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**STAFF REPORT: RETAINED AND APPELLATE JURISDICTIONS  
SUBSTANTIAL ISSUE AND DE NOVO & REGULAR PERMIT ITEMS**

**LOCAL GOVERNMENT:** County of San Luis Obispo

**DECISION:** Approval with Conditions

**APPEAL NO.:** A-3-SLO-06-053

**APPLICATION FILE NO.:** E-07-001

**APPLICANT:** Cambria Community Services District

**PROJECT DESCRIPTION:** Geotechnical and hydrogeologic tests to collect data for determining the feasibility of a site for desalination wells.

**PROJECT LOCATION:** San Simeon State Beach, north of Cambria, San Luis Obispo County

**APPELLANTS:** Land Watch – San Luis County; Sierra Club – Santa Lucia Chapter; Commissioners Mary Shallenberger and Sara Wan

**APPENDIX I:** Applicable Coastal Act and Local Coastal Program (LCP) Provisions

**APPENDIX II:** County Coastal Development Permit (CDP) Conditions of Approval

**EXHIBIT 1:** Location map

**EXHIBIT 2:** Site plan

### SUBSTANTIVE FILE DOCUMENTS:

- Certified County of San Luis Obispo Local Coastal Program
  - County of San Luis Obispo File No. DRC2004-00142
  - Coastal Commission Appeal File No. A-3-SLO-06-053
  - Appeal Applications from Land Watch – San Luis Obispo County, Sierra Club – Santa Lucia Chapter, and Commissioners Shallenberger and Wan
  - Final Initial Study/Mitigation Negative Declaration Geotechnical/Hydrogeologic Investigation Activities For the Pending Desalination Project, Padre Associates, October 2005.
  - Carollo Engineers – Technical Memorandum No. 1 Mini-Sparker Test, April 2006
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### SUMMARY

This is a combined staff report providing recommended findings and conditions for a substantial issue appeal, de novo hearing, and a permit within the Commission's retained jurisdiction. The project proposed by the Cambria Community Services District (CCSD) consists primarily of geotechnical and hydrogeologic tests to determine whether subsurface conditions at San Simeon State Beach are suitable for desalination intake and discharge wells. The work includes drilling boreholes and monitoring wells, conducting a seismic reflection survey, conducting a pump test, and other related activities.

The proposed project has been changed since the County's approval of its Coastal Development Permit (CDP). The project as originally approved and conditioned by the County included additional work to the east of Highway 1, including exploratory drilling and soil borings along possible pipeline alignments, several of which were in or near sensitive riparian habitat areas. However, based on the CCSD's request, the County rescinded its CDP approval of those project elements. The CCSD also made two other changes to the project as it had been approved by the County – the CCSD is now proposing to install a crane instead of constructing a ramp to the beach to provide the vehicle access; and it is proposing to cap the two monitoring wellheads with PVC or steel pipe instead of concrete pads. The recommended appeal and permit findings herein reflect the current, revised version of the project.

The Commission's decision for this proposed project requires three separate motions and resolutions – one regarding substantial issue, one for the *de novo* review of the County's CDP, and one for the Commission's permit. Staff recommends that the Commission:

- 1) determine that a **substantial issue exists** with respect to the grounds on which the appeal has been filed, because the appellants have raised a substantial issue with regard to the consistency of the project as approved by the local government with the policies and provisions of the certified LCP and with the coastal access and recreation policies of Chapter 3 of the Coastal Act;

- 2) after a *de novo* public hearing, which staff recommends be held immediately following the determination that substantial issue exists, **approve, with conditions, the portion of the project proposed to be located in the Commission's appellate jurisdiction** on the basis that the proposed project is consistent with the County's certified LCP and with the public access and recreation provisions of the Coastal Act; and,
- 3) after public hearing, which staff recommends be the same hearing as item (2) above, **approve, with conditions, the portion of the project proposed to be located in the Commission's retained jurisdiction.**

## **1.0 RECOMMENDED MOTIONS AND RESOLUTIONS**

### **1.1 MOTION AND RESOLUTION FOR SUBSTANTIAL ISSUE**

#### **Motion**

*I move that the Commission determine that Appeal No. A-3-SLO-06-053 raises NO substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.*

#### **Staff Recommendation of Substantial Issue:**

Staff recommends a **NO** vote. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. The motion passes only by an affirmative vote by a majority of the appointed Commissioners present.

#### **Resolution To Find Substantial Issue:**

*The Commission finds that Appeal No. A-3-SLO-06-053 presents a substantial issue with respect to the grounds on which the appeal has been filed under section 30603 of the Coastal Act regarding consistency with the certified local coastal plan and/or the public access and recreation policies of the Coastal Act.*

### **1.2 MOTION & RESOLUTION FOR COASTAL DEVELOPMENT PERMIT NO. A-3-SLO-06-053**

Staff recommends the Commission approve Coastal Development Permit No. A-3-SLO-06-053 subject to the conditions in Sections 2.0 and 3.0 below.

#### **Motion**

*I move that the Commission approve Coastal Development Permit No. A-3-SLO-06-053 subject to conditions set forth in the staff recommendation.*

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 an affirmative vote by the majority of the Commissioners present.

#### **Resolution**

*The Commission hereby approves the coastal development permit for the proposed development and adopts the findings set forth below on the grounds that the development as conditioned will be in conformity to the policies of the certified LCP and the public access and recreation 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.*

### **1.3 MOTION & RESOLUTION FOR COASTAL DEVELOPMENT PERMIT E-07-001**

Staff recommends that the Commission, after a public hearing, approve Coastal Development Permit No. E-07-001 subject to the conditions in Sections 2.0 and 3.0 below.

#### **Motion:**

*I move that the Commission approve Coastal Development Permit No. E-07-001 pursuant to the staff recommendation.*

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

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

*The Commission hereby approves the 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.*

## 2.0 STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment:** This permit is not valid until a copy of the permit is signed by the Permittee or authorized agent, acknowledging receipt of the permit and the acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration:** Construction activities for the proposed project must be initiated within two years of issuance of this permit. This permit will expire two years from the date on which the Commission approved the proposed project if development has not begun. Construction of the development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made at least six months prior to the expiration date.
3. **Interpretation:** Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission (hereinafter, "Executive Director") or the Commission.
4. **Assignment:** The permit may be assigned to any qualified person, provided the assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land:** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.
6. **Liability for Costs and Attorneys Fees:** The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

### 3.0 SPECIAL CONDITIONS

1. **Incorporation by Reference of County CDP Conditions:** The following conditions of the County's Development Plan/Coastal Development Permit #DRC2004-00142 are incorporated herein, as modified by the Special Conditions below (see Appendix II for the full list of County conditions): Conditions #2, 3, 6, 7, 9, 10-29, 34, and 35. All references in those conditions requiring submittals to the County shall be supplemented to require submittals to the Executive Director.
2. **Administrative:** County CDP Condition #3, as incorporated herein pursuant to **Special Condition 1** above, is modified and/or supplemented as follows: Before the start of on-site project activities, the CCSO shall provide to the Executive Director the following:
  - a) An approved Right of Entry approval from the Department of Parks and Recreation.
  - b) A letter from the Corps of Engineers to the U.S. Fish and Wildlife Service stating the Corps' determination as to whether or not the proposed project will adversely affect western snowy plovers (i.e., a federal Endangered Species Act Section 7 consultation letter).
3. **Timing and General Limitations:** County CDP Conditions #13, 15, and 21, as incorporated herein pursuant to **Special Condition 1** above, are modified and/or supplemented as follows:
  - a) All project-related tests and surveys shall be done during daylight hours only (between sunrise and sunset), with the exception of the monitoring well pump tests, which may be conducted for up to 48 concurrent hours. No vehicles shall be on the beach at night.
  - b) No mechanized project-related tests and surveys shall occur between March 1 and September 14 of any year.
  - c) A plover monitor approved and permitted by the U.S. Fish and Wildlife Service for plover recovery shall accompany project personnel during all project-related tests and surveys.
  - d) All vehicles used during the tests and surveys except the small boat used for the seismic reflection survey shall at all times remain above the wetted sand area of the beach. Only those vehicles necessary to conduct a particular test or survey shall be on the beach for those activities.
  - e) No vehicles shall be fueled on the beach. Any fueling that takes place within the project staging area shall be subject to the spill prevention plan described in **Special Condition 11** below.
  - f) During all project-related activities, all trash, garbage, excess materials (e.g., concrete, plastic, etc.) shall be contained on the project site and shall be removed by the end of each work day.
4. **Public Access:** County CDP Conditions #16 and 17, as incorporated herein pursuant to **Special Condition 1** above, are modified and/or supplemented as follows:
  - a) Project-related equipment and vehicles shall be used in a manner that does not prevent continuous lateral access along the beach.
  - b) The project staging area shall not cover more than the southernmost 100' of the parking area. On weekends (i.e., between sunset on Friday and sunrise on Monday), all vehicles

and equipment shall be removed from the staging area and the area shall be made available for public use. During these weekend periods, vehicles and equipment shall not be stored at the staging area or at other nearby public parking areas.

- c) While equipment or vehicles are on the staging area, the CCSD shall post the area with weatherproof signs describing the project activities, their expected duration, project manager contact information, and information about nearby alternative parking and recreation locations.

**5. Environmental Monitoring:** County CDP Conditions #2 and 7, as incorporated herein pursuant to **Special Condition 1** above, are modified and/or supplemented as follows:

- a) Before the start of project-related test and survey activities, the CCSD shall provide to the Executive Director confirmation from the County that the CCSD has retained an environmental monitor approved by the County and a qualified marine mammal monitor, and that these monitors will be present during the project to ensure compliance with conditions of this permit. One of these monitors may be the same individual retained as the plover monitor noted in **Special Condition 3** above.
- b) Before the start of project-related test and survey activities, the monitors shall conduct for all personnel that will be on the project site an environmental education training program. The monitors shall include in the program identification of all known or potentially-occurring listed sensitive species at or near the project site, including photographs and a description of their habitat requirements, and identification of measures to be implemented to avoid and minimize adverse effects to these species. The monitors shall obtain from each of the on-site project personnel a signed statement that they have participated in the environmental training and understand the required mitigation measures.

**6. Biological Survey and Report:** County CDP Condition #5, as incorporated herein pursuant to **Special Condition 1** above, is modified and/or supplemented as follows:

Before the start of the project-related test and survey activities, the approved environmental monitor shall conduct a biological survey of all areas above the mean high tide line that will be subject to those activities (e.g., the staging area, the beach and beach access routes, etc.). The survey will identify the presence or absence of all sensitive species known or likely to be in the area, including the western snowy plover and other listed species. If any listed sensitive species are identified within these areas, the monitor shall provide to the Executive Director a list of any additional mitigation measures that will be implemented to avoid impacts to the identified species. Project-related activities shall not begin until the Executive Director has approved these additional mitigation measures.

Upon completion of the initial exploratory drilling and the seismic reflection survey, the environmental monitor shall submit a report to the Executive Director describing the project activities, any adverse effects noted to listed sensitive species, and the project personnel responses to those adverse effects. [Note: this report may be combined with the marine mammal monitoring report required pursuant to **Special Condition 9** below.]

**7. Monitoring Well Location and Configuration:**

- a) The two monitoring wells shall be located between the mean high tide line and the foot of the coastal bluff along San Simeon Beach. They shall be located at least 100 feet from San Simeon Creek and Estuary and at least 100 feet from any western snowy plover nesting area identified by State Parks or identified during the pre-construction biological survey.
- b) Prior to constructing the two monitoring wells, the CCSD shall provide to the Executive Director confirmation from the State Lands Commission that the wells will be located above the mean high tide line and will not require a state lands lease.
- c) Each well shall be constructed so that the wellhead is at or below grade. After they are installed, the wells shall be covered with native beach sand. The CCSD shall at least once per week during the life of the monitoring wells monitor beach erosion and shall rebury the wellheads if they become exposed. Any burying or uncovering the wells for testing purposes shall be done using hand tools only.

- 8. Monitoring Well Abandonment:** The two monitoring wells shall be abandoned and removed and their sites shall be restored within two years of issuance of this Coastal Development Permit. The Executive Director may, upon written request by the CCSD, extend this time for good cause.

Well removal and abandonment shall include the following:

- Well casings shall be removed to at least five feet below the lowest beach scour elevation.
- Well bores shall be filled with bentonite-cement slurry from the bottom of the well to five feet below the lowest beach scour elevation, and native sand shall be used to fill the remainder of the well. No slurry shall be discharged to coastal waters and all excess slurry and soil cuttings shall be removed from the beach and disposed of at an appropriate upland location.
- Well abandonment shall occur only during the period between September 1 and March 1 of any year.

- 9. Pump Tests:** County CDP Condition #18, as incorporated herein pursuant to **Special Condition 1** above, is modified and/or supplemented as follows:

- a) Prior to conducting the pump tests at the two monitoring wells, the CCSD shall provide to the Executive Director results of the geotechnical surveys and the well monitoring logs. The CCSD shall also provide for the Executive Director's review and approval an analysis based on these results that describes any anticipated effects of the pump tests on San Simeon Creek and Estuary. The analysis shall also describe all measures that will be implemented to ensure the pump tests have no adverse effect on water flows in San Simeon Creek and Estuary. The pump tests shall not occur until after the Executive Director approves the analysis.
- b) To ensure turbid water is not directly discharged to open coastal waters, the water and sediment discharged during the pump tests shall be pumped into a geotextile bag or a hay bale diffusion basin placed on dry open sand. The point of discharge shall be at least 100 feet from San Simeon Creek and Estuary.

**10. Seismic Reflection Survey:** County CDP Conditions #22-28, as incorporated herein pursuant to **Special Condition 1** above, are modified and/or supplemented as follows:

- a) Prior to the start of the project-related tests and surveys, the CCSO shall provide a Marine Mammal Protection Plan for Executive Director review and approval. The Plan shall describe measures that will be implemented to avoid and minimize impacts to marine mammals, including measures to be taken to avoid interactions between the cable-laying vessel and marine mammals, minimum distances that will be maintained between project activities and marine mammals, notification procedures should interactions occur, and other measures identified in the project's Final Initial Study/Mitigation Negative Declaration Geotechnical/Hydrogeologic Investigation Activities For the Pending Desalination Project (October 2005).
- b) The mini-sparkers used during the seismic reflection survey shall be placed in the monitoring wells so that the acoustic bursts they generate travel through at least 30 feet of sand before they enter the water column. The monitoring wells shall be capped during use of the mini-sparkers.
- c) The cables used for the seismic reflection test shall not be placed on hard-bottom habitat.
- d) Upon completion of the initial exploration wells and the seismic reflection survey, the environmental monitor shall submit a report to the Executive Director describing the project activities, any adverse effects noted to listed sensitive species, and the project personnel responses to those adverse effects. [Note: this report may be combined with the report required pursuant to **Special Condition 6** above.]

**11. Spill Plan:** County CDP Condition #9, as incorporated herein pursuant to **Special Condition 1** above, is modified and/or supplemented as follows:

Prior to the start of project-related test and survey activities, the CCSO shall provide for Executive Director review and approval a Spill Prevention and Response Plan that includes the following:

- a description of all equipment and vehicles that will be used during the project and that are a source of potential spills or releases of hazardous substances;
- all measures that will be implemented to avoid spills during fueling of project-related vehicles and equipment;
- identification of the maximum possible spill during the project;
- a description of all spill response and cleanup equipment that will be immediately available at the project site in the event of a spill;
- a list of project personnel trained in and responsible for any immediate spill response and cleanup; and,
- a list of the agencies and telephone numbers that will be contacted in the event of a spill.

## 4.0 FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

### 4.1 PROJECT PURPOSE AND DESCRIPTION

These findings are for a proposed project located within the County's Local Coastal Plan (LCP) jurisdiction, the Commission's appeal jurisdiction, and the Commission's retained permit jurisdiction. The proposed project, as approved and conditioned by the County, would allow several types of geotechnical and hydrogeologic tests to determine whether an area of San Simeon State Beach would be suitable for subsurface desalination intake and outfall wells.

The project would be located along San Simeon State Beach and close to the mouth of San Simeon Creek and Estuary. The area includes significant sensitive habitat value both in and near the creek and estuary and in nearshore coastal waters. The area also provides substantial recreational and scenic values, as it is located near a popular state campground and is adjacent to Highway 1.

In 1997-98, the Cambria Community Services District (CCSD) conducted geophysical tests that identified subsurface alluvial deposits at depths of 60 to 110 feet below the surface of the beach. This current proposed project is meant to confirm the existing survey data and provide more detailed additional data to determine whether intake and discharge wells could feasibly be located along San Simeon Beach. If determined feasible, the site might then be used for wells supporting a desalination facility to be located nearby.

The main project activities are expected to take a total of about thirty days, and include:

- Use of an unimproved parking area on the shoulder of Highway 1: The parking area is adjacent to a coastal bluff and the beach. It would be used as an equipment staging area and as the site for the crane used to raise and lower vehicles to and from the beach area. Vehicles to be used include a truck or track-mounted rotary-core ultrasonic drilling rig, a truck-mounted cone penetrometer drilling rig, a backhoe, a bulldozer, one or two all-terrain vehicles, one or more utility trucks, and a trailer-mounted generator. The parking area has room for about 20 vehicles, and the crane and staging area would take up about half of those spaces for up to about a month.
- Drilling approximately seven exploratory test holes from San Simeon Beach to Parking Lot Beach: The test holes would be placed near and parallel to the surf zone along about 1,000 feet of the beach. Each test hole would be about four to six inches in diameter and would range from about 25 to 125 feet deep. Along with the test drilling, this work would also include cone penetrometer testing along the same beach area. This test involves pushing a steel cone into the sand at high pressure to collect data used to identify characteristics of the substrate, such as soil types, permeability, presence of contaminants, etc.

- Installing two groundwater monitoring wells along the beach: The monitoring wells would be sunk to a depth of down to about 120 feet. They would each be about four inches in diameter with an eight-inch diameter cap of PVC or metal. The exact locations of the monitoring wells are not yet know, as they would be based on results from the test drilling and cone penetrometer tests described above. The wells would be installed using either a hollow-stem auger drill rig or a track-mounted sonic drill rig, either of which would weigh from 25,000 to 30,000 pounds. The two wells would be in place for up to two years.
- Conducting an offshore seismic reflection survey: The survey would be conducted by placing two 1500-foot cables in nearshore waters and placing mini-sparkers in the two onshore monitoring wells. The cables would be placed using divers and a small boat. The mini-sparkers would generate an acoustic signal that would be picked up by the cables. The survey is intended to provide additional information about substrate conditions.
- Conducting a beach and nearshore topographic survey and performing sediment texture sampling: The proposed project includes two topographic surveys – one in late summer/early fall, and one in late winter/early spring. The surveys would be done by a crew of about two surveyors and three divers. Sediment texture sampling would involve collecting approximately one-gallon grab samples of sand and sediment from the beach and seafloor during the topographic survey.
- Pump testing of the monitoring wells: The pump tests would involve lowering a submersible pump into the wells and using a portable generator to power the pump, which is expected to produce about 35 gallons per minute from the wells. The tests are expected to occur about a year after the monitoring wells are installed. Each pump test would run from about 24 to 48 hours to determine the level of yield and drawdown in the wells. Water discharged during the test would be piped through a flexible hose into a geotextile bag placed on the beach that would retain any silt or sediment in the discharge and would prevent beach erosion.

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**Note:** The project, as currently proposed and as evaluated herein, has been revised since it was approved and conditioned by the County through its issuance of a Coastal Development Permit (CDP). The currently proposed project no longer includes some of the project components that were challenged in appeals to the Commission.

The project, as approved and conditioned by the County, included several exploratory wells and soil borings that would have been located in or near sensitive riparian habitat areas inland of the beach and Highway 1. Upon the request of the CCSO, the County rescinded its CDP approval of that portion of the project. Additionally, the CCSO has made the following changes to the project:

- The original proposal included construction of a ramp from the parking area along Highway 1 to the beach. The CCSO is now proposing to use a crane instead of a ramp to provide beach access for the project vehicles.

- The original proposal included concrete pads at the two monitoring well wellheads. The CCSD deleted those concrete pads from its currently proposed project and now proposes that the wellheads be short lengths of PVC or metal pipes only.

The findings herein are based on the current version of the proposed project; that is, without the exploratory wells and soil borings inland of the beach, without the ramp, and without the concrete pads.

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## **4.2 PERMIT AND APPEAL HISTORY**

On August 15, 2006, the County of San Luis Obispo conditionally approved Coastal Development Permit #DRC2004-165 and concurrently approved a Development Plan for the project. The project had previously been subject to environmental review by the CCSD, which issued a Mitigated Negative Declaration for the proposed project in October 2005.

On September 7, 2006, the Coastal Commission received the County's Notice of Final Action and associated records to start the 10-working-day appeal period, which ended September 21, 2006. The appeals were filed on August 31 and September 21, 2006.

On January 25, 2007, pursuant to a request by the CCSD, the County rescinded a portion of its approved CDP as described above. On January 26, 2007, the CCSD revised its proposed project as described herein.

## **4.3 COASTAL COMMISSION JURISDICTION**

### **4.3.1 Permit and Appeal Jurisdiction**

Portions of the project are located within the Coastal Zone in the County of San Luis Obispo and are subject to the County's certified Local Coastal Program (LCP). Pursuant to Coastal Act Section 30603, the project is also within the appeal jurisdiction of the Commission because portions of it are within 300 feet of the inland extent of the beach, within 100 feet of an estuary and a stream, within a sensitive coastal resource area, and between the sea and the first public road. Additionally, a portion of the project is within the Commission's retained jurisdiction – the project involves development activity in coastal waters and on the shoreline – so it will require a permit directly from the Commission.

The standard of review for this Substantial Issue appeal is consistency with the certified LCP and, because the project is located between the first public road and the sea, the standard of review includes the Coastal Act's public access and recreation provisions. The standard of review for the portion of the proposed project within the Commission's retained jurisdiction is Chapter 3 of the Coastal Act.

### 4.3.2 Appeal Procedures

After certification of a LCP, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Projects within cities and counties may be appealed if they are located within the appealable areas as defined by Coastal Act Section 30603(a). Pursuant to Coastal Act Section 30603(b), the grounds for appeal are limited to the assertion that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access and recreation provisions of the Coastal Act.

**Substantial Issue Appeal:** Coastal Act Section 30625(b) requires the Commission to hear an appeal unless it determines that no substantial issue is raised by the appeal. If the staff recommends “substantial issue” and no Commissioner objects, the Commission may proceed directly to a *de novo* hearing on the merits of the project or may hear the *de novo* portion of the appeal at a subsequent hearing. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. At the “substantial issue” stage of the appeal process, the only persons qualified to testify before the Commission are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. If substantial issue is found, the Commission will proceed to a full *de novo* public hearing on the merits of the project.

**De Novo Hearing:** If the Commission conducts a *de novo* hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program. In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Coastal Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development conforms to the public access and public recreation policies of Chapter 3. At the time of the *de novo* hearing, any person may testify.

## 4.4 SUBSTANTIAL ISSUE ANALYSIS

Appellants contend that the project as approved and conditioned by the County is inconsistent with several policies of the certified LCP and the Coastal Act. The following discussion provides a summary and brief response to these contentions. Additionally analyses for those issued for which substantial issue is raised are provided in Section 4.5 below. Several of the appeal contentions are not applicable to the current version of the proposed project as modified by the County and the CCSD.

### 4.4.1 Appeal Issues Raising Substantial Issue

Based on the County’s record, information provided by the appellants, and the findings herein, the Commission finds that the proposed project would not conform to applicable Coastal Act and LCP provisions related to public access and recreation and to LCP provisions related to sensitive

habitat areas, marine biological resources, visual resources, and placement of structures. The Commission therefore finds that **substantial issue exists** with respect to the project's conformity to these Coastal Act and LCP provisions. Additional relevant findings are provided in Section 4.5 of this report.

Regarding public access, appellants contend that the proposed project, as approved and conditioned by the County, will interfere with public recreation and access to the shoreline and therefore does not conform to applicable provisions of the County's LCP and the Coastal Act. The project would reduce available public parking at a site adjacent to the shoreline and would affect public access and recreation along a stretch of beach. Regarding sensitive habitat areas, appellants contend that the proposed project would adversely affect several sensitive habitat areas in a manner not allowable under the LCP. The project, as approved and conditioned by the County, has the potential to adversely affect a coastal stream and wetland, as well as habitat used by the western snowy plover for overwintering, breeding, and nesting. Regarding marine biological resources, appellants contend the project's seismic reflection survey would result in harm to sensitive marine species due to the acoustic signals generated by the survey equipment, and due to discharges that may result from project tests. Regarding visual resources, appellants contend that the proposed project does not conform to LCP requirements related to development visible from Highway 1. As recently modified, the project would result in different visual impacts, but would still be visible from the highway and from other scenic areas. Regarding the placement of structures, appellants contend that the project would include structures in areas where they are not authorized. The project, as recently modified, would reduce both the number and size of proposed structures, but could result in structures (monitoring wells) being located in areas where they would not conform to LCP provisions.

#### **4.4.2 Appeal Issues Not Raising Substantial Issue**

Appellants contend the following issues raise substantial issue; however, the Commission's review of the proposed project, the County's record, and the appellants' contentions do not support such a finding. Appeal contentions not raising substantial issue include those related to out of date policies, inadequate project description, growth inducement, public works, energy and public works, segmentation, and flood hazards.

##### **4.4.2.1 Appeal Issue – LCP Policies are out of date**

Appellants contend that the County's approval of the project was based in part on out-of-date or obsolete planning documents, including the LCP's North Coast Area Plan, the LCP's Environmentally Sensitive Habitat policies, and the General Plan's Conservation Element. While some of the cited LCP policies are now several decades old (e.g., the Commission certified the North Coast Area Plan and Environmentally Sensitive Habitat policies in 1988), they continue to serve as the current policies of the certified LCP and they are applicable to this proposed project. Based on the CCSD's project description, the County's record, and the above, the Commission finds this issue raises **no substantial issue** with respect to conformity to the certified LCP.

#### **4.4.2.2 Appeal Issue – Inadequate Project Description**

LCP Section 23.02.034 – see text in Appendix I.

LCP Section 23.02.034 requires that an application for this type of permit identify the location of all existing and proposed structures. Appellants contend that the project as approved and conditioned by the County does not conform to this LCP provision because the CCSD's CDP application provides only approximate locations for some of the proposed structures.

Due to the nature of this proposed project, the location of the two monitoring wells cannot be determined until the initial geotechnical testing is complete. Even the location of the seven initial boreholes and cone penetrometer tests cannot be described precisely, since they will take place on a highly dynamic beach environment and their exact locations will not be known until testing begins. However, the CCSD's project description, while not providing the exact locations, is sufficient to reasonably identify the environmental conditions in which the various tests will occur. That description, along with the recommended Special Conditions, provides adequate basis for determining the proposed project's potential effects on coastal resources and necessary mitigation measures. Based on the CCSD's project description, the County's record, and the above, the Commission finds this issue raises **no substantial issue** with respect to conformity to the certified LCP.

#### **4.4.2.3 Appeal Issue – Growth Inducement / Public Works Policies / Energy and Industrial Policies**

The LCP's Public Works Policy 2 states:

*New or expanded public works facilities shall be designed to accommodate but not exceed the needs generated by projected development within the designated urban reserve lines. Other special contractual agreements to serve public facilities and public recreation areas beyond the urban reserve line may be found appropriate. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.430 OF THE CZLUO.]*

Appellants contend that the project as approved and conditioned by the County does not conform to the LCP's policies related to growth inducement, public works, or energy and industry. Appellants further contend that the County approved the proposed project's CDP based in part on erroneous information about the project purpose. The appellants state that the County's findings describe the proposed project's purpose as providing drought relief, but that the true purpose of the project is to provide water for new growth within and outside of Cambria.

However, the current proposed project, as modified by the CCSD, would not result in growth inducement and does not trigger the LCP's public works or energy and industrial policies. The activities associated with the current proposed project are to determine whether subsurface conditions along San Simeon Beach are conducive to desalination intake and outfall wells. These activities do not necessarily lead to construction or operation of a desalination facility. If

results of the proposed geotechnical and hydrogeologic tests suggest this site is suitable, any further proposals to site permanent structures, pipelines, and related facilities would require extensive additional environmental review and permitting, including CDPs from both the County and the Commission. Based on the CCSD's project description, the County's record, and the above, the Commission finds this issue raises **no substantial issue** with respect to conformity to the certified LCP.

#### ***4.4.2.4 Appeal Issue – Segmentation***

Similar to the above issue, appellants contend that the project's review and approval by the County did not address the implications of a full-scale desalination facility that could result from the proposed geotechnical and hydrogeologic tests. Appellants contend that the County erred in approving the geotechnical tests without reviewing the full potential desalination facility being considered for a nearby location.

As noted previously, the current project involves only geotechnical and hydrogeologic tests meant to determine whether the beach area is suitable for desalination intake and outfalls. Based on a request by the CCSD, the County rescinded its approval of portions of the proposed project that could have led to specific alignments or locations for permanent structures associated with a full-scale facility. Even if test results show that the area is suitable, there is no certainty that this site would be selected or approved for permanent desalination-related structures or that a desalination facility would be built at or near this site. Further, the environmental review for any full-scale facility would need the information derived from these tests to help identify potential adverse effects, alternatives, and necessary mitigation measures. Based on the CCSD's project description, the County's record, and the above, the Commission finds this issue raises **no substantial issue** with respect to conformity to the certified LCP.

#### ***4.4.2.5 Appeal Issue – Flood Hazard***

LCP Section 23.07.062(a) states:

*With the approval of the Director of Public Works, the of Planning and Building Director may authorize construction or placement of a temporary structure or use within a Flood Hazard area pursuant to the required land use permit without meeting these standards, provided that the structure or use will not be in place from October 15, to April 15.*

Areas along San Simeon Creek are designated by the County as flood hazard areas. The LCP provision cited above prohibits construction or placement of temporary structures within such areas between October 15 and April 15. Appellants contend that the proposed project does not conform to this provision because it would result in monitoring wells and soil boring locations within a flood hazard area within that time period.

The current version of the proposed project would not result in structures in or adjacent to San Simeon Creek. The only structural elements of the project subject to inundation would be the two monitoring wells to be located on the beach, which may be subject to tide and wave action.

Even during high tides, floods, or other high water events, the two eight-inch diameter wellhead pipes at or below grade would have an insignificant effect, if any, on high water elevation. Based on the CCSD's project description, the County's record, and the above, the Commission finds this issue raises **no substantial issue** with respect to conformity to the certified LCP.

## **4.5 CONFORMITY TO THE CERTIFIED LCP AND APPLICABLE PROVISIONS OF THE COASTAL ACT**

### **4.5.1 Public Access and Recreation**

Pursuant to Coastal Act Section 30603(b), because the project is located between the first public road and the sea, it is subject to public access provisions of both the LCP and the Coastal Act, which include those listed below and in Appendix I of these findings.

Coastal Act Section 30211 states:

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

Coastal Act Section 30213 states, in relevant part:

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

LCP Access Policy 2 states:

*Maximum public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development. Exceptions may occur where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; (2) adequate access exists nearby, or; (3) agriculture would be adversely affected. Such access can be lateral and/or vertical. Lateral access is defined as those accessways that provide for public access and use along the shoreline. Vertical access is defined as those accessways which extend to the shore, or perpendicular to the shore in order to provide access from the first public road to the shoreline. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.420 a. AND c. OF THE CZLUO.]*

[**Note:** see additional Coastal Act and LCP access and recreation policies in Appendix I.]

The Coastal Act and LCP policies related to public access and recreation generally require that new development not interfere with public access to the shoreline and that it provide maximum feasible access, subject to several exemptions. They also require that lower cost recreational facilities be protected. Appellants contend that the project, as approved and conditioned by the County, would interfere with access and recreation on the coast and therefore does not conform to public access provisions of the LCP and Coastal Act Sections 30211 and 30213. The project as currently approved and conditioned does not include all feasible mitigation measures available to minimize its effects on access.

The proposed project would include development between the first public road and the sea and is therefore subject to the policies cited above. The proposed project would include staging equipment and placing a crane at the south end of an unimproved parking area along Highway 1. The parking area is about 250 by 75 feet and provides about twenty parking spaces along with access to the beach via several unimproved pathways. Use of the parking area for staging would take up about half of the available spaces for up to about one month and would impede access along at least one of the pathways. Although there are other parking areas nearby, the project as currently approved and conditioned would reduce access to the shoreline by taking up several parking areas closest to the beach and by blocking one of the pathways between the parking area and the beach. The proposed project's use of drill rigs and support vehicles on the beach during project-related activities would also affect public access and recreation

In addition to the conditions imposed by the County's CDP and incorporated herein pursuant to **Special Condition 1**, several more measures are available and necessary to reduce the proposed project's effects on public access and recreation. The CCSD's project description shows that the staging area would take up the southernmost 100 feet of the parking area, which would leave slightly more than half of the area available for public access. **Special Condition 4** would require the CCSD to limit the size of its staging area that shown in its project plans. Additionally, the CCSD has stated it would remove vehicles and equipment from the staging area on the weekends during the approximately one month that the parking area would be used for staging. This would make most of the parking area available during higher use periods on the weekends. **Special Condition 4** would also require that all project-related vehicles and equipment be moved away from this and any other nearby public parking area during weekends. Additionally, **Special Condition 3** would prohibit use of the staging area during the western snowy plover nesting season, which runs from March 1 to September 14 each year, which coincides with the highest visitor use periods.

To address the effects of work on the beach, **Special Condition 3** would require that vehicles be on the beach only when needed for project-related activities and that they be removed from the beach at the end of each work day. **Special Condition 4** requires that the project-related activities not prevent lateral access along the beach. Additionally, **Special Condition 7** would require that the CCSD monitor the location of the monitoring wells at least once per week and rebury them if they become exposed.

**Conclusion:** Based on the above, the Commission finds that the project, as conditioned, conforms to the public access and recreation provisions of the Coastal Act and the certified LCP.

#### 4.5.2 Environmentally Sensitive Resource Areas:

Coastal Act Section 30240 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.*

The text of the following applicable LCP provisions is in Appendix I of this report:

- LCP Sections 23.07.170, 172, & 174.
- Environmentally Sensitive Habitat Policy #1, #3, #7, #17, #20, #21, & #28
- Environmentally Sensitive Habitat Policy #2
- Environmentally Sensitive Habitat – Wetlands Policy 7
- Environmentally Sensitive Habitat – Wetlands Policy 8
- LCP's North Coast Plan Sensitive Resource Area Combining Designation Standard #1
- LCP's North Coast Plan Sensitive Resource Area Combining Designation Standard #2
- County Health and Safety Code Section 8.66

The LCP provisions related to sensitive resource areas generally require that certain uses be prohibited or minimized in sensitive resource areas and that development include feasible mitigation measures to avoid or minimize potential impacts to sensitive habitat areas. Appellants contend that the project, as approved and conditioned by the County, does not conform to a number of County LCP policies meant to protect sensitive habitat areas. Although the current proposed project has been revised to eliminate several project components that would have affected sensitive habitat areas, it still has the potential to cause impacts as described below and does not yet include all feasible mitigation measures to avoid or reduce those impacts.

The San Simeon Beach and Estuary area includes important habitat areas for a number of listed sensitive species, including marine mammals, shorebirds, and others. At least one listed species, the western snowy plover, uses the beach area for overwintering and as breeding and nesting habitat. Portions of the beach are closed during their nesting season from March 1 to September 14 each year. A sandbar often blocks the creek mouth for parts of the year, which creates a lagoon with highly variable water and habitat conditions that attract a number of species. The area between the beach and Highway 1 includes coastal bluff scrub habitat.

Aspects of the proposed project that could affect environmentally sensitive resource areas include use of a staging area adjacent to San Simeon State Beach, placement and removal of vehicles from the beach and vehicle access along the beach, drilling test wells on the beach, performing a seismic reflection survey on the beach and in nearshore waters, and performing a pump test at one or both of the proposed monitoring wells. Proposed activities on the beach

include use of large drill rigs, mini-sparkers, and other equipment that has the potential to disturb sensitive species and habitat. Although some project components have been sited so as to avoid these impacts, additional mitigation measures are needed to ensure the project conforms to LCP provisions and results in minimal impacts to these species and habitat areas.

In addition to the conditions imposed by the County's CDP and incorporated herein pursuant to **Special Condition 1**, **Special Condition 2** would ensure that the CCSD obtain any necessary authorization from the U.S. Fish and Wildlife Service for potential impacts to plovers. **Special Condition 3** would prohibit any mechanized activities on the beach during plover nesting season from March 1 to September 14. **Special Condition 3** would also require that no vehicles be fueled when they are on the beach and that any fueling done at the staging area include spill prevention and response measures to prevent fuel from entering coastal waters. **Special Condition 5** would require the CCSD to provide environmental monitors and environmental training for all on-site project personnel. **Special Condition 6** would require pre-project biological surveys and post-project reporting to ensure impacts are avoided and minimized. **Special Condition 11** would require the CCSD to present an acceptable spill prevention plan for Executive Director review and approval prior to project work.

Several Special Conditions specifically address the potential impacts that could result from the monitoring wells, pump tests, and seismic reflection survey. To ensure the wells do not cause adverse effects to the sensitive habitat associated with San Simeon Creek and Estuary, **Special Condition 7** would require that they be located at least 100 feet from those areas. The pump tests from these wells would be conducted to determine the potential water yield from the underlying substrates and would occur about a year after the monitoring wells are installed. The tests would run from about 24 to 48 hours. To ensure the test do not affect the creek or estuary, **Special Condition 7** would also require the CCSD to provide to the Executive Director prior to the pump test an analysis based on the results of the initial geotechnical surveys, the seismic reflection survey, and monitoring results from the two wells. **Special Condition 8** would impose certain requirements to ensure well abandonment would not cause adverse effects and **Special Condition 9** would ensure the pump tests would not affect habitat associated with San Simeon Creek. With these Special Conditions, potential adverse effects to sensitive habitat would be avoided and minimized.

**Conclusion:** Based on the above, the Commission finds that the project, as conditioned, conforms to the sensitive habitat provisions of the certified LCP.

### 4.5.3 Marine Biological Resources

Coastal Act Section 30230 states:

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

Coastal Act Section 30231 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 waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

- LCP Environmentally Sensitive Habitat – Marine Habitat Policy 38
- County Health and Safety Code Section 8.66  
[See text in Appendix I]

The applicable LCP provisions generally require that permitted development be sited to avoid impacts to marine resources and that discharges not adversely affect marine biological resources. Additionally, the applicable Coastal Act provisions generally require that permitted development maintain and protect marine biological resources. Appellants contend that the proposed project, as approved and conditioned by the County, does not adequately protect marine biological resources and sensitive habitat areas.

The coastal waters offshore of San Simeon State Beach provide a rich diversity of habitat for numerous marine species. The nearshore area includes hard bottom habitat and kelp forests, and is used by a number of listed sensitive species, including several marine mammal species.

The main project component that has the potential to adversely effect marine biological resources is the seismic reflection survey. The survey would be conducted to determine substrate characteristics. It would involve placing two 1500-foot cables in offshore waters using a small boat and divers, then placing mini-sparkers within the two monitoring wells to be located on the beach.

The CCSD submitted a report (Technical Memorandum No. 1 Mini-Sparker Test, Carollo Engineers, April 2006) that provides information about the test's acoustic characteristics, including the expected levels of sound attenuation that would occur as the produced sound wave moves through the beach substrate and into the water column. The CCSD's use of the mini-sparkers is also subject to a permit issued by the State Lands Commission. The "General Permit to Conduct Geophysical Surveys" (PRC 8392) is used to authorize the use of relatively low-level and low-impact survey and testing equipment in state waters. The permit allows the use of equipment using up to 2 kilojoules of energy, such as the mini-sparkers to be used with this proposed project. Although the mini-sparker produces an initial 209 decibel acoustic burst, the level attenuates to an expected 56 decibels by the time the sound wave moves through thirty feet of sand to reach the water column. That level is somewhat less than the approximately 75 decibels generated by ocean surf and is well below the approximately 150 decibel level of concern used by the Commission when it considers limits or mitigation requirements for higher energy acoustic sources. In addition to the conditions imposed by the County's CDP and incorporated herein pursuant to **Special Condition 1**, and to ensure the acoustic burst is at a level that is not expected to cause damage to marine life, **Special Condition 10** would require that the CCSD ensure the mini-sparkers are placed in the monitoring well so that the acoustic bursts would travel through at least thirty feet of sand before they enter the water column. **Special Condition 10** would further reduce potential adverse impacts by requiring that the cables used during the survey not be placed on hard bottom habitat. Additionally, the marine mammal protection plan required pursuant to **Special Condition 10** would help further ensure that sensitive marine life is not adversely affected during the tests. Further, several of the Special Conditions established to protect sensitive habitat as described in the previous section will result in benefits to marine resources, including the spill prevention plan required by **Special Condition 11**.

**Conclusion:** Based on the above, the Commission finds that the project, as conditioned, conforms to the sensitive habitat provisions of the Coastal Act and the certified LCP.

#### 4.5.4 Visual Resources

Coastal Act Section 30251 states:

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

The LCP's Visual and Scenic Resources Policy 1 states:

*Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved protected, and in visually degraded areas restored where feasible. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

The LCP's Visual and Scenic Resources Policy 2 states:

*Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

The LCP's Visual and Scenic Resources Policy 10 states:

*Prohibit new development on open sandy beaches, except facilities required for public health and safety (e.g., beach erosion control structures). Limit development on dunes to only those uses which are identified as resource dependent in the LCP. Require permitted development to minimize visibility and alterations to the natural landform and minimize removal of dune stabilizing vegetation. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

The LCP's Visual and Scenic Resources Policy 11 states:

*New development on bluff faces shall be limited to public access stairways and shoreline protection structures. Permitted development shall be sited and designed to be compatible with the natural features of the landform as much as feasible. New development on bluff tops shall be designed and sited to minimize visual intrusion on adjacent sandy beaches. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

The LCP's North Coast Plan Planning Area Areawide Standard #6 states:

*Primary site selection for new development shall be locations not visible from Highway 1, as follows:*

- a. Sites shall be selected where hills and slopes would shield development unless no alternative location exists or the new development provides visitor-serving facilities.*
- b. New development shall be located so that no portion of a structure extends above the highest horizon line of ridgelines as seen from Highway 1.*
- c. Where single ownership is on both sides of Highway 1, building sites shall be located on the east side of Highway 1 except for identified visitor-serving development.*
- d. Development proposals for sites with varied terrain are to include design provisions for concentrating developments on moderate slopes, retaining steeper slopes visible from public roads undeveloped.*

The LCP's visual policies generally provide that scenic vistas be protected, that new development not be visible from major public view corridors, that new development on open sandy beaches be limited to that needed for public health and safety, such as beach erosion control structures, and that new development on bluff faces be limited to public access stairways and shoreline protection structures. The LCP further requires development on bluff tops be designed and sited to minimize visual intrusion on nearby beaches. The LCP's North Coast Plan Areawide Standard #6 provision requires that locations for certain new development not be visible from Highway 1, unless no alternative location exists. Additionally, Coastal Act Section 30251 requires that development be sited to protect views to and along the ocean, that it be visually compatible with the surrounding area. Appellants contend that the project as approved and conditioned by the County would not conform to the applicable LCP policies.

As originally approved and conditioned by the County, the project would have included a ramp placed along a coastal bluff and beach and two monitoring wells with concrete caps on the beach. With the CCSA's recent changes to the proposed project, those structures are no longer a part of the proposal. The only structures associated with the current project are the two monitoring wellheads made of PVC or metal pipe that will be installed at or below grade. Because the purpose of the project is to determine whether this particular location is suitable for desalination components, the project is covered by the Areawide Standard #6 exemption that allows new development to be visible from Highway 1 if there are no alternative locations.

Even with the recent changes, the proposed project would have significant visual elements, including use of a beachside parking area for equipment staging and for placement of a crane, all of which would be located at the top of a coastal bluff adjacent to and visible from the beach and other nearby coastal view areas. The current proposed project would also include vehicle use along the beach and placement of monitoring wells, all of which would affect the area's visual resources.

In addition to the conditions imposed by the County's CDP and incorporated herein pursuant to **Special Condition 1**, several more Special Conditions are necessary to minimize the proposed project's adverse visual impacts and to allow it to conform to the above Coastal Act and LCP provisions. The time limits imposed in **Special Condition 3** would reduce the amount of time the project affected visual resources and would ensure most of the project activities occurred outside the peak visitor season. Additionally, **Special Condition 4** would require CCSD to move the project-related vehicles away from the beach and bluff during higher visitor use periods on weekends. Finally, **Special Condition 3** would require most of the project-related work be done during daylight hours to avoid the need for night lighting.

**Conclusion:** Based on the above, the Commission finds that the project, as conditioned, conforms to the visual resource provisions of the Coastal Act and the certified LCP.

#### 4.5.5 Placing Structures

The LCP's North Coast Plan Recreation Standard #6 states:

*New structures are to be located a minimum of 50 feet from the high tide line or the upper edge of defined bluffs, whichever is greater. Where a geology report prepared in accordance with the CZLUO recommends a lesser setback, new structures may be placed to not less than 25 feet of the defined shoreline bluff; provided that the reduced setback shall not interfere with the obtaining or maintenance of coastal access of a minimum width of ten feet (10') as required in the Local Coastal Program.*

The LCP's North Coast Plan Recreation Standard #7 states:

*Principal permitted uses are limited to: Eating and drinking places (not including drive-in restaurants, fast food and refreshment stands); food and beverage retail sales (limited to tourist-oriented uses such as gift shops and art galleries); hotels and motels; and bed and breakfast facilities. Non-principal permitted uses are limited to: service stations; recreational vehicle parks (east of Highway 1); caretaker residences where appropriate; public assembly and entertainment (when accessory to a hotel or motel); coastal accessways; water wells and impoundment; and cultural, education, and recreational uses (excluding libraries, membership organizations, schools, social service organizations, and equestrian exhibition facilities) normally allowed by Coastal Table O pertinent to a visitor-serving priority area.*

The LCP's North Coast Plan Recreation Standard #6 requires that new structures be located at least 50 feet from the high tide line or the upper edge of defined bluffs, whichever is greater. Where supported by a geology report prepared pursuant to requirements of the Coastal Zone Land Use Ordinance, these structures may be placed no less than 25 feet from the bluff if they do not interfere with coastal access. The LCP's North Coast Plan Recreation Standard #7 establishes the permitted uses for San Simeon Beach, which is designated in the County's planning documents for Recreation use. Appellants contend that the project as approved and conditioned by the County does not conform to the above LCP provisions because it would include structures within 50 feet of the high tide line or coastal bluffs and would involve uses that are not among the principal or non-principal permitted uses listed in Recreation Standard #7 above.

The project as originally approved and conditioned by the County included a ramp that would have crossed a coastal bluff and two monitoring wells with concrete wellheads that may have been placed within 50 feet of the high tide line. However, the CCSD has since changed its project description so that these structures are no longer part of the project. The ramp has been replaced with a crane, and the concrete pads are now not to be included as part of the wellheads. The wellheads will now consist of about two to three feet of six- to eight-diameter PVC or steel pipe that will be installed at or below grade. Therefore, the only structural components of the project that would be within the areas described in the LCP's Recreational Standard #6 are the

water monitoring well pipes, and these wells have now been designed to minimize the structural presence they would have on the beach area. Further, pursuant to the LCP's Recreational Standard #7, these water wells are allowable non-primary permitted uses.

However, the project as currently proposed includes some areas of potential nonconformity to the applicable LCP and Coastal Act provisions. The exact location of the two wells will not be determined until after the initial geotechnical work is completed, and, for the project as approved and conditioned by the County, it was not clear where the wells would be located in relation to the mean high tide line. That line, which in this location has yet to be determined, serves as the boundary between the County's LCP jurisdiction and the Commission's retained jurisdiction, and it also serves as the jurisdictional boundary for the State Lands Commission. In a June 23, 2006 letter, the State Lands Commission stated that the proposed project would require a lease if the monitoring wells were to be located below the mean high tide line. If such a lease was required, Coastal Commission staff could not yet file the CDP application as complete, since as the Commission's regulations require that the lease be approved prior to filing. To resolve this issue and to allow Commission staff to file the CCSD's application as complete, the CCSD has confirmed that although the exact locations for the wells are not yet known, it will ensure that they are placed above the mean high tide line. **Special Condition 2** therefore requires that prior to construction of the wells, the CCSD provide to the Executive Director confirmation from the State Lands Commission that the wells would be located above the mean high tide and would not require a state lands lease.

**Conclusion:** Based on the above, the Commission finds that the project, as conditioned, conforms to the above provisions of the certified LCP.

## **5.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT**

On October 28, 2005, the Cambria Community Services District certified a Mitigated Negative Declaration for the proposed project. In addition, Section 13096 of the Commission's administrative regulations requires Commission approval of CDP applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of the CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment.

As discussed above, the proposed project has been conditioned to be found consistent with the policies of the Coastal Act. Mitigation measures that will minimize or avoid all significant adverse environmental impacts 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 CEQA.

## **APPENDIX I: COASTAL ACT AND LOCAL COASTAL PROGRAM PROVISIONS**

### **Public Access:**

Coastal Act Section 30210 states:

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

Coastal Act Section 30211 states:

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

Coastal Act Section 30212(a) states, in relevant part:

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

Coastal Act Section 30213 states, in relevant part:

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

Coastal Act Section 30214 states:

- (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*
- (1) Topographic and geologic site characteristics.*
  - (2) The capacity of the site to sustain use and at what level of intensity.*

- (3) *The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*
- (4) *The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*
- (b) *It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.*
- (c) *In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.*

LCP Section 23.04.420 states, in relevant part:

*Development within the Coastal Zone between the first public road and the tidelands shall protect and/or provide coastal access as required by this section. The intent of these standards is to assure public rights of access to the coast are protected as guaranteed by the California Constitution. This section to satisfy the intent of the California Coastal Act also establishes coastal access standards...*

*b. Protection of existing coastal access. Development shall not interfere with public rights of access to the sea where such rights were acquired through use or legislative authorization. Public access rights may include but are not limited to the use of dry sand and rocky beaches to the first line of terrestrial vegetation.*

### **Environmentally Sensitive Habitat Areas:**

The LCP's Environmentally Sensitive Habitat Policy 1 states:

*New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE COASTAL ZONE LAND USE ORDINANCE (CZLUO).]*

The LCP's Environmentally Sensitive Habitat Policy 2 states:

*As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat. This shall include an evaluation of the site prepared by a qualified professional which provides: a) the maximum feasible mitigation measures (where appropriate), and b) a program for monitoring and evaluating the effectiveness of mitigation measures where appropriate. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO.]*

The LCP's Environmentally Sensitive Habitat Policy 3 states:

*The county or Coastal Commission should require the restoration of damaged habitats as a condition of approval when feasible. Detailed wetlands restoration criteria are discussed in Policy 11. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.170 OF THE CZLUO.]*

The LCP's Environmentally Sensitive Habitat – Wetlands Policy 7 states:

*Coastal wetlands are recognized as environmentally sensitive habitat areas. The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible, restored. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO.]*

The LCP's Environmentally Sensitive Habitat – Wetlands Policy 8 states:

*Principally permitted uses in wetlands are as follows: hunting, fishing and wildlife management; education and research projects. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-172 OF THE CZLUO.]*

The LCP's Environmentally Sensitive Habitat – Wetlands Policy 17 states:

*In new development, a buffer strip shall be required and maintained in natural condition along the periphery of all wetlands. This shall be a minimum of 100 feet in width measured from the upland extent of the wetland unless a more detailed requirement for a greater or lesser amount is included in the LUE or the LUO would allow for adjustment to recognize the constraints which the minimum buffer would impose upon existing subdivided lots. If a project involves substantial improvements or increased human impacts, necessitating a wide buffer area, it shall be limited to utility lines, pipelines, drainage and flood control facilities, bridges and road approaches to bridges, and roads when it can be demonstrated that: a) alternative routes are infeasible or more environmentally damaging, and b) the adverse environmental effects are mitigated to the maximum extent feasible. Access paths and/or fences necessary to protect habitats may also be permitted. The minimum buffer strip may be adjusted by the county if the*

*minimum setback standard would render the parcel physically unusable for the principal permitted use. To allow a reduction in the minimum standard set-back, it must be found that the development cannot be designed to provide for the standard. When such reductions are permitted, the minimum standard shall be reduced to only the point at which the principal permitted use (development), modified as much as is practical from a design standpoint, can be accommodated. At no point shall this buffer be less than 25 feet. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.172 OF THE CZLUO.]*

The LCP's Environmentally Sensitive Habitat – Coastal Streams Policy 20 states:

*Coastal streams and adjoining riparian vegetation are environmentally sensitive habitat areas and the natural hydrological system and ecological function of coastal streams shall be protected and preserved. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.07.174 OF THE CZLUO.]*

The LCP's Environmentally Sensitive Habitat – Coastal Stream Policy 21 states:

*Development adjacent to or within the watershed (that portion within the coastal zone) shall be sited and designed to prevent impacts which would significantly degrade the coastal habitat and shall be compatible with the continuance of such habitat areas. This shall include evaluation of erosion and runoff concerns. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.07.174 OF THE CZLUO.]*

The LCP's Environmentally Sensitive Habitat – Riparian Habitat Policy 28 states:

*In rural areas (outside the USL) a buffer setback zone of 100 feet shall be established between any new development (including new agricultural development) and the upland edge of riparian habitats. In urban areas this minimum standard shall be 50 feet except where a lesser buffer is specifically permitted. The buffer zone shall be maintained in natural condition along the periphery of all streams. Permitted uses within the buffer strip shall be limited to passive recreational, educational or existing nonstructural agricultural developments in accordance with adopted best management practices. Other uses that may be found appropriate are limited to utility lines, pipelines, drainage and flood control facilities, bridges and road approaches to bridges to cross a stream and roads when it can be demonstrated that: 1) alternative routes are infeasible or more environmentally damaging and 2) adverse environmental effects are mitigated to the maximum extent feasible. Lesser setbacks on existing parcels may be permitted if application of the minimum setback standard would render the parcel physically unusable for the principal permitted use. In allowing a reduction in the minimum setbacks, they shall be reduced only to the point at which a principal permitted use (as modified as much as is practical from a design standpoint) can be accommodated. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.174 OF THE CZLUO.]*

The LCP's Environmentally Sensitive Habitat – Marine Habitat Policy 38 states:

*Uses shall be restricted to recreation, education and commercial fishing. Adjacent development shall be sited and designed to mitigate impacts that would be incompatible with the continuance of such habitat areas. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

LCP Environmentally Sensitive Habitat – Marine Habitat Policy 39 states:

*Shoreline structures, including piers, groins, breakwaters, seawalls and pipelines, shall be designed or sited to avoid and minimize impacts on marine habitats. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.178<sup>1</sup> OF THE CZLUO.]*

The LCP's North Coast Plan Sensitive Resource Area Combining Designation Standard 1 states:

*Projects requiring Development Plan approval are to concentrate proposed uses in the least sensitive portions of properties. Native vegetation is to be retained as much as possible.*

The LCP's North Coast Planning Area Sensitive Resource Area Combining Designation Standard 2 states:

*Development and recreational uses, especially on the blufftop, shall be designed and situated to minimize adverse impacts on marine resources. Access shall be permitted when compatible with protection of marine resources.*

LCP Section 23.07.170 states:

*The provisions of this section apply to development proposed within or adjacent to (within 100 feet of the boundary of) an Environmentally Sensitive Habitat as defined by Chapter 23.11 of this title and as mapped by the Land Use Element combining designation maps.*

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<sup>1</sup> Coastal Zone Land Use Ordinance Section 23.07.178 states: The provisions of this section are intended to preserve and protect habitats for marine fish, mammals and birds. Development within or adjacent to marine habitats is subject to the provisions of this section.

- a. Protection of kelp beds, offshore rocks, reefs and intertidal areas. Development shall be sited and designed to mitigate impacts that may have adverse effects upon the habitat, or that would be incompatible with the continuance of such habitat areas.
- b. Siting of shoreline structures. Shoreline structures, including piers, groins, breakwaters, seawalls and pipelines shall be designed or sited to avoid and to minimize impacts on marine habitats.
- c. Coastal access. Coastal access shall be monitored and regulated to minimize impacts on marine resources. If negative impacts are demonstrated, then the appropriate agency shall take steps to mitigate these impacts, including limitations of the use of the coastal access.

- a. *Application content. A land use permit application for a project on a site located within or adjacent to an Environmentally Sensitive Habitat shall also include a report by a biologist approved by the Environmental Coordinator that:*
- (1) Evaluates the impact the development may have on the habitat, and whether the development will be consistent with the biological continuance of the habitat. The report shall identify the maximum feasible mitigation measures to protect the resource and a program for monitoring and evaluating the effectiveness of the mitigation measures.*
  - (2) Recommends conditions of approval for the restoration of damaged habitats, where feasible.*
  - (3) Evaluates development proposed adjacent to environmentally sensitive habitats to identify significant negative impacts from noise, sediment and other potential disturbances that may become evident during project review.*
  - (4) Identifies the biological constraints that need to be addressed in designing development that would first avoid, then minimize impacts to ESHA. These identified constraints will be used by the County to evaluate, and require implementation of project design alternatives that result in impacts to ESHA being avoided and unavoidable impacts minimized. This shall also include assessment of impacts that may result from the application of fire safety requirements.*
  - (5) Verifies that applicable setbacks from the habitat area required by Sections 23.07.170 to 23.07.178 are adequate to protect the habitat or recommends greater, more appropriate setbacks.*
  - (6) Critically evaluate “after-the-fact” permit applications where unpermitted development has illegally encroached into setback areas before off-site mitigation is considered. Evaluate all options of restoring and enhancing the pre-existing on-site habitat values. Off-site mitigation should be an additional requirement where necessary to offset the temporary impacts of the violation and address the potential for restoration efforts to fail.*
- b. *Required findings: Approval of a land use permit for a project within or adjacent to an Environmentally Sensitive Habitat shall not occur unless the applicable review body first finds that:*
- (1) There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.*
  - (2) The proposed use will not significantly disrupt the habitat.*
- c. *Land divisions: No division of a parcel containing an Environmentally Sensitive Habitat shall be permitted unless all proposed building sites are located entirely outside of the applicable minimum setback required by Sections 23.07.172 through 23.07.178. Such building sites shall be designated on the recorded subdivision map.*
- d. *Alternatives analysis required. Construction of new, improved, or expanded roads, bridges and other crossings will only be allowed within required setbacks after an alternatives analysis has been completed. The alternatives analysis shall examine at least two other feasible locations with the goal of locating the least environmentally damaging alternative. The bridge or road may be allowed in the proposed location when accompanied by all feasible mitigation measures to avoid and/or minimize*

*adverse environmental effects, only when the alternatives analysis concludes that a feasible and less-environmentally damaging alternative does not exist. If however, the alternatives analysis concludes that a feasible and less-environmentally damaging alternative does exist, that alternative shall be used and any existing bridge or road within the setback shall be removed and the total area of disturbance restored to natural topography and vegetation.*

- e. Development standards for environmentally sensitive habitats:*
  - (1) New development within or adjacent to the habitat shall not significantly disrupt the resource.*
  - (2) New development within the habitat shall be limited to those uses that are dependent upon the resource.*
  - (3) Where feasible, damaged habitats shall be restored as a condition of development approval.*
  - (4) Development shall be consistent with the biological continuance of the habitat.*
  - (5) Grading adjacent to Environmentally Sensitive Habitats shall conform to the provisions of Section 23.05.034c (Grading Standards.)*

LCP Section 23.07.172 states:

*Development proposed within or adjacent to (within 100 feet of the upland extent of) a wetland area shown on the Environmentally Sensitive Habitat Maps shall satisfy the requirements of this section to enable issuance of a land use or construction permit. These provisions are intended to maintain the natural ecological functioning and productivity of wetlands and estuaries and where feasible, to support restoration of degraded wetlands.*

- a. Location of development: Development shall be located as far away from the wetland as feasible, provided that other habitat values on the site are not thereby more adversely affected.*
- b. Principle Permitted Uses in wetlands: Hunting, fishing, wildlife management, education and research projects.*
- c. Department of Fish and Game review. The State Department of Fish and Game shall review all applications for development in or adjacent to coastal wetlands and recommend appropriate mitigation measures where needed which should be incorporated in the project design.*
- d. Wetland setbacks: New development shall be located a minimum of 100 feet from the upland extent of all wetlands, except as provided by subsection d(2). If the biological report required by Section 23.07.170 (Application Content) determines that such setback will provide an insufficient buffer from the wetland area, and the applicable approval body cannot make the finding required by Section 23.07.170b, then a greater setback may be required.*
  - (1) Permitted uses within wetland setbacks: Within the required setback buffer, permitted uses are limited to passive recreation, educational, existing non-structural agricultural development in accordance with best management practices, utility lines, pipelines, drainage and flood control of facilities, bridges*

*and road approaches to bridges to cross a stream and roads when it can be demonstrated that:*

- (i) Alternative routes are infeasible or more environmentally damaging.*
  - (ii) Adverse environmental effects are mitigated to the maximum extent feasible.*
- (2) Wetland setback adjustment: The minimum wetland setback may be adjusted through Minor Use Permit approval (but in no case shall be less than 25 feet), provided that the following findings can be made:*
- (i) The site would be physically unusable for the principal permitted use unless the setback is reduced.*
  - (ii) The reduction is the minimum that would enable a principal permitted use to be established on the site after all practical design modifications have been considered.*
  - (iii) That the adjustment would not allow the proposed development to locate closer to the wetland than allowed by using the stringline setback method pursuant to Section 23.04.118a of this title.*
- (3) Requirements for wetland setback adjustment: Setbacks established that are less than 100 feet consistent with this section shall include mitigation measures to ensure wetland protection. Where applicable, they shall include landscaping, screening with native vegetation and drainage controls. The adjustment shall not be approved until the approval body considers the following:*
- (i) Site soil types and their susceptibility to erosion.*
  - (ii) A review of the topographic features of the site to determine if the project design and site location has taken full advantage of natural terrain features to minimize impacts on the wetland.*
  - (iii) The biologists report required by Section 23.07.170 shall evaluate the setback reduction request and identify the types and amount of vegetation on the site and its value as wildlife habitat in maintaining the functional capacity of the wetland.*
  - (iv) Type and intensity of proposed development.*
  - (v) Lot size and configuration and location of existing development.*
- e. Site development standards:*
- (1) Diking, dredging or filling of wetlands: Diking, dredging or filling activities in wetland areas under county jurisdiction shall be allowed only to the extent that they are consistent with Environmentally Sensitive Habitats Policy 11 of the Local Coastal Plan and shall not be conducted without the property owner first securing approval of all permits required by this title.*
  - (2) Vehicle traffic: Vehicle traffic from public roads shall be prevented from entering wetlands by vehicular barriers, except where a coastal accessway is constructed and designated parking and travel lanes are provided consistent with this title. The type of barrier and its proposed location shall be identified in the materials accompanying an application for a land use permit and must be approved by the Planning Director before permit issuance to insure that it will not restrict local and state agencies or the property owner from completing the actions necessary to accomplish a permitted use within the wetland.*

- (3) *Open space easement required: A land use or construction permit for a structure larger than 1000 square feet in floor area shall not be approved on a parcel of one acre or larger that contains a wetland, unless the property owner first grants the county or an approved land trust an open space easement or fee title dedication of all portions of the site not proposed for development, as well as the entire wetland.*

LCP Section 23.07.174 states:

*Coastal streams and adjacent riparian areas are environmentally sensitive habitats. The provisions of this section are intended to preserve and protect the natural hydrological system and ecological functions of coastal streams.*

- a. *Development adjacent to a coastal stream. Development adjacent to a coastal stream shall be sited and designed to protect the habitat and shall be compatible with the continuance of such habitat.*
- b. *Limitation on streambed alteration: Channelization, dams or other substantial alteration of stream channels are limited to:*
  - (1) *Necessary water supply projects, provided that quantity and quality of water from streams shall be maintained at levels necessary to sustain functional capacity of streams, wetlands, estuaries and lakes. (A "necessary" water project is a project that is essential to protecting and/or maintaining public drinking water supplies, or to accommodate a principally permitted use as shown on Coastal Table "O" where there are no feasible alternatives.*
  - (2) *Flood control projects, including maintenance of existing flood control channels, where such protection is necessary for public safety or to protect existing commercial or residential structures, when no feasible alternative to streambed alteration is available;*
  - (3) *Construction of improvements to fish and wildlife habitat;*
  - (4) *Streambed alterations shall not be conducted unless all applicable provisions of this title are met and if applicable, permit approval from the California Department of Fish and Game, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and California State Water Resources Control Board. In addition, every streambed alteration conducted pursuant to this title shall employ the best mitigation measures where feasible, including but not limited to:*
    - a. *Avoiding the construction of hard bottoms;*
    - b. *Using box culverts with natural beds rather than closed culverts to provide for better wildlife movement; and*
    - c. *Pursuing directional drilling for pipes, cables, and conduits to avoid surface streambed disturbance.*
- c. *Stream diversion structures: Structures that divert all or a portion of streamflow for any purpose, except for agricultural stock ponds with a capacity less than 10 acre-feet, shall be designed and located to not impede the movement of native fish or to reduce streamflow to a level that would significantly affect the production of fish and other stream organisms.*

- d. *Riparian setbacks: New development shall be setback from the upland edge of riparian vegetation the maximum amount feasible. In the urban areas (inside the URL) this setback shall be a minimum of 50 feet. In the rural areas (outside the URL) this setback shall be a minimum of 100 feet. A larger setback will be preferable in both the urban and rural areas depending on parcel configuration, slope, vegetation types, habitat quality, water quality, and any other environmental consideration. These setback requirements do not apply to non-structural agricultural developments that incorporate adopted nest management practices in accordance with LUP Policy 26 for Environmentally Sensitive Habitats.*
- (1) *Permitted uses within the setback: Permitted uses are limited to those specified in Section 23.07.172d(1) (for wetland setbacks), provided that the findings required by that section can be made. Additional permitted uses that are not required to satisfy those findings include pedestrian and equestrian trails, and non-structural agricultural uses. All permitted development in or adjacent to streams, wetlands, and other aquatic habitats shall be designed and/or conditioned to prevent loss or disruption of the habitat, protect water quality, and maintain or enhance (when feasible) biological productivity. Design measures to be provided include, but are not limited to:*
- (i) *Flood control and other necessary instream work should be implemented in a manner than minimizes disturbance of natural drainage courses and vegetation.*
  - (ii) *Drainage control methods should be incorporated into projects in a manner that prevents erosion, sedimentation, and the discharge of harmful substances into aquatic habitats during and after construction.*
- (2) *Riparian habitat setback adjustment: The minimum riparian setback may be adjusted through Minor Use Permit approval, but in no case shall structures be allowed closer than 10 feet from a stream bank, and provided the following findings can first be made:*
- (i) *Alternative locations and routes are infeasible or more environmentally damaging; and*
  - (ii) *Adverse environmental effects are mitigated to the maximum extent feasible; and*
  - (iii) *The adjustment is necessary to allow a principal permitted use of the property and redesign of the proposed development would not allow the use with the standard setbacks; and*
  - (iv) *The adjustment is the minimum that would allow for the establishment of a principal permitted use.*
- e. *Alteration of riparian vegetation: Cutting or alteration of natural riparian vegetation that functions as a portion of , or protects, a riparian habitat shall not be permitted except:*
- (1) *For streambed alterations allowed by subsections a and b above;*
  - (2) *Where an issue of public safety exists;*
  - (3) *Where expanding vegetation is encroaching on established agricultural uses;*

- (4) *Minor public works projects, including but not limited to utility lines, pipelines, driveways and roads, where the Planning Director determines no feasible alternative exists;*
- (5) *To increase agricultural acreage provided that such vegetation clearance will:*
  - (i) *Not impair the functional capacity of the habitat;*
  - (ii) *Not cause significant streambank erosion;*
  - (iii) *Not have a detrimental effect on water quality or quantity;*
  - (iv) *Be in accordance with applicable permits required by the Department of Fish and Game.*
- (6) *To locate a principally permitted use on an existing lot of record where no feasible alternative exists and the findings of Section 23.07.174d(2) can be made.*

LCP Section 23.02.034 states:

*The purpose of a Development Plan is to: enable public review of significant land use proposals; and to insure the proper integration into the community of land uses which, because of their type or intensity, may only be appropriate on particular sites, or may only be appropriate if they are designed or laid out in a particular manner. The Development Plan process includes a public hearing before the Review Authority. Action on a Development Plan is discretionary and may include: approval based on the standards of this title; approval with conditions; or disapproval, based on conflict with the provisions of this code, or information in the staff report or public hearing testimony. When Development Plan approval is required by this title, preparation and processing of the application shall be as follows:*

- a. *Development Plan content. The content of a Development Plan application is to be the same as required for Minor Use Permits by Section 23.02.033.*
- b. *Development Plan processing. Development Plan applications are to be submitted to the Planning Department, and shall be processed as follows:*
  - (1) *Environmental determination. When a Development Plan application has been accepted for processing as set forth in Section 23.02.022 (Determination of Completeness), it shall be subject to an environmental determination as required by the California Environmental Quality Act (CEQA). No action shall be taken to approve or conditionally approve the application until the environmental determination results in:*
    - (i) *A statement by the Environmental Coordinator that the project is exempt from the provisions of CEQA; or*
    - (ii) *Approval of a negative declaration by the decision-making body pursuant to CEQA; or*
    - (iii) *Certification of a final environmental impact report (EIR) by the decision-making body pursuant to CEQA.*
  - (2) *Staff report. Following completion of an Environmental Determination, the Planning Department shall prepare a staff report that:*
    - (i) *Describes the characteristics of the proposed land use or development project, as well as the project site and its surroundings; and*
    - (ii) *References applicable county land use policies; and*

- (iii) *Determines whether the proposed use or project satisfies at minimum the provisions of this title; and*
        - (iv) *Recommends whether, and on what basis, the proposal should be approved, conditionally approved or disapproved.*
  - (3) *Public hearing. The Planning Director shall schedule the Development Plan for public hearing before the Review Authority as set forth in Section 23.01.060.*
- c. *Development Plan approval or disapproval. The authority to take final action on a Development Plan as set forth in this subsection is assigned to the Subdivision Review Board or Planning Commission. Where a Development Plan application is required in conjunction with a land division application, the advisory agency designated to take action on the land division by Title 21 of this code shall consider both the Development Plan application and the land division application on the same agenda. Final action on the Development Plan shall occur prior to final action on the land division application. In all other cases requiring Development Plan approval only, the Planning Commission is assigned to take final action. Decisions of the Review Authority may be appealed to the Board of Supervisors (Section 23.01.042), and certain projects may also be appealed to the Coastal Commission pursuant to Section 23.01.043.*
  - (1) *Conditions of approval. After the conclusion of a public hearing, the Review Authority may approve, conditionally approve, or disapprove the Development Plan. In conditionally approving a Development Plan, the Review Authority shall designate such conditions to satisfy any requirements of CEQA, and to:*
    - (i) *Secure compliance with the objectives and requirements of this title, the Land Use Element and the Local Coastal Plan; and*
    - (ii) *Designate time limits or phasing schedules other than those specified in Section 23.02.040 (Permit Time Limits) for the completion of projects, when deemed appropriate.*
    - (iii) *Identify the specific land uses from Coastal Table O, Part I of the Land Use Element, which may be established on the site pursuant to the Development Plan approval.*
  - (2) *Additional conditions. In addition to the conditions of subsection 23.02.034c(1), the Review Authority may adopt other conditions, including but not limited to:*
    - (i) *Requiring that security be provided to guarantee performance and/or compliance with conditions of approval, as set forth in Section 23.02.060 (Guarantees of Performance);*
    - (ii) *Requiring installation of specific on-site or off-site improvements;*
    - (iii) *Modifying, superseding or replacing conditions of approval imposed on the subject site or land use by a previous Development Plan, Minor Use Permit or any land use permit issued pursuant to the zoning ordinance (Ordinance No. 603).*
    - (iv) *Authorizing land uses on the site in addition to those requested in the Development Plan application where such additional uses would normally be required by this title to have Plot Plan or Minor Use Permit approval.*

- (v) *Any other conditions judged by the Planning Commission to be necessary to achieve compatibility between the proposed use and its site, its immediate surroundings, and the community.*
- (3) *Effect of conditions. Whenever a Development Plan approval is granted or amended subject to conditions, use or enjoyment of the Development Plan approval in violation, or without observance of any such condition shall constitute a violation of the Coastal Zone Land Use Ordinance. In the event of such a violation, the approval may be revoked or modified as provided in Section 23.10.160 (Permit Revocation). The duration of conditions is established in Section 23.02.052 (Lapse of Land Use Permit).*
- (4) *Required findings. The Review Authority shall not approve or conditionally approve a Development Plan unless it first finds that:*
  - (i) *The proposed project or use is consistent with the Local Coastal Program and the Land Use Element of the general plan; and*
  - (ii) *The proposed project or use satisfies all applicable provisions of this title; and*
  - (iii) *The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use; and*
  - (iv) *The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development; and*
  - (v) *The proposed use or project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project.*
  - (vi) *The proposed use or land division (if located between the first public road and the sea or the shoreline of any body of water), is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act.*
  - (vii) *Any additional findings required by planning area standards (Part II of the Land Use Element), combining designation (Chapter 23.07), or special use (Chapter 23.08).*
- d. *Effective date of land use permit: Except where otherwise provided by Section 23.01.043 for projects that may be appealed to the Coastal Commission, the approval of a Development Plan shall become final and effective for the purposes of construction permit issuance, business license clearance, or establishment of a non-structural use, on the 15th day following the act of Review Authority approval; unless an appeal is filed as set forth in Section 23.01.042 (Appeal). A land use permit for appealable development shall not become effective until the requirements of Section 23.02.039 are met.*

The County's Health and Safety Code Section 8.66 states, in relevant part:

*Section 8.66.010: The board of supervisors finds that there are insufficient federal and state statutes to adequately protect, preserve, and enhance the unique and beautiful coastline of San Luis Obispo County and the significant resources in the ocean waters within the boundaries of the county such as commercial fishing, recreational fishing, human contact sports, swimming, scuba diving, surfing, tourism, marine habitat, rare and endangered species, domestic water supplies, sea otter refuge, marine research, aquaculture estuarine habitat, shellfish growing, recreational boating, and areas of special biological significance, all of which require protection from contamination. The board of supervisors further finds that because of the ecological relationship between the ocean waters within the boundaries of the county and the lands and people within the rest of the county, there must be local regulations for the:*

- (1) Protection of public health by preventing contamination of domestic water supplies and water use for human contact recreation as well as contamination of fish and shellfish consumed by the public;*
- (2) Protection of economic stability and for economic development rights;*
- (3) Protection of significant resources, public health and economic stability resulting from contaminants being brought into the area by currents and tidal movements.*

*Section 8.66.020: For the purpose of this chapter, the following words and phrases shall have the meanings respectfully ascribed to them by this section:*

- (1) "Ocean waters of the county" means any ocean waters within the boundaries of or abutting the county.*
- (2) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water, including but not limited to toxic and hazardous chemicals, selenium, pesticides, nutrients, sediments, heavy metals, and trace elements from agricultural drainage water, sewage, and any other waste water in sufficient quantities that will be detrimental to the present and future beneficial users.*
- (3) "Contamination" means any impairment of the quality of the waters of the county by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease.*
- (4) "Pollution" means any alteration of the quality of the waters of the county to a degree which unreasonably affects such waters for beneficial uses, or facilities which serve such beneficial uses. Pollution may include contamination.*
- (5) "Person" includes an individual, firm, association, partnership, corporation, and public entity.*

*Section 8.66.030: It shall be unlawful for any new pipes or conduits to carry discharges into the ocean waters of the county which contain any contaminant or cause any contamination or pollution that would be detrimental to the present and future beneficial waters.*

*Section 8.66.040: It shall be unlawful to discharge any contaminants into the ocean waters of the county which contain any contaminant or cause any contamination or pollution that would be detrimental to the present and future beneficial users.*

*Section 8.66.050: It shall be unlawful to place or cause to be placed any pipes or conduits which are to carry contaminants into the ocean waters of the county that would be detrimental to the present and future beneficial users.*

**APPENDIX II – COUNTY CDP CONDITIONS**

**EXHIBIT B - CONDITIONS OF APPROVAL**

**Approved Development**

1. This approval authorizes a three phase Geotechnical and Hydrogeologic data collection project consisting of:
  - a. Phase I – Complete approximately seven exploratory soil borings, approximately 4 to 6 inches in diameter each, in locations parallel with and in close proximity to the beach surf zone from the San Simeon Creek beach area to the parking lot beach area located approximately 1,000 feet to the south. Phase I work would also include geophysical exploration with a cone-penetrometer test vehicle that will collect data by pushing a 1 to 2 inch diameter probe into the sand within the same general beach areas. A temporary equipment access ramp would be installed in the parking lot area and remain for all three phases.
  - b. Phase II – Install two 4-inch diameter monitoring wells on the San Simeon Creek beach area and the parking lot beach area as well as a geophysical survey along the surf zone and ocean floor at the San Simeon Beach area.
  - c. Phase III – Complete soil borings along the proposed pipeline alignments and other project elements that are not located within the beach area. Phase III will also include test pumping from the monitoring wells installed under Phase II.
  - d. An access ramp at the southern end of the existing parking area on the west side of Highway One. Aggregate rock base would be placed at the south end of the parking lot. Wood timbers or a pre-fabricated ramp would be placed on top by a crane. A winch may be used for lowering or lifting rubber wheeled trucks and equipment on the ramp. Temporary cabling and anchorage of the winch may be completed by constructing a drilled concrete pier anchor in the parking lot. The ramp would be used each evening to allow drilling and test equipment to be completely removed from the beach area. Upon removal of the temporary ramp, the base rock would either be removed or spread for use within the parking lot. All temporary anchorages for the winching system would be removed.
  - e. Removal of the temporary ramp and temporary anchorages for the winching system and the parking returned to its pre-construction state, shall occur within 15 days of completion of the test pumping from Phase III.
  - f. Re-installation of the ramp is authorized to allow removal of the ground water monitoring wells and such ramp shall be removed within 15 days of completing the removal of the ground water monitoring wells.

**Conditions to be completed prior to project activities**

2. **Prior to any project activities**, the CCSD shall provide evidence that an environmental monitor approved by the County has been retained for all measures requiring environmental mitigation to ensure compliance with County Conditions of Approval and Mitigated Negative Declaration measures. Costs of the monitor shall be paid for by the applicant.

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3. **Prior to any project activities**, the CCSD shall provide a copy of permits or verification that no permit is necessary from State Parks, Coastal Commission, U.S. Fish and Wildlife Services, Army Corps of Engineers, CalTrans, and the State Lands Commission.
4. **Prior to any project activities**, the CCSD shall provide an archaeological monitoring plan prepared by a qualified archaeologist for review and approval by the Department of Planning and Building. The monitoring plan shall be approved by State Parks and the State Historic Preservation Officer and include a measure that includes requirements that the drill hole will be relocated if significant archaeological resources are encountered during excavation of the control unit. All excavation shall be guided by this cultural resources monitoring plan. The monitoring plan shall provide that the following activities are excluded from designated sensitive areas:
  - a. Unnecessary excavations
  - b. Staging equipment on undisturbed portions of an archaeological site
  - c. Collection, removal, or unnecessary displacement of any artifacts, eco-facts, or cultural remains
  - d. Removal of native soil outside a sensitive area
5. **Prior to mobilization**, a pre-activity survey shall be conducted by a qualified biologist and a certified marine biologist. The survey shall include the entire project site and surrounding habitats. During the survey, the biologists shall survey for the presence/absence of marine mammals, western snowy plover, southwestern pond turtle, California red-legged frog, two-striped garter snake, foothill yellow-legged frog and special-status nesting bird species.
6. **Prior to data collection and temporary access ramp installation activities**, the project site shall be clearly delineated with stakes, flagging, rope or cord to minimize inadvertent degradation or loss of adjacent wildlife habitat during study activities. Delineation material shall be maintained by the qualified biologist for the duration of the construction activities.
7. **Prior to data collection and temporary access ramp installation activities**, a qualified biologist and certified marine biologist shall conduct an employee education program for all employees and contractors who would work on the project site. At a minimum, the program shall include the following components, as they relate to potentially-occurring special-status species:
  - a. Known habitat requirements;
  - b. A color photograph of the species;
  - c. A summary of the occurrence of potentially-occurring special-status species in the vicinity of the project site;
  - d. Special-status species protection under the Endangered Species Acts; and,
  - e. A review of avoidance and minimization measures to be implemented during the project.
8. **Prior to any project activities**, pre-project photo-documentation shall be completed for the proposed ramp area to determine if impacts to the bluff edge or face result from the temporary placement of the access ramp.
9. **Prior to any project activities**, a Hazardous Spill Contingency Plan (HSCP) shall be prepared for the project and shall be implemented to reduce the potential of hydrocarbon spills to a less than significant level. The HSCP shall include a provision that in the event

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that fuel or oil release occurs during the project activities, all work will cease and spill response and countermeasures will be implemented and project manager shall immediately notify the appropriate regulatory agencies (including, but not limited to: California Office of Emergency Services, California State Parks, California Department of Fish and Game - OSPR, California Coastal Commission and the Regional Water Quality Control Board, Central Coast Region) in the event of a reportable spill. The HSCP shall contain a contingency measures to be implemented by the contractor as approved by the regulatory agencies.

10. **Prior to mobilization, data collection and temporary access ramp installation activities**, a monitoring report prepared by the environmental monitor shall be submitted to the Department of Planning and Building verifying that the above conditions have been met.

**Conditions to be completed during project activities**

11. **During all project activities**, a monitoring report prepared by the environmental monitor shall be submitted weekly to the Department of Planning and Building verifying that all measures requiring environmental mitigation have been met and that all project activities are be conducted in accordance with the procedures outlined in the project-specific Wildlife Contingency Plan (WCP).
12. **During mobilization, data collection, temporary access ramp installation, and demobilization**, a qualified biologist shall monitor the project site for the presence of biological resources which have the potential to be impacted during project activities (including marine mammals). Potential impacts to non-listed species during this time shall also be avoided and minimized to the extent feasible.
13. **During mobilization, data collection, temporary access ramp installation, and demobilization**, project activities on the beach shall be conducted outside of the nesting period for western snowy plover (March 1 – September 14) to reduce impacts to nesting western snowy plovers. However, due to the potential for wintering western snowy plovers in the project site, a qualified biologist shall monitor the activity of snowy plover to ensure that construction activities are limited to a distance which would not result in an indirect or direct impact to the species, as determined by a qualified biologist monitoring the project site.
14. **During data collection and temporary access ramp installation**, any contractor, employee, or agency personnel who inadvertently kills or injures a special-status species shall immediately report the incident to the designated project representative. The representative shall contact the CDFG or USFWS immediately. The CDFG contact for immediate assistance is State Dispatch at (916) 445-0045. State Dispatch will contact the local warden or biologist. The Sacramento Field Office of the USFWS and CDFG would be notified in writing within three working days of the accidental death or injury to a special-status species during project related activities. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The USFWS contact is the Chief of the Division of Endangered Species, 2800 Cottage Way Suite W-2605, Sacramento, California 95825-1846 (916-414-6000). Submittals to CDFG should be addressed to 1416 9th Street, Sacramento, California 95814 (916-654-4262).

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15. **During data collection, temporary access ramp installation, and demobilization activities**, all trash that may attract wildlife shall be properly contained, removed from the work site and disposed of daily.
16. **During all project activities**, signs and caution flagging shall be placed around the project equipment stating the duration that the area will be restricted from recreational activities (e.g., fishing, site viewing, etc.), and recommending use of the remaining portion of the beach, parking area, or other adjacent areas for these activities until project completion. At minimum, all signs shall consist of 8.5- by 11-inch sheets placed in weatherproof plastic-sleeves containing the following information in bold print:
  - a. Title of project;
  - b. Brief description of proposed activities;
  - c. Expected duration of project;
  - d. Project manager contact information; and,
  - e. Information on alternative parking and recreation access locations.
17. **During all project activities**, Lateral beach access shall be maintained.
18. **During all project activities**, energy dissipation devices, such as a hay-bale diffusion basin, shall be utilized during the proposed aquifer pump test to reduce potential erosion or sedimentation during discharge of purged groundwater. Purged groundwater shall not be discharged to the lagoon area.
19. **During all project activities**, the discharge of purged groundwater shall be conducted in accordance with a NPDES/WDR permit to be obtained from the RWQCB for the proposed pump test. Water quality testing will be utilized to determine if the water quality objectives are being violated. If a violation is indicated, the discharge will be ceased until corrective actions are implemented to ensure compliance with the water quality standards.
20. **During all project activities**, no other discharges to surface waters of concrete, asphalt, sediment, soil, drilling mud, or water shall be allowed during the proposed study activities.
21. **During all project activities**, no equipment shall be allowed below the mean high tide line unless tidal waters have receded from the authorized work area, with the exception of the geophone cable area.

**Conditions to be completed during geophysical survey**

22. **During the cable laying process**, divers shall avoid hard-bottom habitat to the extent feasible.
23. **During mobilization of the support vessel**, the vessel shall not cross directly in front of migrating whales, or foraging marine wildlife (e.g., foraging dolphins, sea otters, seals).
24. Support vessels shall make every effort to maintain a distance of 1,000 feet from sighted marine wildlife.
25. **In the event that the support vessel is paralleling migrating whales**, support vessels shall operate at a constant speed that is not to exceed the speed that the whales are

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traveling at and extreme caution will be taken to ensure that female whales shall not be separated from their calves.

26. **During mobilization**, support vessels shall not be used to herd or drive whales or other marine wildlife from the project site.
27. **During mobilization and data collection activities**, if a marine animal engages in evasive or defensive action (i.e., whales), support vessels shall drop back until the animal calms or moves out of the area.
28. If a collision with marine wildlife occurs, the vessel operator in consultation with the marine wildlife monitor shall document the conditions under which the accident occurred, including the following:
  - a. Location of the vessel when the collision occurred (latitude and longitude);
  - b. Date and time;
  - c. Speed and heading of the vessel;
  - d. Observation conditions (e.g., wind speed and direction, swell height, visibility in miles or kilometers, and presence of rain or fog);
  - e. Species of marine wildlife contacted;
  - f. Whether an observer was standing watch for the presence of marine wildlife; and,
  - g. Names of vessel, operator (the company), and captain or officer in charge of the vessel at time of accident.

If safe to do so, the vessel shall stop after a collision. The vessel is not obliged to stand by and may proceed after confirming that it will not further damage the animal by doing so. The vessel shall then communicate by radio or telephone all details to the vessel's base of operations. From the vessel's base of operations, a telephone call shall be placed to the Stranding Coordinator, NMFS, Southwest Region, Long Beach.

Alternatively, the vessel captain may contact the NMFS Stranding Coordinator directly using the marine operator to place the call or directly from an onboard telephone, if available.

29. **During transit to and from the project site and while at the project site**, the survey vessel will avoid crossing surface kelp to the maximum extent feasible.
30. **During the implementation of the seismic reflection survey activities**, monitoring will be conducted by a marine mammal monitor and marine wildlife will be observed for behavioral activity. The marine mammal monitor shall have appropriate educational degrees, adequate experience, and necessary certificates to be perform such work. Any observed behavioral changes, such as dive, leaving the source, or attraction to the source will be documented. Behavior will be monitored by visual and acoustical means. Should any detrimental effects be suspected, testing will be halted immediately and CDFG, USFWS, and NOAA Fisheries will be contacted immediately.

#### Conditions to be completed during Phase III activities

31. **During Phase III activities**, a 1x1 meter archaeological control unit shall be excavated at each hollow-stem auger exploratory location, with the exception of those hollow-stem auger drill holes that are placed directly in a roadway. The drill holes are estimated to reach 15 to 70 feet. Archaeological excavations may extend to a depth of 3 to 8 feet.

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The excavation shall be guided by the cultural resources monitoring plan approved by the Department of Planning and Building, State Parks, and the SHPO.

32. **During drilling operations for all Phase III hollow stem auger holes**, monitoring shall be conducted by a qualified archaeologist familiar with the resource types potentially present in these locations. The qualified archaeologist shall conduct the monitoring activities based on a previously prepared cultural resources monitoring plan.

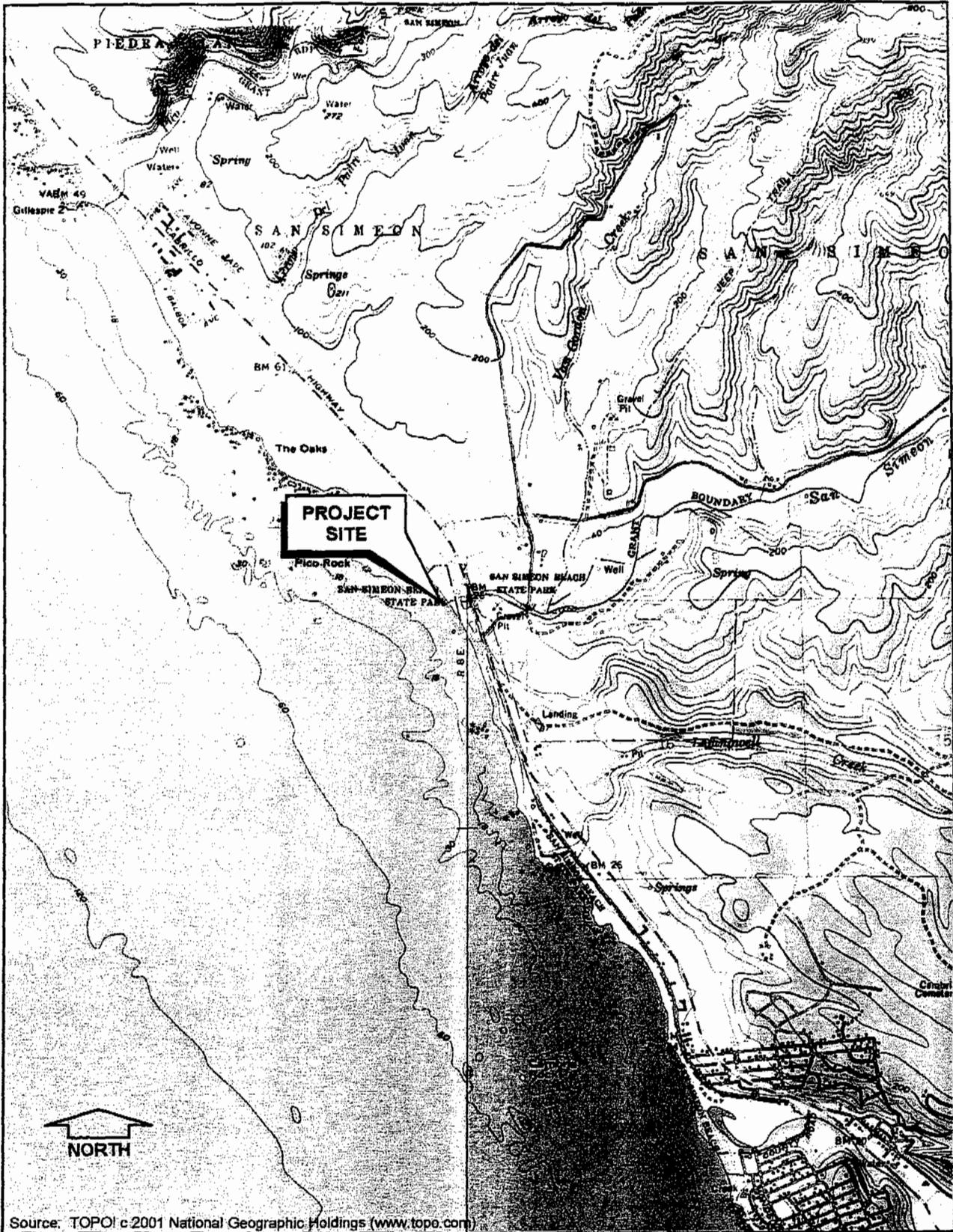
**Conditions to be completed after project activities**

33. Post-project photo-documentation shall be completed for the proposed ramp area to determine if impacts to the bluff edge or face result from the temporary placement of the access ramp. If damage to the bluff is identified and determined to be significant, the project proponent will consult with the California State Parks as landowner, the California Coastal Commission, and the County of San Luis Obispo regarding the need for restoration of the bluff area. Possible restoration activities could include repair of the bluff face to reduce further erosion or revegetation of the bluff area, if warranted.
34. Following project activities, all trash and debris would be removed from work areas
35. **At the conclusion of all project activities**, a monitoring report prepared by the environmental monitor shall be submitted to the Department of Planning and Building verifying that all measures requiring environmental mitigation have been met and that all project activities were conducted in accordance with the procedures outlined in the project-specific Wildlife Contingency Plan.

**On-going conditions of approval (valid for the life of the project)**

36. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
37. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.
38. All activities on the site shall be completed within two years of issuance of any applicable permits from State Parks, Coastal Commission, U.S. Fish and Wildlife Service, Army Corps, CalTrans and the State Lands Commission.

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**padre**  
 associates, inc.  
 ENGINEERS, GEOLOGISTS &  
 ENVIRONMENTAL SCIENTISTS

Geotechnical Exploration and Hydrogeological Study  
 for the Proposed Cambria Desalination Project

EXHIBIT NO. 1
APPLICATION NO.
A-3-SLO-06-053/
E-07-001

SITE LOCATION MAP

FIGURE 2-2

EXHIBIT NO. 2

APPLICATION NO.

A-3-SLO-06-053 /

E-07-001

LEGEND

- Approximate stationing along all inside sections and easement strip
- Approximate stationing from user's table adjacent to station and easement strip
- Approximate stationing, table location and easement strip, top or floor of the easement strip for easement, as shown in table
- Approximate easement strip (level location and easement strip)
- Proposed beach access route
- Proposed staging area
- Approximate line of beach profile survey and potential sampling



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**SITE LAYOUT AND TENTATIVE EXPLORATION MAP**  
Campfire CSD Dispersal Plan  
Carmel, California

JOSE CARDELO ENGINEERS  
3840 SLS  
SAN DIEGO, CA 92108

PLATE 1

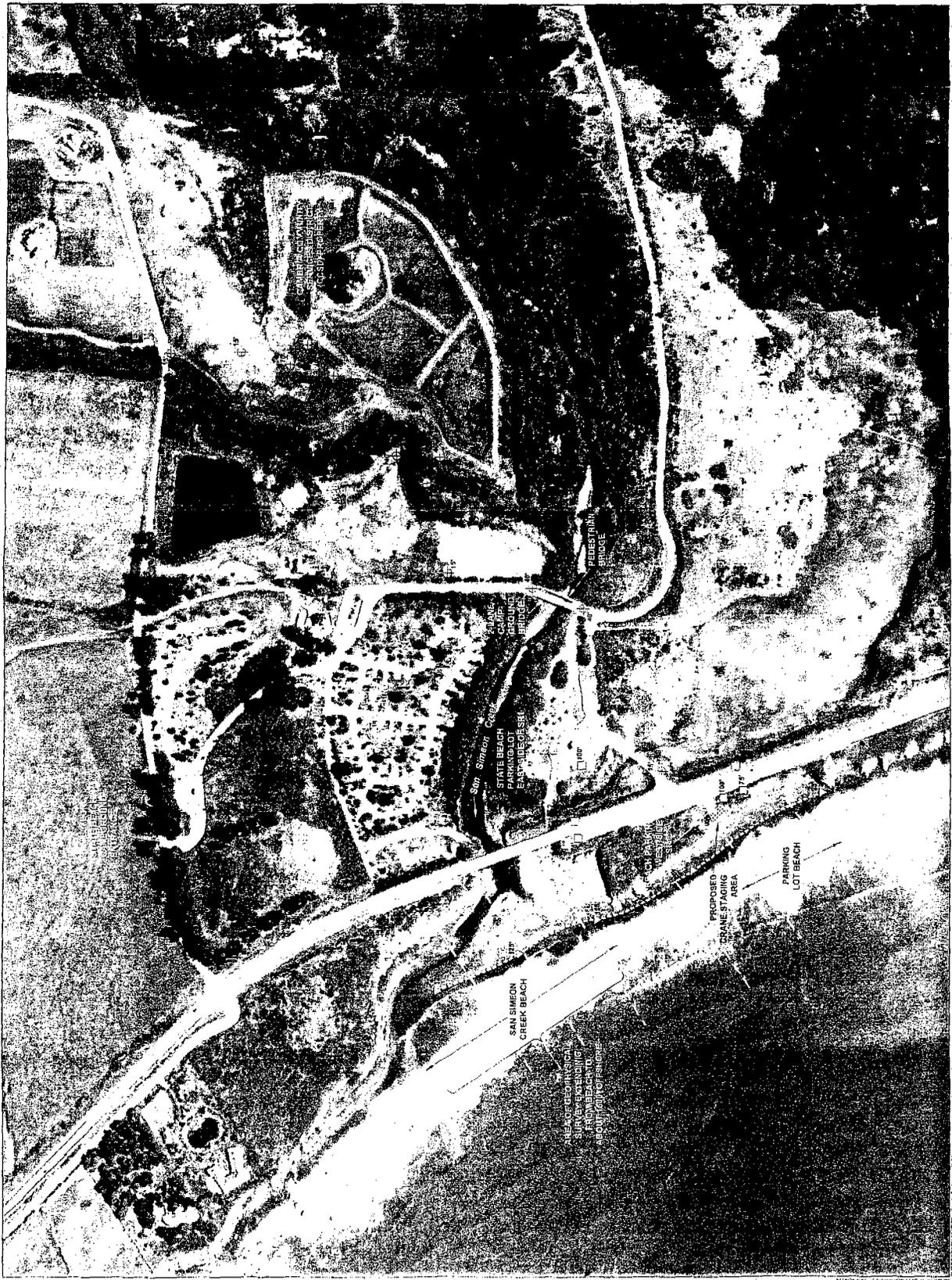


FIGURE 2-2