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Staff Report:	May 26, 2006
Staff:	Tiffany S. Tauber
Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.:	**1-06-017**
APPLICANT:	**RDHC, LLC**
AGENT:	Marty McClelland, Oscar Larson Assoc.
PROJECT LOCATION:	532 Hookton Rd., Loleta, Humboldt Co.
PROJECT DESCRIPTION:	(1) Follow-up permit for repair of four earthen levee breaches along Salmon Creek authorized by Emergency Permit No. 1-06-019-G; (2) Correction of unpermitted development including (a) removal of two water control structures, (b) recontouring approximately ten cubic yards of an area previously graded to create a wetland impoundment, and (c) after-the-fact replacement of an existing culvert; and (3) Ten-year authorization for ongoing repair and maintenance of the existing levee along Salmon Creek.

LOCAL APPROVALS:	None Required
OTHER APPROVALS REQUIRED:	Army Corps of Engineers
SUBSTANTIVE FILE DOCUMENTS:	Emergency Permit No. 1-06-019-G; CDP No. 1-04-044; CDP No. 1-03-004; CDP No. 1-05-014

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission approve with conditions the proposed project that consists of three separate project elements including (1) the follow-up permit for repair of four breaches in an existing earthen levee along Salmon Creek authorized under Emergency Permit No. 1-06-019-G; (2) correction of unpermitted development including (a) removal of two water control structures, (b) recontouring approximately ten cubic yards of an area previously graded to create a wetland impoundment, and (c) after-the-fact replacement of an existing culvert; and (3) ten-year authorization for ongoing repair and maintenance of the existing levee along Salmon Creek, at 532 Hookton Road in Loleta, Humboldt County.

The subject site, also known as the former Vance Dairy, is comprised primarily of grazed annual grass pasturelands, separated from Salmon Creek by a series of earthen levees. The property can be described as an agricultural wetland with the majority of the project area characterized as a Palustrine (freshwater) Emergent wetland that is seasonally flooded or saturated. Salmon Creek supports populations of coho salmon, Chinook salmon, and steelhead, which are listed as threatened species under the federal Endangered Species Act. Salmon Creek also supports a well-developed riparian corridor. Salmon Creek, its associated riparian corridor, and the surrounding grazed seasonal wetlands are considered environmentally sensitive habitat areas (ESHA).

Staff is recommending ten special conditions, six of which are required to (1) ensure the protection of water quality and the biological productivity of Salmon Creek and the surrounding wetlands as required by Coastal Act Section 30231, and (2) to ensure that the project would not significantly degrade adjacent ESHA and would be compatible with the continuance of the habitat area as required by Coastal Act Section 30240.

Regarding the follow-up authorization of levee repairs and the correction of unpermitted development, staff recommends Special Condition Nos. 1, 2, 4, and 6. Special Condition No. 1 requires all areas of soil and vegetation disturbance to be (1) restored to natural contours, (2) revegetated with a seed mix composed of native species of local stock, and (3) stabilized with temporary erosion control measures until at least ninety (90) percent new growth coverage is

achieved. To ensure the success of the revegetation required by Special Condition No. 1, staff recommends Special Condition No. 2 that requires the applicant to submit a vegetation monitoring report for the review and approval of the Executive Director within one (1) year after completion of the required re-seeding to document whether the required vegetation coverage (at least 90 percent) of the disturbed areas of the site has been achieved. If the report indicates that the revegetation of any of the disturbed areas has not been successful, in part, or in whole, the applicant is required to submit a revised revegetation and erosion control plan to achieve the objective.

Special Condition No. 4 requires the applicant to submit evidence to the Executive Director within 30 days of permit approval that the wood and concrete debris associated with the water control structures has been removed from the grazed seasonal wetlands and disposed of at an authorized disposal location. Special Condition No. 6 would require the applicant to provide Commission staff the ability to inspect the site with 24-hour notice to the permittee to verify condition compliance and thereby ensure that the mitigation measures imposed by the applicable special conditions are fully implemented.

Regarding the proposed ten-year repair and maintenance program, staff recommends Special Condition No. 3 and No. 5. Special Condition No. 3 would set forth detailed requirements for the proposed ongoing levee repair and maintenance program that incorporates the applicant's proposed protocols and revises and supplements them in a manner that provides greater specificity and more comprehensively sets forth development criteria necessary for approval of the proposed long-term repair and maintenance program. Special Condition No. 3 would require that (a) only dry, clean fill material be used for the repairs, (b) the placement of fill material be limited to within the footprint of the levee as it existed before the repair, (c) the disturbed area be immediately revegetated with appropriate native plants of local stock following completion of the repairs, (d) construction debris be removed from the site and disposed of at an authorized disposal site, (e) silt fences or equivalent devices be installed along the perimeter of each repair site prior to the placement of any fill materials, (f) spill prevention measures be implemented during construction, (g) all repair and maintenance activities authorized by this permit only be performed during the dry season (April 15 to October 15), and (h) no permanent or temporary fill of Salmon Creek or any other seasonal wetlands occur at the site, including the stockpiling of levee repair materials or equipment, and (i) no woody debris be removed from Salmon Creek without a permit or permit amendment. Special Condition No. 1 also requires pre-construction contractor training prior to the commencement of any repair and maintenance activities to ensure that the Contractor understands and agrees to observe the standards for work outlined in the condition, that the levee system be inspected by a qualified Civil Engineer, or equivalent expert, and that an annual report be submitted to the Executive Director (1) identifying areas where repair and maintenance work will be needed within the coming year, and (2) describing the repair and maintenance activities that occurred during the reporting period.

The applicants are requesting authorization to conduct ongoing repair and maintenance of any levee breaches along Salmon Creek for a period of ten years. The Commission has, on occasion,

granted multi-year permits for similar repair and maintenance activities in order to reduce both Commission and District staff workload associated with processing repetitive, routine coastal permits. However, the status of biological resources and physical conditions of the site may change over time, thereby potentially necessitating further analysis and special conditions to ensure the continued protection of coastal resources. Additionally, techniques for addressing maintenance needs can also evolve over time, which may require a change in the approved methods of repair and maintenance activities. Therefore, staff recommends Special Condition No. 5 that would limit the Commission's authorization for ongoing repair and maintenance of levee breaches along Salmon Creek to an initial five year period with a one-time ability to extend the period of development authorization for another five years for a maximum total of ten years of development authorization if there are no circumstances that require additional review.

Staff believes that the project, as conditioned, will protect the adjoining environmentally sensitive stream habitat along Salmon Creek, including the surrounding grazed seasonal wetlands, from impacts of the project consistent with Section 30240 of the Coastal Act, and will protect the biological productivity and the quality of coastal waters consistent with Section 30231. As conditioned, staff believes that the proposed project is fully consistent with the Coastal Act.

The Motion to adopt the Staff Recommendation of Approval with Conditions is found on page 5.

STAFF NOTES:

1. Standard of Review

The proposed project is located within the Commission's area of retained permit jurisdiction. Humboldt County has a certified LCP, but the proposed project is within an area shown on the State Lands Commission maps over which the state retains a public trust interest. Therefore, the standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.

2. Background and Permitting History

The Commission has previously acted on several other permit applications at the subject site. An emergency permit (1-04-065-G) was issued on October 7, 2004 to conduct similar repairs to the existing levee along another portion of Salmon Creek, and a regular coastal development permit (1-04-004) was approved on November 19, 2004 to authorize those repairs on a permanent basis as well as authorize the removal of other stockpiled debris. The project involved placing approximately 70 cubic yards of fill from a debris pile in the southeastern corner of the site, deemed suitable for such use, to repair an approximately 25 linear-foot levee break within the same footprint as previous undamaged levee structure. The work was done to reduce flooding

and erosion from Salmon Creek and reduce stranding of adult and juvenile salmonids by maintaining the flow of Salmon Creek within its main channel.

On January 12, 2006, the Commission denied CDP Application No. 1-05-014 for the proposed excavation of seven acres of grazed seasonal wetland to create two shallow freshwater ponds, and the installation of water control structures finding that the project was not consistent with the Chapter 3 policies of the Coastal Act regarding the protection of coastal wetlands because it (1) involved a use that is not allowable under Section 30233, and (2) was not the least environmentally damaging feasible alternative as required by Section 30233.

The subject current application (1-06-017) involves, in part, the removal of the water control structures installed without benefit of permits, and recontouring an area of unauthorized grading to install a wetland pond, which were denied by the Commission under CDP No. 1-05-014.

Additionally, the subject application involves the follow-up permit to Emergency Permit No. 1-06-019-G that was issued on April 12, 2006 to repair four breaches in the earthen levee along Salmon Creek. Similar to Emergency Permit No. 1-04-065-G, NOAA Fisheries reviewed the proposed levee repairs and determined that the repairs needed to be performed to prevent threatened salmon species protected under the federal and state Endangered Species Act from flowing through the breach during high water flows and becoming stranded and killed on the adjoining agricultural field. The Executive Director determined that the situation required immediate action to prevent the loss of the threatened species and granted the emergency permit (Exhibit No. 5).

I. MOTION, STAFF RECOMMENDATION, AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve Coastal Development Permit No. 1-06-017 pursuant to the staff recommendation.

Staff Recommendation of Approval:

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

Resolution to Approve Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in

conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS: See attached Appendix A.

III. SPECIAL CONDITIONS:

1. Revegetation and Erosion Control for Repair of Four Levee Breaches and Correction of Unpermitted Development

Within thirty (30) days of Commission approval of Coastal Development Permit 1-06-017, or within such additional time as the Executive Director may grant for good cause, the permittee shall submit evidence that (1) all areas disturbed by (a) construction of the levee repair authorized by Emergency Permit No. 1-06-019-G, (b) the removal of the water control structures, and (c) the previous unauthorized grading, including any additional areas of compaction or vegetation damage caused by operation of equipment necessary to perform these tasks, have been restored to natural contours, and (2) all disturbed areas, including the repaired levee, have been reseeded with locally available commercial seed mix composed of native species of local stock, and that temporary erosion control measures, such as silt fences, fiber rolls, and weed-free rice straw barriers have been placed to stabilize these locations until at least ninety (90) percent new growth coverage is achieved. The permittee shall include dated photographs of the affected areas of the subject site and a site map indicating the location and direction of each photograph, and documenting the completion of items (1) & (2) set forth in this condition.

2. Grazed Seasonal Wetland Vegetation Monitoring for Repair of Four Levee Breaches and Correction of Unpermitted Development

The permittee shall submit a vegetation monitoring report for the review and approval of the Executive Director within one (1) year after completion of re-seeding required pursuant to Special Condition No. 1. The report shall include current photographs of the previously disturbed areas of the subject site, taken from the same locations shown on the site map submitted pursuant to Special Condition No. 1 above. The monitoring report shall document whether the required vegetation coverage (at least 90 percent) of the previously disturbed areas of the site has been achieved. If the report indicates that the revegetation of any of the disturbed areas has not been successful, in part, or in whole, the permittee shall submit a revised revegetation and erosion control plan to achieve the objective. The revised revegetation program

shall require an amendment to this coastal development permit unless the Executive Director determines that no permit amendment is legally required.

3. Revised Standards for Ongoing Repair and Maintenance of Levee Breaches Along Salmon Creek

The permittee shall conduct the ongoing repair and maintenance of levee breaches consistent with the proposed project description titled, "Routine Maintenance and Repairs" dated March 3, 2006 and included as Exhibit No. 6 except that:

a. 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 seasonal wetlands or transitional agricultural lands. No fill shall be placed outside of the existing footprint of the levee system.

b. Placement of Materials: Material placed on the levee that is to be repaired shall not extend into Salmon Creek or grazed seasonal wetlands beyond the footprint of the levee as it existed before the repair. The determination of the location of the 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 are in need of repair shall be used to determine the maximum extent of the repair to avoid extending beyond the former footprint or height of the levee.

c. Revegetation Of Disturbed Areas: Immediately following repair and maintenance activities, the disturbed area shall be revegetated with appropriate native plants of local stock and all disturbed areas straw-mulched.

d. Disposal of Excess Material: All construction debris 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 Salmon Creek or any wetland area, including the grazed seasonal wetlands inboard of the levees, is prohibited.

e. 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 either Salmon Creek or the grazed seasonal wetlands on the inboard side of the damaged levee. The installed silt fences or equivalent devices shall be maintained during project construction and removed upon completion of the project.

f. 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 levee; (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.

g. 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).

h. No Wetland Fill: No permanent or temporary fill of Salmon Creek or any grazed seasonal wetlands is allowed by this permit, including the stockpiling of levee repair materials or equipment. Temporary stockpiling of levee repair materials and equipment is permitted only in upland areas at a minimum distance of 100 feet from any Environmentally Sensitive Habitat Area, including Salmon Creek and associated riparian corridor, and grazed seasonal wetlands.

i. Removal of Woody Debris: No removal of woody debris from Salmon Creek is authorized by this permit. Any removal of woody debris from the channel of Salmon Creek shall require a permit or permit amendment.

j. 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.

k. Monitoring: Repair and maintenance activities shall be monitored 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 Inspection and Reporting: The levee system shall be inspected by a qualified Civil Engineer or equivalent expert, to identify areas where repair and maintenance work will be needed within the coming year. The location(s) and type of work needed shall be described in a written report. The report shall also describe the repair and maintenance activities completed during the reporting period. The applicant shall submit the Engineers report to the Executive Director on November 15 annually.

4. Debris Disposal for Correction of Unpermitted Development

Within thirty (30) days of Commission approval of Coastal Development Permit No. 1-06-017, or within such additional time as the Executive Director may grant for good cause, the permittee

shall submit evidence that the wood and concrete debris associated with the water control structures have been removed from the grazed seasonal wetlands and disposed of at an authorized disposal location.

5. Length of Development Authorization for Ongoing Repair and Maintenance Work of Levee Breaches Along Salmon Creek

The ongoing repair and maintenance of levee breaches along Salmon Creek authorized by this permit is valid for five (5) years from the date of Commission approval (until June 16, 2011). One request for an additional five-year period of development authorization may be accepted, reviewed, and approved by the Executive Director for a maximum total of 10 years of development 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 circumstances. The request for an additional five-year period of development authorization for the ongoing repair and maintenance of levee breaches along Salmon Creek shall be made prior to June 16, 2011. 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, the request for an additional five year period shall be rejected by the Executive Director and an amendment to this permit approved by the Commission will be necessary for any repair and maintenance of levee breaches along Salmon Creek to be undertaken beyond June 16, 2011.

6. Permission to Inspect

The Coastal Commission staff shall have the right, upon 24-hours notification to the permittee, to enter and inspect the premises for the purpose of determining compliance with Coastal Development Permit No. 1-06-017.

7. U.S. Army Corps of Engineers Approval

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director a copy of a permit issued by the U.S. Army Corps of Engineers, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the U.S. Army Corps of Engineers. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is required.

8. U.S. Fish and Wildlife Service Approval

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director a copy of any incidental take permit or other approval issued by the U.S. Fish & Wildlife Service or evidence that no permit or permission is required. The applicant shall

inform the Executive Director of any changes to the project required by the U.S. Fish & Wildlife Service. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

9. NOAA Fisheries Approval

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director a copy of any incidental take permit or other approval issued by NOAA Fisheries, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the National Marine Fisheries Service. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

10. Permit Expiration and Condition Compliance for Correction of Unpermitted Development

Because some of the proposed development has already commenced, this coastal development permit shall be deemed issued upon the Commission's approval and will not expire. Failure to comply with the special conditions of this permit may result in the institution of an action to enforce those conditions under the provisions of Chapter 9 of the Coastal Act.

I. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

1. Site Description

The proposed project site consists of approximately 90 acres of grazed seasonal wetlands located approximately eight miles south of Eureka, on the west side of Highway 101, off of Hookton Road, at 532 Hookton Road in the unincorporated area of Loleta, Humboldt County. The site is located within the Salmon Creek watershed and is adjacent to the Humboldt Bay National Wildlife Refuge, which is located to the north (Salmon Creek Unit) and west (Hookton Slough Unit) of the project site.

The subject site, also known as the former Vance Dairy, is comprised primarily of grazed annual grass pasturelands, separated from Salmon Creek by a series of earthen levees. The property can be described as an agricultural wetland with the majority of the project area characterized as a Palustrine (freshwater) Emergent wetland that is seasonally flooded or saturated. Tidewater reaches a small portion of the northwest corner of the project site from a small channel connected

to a tidegate on Hookton Slough with the upper extent of tidewater influence extending to the 4-foot elevation level. Fill associated with the existing levee located in the southeast corner of the property represents the only upland area at the project site.

The elevation of the project site ranges between 4 and 16 feet with the lowest area in the northwest corner and highest along the east side adjacent to Salmon Creek. The topography is gradual (less than 3% slope) with shallow drainages that border parts of the north, west, and south boundaries of the project areas, and two small channels, one originating from the northwest corner of the site that is caused by a leaky tidegate on Hookton Slough, and the other from the southeast corner of the project site where water flows through a breach in the Salmon Creek levee during periods of high flow. Salmon Creek, like most streams in coastal Northern California, experiences its peak flow events from November to March.

The current primary land use is for cattle grazing, which has significantly influenced the vegetation characteristics of the site. Hydrophytic vegetation is predominant in all areas except the far southeast corner where fill material exists. Obligate wetland plant species are abundant below the 10-foot elevation level. Above this elevation, the dominant plant community is more facultative in regard to wetland preferences, but remains predominantly hydrophytic (i.e., 50% or more of the dominant species are facultative or wetter according to their National Wetland Indicator rating).

According to a biological report prepared for the project site, the prevailing features of the site were shaped by several hydrological alterations implemented over the past century. Approximately 45-acres of the 90-acre project site represents diked former tidelands that were at one time part of the historic Salmon Creek Delta. Channeling, diking, and the construction of the railroad and U.S. Route 101 allowed for the conversion of these former tidelands to pasture for cattle grazing. The remainder of the property is considered above the range of normal tide cycles in South Humboldt Bay, but falls within the floodplain of the lower Salmon Creek watershed. Agricultural use of the land is seasonally limited due to flooding and low productivity of forage grasses. A large portion of the property is dominated by obligate wetland species that are ill suited as fodder for cattle. Currently, the property is still used to graze cattle during the dry summer months prior to the onset of the rainy season when the cattle are moved to higher ground.

Botanical surveys were conducted at the project site between June 20th and July 20th of 2004. No special status plant species were found. Formal wildlife surveys were not conducted; however, based on existing conditions, it has been determined that a total of twenty-six special status animals have moderate to high potential for occurrence at the project site. Most significantly, Salmon Creek supports populations of the Southern Oregon/Northern California Coast (SONCC) coho salmon (*Oncorhynchus kisutch*) Evolutionarily Significant Unit (ESU), California Coastal (CC) Chinook salmon (*O. tshawytscha*) ESU, and Northern California (NC) Steelhead (*O. mykiss*) ESU. SONCC coho, CC Chinook, and NC steelhead were listed as threatened species, pursuant to the Endangered Species Act on May 6, 1997 (62 FR 24588), September 16, 1999 (64 FR 50393), and June 7, 2000 (65 FR 50393), respectively.

The adjacent parcel to the south and east of the project site (APN No. 311-181-01) is also owned by the applicant and is developed with an existing residence, cottage, and shop building located north of Hookton Road. The adjacent parcel is also developed with agricultural facilities that were part of the former Vance Dairy located south of Hookton Road.

2. Project Description

The proposed project includes the following three elements:

a. Follow-up Permit for Emergency Repair of Four Levee Breaches: The first project element involves the follow-up permit for the repair of breaches at four separate locations along the 4.5-foot-high earthen levee along the west bank of Salmon Creek that was authorized under Emergency Permit No. 1-06-019-G issued on April 12, 2006. The four levee breaks measure approximately : 1) 13 cubic yards, 2) 2 cubic yards, 3) 19 cubic yards, and 4) 12 cubic yards, and are generally located as shown on Exhibit No. 3. Repair of the levee involves importing approximately 100 cubic yards of earthen fill material, grading and compacting the fill to restore the original form of the levee, and reseeding the affected portion of the levee. Equipment required for the repairs includes a backhoe, excavator, sheepsfoot compactor, and dump truck. All construction, including compaction, erosion control, and maintenance requirements, is proposed to be completed according to Natural Resources Conservation Service (NRCS) Practice Specifications, unless otherwise specified. The repairs are proposed to be completed during dry weather (less than a 60% chance of a ½ inch of rain or more in a 24 hour period) and silt fences and sand bags are proposed to be placed between the levee and the creek during the repair work to minimize the amount of sediment entering Salmon Creek. Following the completion of the repair work, the levee will be planted to reduce erosion and colonization by weedy species by broadcasting a locally-available erosion control mix over the affected areas.

b. Correction of Unauthorized Development: The second project element involves the correction of development that occurred without benefit of a coastal development permit including (1) removal of a water control structure located at the mid-field portion of the site, (2) recontouring an area previously graded to create a wetland impoundment, (3) removal of a water control structure at the northwest corner of the site, and (4) after-the-fact authorization of the in-kind replacement of a failed culvert at the northwest corner of the site. The water control structures would be removed with the use of a backhoe and dump truck and all associated concrete and wood materials would be removed from the wetlands. A small excavator or grader would be used to recontour approximately ten cubic yards of material immediately adjoining the water control structure at the mid-field portion of the property to pre-violation conditions. Following recontouring, the affected area would be rototilled or scarified and planted with agricultural grasses typical of species elsewhere on the site. The area is also proposed to be watered as needed to prevent wind erosion. A culvert was installed at the northwest corner of the site to replace a failing and blocked culvert that was causing additional flooding of the agricultural lands during the wet season.

The culvert drains this corner of the property to the west and then to the north (on National Refuge property) to a tide gate located within the dike along Hookton Slough. The replacement culvert is the same size as the failed culvert and no changes to the drainage pattern have occurred, or are expected to occur as a result of the culvert replacement.

c. Ten-Year Authorization for Ongoing Repair and Maintenance Activities: The final element of the project is a proposal for ten-year authorization for routine repair and maintenance at the site including (1) levee repairs in a manner that would not expand the size or footprint of the levee, and (2) removal of debris accumulation, including garbage and woody debris, from within the stream channel through the use of manual labor and small equipment. The proposed ongoing maintenance and repairs also include measures for revegetation, erosion control, debris disposal, spill prevention, and dust control. The applicant further proposes that if any additional biological resource is listed by a state or federal trustee agency, or any significant physical change occurs during the period of authorization, within ninety (90) days of the effective date of the listing or significant change, the owner shall cause the review of the effects of the routine maintenance and related activities upon the newly listed biological resource or the results of the change and a report will be provided to the responsible trustee or regulatory agency.

3. Permit Authority, Extraordinary Methods of Repair and Maintenance

As discussed in the project description finding, the proposed project involves the repair and maintenance of (1) an existing levee along Salmon Creek, and (2) a failed culvert in the northwestern portion of the site.

Coastal Act Section 30610(d) generally exempts from Coastal Act permitting requirements the repair or maintenance of structures that does 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 portions of the proposed project involving the existing levee along Salmon Creek and the culvert in the northwest corner of the site are considered repair and maintenance because the work does not involve an addition to or enlargement of the levee or culvert. 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 after-the-fact replacement of the culvert is located in grazed wetlands, an environmentally

sensitive habitat area. Thus, these project elements require a coastal development permit under Section 13252(a)(3) 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.

4. <u>Water Quality</u>

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.*

The proposed repair and maintenance work would take place on an existing levee located immediately adjacent to Salmon Creek. The after-the-fact culvert replacement, removal of two water control structures, and recontouring of previous unauthorized grading would be conducted in grazed seasonal wetlands. All of these project elements involve soil disturbance and vegetation removal. Therefore, there is a potential for adverse impacts to the water quality and biological productivity of Salmon Creek and the surrounding wetlands.

Coastal Act Section 30231 protects the quality of coastal waters, streams, and wetlands through, among other means, controlling runoff and maintaining natural vegetation. Grading, soil disturbance, and vegetation removal can result in the discharge of sediment into site runoff, which upon entering coastal waters, increases turbidity and adversely affects fish and other sensitive aquatic species. Sediment is considered a pollutant that affects visibility through the water, and affects plant productivity, animal behavior (such as foraging) and reproduction, and the ability of animals to obtain adequate oxygen from the water. With respect to potential effects on fish and fish habitat, sediment is often a major pollutant of concern, because fine sediments have been well documented to fill pore spaces between larger gravel and cobble, eliminating the relatively coarse sediments required for egg and fry survival of many freshwater-spawning fish. Sediments may physically alter or reduce the amount of habitat available in a watercourse by replacing the pre-existing habitat structure with a stream-bottom habitat composed of substrate materials unsuitable for the pre-existing aquatic community. In addition, sediment is the medium by which many other pollutants are delivered to aquatic environments, as many pollutants are chemically or physically associated with the sediment particles.

Analysis

a) Repair of Four Levee Breaches Adjacent to Salmon Creek

The proposed project involves follow-up authorization for levee repairs that were authorized under Emergency Permit No. 1-06-019-G. The emergency work involved the repair of four separate breaches of an existing levee that was draining water from Salmon Creek onto the adjacent pasturelands, thereby causing flooding, erosion, and loss of water supplies within the main creek channel that supports listed salmonid species.

The levee repair project was conditioned under Emergency Permit No. 1-06-019-G to be conducted in a manner that would protect the biological productivity and water quality of Salmon Creek consistent with Coastal Act Section 30231. Emergency Permit No. 1-06-019-G granted for the project included conditions which required among other things, that (a) the materials placed on the levee to be repaired not extend into Salmon Creek beyond the footprint of the levee as it existed before the damage occurred, (b) the fill material to be used for the repairs be screened or otherwise sorted to remove all concrete, old fence materials, rebar, pieces of asphalt pavement, and other debris not suitable for levee breach repair, (c) silt fences or equivalent devices be installed between the levee and the creek prior to the placement of any fill material to reduce the discharge of fill material and sediment laden runoff into Salmon Creek, (d) the mature riparian vegetation located within the stream channel be avoided, (e) the work be completed by June 12, 2006 to avoid construction during the rainy season and minimize sedimentation, (f) operations cease if a 60% chance of a one half inch of rain or more within a 24-hour period is forecast to further minimize sedimentation, and (g) no equipment fueling occur on the site or elsewhere along the levee to avoid the accidental discharge of fuel into the stream.

To further ensure the protection of water quality from adverse impacts associated with erosion and sedimentation, the Commission attaches Special Condition No. 1 that requires, in part, that the applicant provide evidence to the Executive Director that all areas disturbed by the construction of the levee repairs, including any additional areas of compaction or vegetation damage caused by operation of equipment necessary to perform the work have been restored to natural contours to prevent gullying and washouts that can contribute to erosion and sedimentation. Special Condition No. 1 further requires the applicant to submit evidence that all disturbed areas have been reseeded with native species of local stock, and that temporary erosion control measures, such as silt fences, fiber rolls, and weed-free rice straw barriers have been placed to stabilize these locations until at least ninety (90) percent new growth coverage is achieved.

To ensure the success of the revegetation required by Special Condition No. 1, the Commission attaches Special Condition No. 2 that requires the applicant to submit a vegetation monitoring report for the review and approval of the Executive Director within one (1) year after completion of the required re-seeding. The monitoring report is required to document whether the required

vegetation coverage (at least 90 percent) of the disturbed areas of the site has been achieved. If the report indicates that the revegetation of any of the disturbed areas has not been successful, in part, or in whole, the applicant is required to submit a revised revegetation and erosion control plan to achieve the objective.

The requirements of Special Condition Nos. 1 and 2 will ensure (1) the stabilization of the fill material to minimize erosion and the amount of sediment potentially entering Salmon Creek, and (2) the maintenance of the natural vegetation buffer area that protects the riparian habitat of Salmon Creek. Therefore, as conditioned, the Commission finds that the levee repair work is consistent with Section 30231 of the Coastal Act, as the proposed repair work would protect the biological productivity and water quality of Salmon Creek.

b) Ongoing Repair and Maintenance of Levee Breaches Along Salmon Creek

Implementation of the proposed repair and maintenance program would involve the placement of fill material on the portion(s) of the levee to be maintained, the use of tracked or wheeled vehicles, stockpiling of materials and staging of equipment to be used for the repairs, and the removal of vegetation to conduct the repairs. Unless appropriate protocols are followed, these activities could result in fuel or oil spills, improper storage of materials in or adjacent to sensitive habitat areas, and increased erosion, sedimentation, and turbidity that would have adverse impacts on the biological productivity and water quality of Salmon Creek.

The repair and maintenance program proposed by the applicant includes a number of protocols to protect water quality including: replanting the disturbed area(s) following completion of the repairs, the use of silt fences or equivalent devices to reduce the discharge of materials into the creek, prohibiting the placement of excess material from the repairs within the creek, and prohibiting fueling and maintenance of construction equipment on site.

In general, the protocols proposed by the applicant are, in part, appropriate to protect water quality. However, the proposed protocols lack adequate specificity in some instances and are incomplete in other areas. For example, the proposed protocols do not limit repair and maintenance activities to dry periods. Work performed during rainy periods is much more likely to result in the discharge of sediment into the adjacent waters because the fill would be saturated and rainy conditions increase the likelihood for sediment to be entrained in storm water runoff from exposed soils. Additionally, the proposed protocols lack specificity regarding the type of fill that can be used for the levee repairs. For example, runoff from the potential use of contaminated fill materials would have an adverse impact on water quality. Finally, the protocols do not provide for monitoring, or pre-construction training for the contractor to ensure that the proper protocols are understood and carried out.

Although the applicant is proposing a number of protocols directed towards avoiding and mitigating adverse impacts to water quality and nearby wetlands, additional conditions are needed to adequately protect coastal resources. The Commission therefore attaches Special Condition No. 3 that incorporates the applicant's proposed protocols and revises and

supplements them in a manner that provides greater specificity and more comprehensively sets forth development criteria necessary for approval of the proposed long-term repair and maintenance program. Special Condition No. 3 requires, in applicable part, that (a) only dry, clean fill material be used for the repairs, (b) the placement of fill material be limited to within the footprint of the levee as it existed before the repair, (c) the disturbed area be immediately revegetated with appropriate native plants following completion of the repairs, (d) construction debris be removed from the site and disposed of at an authorized disposal site, (e) silt fences or equivalent devices be installed along the perimeter of each repair site prior to the placement of any fill materials, (f) spill prevention measures be implemented during construction, (g) all repair and maintenance activities authorized by this permit only be performed during the dry season (April 15 to October 15), and (h) no permanent or temporary fill of Salmon Creek or any other seasonal wetlands occur at the site, including the stockpiling of levee repair materials or equipment. Special Condition No. 3 also requires pre-construction contractor training prior to the commencement of any repair and maintenance activities to ensure that the Contractor understands and agrees to observe the standards for work outlined in the condition, that the levee system be inspected by a qualified Civil Engineer, or equivalent expert, and that an annual report be submitted to the Executive Director (1) identifying areas where repair and maintenance work will be needed within the coming year, and (2) describing the repair and maintenance activities that occurred during the reporting period.

The applicants are requesting authorization to conduct ongoing repair and maintenance of any levee breaches along Salmon Creek for a period of ten years. The applicant proposes that should any additional biological resource be listed by a state or federal trustee agency, or any significant physical change occur during the period of authorization, within ninety (90) days of the effective date of the listing or significant change, the owner shall cause the review of the effects of the routine maintenance and related activities upon the newly listed biological resource or the results of the change and a report be provided to the responsible trustee or regulatory agency. The Commission has, on occasion granted multi-year permits for similar repair and maintenance activities (i.e. 3-04-72, Moss Landing Harbor District routine pier replacement; and 3-00-034, Santa Cruz Port District, routine maintenance dredging; and 3-02-047, Monterey Harbor, routine operations and maintenance, and 1-03-004, Reclamation District 768, routine levee) in order to reduce both Commission and District staff workload associated with processing repetitive, routine coastal permits. However, as implied by the applicant's proposal, the status of biological resources and physical conditions of the site may change over time, thereby potentially necessitating further analysis and special conditions to ensure the continued protection of coastal resources. Additionally, techniques for addressing maintenance needs can also evolve over time, which may require a change in the approved methods of repair and maintenance activities. Therefore, the Commission chooses to grant an initial five year period of authorization for ongoing repair and maintenance of levee breaches along Salmon Creek with a one-time ability to extend the period of development authorization of ongoing repair and maintenance of levee breaches along Salmon Creek for another five years for a maximum total of ten years of development authorization if there are no circumstances that require additional review. Special Condition No. 5 incorporates these permit authorization restrictions.

Therefore, the Commission finds that as conditioned to (1) add specificity to proposed protocols and add additional protocols to ensure the protection of water quality and biological productivity of Salmon Creek, and (2) to limit the authorization of the proposed ongoing repair and maintenance program along the Salmon Creek levee to a period of five years, the project is consistent with Coastal Act Section 30231.

c) Removal of Water Control Structures, Recontouring, and Culvert Replacement

The proposed project also involves the correction of development that occurred without benefit of a coastal development permit including (1) removal of a water control structure located at the mid-field portion of the site, (2) recontouring an area previously graded to create a wetland impoundment, (3) removal of a water control structure at the northwest corner of the site, and (4) after-the-fact authorization of the in-kind replacement of a failed culvert at the northwest corner of the site, all located in grazed seasonal wetlands. The proposed work would require the use of heavy equipment and would cause soil and vegetation disturbance that can result in exposed soils, which are subject to increased erosion.

To ensure that the disturbed areas are properly recontoured and revegetated to minimize erosion and sedimentation, the Commission attaches Special Condition Nos. 1 and 2. Special Condition No. 1 requires, in part, that the applicant provide evidence to the Executive Director that all areas disturbed by the removal of the water control structures and the previous unauthorized grading, including any additional areas of compaction or vegetation damage caused by operation of equipment necessary to perform these tasks, have been restored to natural contours. Restorative grading ensures adequate site preparation for revegetation and improves erosion control by reducing unevenness that leads to gullying, washout, and sediment loss during winter rains. Special Condition No. 1 further requires that all disturbed areas be reseeded with seed mix composed of native species of local stock, and that temporary erosion control measures, such as silt fences, fiber rolls, and weed-free rice straw barriers have been placed to stabilize these locations until at least ninety (90) percent new growth coverage is achieved.

To ensure the success of the revegetation required by Special Condition No. 1, the Commission also Special Condition No. 2 that requires the applicant to submit a vegetation monitoring report for the review and approval of the Executive Director within one (1) year after completion of the required re-seeding. The monitoring report is required to document whether the required vegetation coverage (at least 90 percent) of the disturbed areas of the site has been achieved. If the report indicates that the revegetation of any of the disturbed areas has not been successful, in part, or in whole, the applicant is required to submit a revised revegetation and erosion control plan to achieve the objective. Furthermore, Special Condition No. 6 requires the applicant to provide Commission staff the ability to verify condition compliance at the site and thereby ensure that the mitigation measures imposed by the applicable special conditions are fully implemented.

Therefore, the Commission finds that as conditioned to require (1) the recontouring, revegetation, and temporary erosion control measures of all disturbed areas, and (2) compliance monitoring, the proposed project is consistent with Coastal Act Section 30231 regarding the protection of the water quality and biological productivity of coastal waters and wetlands.

5. Protection of Environmentally Sensitive Habitat Areas (ESHA)

Section 30240 of the Coastal Act states:

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

Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas (ESHA) be protected against significant disruption of habitat values from adjacent development, and that only uses dependent on the resources of the ESHA be allowed within the ESHA.

A portion of the proposed project involves repairing four breaches in the levee adjacent to the west side of Salmon Creek. Salmon Creek supports populations of coho salmon (*Oncorhynchus kisutch*), Chinook salmon (*O. tshawytscha*), and Steelhead (*O. mykiss*), which are listed as threatened species under the federal Endangered Species Act. Salmon Creek also supports a well-developed riparian corridor. The majority of the site on the inboard side of the levee is comprised of grazed seasonal wetlands. Salmon Creek and its associated riparian corridor and the seasonal wetlands are considered environmentally sensitive habitat areas (ESHA).

a) Repair of Four Levee Breaches Adjacent to Salmon Creek

As noted previously, the repair of four levee breaches adjacent to Salmon Creek was authorized under Emergency Permit No. 1-06-019-G. NOAA Fisheries reviewed the proposed levee repairs and determined that the repairs were necessary to prevent threatened salmon species protected under the federal and state Endangered Species Act from flowing through the breaches during high water flows and becoming stranded and killed on the adjoining agricultural field. The Executive Director determined that the situation required immediate action to prevent the loss of the threatened species and granted the emergency permit (Exhibit No. 5). Some of the repair work and associated project staging and access would occur within environmentally sensitive habitat areas (ESHA), including the riparian corridor of Salmon Creek and the surrounding grazed seasonal wetlands. However, the project would not introduce any new use within the ESHA consistent with Coastal Act Section 30240(a).

The levee repair project was also conditioned under Emergency Permit No. 1-06-019-G to be conducted in a manner that would protect Salmon Creek and the associated riparian corridor from significant disruption to habitat values consistent with Coastal Act Section 30240. Emergency Permit No. 1-06-019-G granted for the project included conditions which required among other things, that (a) the materials placed on the levee to be repaired not extend into Salmon Creek beyond the footprint of the levee as it existed before the damage occurred, (b) the material to be used be screened or otherwise sorted to remove all concrete, old fence materials, rebar, pieces of asphalt pavement, and other debris not suitable for levee breach repair, (c) silt fences or equivalent devices be installed between the levee and the creek prior to the placement of any fill material to reduce the discharge of fill material and sediment laden runoff into Salmon Creek, (d) the mature riparian vegetation located within the stream channel be avoided, (e) the work be completed by June 12, 2006, (f) operations cease if a 60% chance of a one half inch of rain or more within a 24-hour period is forecast to further minimize sedimentation, and (g) no equipment fueling occur on the site or elsewhere along the levee to avoid the accidental discharge of fuel into the stream.

To further ensure that the reconstructed portions of the levee are revegetated to minimize erosion from wind and stormwater runoff and subsequent sedimentation and habitat degradation of Salmon Creek, the Commission attaches Special Condition Nos. 1 and 2. Special Condition No. 1 requires, in part, that the applicant provide evidence to the Executive Director that all areas disturbed by the construction of the levee repairs, including any additional areas of compaction or vegetation damage caused by operation of equipment necessary to perform the work, have been restored to natural contours to prevent gullying and washouts that can contribute to erosion and sedimentation. Special Condition No. 1 further requires the applicant to submit evidence that all disturbed areas have been reseeded with seed mix composed of native species of local stock, and that temporary erosion control measures, such as silt fences, fiber rolls, and weed-free rice straw barriers have been placed to stabilize these locations until at least ninety (90) percent new growth coverage is achieved.

To ensure the success of the revegetation required by Special Condition No. 1, the Commission attaches Special Condition No. 2 that requires the applicant to submit a vegetation monitoring report for the review and approval of the Executive Director within one (1) year after completion of the required re-seeding. The monitoring report is required to document whether the required vegetation coverage (at least 90 percent) of the disturbed areas of the site has been achieved. If the report indicates that the revegetation of any of the subject disturbed areas has not been successful, in part, or in whole, the applicant is required to submit a revised revegetation and erosion control plan to achieve the objective. The requirements of Special Condition No. 2 will ensure the stabilization of the fill material used to repair the levee to prevent erosion of the levee and sedimentation of Salmon Creek.

The Commission finds that (1) as the levee repair will serve to protect threatened salmonid species, and (2) with the mitigation measures discussed above, which are designed to minimize any potential impacts to the adjacent environmentally sensitive habitat area from erosion and sedimentation, the project as conditioned will (a) protect the ESHA from any significant

disruption of habitat values, (b) not significantly degrade adjacent ESHA, and (c) be compatible with the continuance of the habitat area. Therefore, the Commission finds that the project as conditioned is consistent with Section 30240 of the Coastal Act.

b) Ongoing Repair and Maintenance Program of Levee Breaches Along Salmon Creek

Implementation of the proposed repair and maintenance program would involve the placement of fill material on the portion(s) of the levee to be maintained, the use of tracked or wheeled vehicles, stockpiling of materials and staging of equipment to be used for the repairs, and the removal of vegetation to conduct the repairs. Unless appropriate protocols are followed, these activities could result in fuel or oil spills, improper storage of materials in or adjacent to sensitive habitat areas, and increased erosion, sedimentation, and turbidity that would have adverse impacts on the habitat value of Salmon Creek, the adjacent riparian corridor, and the surrounding grazed seasonal wetlands. Some of the repair work and associated project staging and access would occur within environmentally sensitive habitat areas (ESHA), including the riparian corridor of Salmon Creek and the surrounding grazed seasonal wetlands. However, the project would not introduce any new use within the ESHA consistent with Coastal Act Section 30240(a).

The repair and maintenance program proposed by the applicant includes a number of protocols that would serve to protect the ESHA including: replanting the disturbed area(s) following completion of the repairs, the use of silt fences or equivalent devices to reduce the discharge of materials into the creek, prohibiting the placement of excess material from the repairs within the creek, and prohibiting fueling and maintenance of construction equipment on site.

As discussed in the water quality finding above, the protocols proposed by the applicant are, in part, appropriate to protect water quality as well as ESHA. However, as discussed previously, the proposed protocols similarly lack adequate specificity in some instances and are incomplete in other areas to fully protect the habitat values of the environmentally sensitive habitat areas at the site. For example, the proposed protocols do not limit repair and maintenance activities to dry periods. Work performed during rainy periods is much more likely to result in the discharge of sediment into the adjacent waters because the fill would be saturated and rainy conditions increase the likelihood for sediment to be entrained in storm water runoff from exposed soils. As discussed above in the water quality findings above, increased sedimentation and turbidity can have adverse impacts on sensitive fish species and other aquatic species that inhabit Salmon Creek. Additionally, the proposed protocols lack specificity with regard to the stockpiling of materials and staging of construction equipment. Locating staging and stockpiling areas in or adjacent to environmentally sensitive habitat areas, such as the grazed seasonal wetlands adjacent to the levee, could result in unauthorized wetland fill and/or compaction and removal of wetland vegetation. Finally, the protocols do not provide for monitoring, or pre-construction training for the contractor to ensure the proper protocols are understood and carried out.

Although the applicant is proposing a number of protocols that would, to some extent, minimize adverse impacts to environmentally sensitive habitat areas, additional conditions are needed to adequately protect the ESHA. The Commission therefore attaches Special Condition No. 3 that

incorporates the applicant's proposed protocols and revises and supplements them in a manner that provides greater specificity and more comprehensively sets forth development criteria necessary for approval of the proposed long-term repair and maintenance program. Special Condition No. 3 requires that (a) only dry, clean fill material be used for the repairs, (b) the placement of fill material be limited to within the footprint of the levee as it existed before the repair, (c) the disturbed area be immediately revegetated with appropriate native plants of local stock following completion of the repairs, (d) construction debris be removed from the site and disposed of at an authorized disposal site, (e) silt fences or equivalent devices be installed along the perimeter of each repair site prior to the placement of any fill materials, (f) spill prevention measures be implemented during construction, (g) all repair and maintenance activities authorized by this permit only be performed during the dry season (April 15 to October 15), and (h) no permanent or temporary fill of Salmon Creek or any other seasonal wetlands occur at the site, including the stockpiling of levee repair materials or equipment and all temporary stockpiling is permitted only in upland areas at a minimum distance of 100 feet from any ESHA. Special Condition No. 1 also requires pre-construction contractor training prior to the commencement of any repair and maintenance activities to ensure that the Contractor understands and agrees to observe the standards for work outlined in the condition, that the levee system be inspected by a qualified Civil Engineer, or equivalent expert, and that an annual report be submitted to the Executive Director (1) identifying areas where repair and maintenance work will be needed within the coming year and (2) describing the repair and maintenance activities that occurred during the reporting period.

The applicant's proposal also includes one measure that does not meet current standards for the protection of environmentally sensitive habitat areas however, and that is the proposed removal of woody debris from Salmon Creek as part of the ongoing repair and maintenance program. Large woody debris is essential for creating channel complexity, such as deep pool habitats, that provide critical habitat for sensitive salmonids. Therefore, Special Condition No. 3(i) prohibits the removal of woody debris from Salmon Creek without a permit or permit amendment.

As discussed in the water quality finding above, the applicants are requesting authorization to conduct ongoing repair and maintenance of levee breaches along Salmon Creek as well as debris removal from Salmon Creek for a period of ten years. The applicant proposes that should any additional biological resource be listed by a state or federal trustee agency, or any significant physical change occur during the period of authorization, within ninety (90) days of the effective date of the listing or significant change, the owner shall cause the review of the effects of the routine maintenance and related activities upon the newly listed biological resource or the results of the change and a report be provided to the responsible trustee or regulatory agency. The Commission has, on occasion granted multi-year permits for ongoing repair and maintenance activities as a means of reducing both Commission and District staff workload associated with processing repetitive, routine coastal permits. However, as implied by the applicant's proposal, the status of biological resources and physical conditions of the site may change over time, thereby potentially necessitating further analysis and special conditions to ensure the continued protection of coastal resources. Additionally, techniques for addressing maintenance needs can

also evolve over time, which may require a change in the approved methods of repair and maintenance activities. Therefore, the Commission chooses to grant an initial five year period of authorization for ongoing repair and maintenance of levee breaches along Salmon Creek with a one-time ability to extend the period of authorization for ongoing repair and maintenance of levee breaches along Salmon Creek for another five years for a maximum total of 10 years of if there are no circumstances that require additional review. Special Condition No. 5 incorporates these permit authorization restrictions.

Therefore, the Commission finds that as conditioned to (1) add specificity to proposed protocols and add additional protocols to ensure the protection of environmentally sensitive habitat areas, and (2) to limit the initial authorization of the ongoing repair and maintenance program to a period of five years, the project will (a) protect the ESHA from any significant disruption of habitat values, (b) not significantly degrade the adjacent ESHA, and (c) be compatible with the continuance of the habitat area consistent with Coastal Act Section 30240.

c) Removal of Water Control Structures, Recontouring, and Culvert Replacement

The proposed project also involves the correction of development that occurred without benefit of a coastal development permit including (1) removal of a water control structure located at the mid-field portion of the site, (2) recontouring an area previously graded to create a wetland impoundment, (3) removal of a water control structure at the northwest corner of the site, and (4) after-the-fact authorization of the in-kind replacement of a failed culvert at the northwest corner of the site, all located in seasonal grazed wetlands. The proposed work would require the use of heavy equipment and would result in soil and vegetation disturbance within the ESHA. Although some of the repair work and associated project staging and access would occur within environmentally sensitive habitat areas (ESHA), including the riparian corridor of Salmon Creek and the surrounding grazed seasonal wetlands, the project would not introduce any new use within the ESHA consistent with Coastal Act Section 30240(a).

The wetland vegetation on the site is not particularly abundant or diverse in comparison with other wetland habitats around Humboldt Bay because of its current and historic use as pasture for cattle grazing. Nonetheless, the area does provide important wetland habitat including foraging habitat for a diversity of water-associated wildlife including waterfowl, wading birds, and shorebirds. The wetlands also function to provide a certain degree of water quality protection, as they temporarily detain rainwater runoff and allow for the removal of impurities entrained in stormwater flowing over the pasture lands. Grading and compaction of the wetlands can result in variations in the topography and elevation of the wetlands that may result in alterations to the hydrology of the seasonal grazed wetlands. These wetlands are essentially flat and are largely fed through a high groundwater table and seasonal rainfall. Depressions, mounds, or ridges could result in changes to storm water runoff and retention if graded improperly.

To ensure that the disturbed areas are properly recontoured and revegetated to minimize disruption of habitat values of the wetlands, the Commission attaches Special Condition Nos. 1

and 2. Special Condition No. 1 requires, in part, that the applicant provide evidence to the Executive Director that all areas disturbed by the removal of the water control structures and the previous unauthorized grading, including any additional areas of compaction or vegetation damage caused by operation of equipment necessary to perform these tasks, have been restored to natural contours. Restorative grading ensures adequate site preparation for revegetation, and improves erosion control by reducing unevenness that leads to gullying, washout, and sediment loss during winter rains. Special Condition No. 1 further requires that all disturbed areas be reseeded with seed mix composed of native species of local stock, and that temporary erosion control measures, such as silt fences, fiber rolls, and weed-free rice straw barriers have been placed to stabilize these locations until at least ninety (90) percent new growth coverage is achieved.

To ensure the success of the revegetation required by Special Condition No. 1, the Commission also attaches Special Condition No. 2 that requires the applicant to submit a vegetation monitoring report for the review and approval of the Executive Director within one (1) year after completion of the required re-seeding. The monitoring report is required to document whether the required vegetation coverage (at least 90 percent) of the disturbed areas of the site has been achieved. If the report indicates that the revegetation of any of the subject disturbed areas has not been successful, in part, or in whole, the applicant is required to submit a revised revegetation and erosion control plan to achieve the objective.

The Commission also finds that the wood and concrete materials associated with the water control structures required to be removed could result in unauthorized wetland fill elsewhere on the site if not properly disposed of. Therefore, to ensure the removal and proper disposal of the water control structures, the Commission attaches Special Condition No. 4 that requires the applicant to submit evidence to the Executive Director within 30 days of permit approval that the wood and concrete debris associated with the water control structures has been removed from the grazed seasonal wetlands and disposed of at an authorized disposal location.

The Commission further attaches Special Condition No. 6 that requires the applicant to provide Commission staff the ability to inspect the site to verify condition compliance and thereby ensure that the mitigation measures imposed by the applicable special conditions are fully implemented.

Therefore, the Commission finds that as conditioned to require (1) the recontouring, revegetation, and temporary erosion control measures, (2) compliance monitoring, and (3) proper disposal of debris required to be removed from the grazed seasonal wetlands, the proposed project will (a) protect the ESHA from significant disruption of habitat values, (b) not significantly degrade the adjacent ESHA, and (c) be consistent with the continuance of the habitat area consistent with Coastal Act Section 30240 regarding the protection of environmentally sensitive habitat areas.

6. Public Access

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from over use. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby. Section 30211 requires that development not interfere with the public's right to access gained by use or legislative authorization. Section 30214 of the Coastal Act provides that the public access policies of the Coastal Act shall be implemented in a manner that takes into account the capacity of the site and the fragility of natural resources in the area. In applying Sections 30210, 30211, 30212, and 30214 of the Coastal Act, the Commission is also limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on public access.

Although the project is located between the first public road and Humboldt Bay, an inlet of the sea, the project would not adversely affect public access. The project site is within a rural, agricultural area used primarily for cattle grazing. There are no trails or other public roads that provide shoreline access within the vicinity of the project that would be affected by the project. Furthermore, the proposed project would not create any new demand for public access or otherwise create any additional burdens on public access.

Therefore, the Commission finds that the proposed project does not have any significant adverse effect on public access, and that the project as proposed without new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, 30212, and 30214.

7. Other Agency Approval

The project requires review and approval by the U.S. Army Corps of Engineers. Pursuant to the Federal Coastal Zone Management Act, any permit issued by a federal agency for activities that affect the coastal zone must be consistent with the coastal zone management program for that state. Under agreements between the Coastal Commission and the U.S. Army Corps of Engineers, the Corps will not issue a permit until the Coastal Commission approves a federal consistency certification for the project or approves a permit. As part of the Army Corps permit process, the ACOE is required to undergo formal Endangered Species Act Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS). To ensure that the project ultimately approved by the Corps, the USFWS, and NMFS is the same as the project authorized herein, the Commission attaches Special Condition Nos. 7, 8, and 9 that require the applicant to submit to the Executive Director evidence of these agencies' approval of the project prior to the commencement of construction. The conditions require that any project changes resulting from these other agency approvals not be incorporated into the project until the applicant obtains any necessary amendments to this coastal development permit.

8. Violation

Although construction has taken place at the project site prior to submission of the subject permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject sites without a coastal development permit.

9. California Environmental Quality Act

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

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.

EXHIBITS:

1. Regional Location
2. Vicinity Map
3. Site Plan
4. Levee Repair Details
5. Emergency Permit
6. Routine Maintenance and Repairs Proposal

ATTACHMENT A

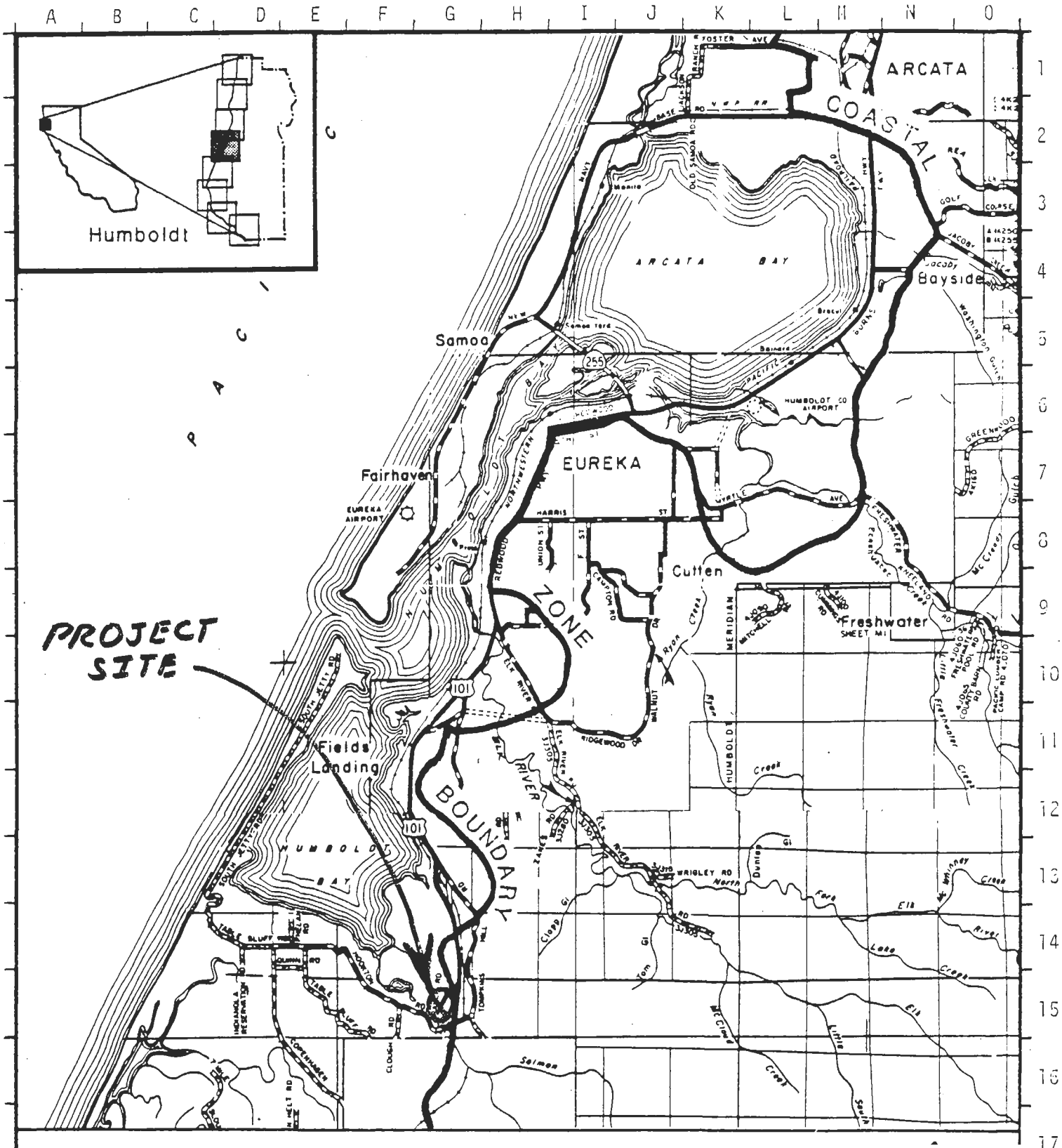
Standard Conditions:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.

3. 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.

4. 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.



California Coastal Commission

LOCATION MAP

County of Humboldt

EXHIBIT NO. 1

APPLICATION NO.

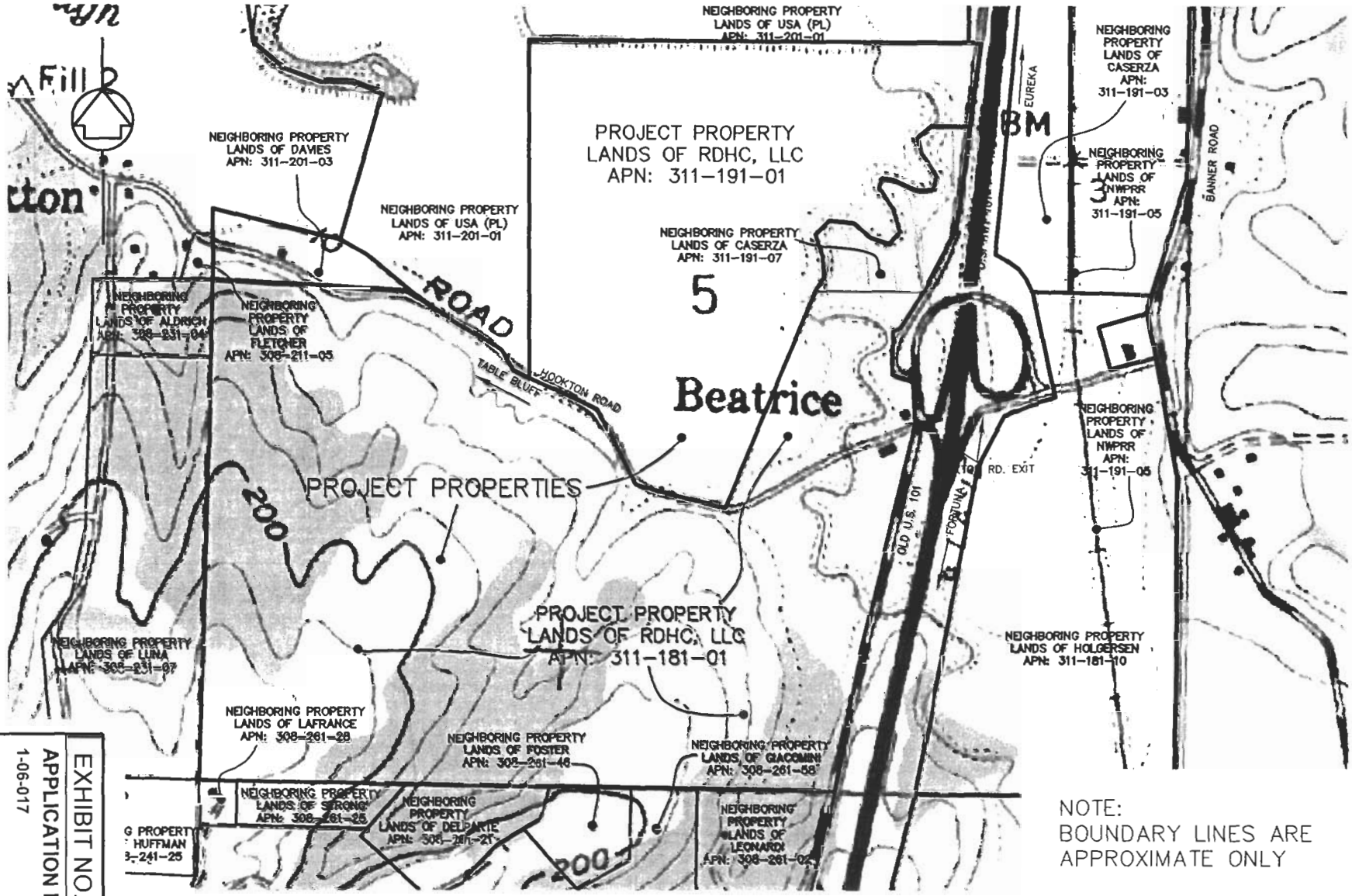
1-06-017

RDHC

REGIONAL LOCATION

VICINITY MAP

SCALE: 1" = 800' ±



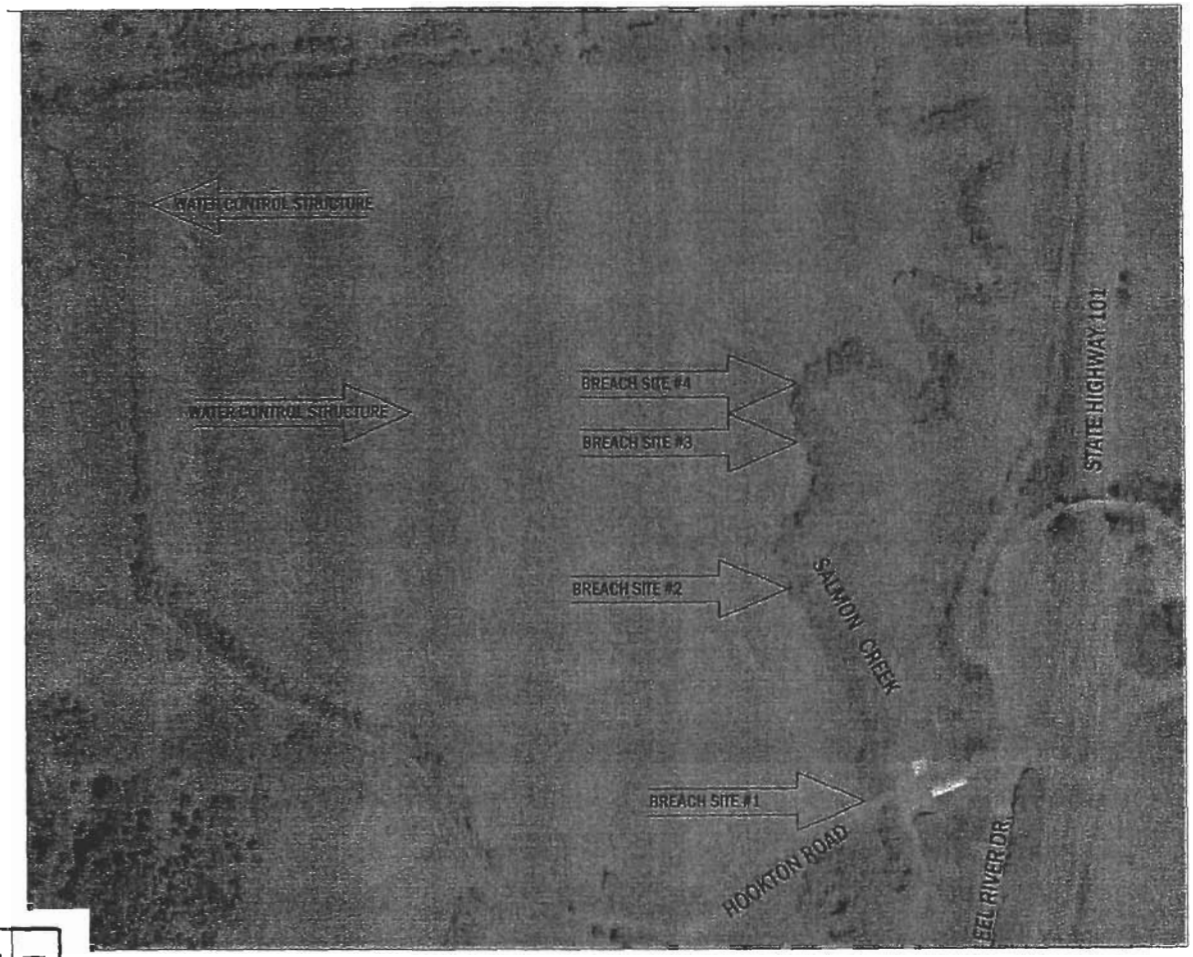
NOTE:
BOUNDARY LINES ARE APPROXIMATE ONLY

OSCAR LARSON & ASSOCIATES

Associates

EXHIBIT NO. 2
APPLICATION NO.
1-06-017
RDHC
VICINITY MAP

N.T.S.



BASIS OF BEARINGS: MAGNETIC BEARING ALONG HOOKTON ROAD WAS THE BASIS OF BEARINGS FOR PROFILE SHEETS.

BENCHMARK: ELEVATIONS SHOWN ARE AS PER AN ASSUMED ELEVATION OF CONTROL PT. #1 LOCATED NEAR THE SOUTH END OF BRIDGE ON HOOKTON ROAD.

ELEVATION= 100.00 (ASSUMED) TOP PK NAIL

REDUCED COPY

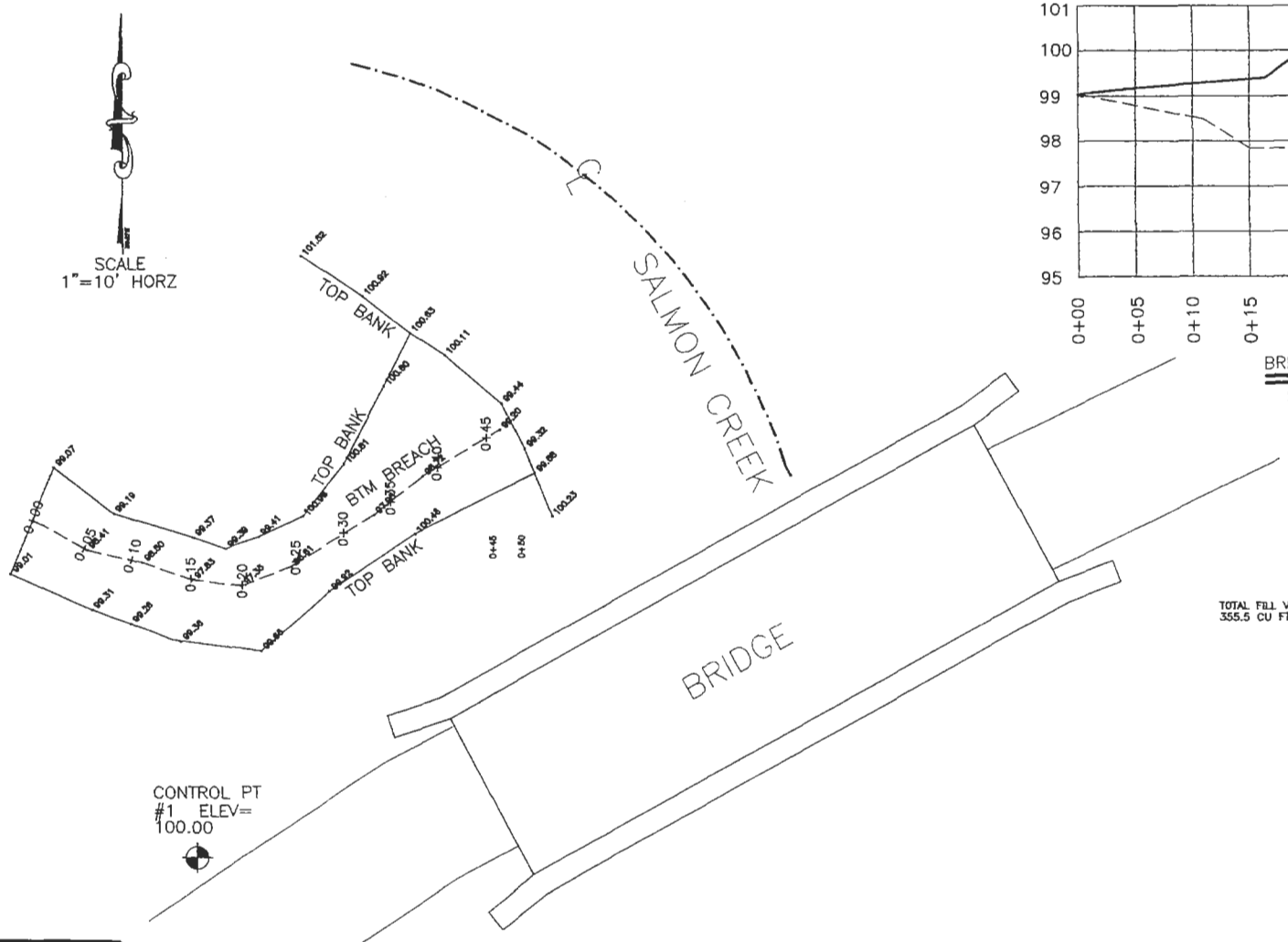
COVER SHEET

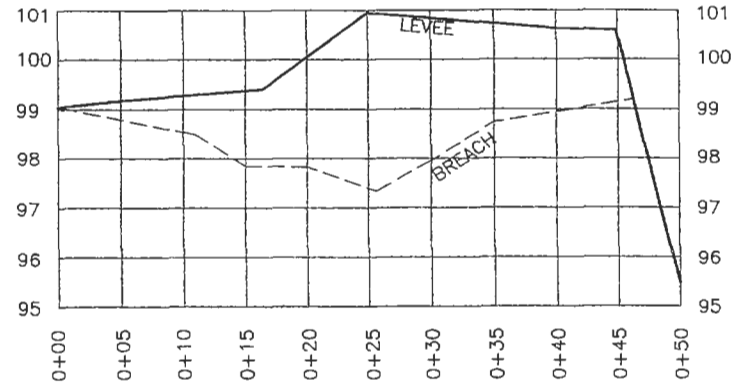
SALMON CREEK LEVEE BREACH PLAN & PROFILES FOR RDHC, LLC.

UNINCORPORATED AREA OF HUMBOLDT COUNTY, CALIFORNIA
FEBRUARY 2006

Oscar Larson & Associates
317 Third Street
Eureka, California 95501
(707) 445-2043

EXHIBIT NO. 3
APPLICATION NO.
1-06-017
RDHC
BREACH LOCATIONS





BREACH AREA 1 PROFILE

SCALE 1"=10' HORZ
1"=4' VERT

TOTAL FILL VOLUME=
355.5 CU FT=13.17 CU YDS

REDUCED COPY

BREACH AREA 1

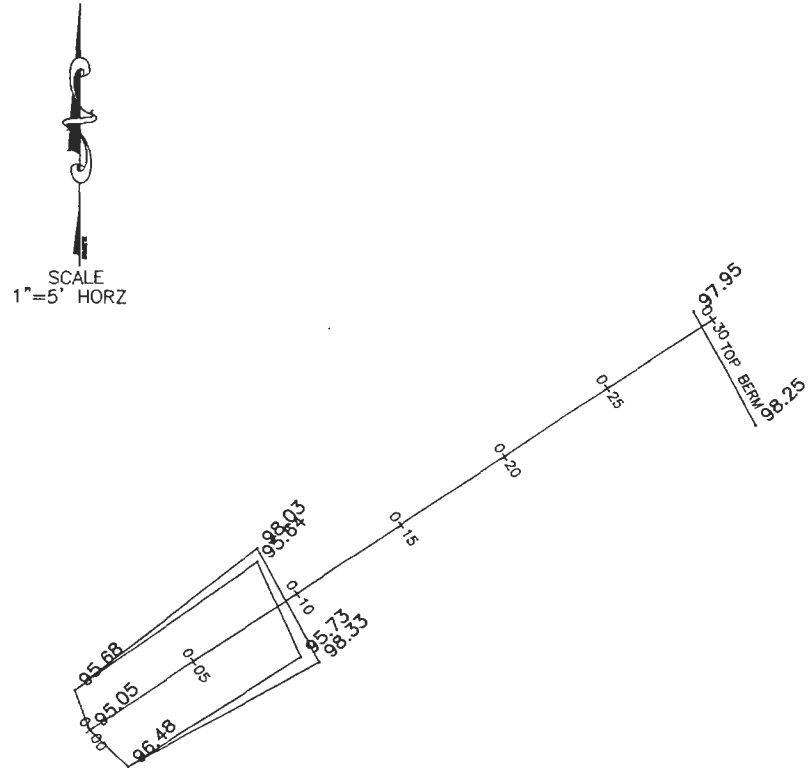
SALMON CREEK LEVEE BREACH PLAN & PROFILES FOR RDHC, LLC.

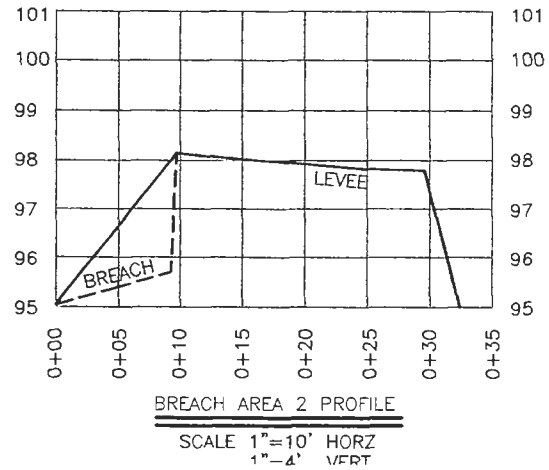
UNINCORPORATED AREA OF HUMBOLDT COUNTY, CALIFORNIA
FEBRUARY 2006

Oscar Larson & Associates
317 Third Street
Eureka, California 95501
(707) 445-2043

SHEET 2 OF 5

EXHIBIT NO. 4
APPLICATION NO.
1-06-017
RDHC
BREACH PLANS (1 of 4)





BREACH AREA 2 PROFILE

SCALE 1"=10' HORZ
1"=4' VERT

TOTAL FILL VOLUME=
48.3 CU FT=1.78 CU YDS

BREACH AREA 2

REDUCED COPY

SALMON CREEK LEVEE BREACH PLAN & PROFILES FOR RDHC, LLC.

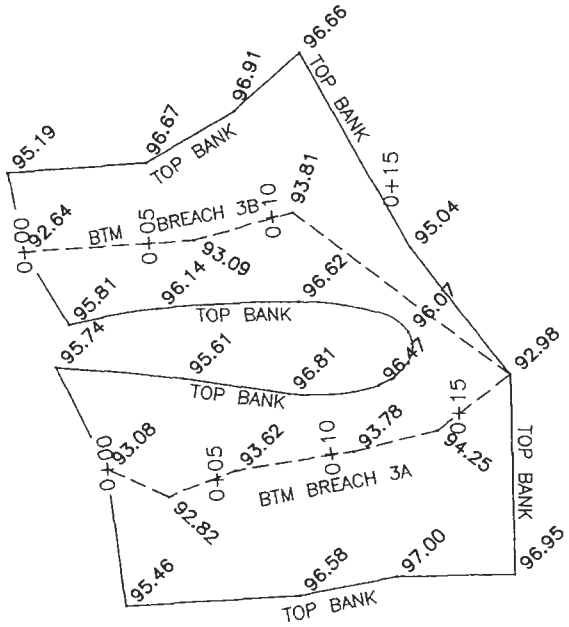
UNINCORPORATED AREA OF
HUMBOLDT COUNTY, CALIFORNIA
FEBRUARY 2006

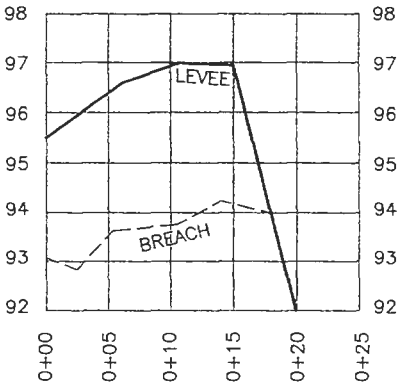
Oscar Larson & Associates
317 Third Street
Eureka, California 95501
(707) 445-2043

JOB NO. 6914.1–RDHC
01 MARCH '06

294

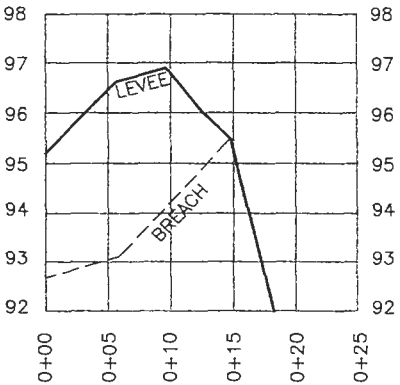
SCALE
1"=5' HORZ





BREACH AREA 3A PROFILE

SCALE 1"=10' HORZ
1"=4' VERT



BREACH AREA 3B PROFILE

SCALE 1"=10' HORZ
1"=4' VERT

TOTAL FILL VOLUME=
517.64 CU FT=19.17 CU YDS

REDUCED COPY

BREACH AREA 3

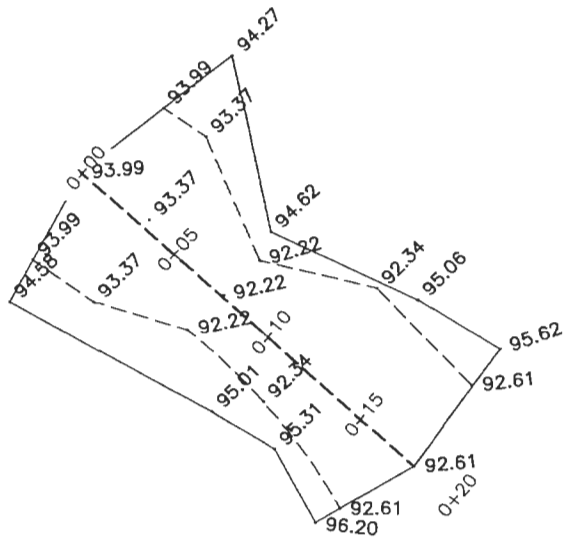
SALMON CREEK LEVEE BREACH PLAN & PROFILES FOR RDHC, LLC.

UNINCORPORATED AREA OF
HUMBOLDT COUNTY, CALIFORNIA
FEBRUARY 2006

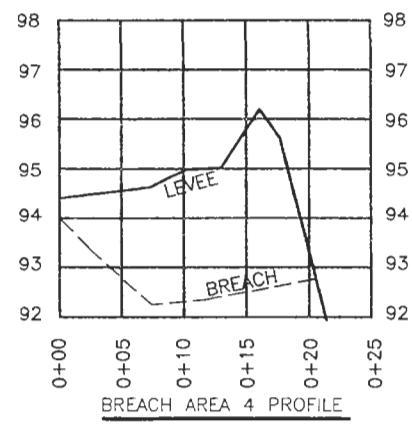
Oscar Larson & Associates
317 Third Street
Eureka, California 95501
(707) 445-2043

JOB NO. 6914.1-RDHC
01 MARCH '06

SCALE
1"=5' HORZ



BREACH AREA 4



BREACH AREA 4 PROFILE

SCALE 1"=10' HORZ
1"=4' VERT

TOTAL FILL VOLUME=
318.50 CU FT=11.80 CU YDS

REDUCED COPY

SALMON CREEK LEVEE BREACH PLAN & PROFILES FOR RDHC, LLC.

UNINCORPORATED AREA OF
HUMBOLDT COUNTY, CALIFORNIA
FEBRUARY 2006

Oscar Larson & Associates
317 Third Street
Eureka, California 95501
(707) 445-2043

JOB NO. 6914.1-RDHC
01 MARCH '06

44

STATE OF CALIFORNIA THE RESOURCES AGENCY
CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
EUREKA, CA 95501
www.coastal.ca.gov

(707) 445-7833

ARNOLD SCHWARZENEGGER, *Governor*

EMERGENCY PERMIT

RDHC, LLC
323 Fifth Street
Eureka, CA 95501

Date: April 12, 2006
Emergency Permit No.: **1-06-019-G**

LOCATION OF EMERGENCY WORK:

Along a levee on the west bank of Salmon Creek, south of the Humboldt Bay Wildlife Refuge, at 532 Hookton Road, in the Loleta area of Humboldt County (APN 311-181-01)

WORK PROPOSED:

Repair breaches at three separate locations along the 4.5-foot-high earthen levee and repair four other eroded sections of the levee by placing and contouring a combined total of approximately 100 cubic yards of earthen fill material within the breaches and eroded areas, grading and compacting the fill to restore the original form of the levee, and reseeding the affected portion of the levee.

This letter constitutes approval of the emergency work your or your representative has requested to be done at the location listed above. I understand from your information and our site visit that an unexpected occurrence in the form of breaches of the levee along Salmon Creek threaten to cause salmon to become stranded by flood waters flowing through the breaches during high water flows and result in the death of salmon species protected under the federal and state Endangered Species Acts. Therefore, the situation requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Admin. Code Section 13009. The Executive Director 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;

(b) Public comment on the proposed emergency action has been reviewed if time allows;

(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.

Sincerely,

PETER M. DOUGLAS
Executive Director

By: ROBERT MERRILL
District Manager

EXHIBIT NO. **5**
APPLICATION NO.
1-06-017
RDHC
EMERGENCY PERMIT (1 of 3)

CONDITIONS OF APPROVAL:

1. The enclosed Emergency Permit Acceptance form must be signed by the PROPERTY OWNER and returned to our office within 15 days.
2. Only that work specifically described in this permit and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed by June 12, 2006.
4. The permittee shall obtain a regular Coastal Permit to have the emergency work be considered permanent. If no such permit is obtained, the emergency work shall be removed in its entirety within 180 days of the date of this permit, unless this requirement is waived in writing by the Executive Director.
5. In exercising this permit, the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies (i.e. Humboldt County, Humboldt Bay Harbor District, Dept. of Fish & Game, U.S. Fish & Wildlife, U.S. Army Corps of Engineers, State Lands Commission).
7. To minimize the placement of fill in coastal waters, the materials placed on the levee to be repaired, shall not extend into Salmon Creek beyond the footprint of the levee as it existed before the damage occurred. 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.
8. The material to be used to repair the breach shall be screened or otherwise sorted to remove all concrete, old fence materials, rebar, pieces of asphalt pavement, and other debris not suitable for levee breach repair. None of the removed materials or other debris shall be disposed of in the coastal zone.
9. No invasive exotic plant species shall be used in revegetating the areas covered with topsoil.
10. Silt fences or equivalent devices shall be installed between the levee and the creek prior to the placement of any fill materials to reduce the discharge of fill materials and sediment laden runoff into Salmon Creek. The installed silt fences or equivalent devices shall be maintained during project construction and removed upon completion of the project.
11. 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 levee; (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.
12. None of the mature riparian vegetation located within the stream channel shall be removed as part of the project.
13. If a 60% chance of a one half inch of rain or more within a 24-hour period is forecast, than operations shall cease until fair weather is forecasted.

As noted in Condition #4, the emergency work carried out under this permit 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 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 and 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 listed on the first page.

cc: Marty McClelland, Oscar Larson & Associates
Keytra Meyer, NOAA Fisheries
David Ammerman, Corps of Engineers

Enclosure: Acceptance Form

Routine Maintenance and Repairs

Facility Description
Routine maintenance and restoration activities include the repair or restoration of any part of the facilities.

Levee Restoration
No expansion in the creek side or field side of the levee is allowed beyond the previously existing line of the front of the levee. The determination of the location of the front of the levee shall be made through a 'string line' method. The portion of the levee that is not in need of repair or restoration on each side of the area that is in need of repair shall be used to determine the maximum creek side extent of the repair. In addition, the footprint of the levee shall not be larger than the pre-repair size.

Debris Removed from Stream Channel
Debris accumulation within the stream channel may be removed through the use of manual labor, tools and small equipment (backhoe). Debris is to be piled and burned on site (consistent with adopted Air Quality regulations) or removed from the site to an authorized disposal site.

Levee Repair Methods
Critical Area Planting – Straw Mulch (NRCS Code 342A) – After repair of the levee, the levee will be planted to reduce erosion and colonization by weed species. Application of seeds will be by broadcast immediately after completion of earthwork and levee repair. The disturbed area will be planted with CALTRANS Erosion Control mix or equivalent, available through Neilson's Feed and Supply in Eureka. Planting areas will be straw-mulched according to methods described in NRCS Practice Specifications. Flood debris and other non fill materials are to be removed from the site to an authorized disposal location.

All repair activities that include the removal or placement of levee materials (whether for structural purposes or protection (riprap)), shall incorporate silt fences or equivalent devices to reduce the discharge of materials into the creek. The device/s shall be of sufficient strength to contain the materials that are being removed or replaced. The devices shall be removed from the repair location following their use.

Tracked or wheeled vehicles may be used. Hand tools and equipment may be used.

Discharge Prohibitions and Controls
Any excess materials resulting from the restoration activities shall not be placed within any wetland area (including the creek). Temporary placement of materials is allowed within the agricultural lands that are not wetlands, provided that the area is not larger than 10,000 square feet (0.23 acre), the materials are to be removed if not used within one year of their placement, and the area is vegetated with agricultural grasses.

Spill Prevention
Spill prevention provisions shall be made conditions applicable to all contractors, owners or operators. Generally, no onsite refueling is allowed. The equipment shall be removed from the Project site to be refueled and for the performance of routine maintenance. No equipment that visually displays signs of leaking of fuels, lubricants or similar materials shall be allowed.

Dust Control
Dust control measures shall be incorporated in contract documents when the materials that are being used are subject to fugitive dust creation. The watering of the work area or similar control/abatement techniques may be used. The amount of water used shall not be of such a volume as to cause runoff from the top of the levee or outside the boundary of the staging area.

Staging Areas and Access
The facilities are accessed from Hookton Road on the west side of the bridge crossing Salmon Creek. A staging area is available just off Hookton Road in this location.

Term of the Permit
In addition to the repair of the damaged portions of the levee, the owner is requesting a ten (10) year authorization for the routine maintenance, repair and restoration of the facilities. The authorization will extend annually.

Special Condition
If any additional biological resource is listed by a State or Federal Trustee Agency, or any significant physical change occurs, then, within ninety (90) days of the effective date of the listing or significant change, the owner shall cause the review of the effects of the routine maintenance and related activities upon the newly listed biological resource or the results of the change. A report shall be provided to the responsible trustee or regulatory agency.

Site Plan and Related Exhibits

- Figure 1 – Vicinity Map
- Figure 2 – Cover Sheet showing Breach Site and Water Control Structure Locations
- Figure 3 – Breach Area 1 Plan and Profile
- Figure 4 – Breach Area 2 Plan and Profile
- Figure 5 – Breach Area 3 Plan and Profile
- Figure 6 – Breach Area 4 Plan and Profile