arcata Bay, Klopp Lake or the oxidation ponds is prohibited.
- f. Installation of Silt Fences: Silt fences or equivalent devices shall be installed along the perimeter of each repair site prior to the placement of any fill materials to reduce the discharge of fill materials and sediment laden runoff into Arcata Bay, Klopp Lake or the oxidation ponds. The installed silt fences or equivalent devices shall be maintained during project construction and removed upon completion of the project.
- g. Spill Prevention: To prevent and address spills of equipment fuels, lubricants, and similar materials, the repair work shall incorporate the following measures: (a) no equipment fueling shall occur on the site or elsewhere along the levees; (b) all equipment used during construction shall be free of oil and fuel leaks at all times; (c) oil absorbent booms and/or pads shall be on site at all times during project construction and deployed if necessary in the event of a spill; and (d) all spills shall be reported immediately to the appropriate public and emergency services response agencies.
- h. Wet Season Work Prohibited: Repair and maintenance activities authorized by this permit shall only be performed during the dry season (April 15 to October 15).
- i. Pre-construction Contractor Training: Prior to the commencement of any repair and maintenance activities authorized by this permit, the Applicant shall ensure that the Contractor understands and agrees to observe the standards for work outlined in this permit and in the detailed project description included as part of the Applicants submittal and as revised by these conditions.
- k. Monitoring: Repair and maintenance activities shall be monitored on a quarterly basis by a qualified Civil Engineer, or equivalent expert, to ensure that work performed under this permit is consistent with the terms of the permit. The Monitor shall have the authority to stop work and to recommend remediation of ongoing work in order to comply with the terms and conditions of this permit.
- l. Annual Reports: The Applicant shall submit an annual report to the Executive Director on the anniversary date of the approval of this permit

beginning in 2006. The report shall describe the repair and maintenance activities completed during the reporting period and identify potential activities for the coming year.

- m. Annual Inspection: The levee system shall be inspected by a qualified Civil Engineer or equivalent, to identify areas where repair and maintenance work will be needed within the coming year. The location and type of work needed shall be described in a written report. The Engineers report shall be submitted to the City Manager, the City Ecologist and to the Executive Director. The report is due on the anniversary date of approval of this permit, beginning in 2006.
- n. Biological Survey: Areas identified for repair and maintenance in the coming year pursuant to Condition 2m, shall be surveyed by a qualified biologist for rare or endangered plants or animals. If any are found, all construction shall cease and shall not recommence except as provided below, and the permittee shall submit a supplementary rare or endangered plants or animals avoidance and mitigation plan for the review and approval of the Executive Director. If the Executive Director approves the plan and determines that the plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director. If the Executive Director approves the supplementary rare or endangered plants or animals avoidance and mitigation plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

### **3. Closure of Trails During Construction**

Temporary closures of public access trails during construction shall be limited to no more than 30 days at a time during each period of repair and maintenance

## **IV. FINDINGS AND DECLARATIONS**

The Commission finds and declares as follows:

### **A. Project Description.**

The proposed project includes three separate, but related, elements as discussed below. All of the proposed work will be, or has already been, done by the City of Arcata. The city is responsible for maintaining the levees and appurtenant development around Klopp Lake and the oxidation ponds. (See Exhibit A, Location Map).

### **Project Components**

#### **Emergency Permit Follow-up Coastal Development Permit for Culvert**

**Replacement:** The first part of the project is a follow up permit to an Emergency Permit (E 1-03-065-G) granted by the North Coast District Office in October of 2003 for the repair of 1050 linear feet of eroded dike at the Oxidation Pond. (Please see Exhibit B) The Emergency Permit allowed the placement of 600 cubic yards of rip rap ( 6" to 10" in size) overlain by 18" to 24" diameter rock along the outboard side of the levee. All work was done within the original footprint of the levee. The erosion damage was repaired consistent with the conditions placed on the Emergency Permit regarding the type of materials to be used in the repair of this section of the levee.

**Repair and Maintenance of Klopp Lake levee and Islands.** The second element of this project is the repair of eroded areas of the inboard and outboard sides of the Klopp Lake levee and around the eroded margins of the three small islands (East Island, West Island and Center Island) in the lake that provide resting areas for various shorebirds. The Klopp Lake levee work will be undertaken within the existing footprint of the levee and entails the placement of 900 cubic yards of rock slope protection and cement rip rap along 2000 linear feet of the inboard side of the levee and 3000 cubic yards along 2210 linear feet of the outboard side of the levee. The islands margins will be protected by 700 cubic yards of ¼ and ½ ton and 12" to 14" rip rap. (Please see Exhibit C; Project Plans)

**Ten Year Permit for Ongoing Repair and Maintenance Activities:** The final element of the project is a proposal for a ten-year period of authorization to undertake routine repair and maintenance of the levee system at Klopp Lake and the Oxidation Ponds. All of the work is proposed within the existing footprint of the levee and will not result in any encroachment into Arcata Bay.

Although the City is seeking a long term permit for repair and maintenance activities, they have provided little detail as to the type of work to be covered under this permit or any protocols for undertaking the work in order to minimize impacts on wetland resources. Staff is therefore recommending conditions that limit the initial period of repair and maintenance authorization to five years, establish parameters for fill and armoring materials, provide for pre-construction training for the contractor, and limit repair and maintenance activities to dry weather, avoid sensitive species, require the replanting of sensitive disturbed areas and require periodic monitoring.

#### **B. Permit Authority, Extraordinary Methods of Repair and Maintenance.**

Coastal Act Section 30610(d) generally exempts from Coastal Act permitting requirements the repair or maintenance of structures that do not result in an addition to, or enlargement or expansion of the structure being repaired or maintained. However, the



Commission retains authority to review certain extraordinary methods of repair and maintenance of existing structures that involve a risk of substantial adverse environmental impact as enumerated in Section 13252 of the Commission regulations. Section 30610 of the Coastal Act provides, in relevant part:

*Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas: . . .*

*(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter. [Emphasis added]*

Section 13252 of the Commission administrative regulations (14 CCR 13000 *et seq.*) provides, in relevant part:

*(a) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact: ...*

*(3) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:*

*(A) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials;*

*(B) The presence, whether temporary or permanent, of mechanized equipment or construction materials.*

*All repair and maintenance activities governed by the above provisions shall be subject to the permit regulations promulgated pursuant to the Coastal Act, including but not limited to the regulations governing administrative and emergency permits. The provisions of this section shall not be applicable to methods of repair and maintenance undertaken by the ports listed in Public Resources Code section 30700 unless so provided elsewhere in these regulations. The provisions of this section shall not be applicable to those activities specifically described in the document*

*entitled Repair, Maintenance and Utility Hookups, adopted by the Commission on September 5, 1978 unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views to the ocean...*  
[Emphasis added.]

The proposed project is a repair and maintenance project because it does not involve an addition to or enlargement of the levee. Although certain types of repair projects are exempt from CDP requirements, Section 13252 of the regulations requires a coastal development permit for extraordinary methods of repair and maintenance enumerated in the regulation. The proposed levee repair involves the placement of construction materials and removal and placement of solid materials within 20 feet of coastal waters. The proposed repair project therefore requires a coastal development permit under Sections 13252(a)(1) of the Commission regulations.

In considering a permit application for a repair or maintenance project pursuant to the above-cited authority, the Commission reviews whether the proposed *method* of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act. The Commission's evaluation of such repair and maintenance projects does not extend to an evaluation of the conformity with the Coastal Act of the underlying existing development.

The repair and maintenance of levees can have adverse impacts on coastal resources, in this case primarily bay waters and Klopp Lake wetlands, if not properly undertaken with appropriate mitigation. The Applicant proposes to maintain the levees in their existing footprint by repairing eroded areas with clean rock material similar to existing protection, replacing inboard and outboard armoring as needed to avoid erosion and to keep access open along the top of the levees so that equipment and supplies can be brought in as needed. They have also identified a staging area at the existing parking lot located adjacent to Klopp Lake and Hauser Marsh. (Please see Exhibit D; Staging Area Location) The city has given little detail on the specific activities that would be included in the program nor have they provided any protocols for undertaking the work in order to avoid adverse impacts on marine and wetland resources.

More specific measures are therefore needed to avoid, or minimize impacts on water quality, marine resources, wetlands and Environmentally Sensitive Habitat (ESHA). The conditions required to ensure that these measures are part of the project are discussed in the following findings relevant to water quality and ESHA. The Commission has, on occasion granted special districts and cities multi-year periods of authorization for such activities (i.e. 3-04-72, Moss Landing Harbor District routine pier replacement; and 3-00-034, Santa Cruz Port District, routine maintenance dredging; 3-02-047, Monterey Harbor, routine operations and maintenance and 1-03-004, Reclamation District 768, routine repair and maintenance of levee system) in order to reduce both Commission and local staff workload associated with processing repetitive, routine coastal permits. However,

given the fact that circumstances can change over time and techniques for addressing maintenance needs can also evolve, the Commission chooses to grant an initial five year period of repair and maintenance authorization with a one-time ability to extend the period of repair and maintenance authorization for another five years for a maximum total of 10 years of repair and maintenance authorization if there are no changed circumstances that require review. This permit is conditioned accordingly. Therefore, as conditioned in these Findings, the Commission finds that the proposed project is consistent with PRC Section 30236.

**C. Public Access.**

This project is located between the first public road and the sea (Please see Exhibit A, Location Map). Section 30604 (c) of the Coastal Act requires that every Coastal Development Permit issued for development between the first public road and the sea “shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).”

**Coastal Act Policies**

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

Section 30212 of the Coastal Act states:

*(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated access way shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the access way.*

- (b) *For purposes of this section, "new development" does not include:*
- (1) *Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.*
  - (2) *The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.*
  - (3) *Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.*
  - (4) *The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.*
  - (5) *Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.*

*As used in this subdivision, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.*

- (c) *Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution. [Emphasis added.]*

The access policies cited above are those relevant to this project and direct the Commission to generally require maximum public access in new development unless the access would be inconsistent with public safety, resource protection, private property rights, or military security needs (§§30210 and 30212) or would be otherwise exempt from providing access by statute (§30212(b)(5)). Coastal Act Section 30211 requires that new development shall not interfere with existing public access that has been acquired either by use or through legislative authorization.

### Analysis

As stated above, the proposed project is for the ongoing repair and maintenance of pre Coastal Act levee systems at Klopp Lake and the city's oxidation ponds. These levee systems have a dual purpose, one purpose is to protect Klopp Lake and the Oxidation Ponds from erosion and the other is to provide a public trail along the tops of the levees as part of the Arcata Marsh and Wildlife Sanctuary. Ordinarily, routine repair and maintenance is an exempt activity under Coastal Act Section 30610(d) and thus no coastal development permit would be required. Certain repair and maintenance activities are, however, excepted from this general exemption by regulation, as authorized by Section 30610(d), because they may "*involve the risk of substantial adverse environmental impact*". The Commission's regulations identify repair and maintenance activities performed near the shoreline, as proposed by this application, must obtain coastal development permits and are not exempt under Section 30610 (d) (California Code of Regulations, Title 14, Section 13252 (a) (3)). However, because repair and maintenance is not considered new development for purposes of Section 30212, Coastal Act Section 30212(b)(5) excludes these repair and maintenance activities from Coastal Act access requirements unless the Commission "*determines that the activity will have an adverse impact on lateral beach access.*"

The proposed repair and maintenance activities will have no impact on lateral beach access because the proposed work will be accomplished within the existing footprint of the levees, staging areas are located outside of any access or access points and because there is no beach adjacent to the levees. The project is, therefore consistent with the requirements of Sections 30210 and 30212.

Coastal Act Section 30211 also requires new development to not interfere with existing access. The Commission notes that a public trail network associated with the Arcata Marsh and Wildlife Sanctuary is located along the top of the levees and portions of this trail will be closed briefly to accommodate the installation of the levee protection materials. To ensure that the planned closures are actually brief, the Commission attaches Special Condition No. 3, which requires that portions of the trail be closed for no more than 30 days at a time during each episode of repair and maintenance activity. As conditioned, the temporary closures of trails will not result in a significant adverse impact on public access use.

In conclusion, the proposed project is not considered new development for the purposes of application of Section 30212 of the Coastal Act because it is a repair and maintenance activity that will not adversely affect lateral beach access and is therefore consistent with the policy direction found in Section 30212.

**D. Water Quality.**

The proposed repair and maintenance work will take place on levees located immediately adjacent to Arcata Bay on the outboard side and Klopp Lake and the Oxidation Ponds on the inboard side, thus there is a potential for adverse impacts to water quality of the bay and lake waters..

**Coastal Act Policy**

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, and minimizing alteration of natural streams.*

Coastal Act Section 30233 states:

- (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*
  - (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
  - (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
  - (3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The*

*size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.*

- (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
- (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (7) Restoration purposes.*
- (8) Nature study, aquaculture, or similar resource dependent activities.*
- (b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable longshore current systems.*
- (c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.*

*For the purposes of this section, 'commercial fishing facilities in Bodega Bay' means that not less than 80 percent of all boating facilities proposed to be developed or improved, where such improvement would create additional berths in Bodega Bay, shall be designed and used for commercial fishing activities.*

*(d) Erosion control and flood control facilities constructed on watercourses can impede the movement of sediment and nutrients which would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area.*

These policies require the protection of coastal waters to ensure biological productivity, protect public health and water quality. New development must not adversely affect these values and should help to restore them when possible.

#### **Analysis**

Implementation of the proposed repair and maintenance program will result in the transportation and placement of fill and armoring materials to the sites to be maintained, the use of staging areas for stockpiling of materials to be used for the project and other material to be disposed of and the removal of vegetation by mechanical mowing equipment. Unless appropriate protocols are followed, all of these activities could result in fuel or oil spills, improper storage of materials in or adjacent to sensitive areas, and increased turbidity that would have adverse impacts on water quality. The repair and maintenance program proposed by the City does not include protocols to protect water quality. Typical protocols would include the use of geo-textile fabric between fill and armoring to reduce migration of fill into bay or lake waters, the consistent use of siltation fences at work sites to reduce discharges, proper disposal of abandoned or excess materials and vegetation to appropriate off site disposal facilities, a prohibition on the storage of any excess materials within any wetland, spill prevention measures and the location of a staging area outside any sensitive lands. Appropriate protocols would also include limiting repair and maintenance activities to dry periods, providing specificity regarding the type of material and armoring that can be used and providing for monitoring, or pre-construction training for the contractor to ensure the proper protocols are understood and carried out.

As conditioned to provide specific protocols for the proposed repair and maintenance work, this project is consistent with the direction of Policy 30231 and 30233 to protect water quality.



**E. Marine Resources.**

The outboard side of the levee system is adjacent to Arcata Bay and the proposed repair and maintenance program has the potential to adversely affect marine resources. The following section of the Coastal Act requires that new development maintain, enhance and where feasible restore damaged marine resources.

Coastal Act Policy

Section 30230 of the Coastal Act states:

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

**Analysis**

The waters of Arcata Bay provide habitat for a number of marine species. No endangered species have been identified in the vicinity of the project. As conditioned to train contractors prior to work, limit the placement of levee protection materials to the existing footprint and to require the use of siltation fences, the impact on the marine resources from the proposed repair and maintenance activities will be insignificant. Although no rare salt marsh plants have been identified in the vicinity of the project there is a potential for their presence. In order to avoid any impacts on these plants, should they colonize along the levee, Condition No. 2n requires an annual survey of sites chosen for repair and maintenance activities prior to the commencement of that year's work to determine if any rare plants or animals exist within the work areas. If such rare plants or animals are found, the permittee must halt construction and submit a supplementary rare or endangered plants or animals avoidance and mitigation plan for the review and approval of the Executive Director. If the Executive Director approves the plan and determines that the plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director. If the Executive Director approves the supplementary rare or endangered plants or animals avoidance and mitigation plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission. As conditioned, the project can be found consistent with the Coastal Act Policy 30230.

**G. California Environmental Quality Act (CEQA).**

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate mitigations to address adverse impacts to said resources. Accordingly, the project is being approved subject to conditions which implement the mitigating actions required of the Applicant by the Commission (see Section III, "Special Conditions").

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed project has been conditioned to achieve consistency between the proposed project and the requirements of the applicable policies of the Coastal Act. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. Mitigation measures that will minimize or avoid all significant adverse environmental impact have been required.

As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to CEQA. As such, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.

**V. EXHIBITS**

- A. Location Map
- B. Emergency Permits
- C. Project Description
- D. Habitat Report

ATTACHMENT

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## APPENDIX A

### STANDARD CONDITIONS

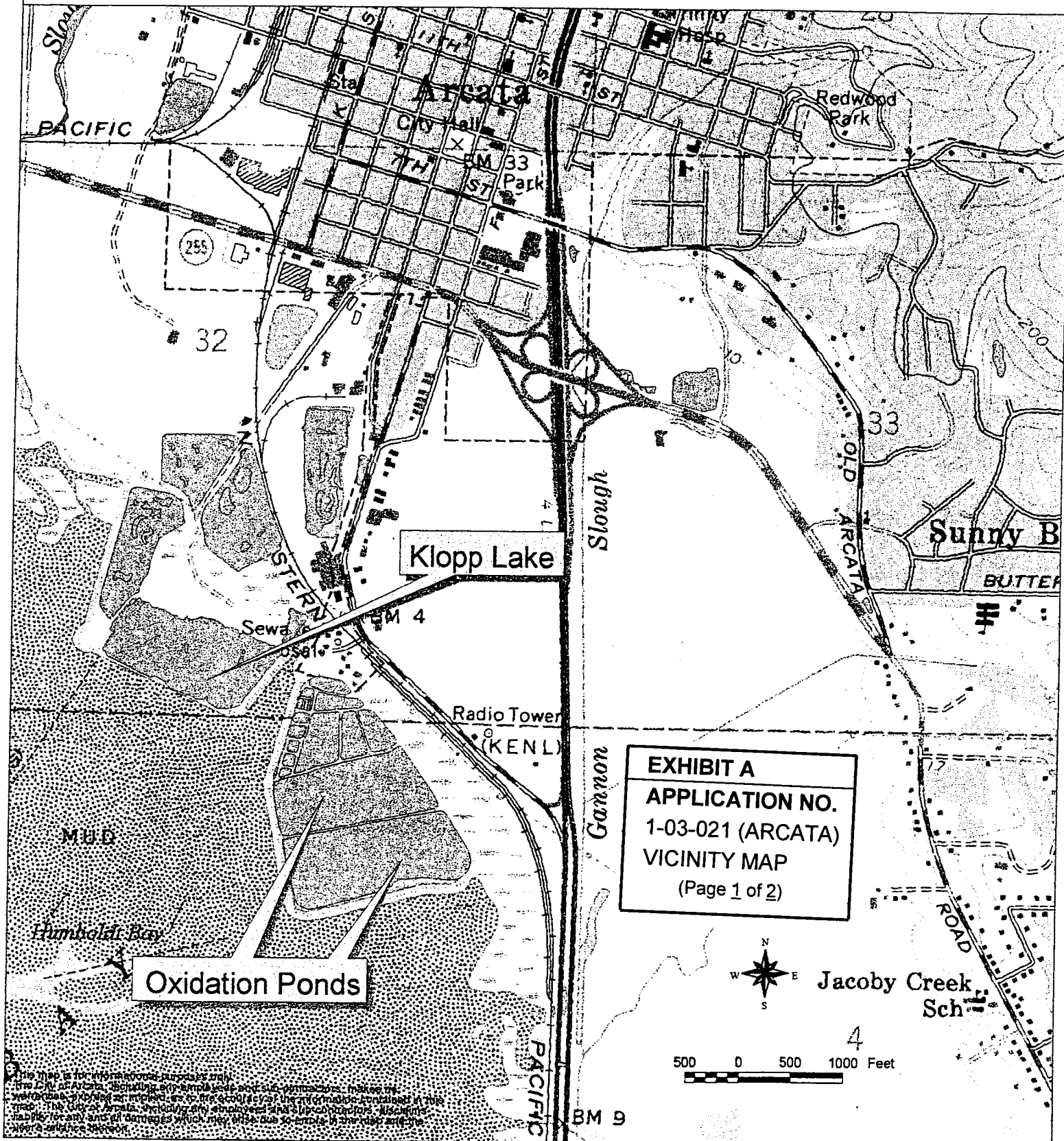
1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable amount of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director of the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



# LOCATION MAP CITY OF ARCATA



## OXIDATION PONDS/KLOPP LAKE PROJECT AREA USGS 7.5 Minute Topographic Map: Arcata South Quad T6N R1E Section 29 H. B. & M.



**EXHIBIT A**  
**APPLICATION NO.**  
1-03-021 (ARCATA)  
**VICINITY MAP**  
(Page 1 of 2)

This map is for informational purposes only. The City of Arcata, including any employees and all contractors, makes no warranties, expressed or implied, as to the accuracy of the information provided in this map. The City of Arcata, including any employees and all contractors, shall not be liable for any and all damages which may arise due to errors in the map and the user's reliance thereon.



**PLAN VIEW MAP  
CITY OF ARCATA**



**KLOPP LAKE PROJECT AREA  
USGS 7.5 Minute Topographic Map: Arcata South Quad  
T6N R1E Section 32 H. B. & M.**

*KLOPP LAKE*

*HUMBOLDT BAY*

**EXHIBIT A**

**APPLICATION NO.**

**1-03-021 (ARCATA)**

**VICINITY MAP**

**(Page 2 of 2)**

0 100 200 300 Feet

## CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

MAILING ADDRESS:

710 E STREET • SUITE 200

P. O. BOX 4908

EUREKA, CA 95501-1865

EUREKA, CA 95502-4908

VOICE (707) 445-7833

FACSIMILE (707) 445-7877

**EMERGENCY PERMIT**Date: October 24, 2003Emergency Permit No.: 1-03-065-G

Julie Neander, Resource Specialist  
City of Arcata  
736 F Street  
Arcata, CA 95521

**LOCATION OF EMERGENCY WORK:**

Along the southwest side of the City of Arcata's Wastewater Treatment Plant Oxidation Ponds, adjacent to Arcata Bay, Arcata, Humboldt County

**WORK PROPOSED:**

Repair 1,050-lineal-feet of the levee damaged by storm surf along the outer oxidation pond's dike by placing clay materials along eroded portions of the levee to restore a 1:1 slope and placing a total of approximately 600 cubic yards of riprap along the outboard side of the levee consisting of 6"- to 10"- diameter rock and overlain with armor 18"- to 24"-diameter rock.

**PERMIT RATIONALE:**

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information and our site inspection that an unexpected occurrence in the form of excessive levee erosion caused by storm surge has greatly increased the risk of breaching of the levee which would disrupt the municipal sewage system and release millions of gallons of primary treated sewage into Humboldt Bay, causing a serious health, safety, and environmental danger. Therefore, the situation requires immediate action to prevent damage to life, property, or essential public services.

Pursuant to Title 14 of the California Code of Regulations, Section 13009, the Executive Director of the Coastal Commission hereby finds that:

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

The work is hereby approved, subject to the conditions listed on the attached page.

If you have any questions about the provisions of this Emergency Permit, please contact the Commission's North Coast District Office.

**EXHIBIT B****APPLICATION NO.**

1-03-021 (ARCATA)

**EMERGENCY PERMIT**

(Page 1 of 17)

Sincerely,

PETER M. DOUGLAS

Executive Director

By: Robert S. Merrill

North Coast District Manager

CONDITIONS OF APPROVAL:

1. The enclosed Emergency Permit Acceptance form must be signed by the PROPERTY OWNER and returned within 5 days.
2. Only work specifically described in this permit and for the specific property listed above is authorized. The project shall be constructed in accordance with the plans and other information submitted to the Coastal Commission. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed within 30 days of the date of this permit (i.e., by November 23, 2003).
4. The permittee shall obtain a regular coastal development permit (CDP) to have the emergency work considered permanent. The applicant has previously submitted Coastal Development Permit Application No. 1-03-021 requesting authorization of the development that is the subject of this emergency permit, as well as additional development. If CDP Application No. 1-03-021 is denied by the Commission, the emergency work shall be removed in its entirety within 150 days of the date of this permit (i.e., by March 22, 2004), unless this requirement is waived in writing by the Executive Director.
5. Materials for the revetment repair shall match materials in place at the site to the extent that the rock revetment material to be used in the repair areas currently armored with broken concrete blocks and angular quarry rock shall consist of angular rock, and the rock material to be used in repair areas currently armored with rounded boulder materials shall consist of rounded quarry rock. Revetment material shall not be end-dumped, but placed in such a manner so as to interlock with the residual revetment materials still in place along the dike face to provide a structurally integrated revetment.
6. All protruding metal reinforcement bar, flanges, and other exposed metal within existing revetment materials to remain in the repair areas shall be torch-cut off flush with the concrete block in which they are encased or attached. Any other easily extricable debris materials (e.g., tires, wiring conduit, etc.) within the project area shall be removed prior to placement of the repair riprap.
7. The repair materials shall not be placed atop or otherwise bury any inappropriate revetment materials (e.g., asphaltic-concrete, metal or ceramic piping, large concrete thrust blocks or vaults) currently in place along the dike face so as to prevent their extraction at a later time.
8. **PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the permittee shall map the extent of existing salt marsh vegetation that will be covered by the revetment material and submit the map to the Executive Director..
9. In exercising this permit, the applicant agrees to hold the California Coastal Commission harmless of any liabilities for damage to public or private properties or personal injury that may result from the project.
10. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies.

The emergency work is considered to be TEMPORARY work done in an emergency situation. If the property owner wishes to have the emergency work become a permanent development, a Coastal Development Permit must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly. These conditions may include provisions for public access (such as an offer to dedicate an easement) and/or a requirement that a deed restriction be placed on the property assuming liability for damages incurred from storm waves.

If you have any questions about the provisions of this emergency permit, please call the Commission's North Coast District Office at the address and telephone number list on the first page.

Encl: Emergency Permit Acceptance Form



*City of Arcata*  
**OXIDATION POND #1  
EMERGENCY DIKE REPAIR AREA**



1" = 125 FEET



0 10 20 30 FEET

ALL DIMENSIONS ARE IN FEET  
UNLESS OTHERWISE SPECIFIED  
AND ARE TO BE USED FOR INFORMATION ONLY

**City of Arcata  
Wastewater Treatment Plant**



THIS PLAN IS THE PROPERTY OF THE CITY OF ARCATA, CALIFORNIA. IT IS TO BE USED FOR THE PURPOSES SPECIFIED IN THE TITLE HEREOF. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE CITY OF ARCATA, CALIFORNIA.



0 100 200 300 400

# California Coastal Commission

45 Fremont, Suite 2000  
San Francisco, CA 94105-2219  
Voice and TDD (415) 904-5200 CALNET 539-5200

## FAX COVER SHEET

Date: 10/22/03	Time:	Number of Pages (Including this cover sheet):
To: Bob Merrill	From: J. Amador	
Company:	Unit:	
Address:	Telephone Number:	
FAX Number:	Direct FAX = (415) 904-5400	CALNET = 539-5400

Remarks: ☐ Urgent ☐ For your review ☐ Reply ASAP ☐ Please comment ☐ Other

Here's the fax

1-03-065 - G



736 F Street  
Arcata, CA 95521

City Manager  
(707) 822-5953

Environmental Services  
822-8184

Police  
822-2428

Recreation  
822-7091

Community Development  
822-5955

Finance  
822-5951

Public Works  
822-5957

Transportation  
822-3775

October 21, 2003

RECEIVED

OCT 22 2003

CALIFORNIA  
COASTAL COMMISSION

RECEIVED

OCT 21 2003

CALIFORNIA  
COASTAL COMMISSION

Peter M. Douglas, Executive Director  
California Coastal Commission  
45 Fremont Street  
San Francisco, CA 94105-2219

Re: City of Arcata Emergency Public Works Repair for Wastewater Oxidation  
Pond Dike Repairs

Via Fax: 415-904-5200  
Certified Mail

Dear Peter:

The problem of trying to quickly resolve the issue of a permit for the repair and maintenance of the dike system for the Arcata Marsh and Wildlife Refuge has ended up on my desk. I need your immediate assistance so that I can protect the oxidation pond portion from probable damage during the coming winter storms. I have attached the needed estimate of time and materials to protect the most vulnerable area with instructions that the cost is to remain under \$25,000. Please issue the emergency permit this week so that repairs can be made before November 1<sup>st</sup> and the start of the winter storm season.

The most frustrating part is that there would be no need for an emergency permit if the regular application had been processed in a timely manner. Application for the normal repair and maintenance permit was submitted to all of the regulatory agencies in early April of 2003. The Corps of Engineers, with concurrence of National Marine Fisheries, issued a five-year permit on August 6, 2003. The California Department of Fish & Game issued a five-year permit on September 10, 2003. The North Coast Regional Water Quality Control Board issued a five-year permit on September 9, 2003. There is nothing in the file to indicate that your office even responded or raised issues until earlier this month! That is totally irresponsible.

The City of Arcata has been and continues to be one of the most environmentally responsible agencies in California, yet when it comes to getting a permit from the Coastal Commission you would think we were the least responsible. The City has restored miles

had to determine how many cows might be effected by our fencing them out of a riparian zone! We also had to calculate the "footprint" of the fence posts to determine how much wetlands would be lost! Getting lost in some of these meaningless details loses sight of the bigger issues. The big issue is that we are taking a drainage ditch in a marginal pasture and returning it to productive fish and wildlife habitat. The Coastal Commission staff should be in the forefront of making this restoration happen throughout California. Instead, we worry about the footprint of fence posts?

If this bureaucratic nonsense existed back in the 1970's, I would not have been able to build the Arcata Marsh and Wildlife Refuge or return the needed freshwater habitat to Humboldt Bay. I've got major projects ahead in the next couple of years - building more freshwater marshes, creating saltwater marshes, removing dikes and restoring streams - all in the Coastal Zone. Please straighten out this process so that I can move quickly and creatively to enhance and improve the quality of the environment on the north end of Humboldt Bay.

In the meantime, please forward the emergency permit and make sure that the long-term permit is on an early agenda for the Commission. Thank you in advance for your understanding and expeditious handling of this problem. If there are any questions, please contact me direct.

Sincerely,



Dan Hauser  
City Manager

Cc: Bob Merrill - California Coastal Commission, North Coast District Office  
Steve Tyler - Director Environmental Services, City of Arcata

Attachments: Emergency Permit Application, Maps & Correspondence

STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS, GOVERNOR

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE MAILING ADDRESS:  
710 E STREET, SUITE 200 P.O. BOX 4004  
EUREKA, CA 95501-1000 EUREKA, CA 95504-4004  
VOICE (707) 445-7800  
FACSIMILE (707) 445-7877

RECEIVED

OCT 22 2003



APPLICATION FOR EMERGENCY PERMIT CALIFORNIA COASTAL COMMISSION

PLEASE NOTE: The following information and attachments must be submitted in writing in order to receive an Emergency Permit pursuant to Public Resources Code Section 30624(a). If the emergency situation is such that a verbal authorization is given by the District Director to commence emergency work, the application for emergency permit must still be submitted by the property owner within 3 days of the disaster or discovery of the danger, 14 Cal. Admin. Code Section 13139.

1. October 20, 2003, 1:00 p.m. Request: ☐ in person ☒ by telephone ☒ by mail  
Date/Time
2. City of Arcata Julie Neander, Resource Specialist  
Name(s) of Property Owner(s) Name(s) of Representative(s)  
Address: 736 F Street Address: 736 F Street  
Arcata, CA 95521 Arcata, CA 95521  
Phone Number: (707) 822-8184 Phone Number: (707) 825-2151
3. Location of Emergency Work: Oxidation pond dikes
4. Evidence of applicant's interest in property on which emergency work is to be performed. City has operated oxidation ponds since 1955.
5. Assessor's Parcel Number: N/A
6. Contractor, or person(s) who will do emergency work/address/phone number (if different from representative): William B. Gilmer, Water/Wastewater Superintendent and Environmental Services Department staff direct: (707) 825-2155 main: (707) 822-8184
7. Nature and cause of emergency (brief description): Erosion of exterior of oxidation pond dikes
8. The circumstances during the emergency that appeared to justify the course(s) of action taken, including the probable consequences of failing to take action:  
See attached
9. Method and preventive work requested (e.g., rip-rap, bulkhead, etc.):  
See attached
10. Timing of emergency work (estimate as to when work will be performed - generally a period of 24 to 72 hours after the emergency occurrence):  
City will undertake the work as soon as permit is granted.

ATTACHMENTS - Please provide the following:

1. If time permits, evidence of approval by local planning department.
2. Site plan showing proposed and existing development on the subject parcel.
3. Vicinity map (road map) with location of project site marked. For rural areas, please also provide a parcel map.

Attachment for California Coastal Commission Emergency Permit Application  
Submitted October 21, 2003  
City of Arcata Repairs to Existing Oxidation Pond Dikes

8. Circumstances during the emergency that appeared to justify the course of action taken, including the probably consequences of failing to take action.

Attached October 10, 2003 Memo from Steve Tyler- City of Arcata Environmental Services Director to Tom Conlon - City of Arcata Community Development Director outlines the circumstances surrounding the emergency action.

Attached October 13, 2003 letter from Tom Conlon to Peter Douglas- California Coastal Commission Executive Director provides documentation that the City, as of October 13, 2003 notified the Coastal Commission of the City's intent to repair the dikes as an emergency action.

Attached email, dated October 14, 2003 from Bob Merrill directs the City to obtain an emergency permit rather than utilize the emergency waiver process.

9. Method and preventive work requested (e. g. rip-rap, bulkhead, etc.)

After receiving the email from Bob Merrill, City staff reviewed the oxidation pond dike on Friday October 17, 2003 and agree with the Coastal Commission's determination that "levee repairs are only needed in some locations". The City is proposing to repair 1050 feet of the entire levee. In this area the levee is eroded to the point that additional erosion will compromise the integrity of the dike and road which is only about 10- 12 feet wide in the area where repairs are proposed.

In this 1050 foot area much of the original riprap on the bayside levee area is either completely gone or very limited. Vegetated areas along the dike contain very little or no riprap and the vegetation masks the steepness of those banks where the drop to the old railroad bed is two to three feet in places. Vegetation will be brushed and then new rip rap will be placed in those areas. New rip rap will also be placed on the areas where riprap is still present. The levee will be repaired by placing clay along the steep banks to create a 45 degree slope as opposed to the almost 90 degree angles that currently exist along much of the levee. Where needed concrete will be removed so that the clay and boulders can be anchored properly. The clay will be covered with 6-10" rock, which will be overlain with 18-24" rock. The toe of the new slope will be located on the existing abandoned railroad bed. The rip rap will not be placed beyond the old railroad bed area and will involve approximately 600 cubic yards of material. Cost for the clay and riprap materials comes to \$10,800.00. City staff time for completing the work will be \$1,200.00



Attachment for California Coastal Commission Emergency Permit Application Submitted October 21, 2003  
City of Arcata Repairs to Existing Oxidation Pond Dikes - Page 2

City staff will remove exposed rebar and asphalt wherever possible. The attached representational cross section and site map provide additional information.

Existing vegetation in the area where work is proposed is dominated by the following species: *Salix* sp. (willow), *Rubus discolor* (himalaya berry), *Vinca major* (periwinkle), *Dipsacus fullonum* (teasel), *Spartina densiflora* (Chilean cordgrass), *Salicornia virginica* (pickleweed), and *Distichlis spicata* (salt grass). Only the willow, salt grass and pickle weed are not invasives. One plant of *grindelia stricta* plant was identified. *Scirpus maritimus* is also present. None of the identified native plants are have protected status.

## MEMO

DATE: October 10, 2003

TO: Tom Conlon - Director Community Development

FROM: Steve Tyler - Director Environmental Services *Set*

RE: Emergency Repair of the Oxidation Pond and Klopp Lake Dikes

The outer dikes of both the City's oxidations ponds and the City's Arcata Marsh and Wildlife Sanctuary - Klopp Lake have over time been eroded away by winter storms and associated wind and wave action on Humboldt Bay. The City work plan to repair these dikes to prevent their failure includes reinforcing the outer dikes with one ton and ½ ton boulders and concrete riprap.

At the beginning of April 2003 the City submitted applications for Permits and Certifications to repair and maintain these dikes. Applications were submitted to the California Coastal Commission, the Department of Fish and Game, the Regional Water Quality Control Board and the Army Corps of Engineers with the intent to complete these repairs before the onset of the winter season. The City defines the onset of the winter season as October 15 with the possibility of extending that to November 1, if no significant rains occur. As of today, permits and certifications have been received by all agencies except the Coastal Commission. Staff have been in contact with Coastal Commission staff and have been informed that a permit from the Commission can not be issued before the end of November. This would potentially be after the onset of winter storms.

Environmental Services staff have reviewed the condition of the oxidation pond dikes and determined that without reinforcement the oxidation pond dikes could potentially fail during a major winter storm. This would cause a serious public health, safety, and environmental danger as millions of gallons of primary treated sewage would flow into Humboldt Bay. Staff recommend, and I concur that, absent a permit, we must take emergency action to maintain and repair the oxidation pond dikes immediately. It is recommended that the City notify the executive director of the Coastal Commission that the City will be undertaking an emergency public works repair of the oxidation pond dikes to protect life and public property. If this notification can be made by the 13<sup>th</sup> of October the City will begin work as soon after that as possible and no later than October 15<sup>th</sup>.

We will continue to work with the Coastal Commission to obtain a permit for repair of the Klopp Lake dike and Islands so that work can be done next year.



736 F Street  
Arcata, CA 95521

City Manager  
(707) 822-5953

Environmental Services  
822-8184

Police  
822-2438

Recreation  
822-7091

Community Development  
822-5935

Finance  
822-5951

Public Works  
822-5957

Transportation  
822-3775

October 13, 2003

Peter M. Douglas  
Executive Director  
California Coastal Commission  
45 Fremont Street, CA 9415-2219

RE: City of Arcata Emergency Public Works Repair Notification for Wastewater Oxidation Pond Dike Repairs

Dear Mr. Douglas,

Pursuant to the Coastal Act Sections 30611 the City of Arcata is providing notice that the City will be performing emergency repair work on the City's wastewater oxidation pond dikes to protect life and property from a failure of these dikes. I concur with Steve Tyler, the Environmental Services Director, and his staff that the outer dikes of the City's oxidations ponds have over time been eroded away by winter storms and associated wind and wave action on Humboldt Bay and that emergency action is required to avoid a potential catastrophic failure of the dikes (memo attached). Without reinforcement the oxidation pond dikes could potentially fail during a major winter storm. This would cause a serious public health, safety and environmental danger as forty millions gallons of primary treated sewage could flow into Humboldt Bay.

At the beginning of April 2003 the City submitted applications for Permits and Certifications to repair and maintain these dikes. Applications were submitted to the California Coastal Commission, the Department of Fish and Game, the Regional Water Quality Control Board and the Army Corps of Engineers with the intent to complete these repairs before the onset of the winter season. The City defines the onset of the winter season as October 15 with the possibility of extending that to November 1, if no significant rains occur. As of today, permits and certifications have been received by all agencies except the Coastal Commission. Staff have been in contact with Coastal Commission staff and have been informed that a permit from the Commission can not be issued before the end of November. This is well after the onset of the winter season and potential winter storms that could cause a failure.

The City has therefore determined that the work to be done as of this date, October 13, 2003, is an emergency repair action that the City must take, consistent with the terms and conditions of all the other agencies, to protect life and public property before the onset of the winter storm season which begins on October 15, 2003. The cost of this project will not exceed \$25,000.

Thank you in advance for your support of the Emergency Permit Waiver Notification.

Sincerely,

Tom Conlon

Director - Community Development

(Page 13 of 17)

Cc: Bob Merrill - California Coastal Commission  
Jim Baskin - California Coastal Commission  
Steve Tyler - Director Environmental Services, City of Arcata

Oxidation Pond Dike Repairs

**Subject: Oxidation Pond Dike Repairs****Date: Tue, 14 Oct 2003 18:00:42 -0700****From: Bob Merrill <bmerrill@coastal.ca.gov>****To: "jneander@arcatacityhall.org" <jneander@arcatacityhall.org>****CC: "styler@arcatacityhall.org" <styler@arcatacityhall.org>****"tconlon@arcatacityhall.org" <tconlon@arcatacityhall.org>****"dhauser@arcatacityhall.org" <dhauser@arcatacityhall.org>****Jim Baskin <jbaskin@coastal.ca.gov>**

Hi Julie,

Jim forwarded your email of this afternoon indicating the City wants to go ahead tomorrow and do dike repairs on the oxidation pond and Klopp Lake without a coastal development permit. We also received your FAX today (State offices were closed Monday for Columbus Day) indicating the City believes certain unspecified repairs of the oxidation pond qualify for processing as an emergency permit waiver under Section 30611 of the Coastal Act. The letter notes that the City previously submitted a regular coastal development permit application to the Commission for dike repair work at Klopp Lake and the oxidation pond that is still being processed.

We appreciate the expressed desire in your email to confirm whether the work is consistent with our agency requirements before work proceeds. As I've indicated in my voice mail message to you, based on what little we have been told about the actual work the City wishes to perform under the emergency permit waiver process, **we do not believe the project is consistent with Section 30611 of the Coastal Act and we urge the City to NOT GO FORWARD with the work that you indicate will start tomorrow.** We performed a long-scheduled site visit of the project site today with our Coastal Engineer visiting from our San Francisco office. Based on our site visit, while levee repairs are clearly needed in some locations, it is not clear to us that "Immediate action ... is required to protect life and public property from imminent danger." In addition, as no cost details were submitted with your FAXED letter, and as your letter contains no information about the scope of the repairs to be performed, it is also not clear that the total value of all permanent improvements that would be performed including all labor, equipment, materials, engineering, etc. would be less than \$25,000. Both of these criteria, and others, would have to be met for the project to qualify under the emergency permit waiver process set forth in Section 30611 of the Coastal Act.

**Before the City performs any work on the dikes, we urge the City to obtain all legally required permits.** Staff believes the emergency permit process (as opposed to an emergency waiver process) would be the appropriate means to secure authorization for any repairs that need to be performed to prevent imminent threats to protect life and public property before the regular coastal development permit application can be acted on by the Commission. An emergency permit can be issued by the Executive Director without having to go to the Commission for prior authorization and is not subject to the cost limitations that apply to projects performed under the emergency waiver process. We would appreciate the opportunity to discuss the emergency permit process with you and to see plans for what work the City wants to perform before the City moves forward to perform any work without a coastal development permit. As I indicated in my voice mail message, please call me at your earliest convenience.

Thanks,

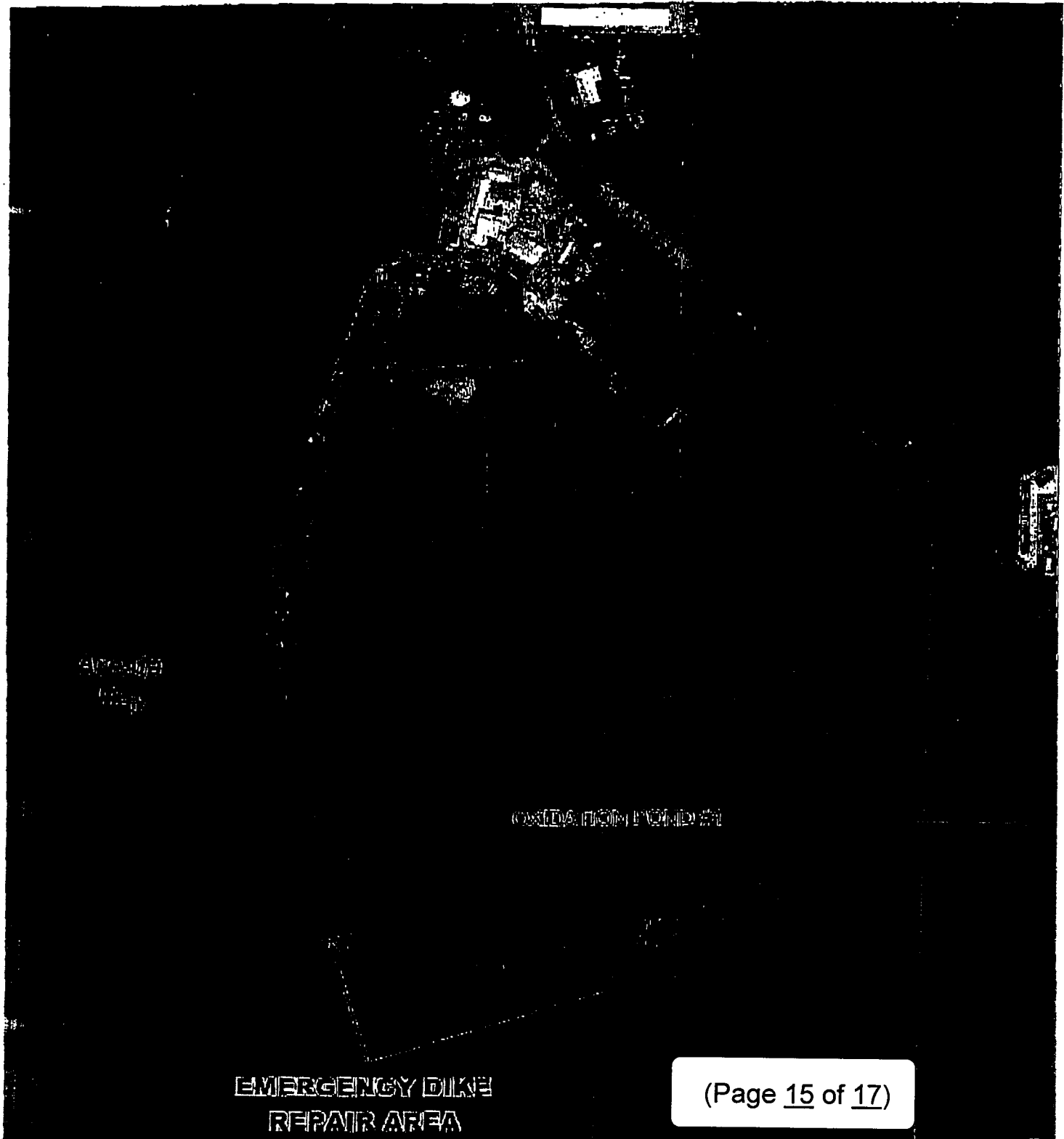
Bob Merrill

North Coast District Manager

Coastal Commission

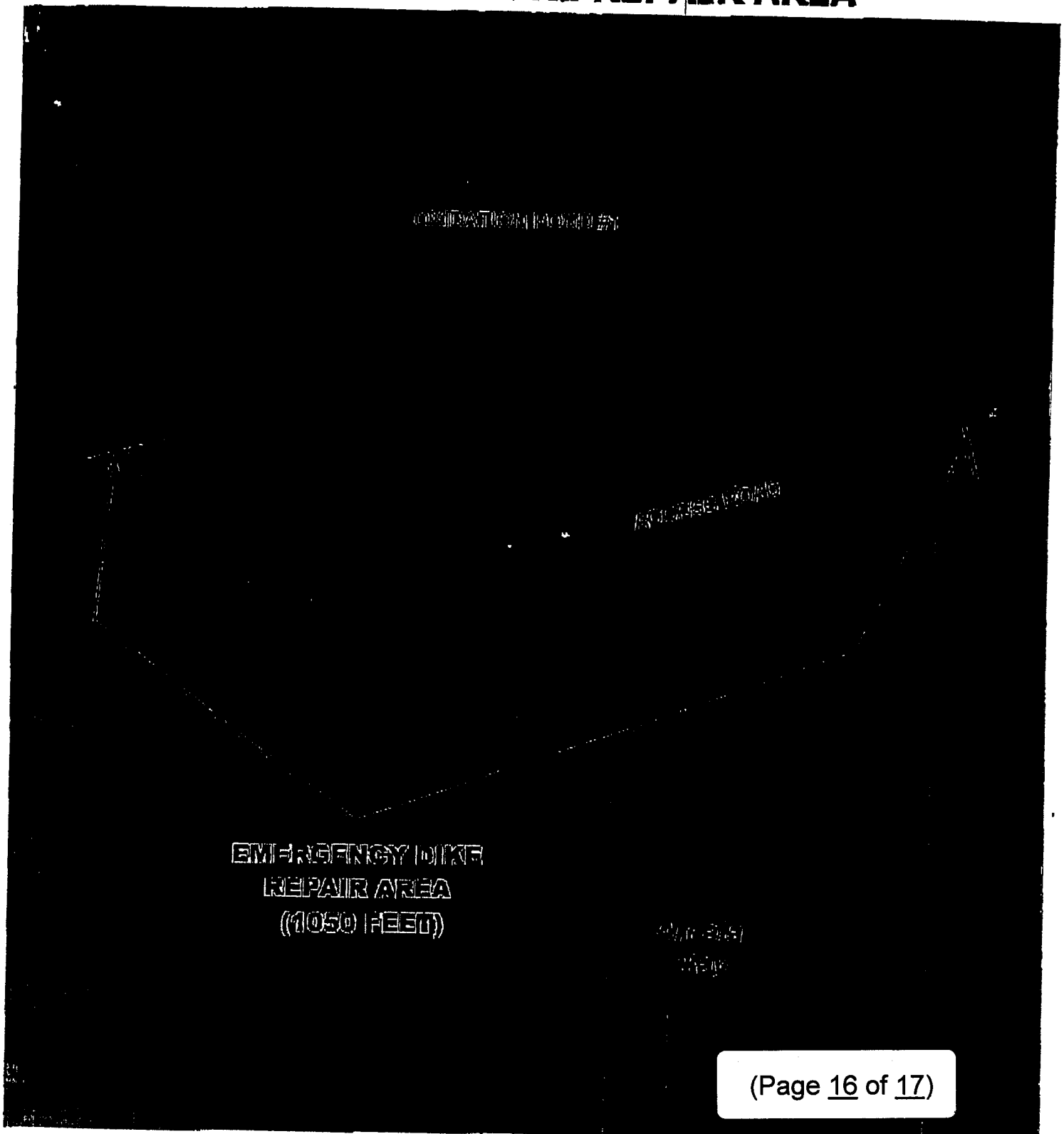
(Page 14 of 17)

# City of Arcata Wastewater Treatment Plant



*City of Arcata*

# OXIDATION POND #1 EMERGENCY DIKE REPAIR AREA



EMERGENCY DIKE  
REPAIR AREA  
(1050 FEET)

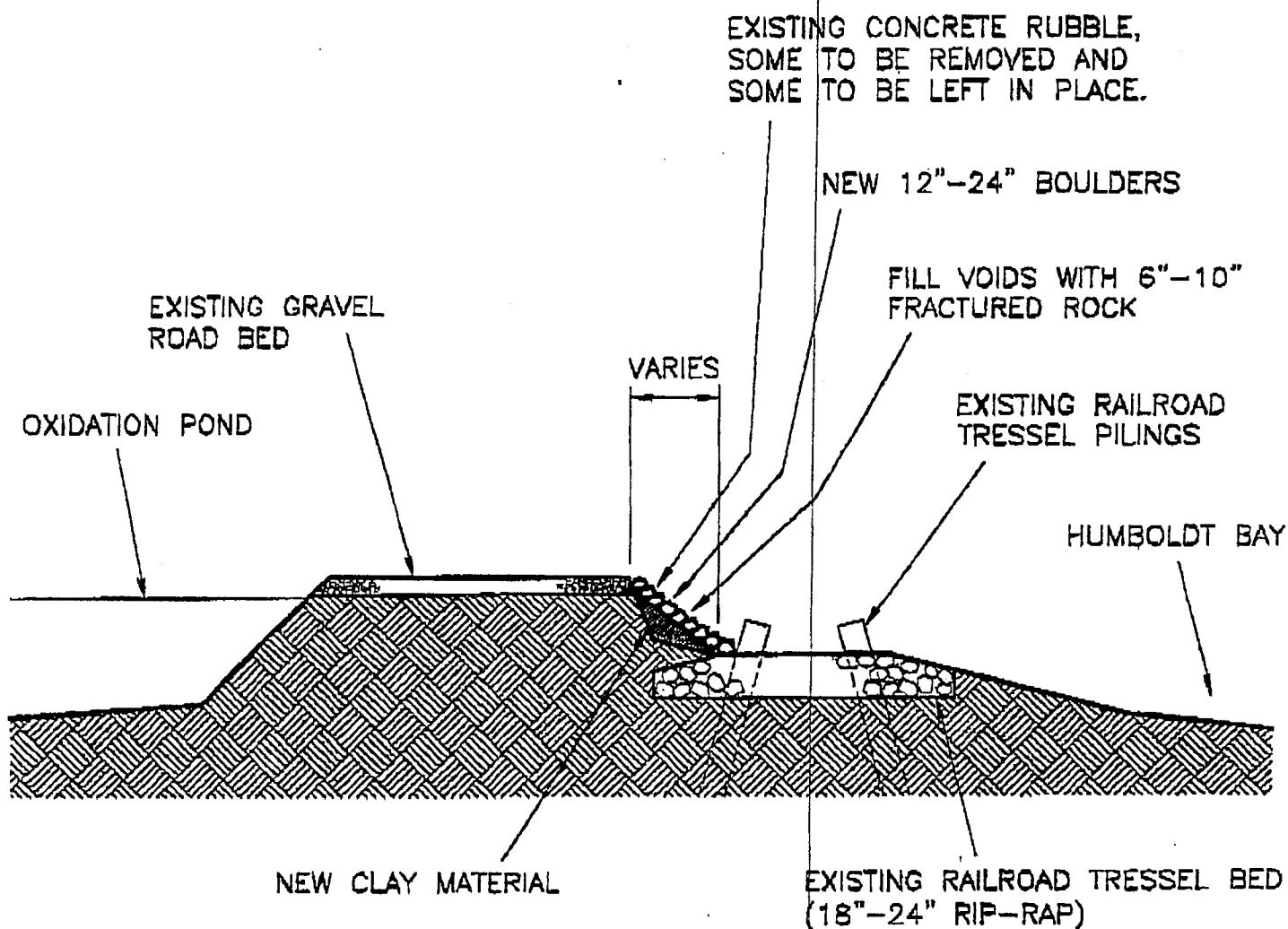
(Page 16 of 17)

1" = 125 FEET



0 100 200 300 Feet



NOTE:

DISTANCES AND HEIGHTS VARY.

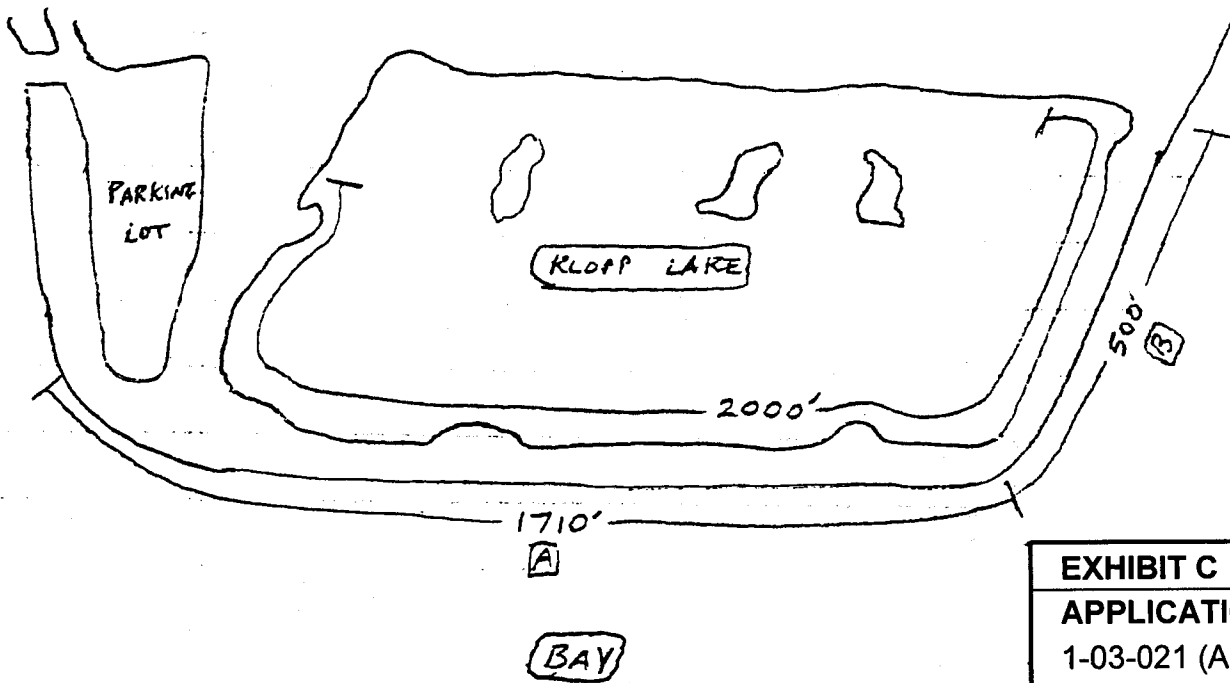
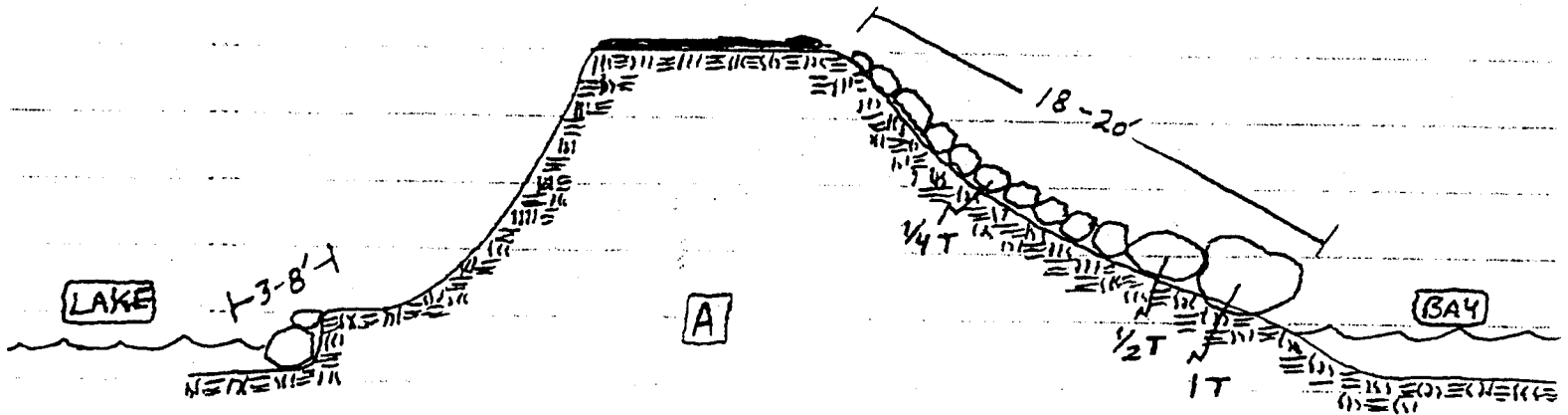
OXIDATION POND CROSS-SECTION AT THE SOUTH END

SCALE: N.T.S.

DATE: 10/21/2003

(Page 17 of 17)

# KLOPP LAKE DIKE RIP RAP



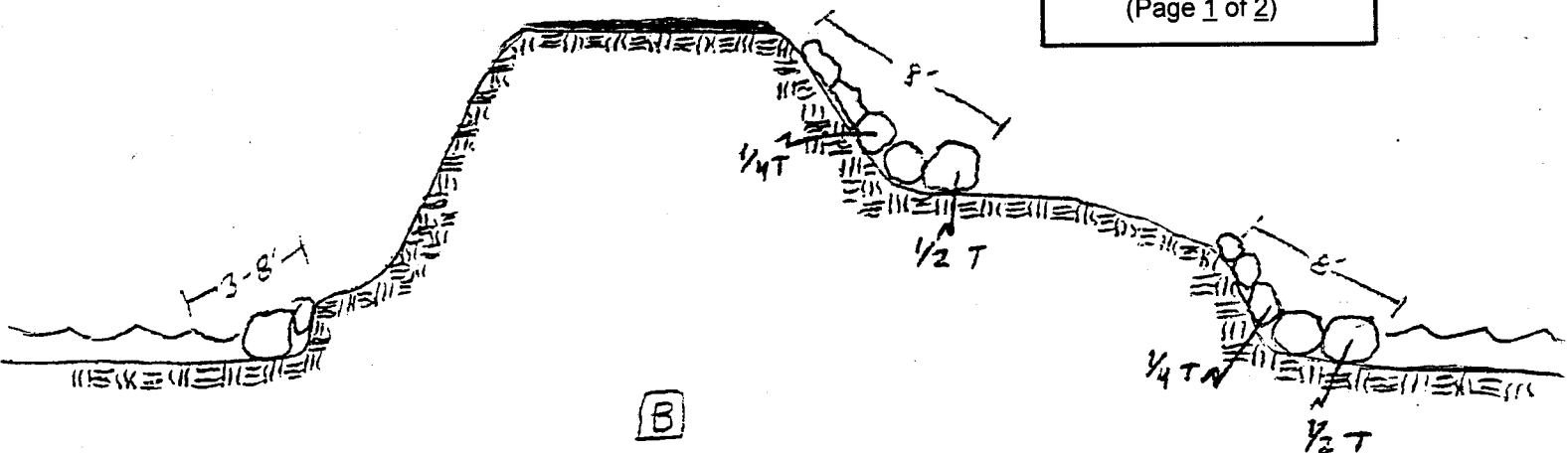
## EXHIBIT C

APPLICATION NO.

1-03-021 (ARCATA)

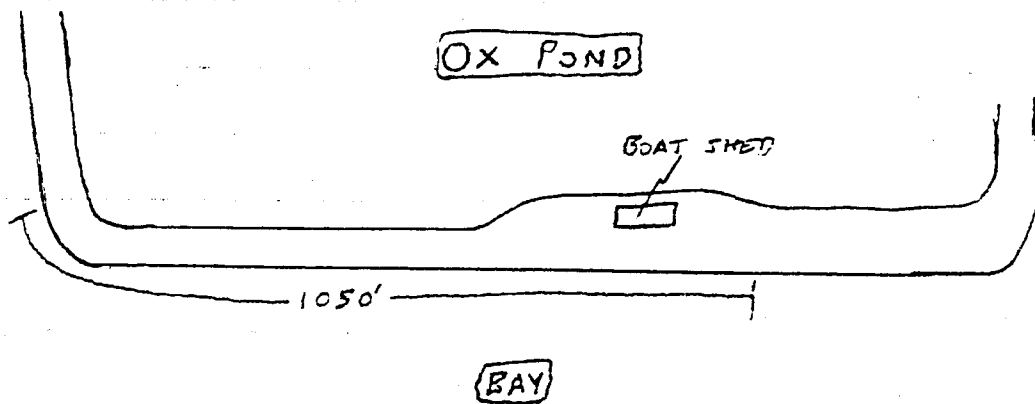
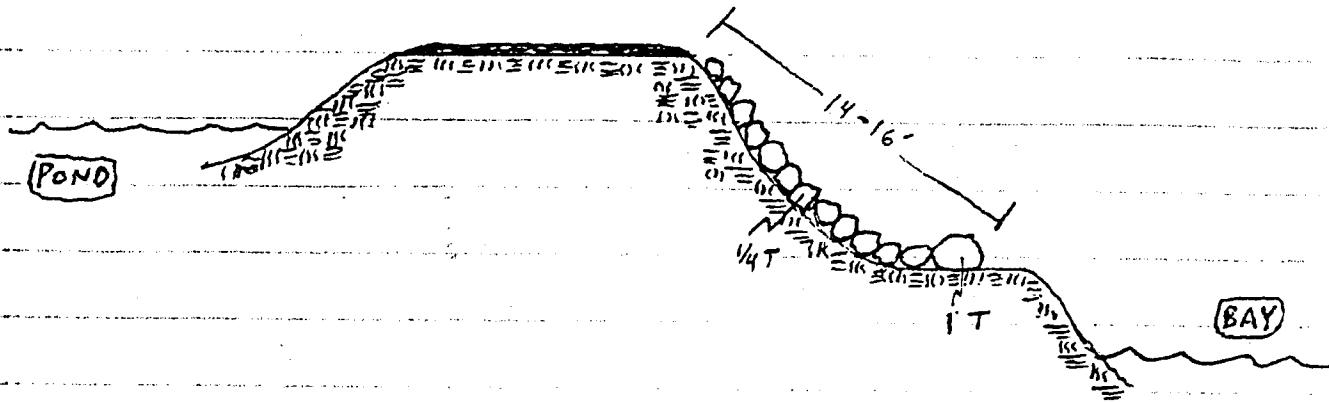
PROJECT PLANS

(Page 1 of 2)





OX POND DIKE RIP RAP



**EXHIBIT C**

**APPLICATION NO.**

**1-03-021 (ARCATA)**

**PROJECT PLANS**

(Page 2 of 2)



736 F Street  
Arcata, CA 95521  
May 16, 2005

City Manager  
(707) 822-5953

Environmental Services  
822-8184

Police  
822-2428

Recreation  
822-7091

Community Development  
822-5955

Finance  
822-5951

Public Works  
822-5957

Transportation  
822-3775

**RECEIVED**

MAY 20 2005

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Diane Landry  
California Coastal Commission  
725 Front Street, Suite 300  
Santa Cruz, CA 95060

RE: Coastal Development Permit 1-03-021

Dear Ms. Landry:

Enclosed please find the map you requested showing the staging area for the proposed maintenance project for our wastewater treatment oxidation ponds and Klopp Lake.

The map also shows the trails and the impact that the project will have on those trails. The Arcata Marsh and Wildlife Sanctuary has 22,448 feet of trails. The maintenance work will close between 2,011 (Klopp Lake) and 5,305 (Oxidation Ponds) feet of trail at any given point in time. The work will occur at either the Oxidation Ponds or at Klopp Lake so that both trails will not be closed at the same time.

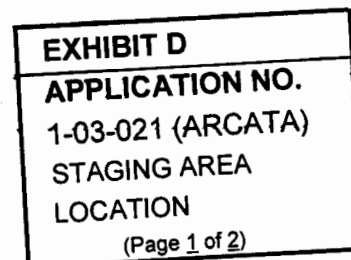
As per our conversation on April 28, 2005 the City is requesting that the permit be authorized for 10 years (Ten Year Programmatic Permit) for ongoing repair and maintenance activities that may be needed. Anticipated future work will be the same as that applied for in the permit. All the work is proposed within the existing footprint of the levee and will not result in any encroachment into Humboldt Bay.

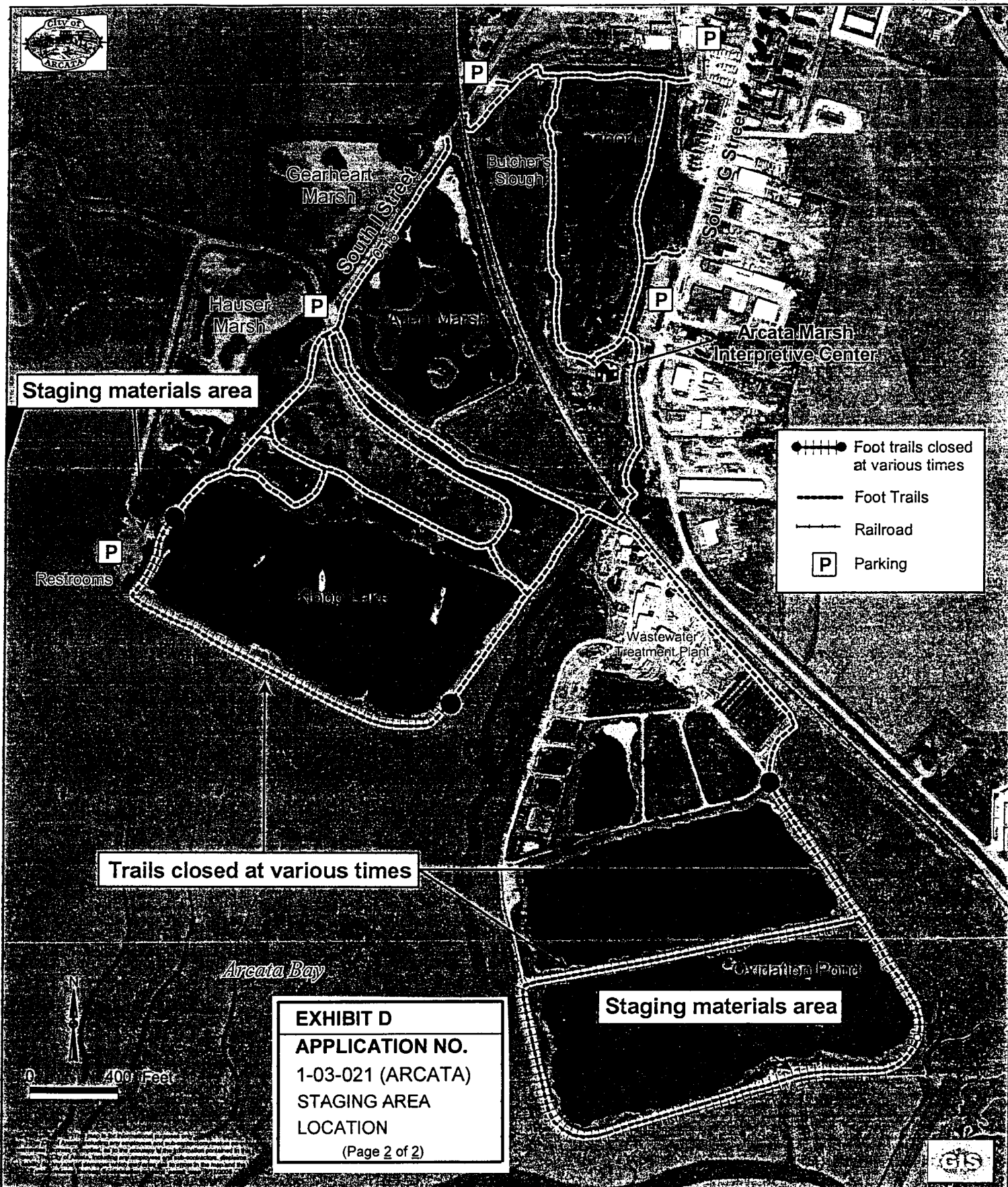
Please feel free to contact me at 707-825-2151 or [jneander@arcatacityhall.org](mailto:jneander@arcatacityhall.org) should you need additional information.

Sincerely,

Julie Neander  
Resource Specialist

Enc.





NO.	REVISION	BY	DATE	CITY OF ARCATA
				Environmental Services Department
				DESIGNED BY: M. ANDRE
				DRAWN BY: B.KANG
				CHECKED BY:
				EXPIRES:

**OXIDATION POND & KLOPP LAKE  
DIKE REPAIR & ISLAND MAINTENANCE**

SCALE: 1:7,000	DATE: 5/17/2005
JOB NO. OX_POND_PERMIT_MAP	
SHEET	
OF:	

