

CALIFORNIA COASTAL COMMISSION

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VOICE AND TDD (415) 904-5200
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Th18b&c

September 5, 2007

TO: Coastal Commissioners and Interested Parties

FROM: Alison J. Dettmer, Deputy Director / Tom Luster, Environmental Scientist – Energy, Ocean Resources, and Federal Consistency Division

SUBJECT: Addendum to Findings for E-07-001 / A-3-SLO-06-053 – Cambria Community Services District (CCSD)

This addendum includes several recommended minor revisions to the August 16, 2007 staff report, as well as *ex parte* disclosures and comments and correspondence received regarding the proposed project. The comments received do not change staff's recommendation that the Commission conditionally approve the proposed project.

CORRESPONDENCE RECEIVED: Staff received the following correspondence (attached):

- August 31, 2007 – Rob Cozens, Mendonoma Marine Life Conservancy
- September 4, 2007 – Gordon Hensley, San Luis Obispo Coastkeeper

EX PARTE DISCLOSURES: Commissioners submitted received the following disclosures (attached):

- August 18, 2007 – Commissioner Wan
- August 27-28, 2007 – Commissioner Wan (includes six *ex parte* forms)
- August 29, 2007 – Commissioner Vargas (includes attachments and photographs)
- August 29, 2007 – Commissioner Blank
- August 30, 2007 – Commissioner Achadjian (includes two *ex parte* forms w/attachments)
- August 31, 2007 – Commissioner Achadjian
- August 31, 2007 – Commissioner Blank [Note: the photographs cited in the disclosure are included in the submittal by Commissioner Vargas]
- September 4, 2007 – Commissioner Burke

REVISIONS TO FINDINGS: Staff recommends the Commission adopt the minor revisions as shown below in strikeout/underline:

- **Page 2, Substantive File Documents:**
 - Bullet 6: "Technical Memorandum No. 1 Mini-Sparker Test, Carollo Engineers, ~~April~~ August 2006"
 - Bullet 12: "~~CCSD Revised Project Description~~ Updated Project Application and Attachments, July 31, 2007"

- **Page 3, Summary:** Change the last sentence of paragraph 1 as follows:

“The CCSD is considering constructing a desalination facility ~~nearby~~ at a site several hundred yards inland, and results of the tests would be used to determine whether the site’s geologic and hydrologic characteristics are suitable for locating ~~subsurface~~ subterranean intake and discharge structures that would be used by such a facility.”

- **Page 8, Special Condition 1:** Change as follows:

“**1. Administrative:** Prior to permit issuance, the CCSD shall provide to the Executive Director the following:

- a) An approved Right of Entry approval from the Department of Parks and Recreation.
- b) An adopted Finding of No Significant Impact (FONSI) or 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).”

- **Page 12, Section 4.1 Project Purpose and Description:** Change the third paragraph as follows:

“**Note:** *These findings address only those activities proposed as part of the tests and temporary structures described herein. Any future development associated with a potential ~~desalination facility~~ subterranean intake or outfall structures at this location will require modification of the LCP and additional review and approval by the Commission.*”

- **Page 13, first bullet:** Change the first sentence as follows:

“Using a ~~truck~~track-mounted sonic drill rig...”

- **Page 13, third bullet:** Add a sentence as shown:

“The CCSD would conduct the survey 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. If the mini-sparkers fail, the CCSD would instead conduct the survey by striking a hammer onto an approximately one-foot square steel plate placed on the sand. The survey is intended to provide additional information about substrate conditions.”

- **Page 13, fifth bullet:** Change the second sentence as follows:

“The CCSD would lower a submersible pump into the wells and would use 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~~ within the first two months 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.”

- **Page 13, add a sixth bullet:**

- “Removing and abandoning equipment: No later than 25 months after issuance of a coastal development permit, the CCSD would remove all well casings, wellheads, and monitoring equipment. Activities and equipment used for removal would be similar to those used to install the wells.”

- **Page 15, Section 4.3, last sentence of paragraph:**

“On July 31, the CCSD submitted a revised project description an updated project application.”

- **Page 22, Section 4.5.2, fourth paragraph:** Insert a new sentence following the first sentence in the paragraph:

“The San Simeon Beach and Estuary area includes important habitat areas for a number of listed sensitive species, including marine mammals, shorebirds, and others. The County LCP designates the estuary and creek as environmentally sensitive habitats.”

- **Page 22, Section 4.5.2, last paragraph:** Make the following changes to the first sentence of the paragraph:

“All components of the proposed project have been sited to avoid direct impacts to ESHA; however, Aaspects of the proposed project that could affect nearby environmentally sensitive resource areas include...”

- **Page 23, third paragraph:** Change second sentence as follows:

“About a year Within about two months after the monitoring wells are installed, the CCSD would conduct pump tests to determine the potential water yield from the underlying substrates.”

- **Page 24, last paragraph:** Add the following sentence to the end of the paragraph:

“If the sparkers are inoperable, the CCSD would as an alternative generate a signal by placing a small steel plate on the sand and striking it with a hammer.”

- **Page 25, first paragraph:** Make the following changes:

“As part of its project description, the CCSD submitted a report (Technical Memorandum No. 1 Mini-Sparker Test, Carollo Engineers, April-August 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 such as these mini-sparkers that use up to 2 kilojoules of energy. Although the mini-sparkers produce an initial 209-decibel acoustic burst, that level is expected to attenuate to no more than 56 decibels by the time the sound wave moves through thirty feet of sand to reach the water column. That level is substantially less than the approximately 75 decibels generated by ocean surf and is well below the approximately 150 decibel level of concern identified by the Commission when it considers limiting or mitigating acoustic output from higher energy devices. The potential use of hammer strikes on a steel plate would similarly be below the 150-decibel threshold. To ensure the acoustic burst is at a level that is not expected to cause damage to marine life, **Special Condition 9** would require that the CCSD place the mini-sparkers in the monitoring wells at a depth that ensures their acoustic bursts would travel through at least thirty feet of sand before they enter the water column...”

**Mendonoma
Marine
Life
Conservancy**



RECEIVED

AUG 31 2007

CALIFORNIA
COASTAL COMMISSION

**P.O. Box 217
Manchester, CA 95459
(707) 882-2186**

August 29, 2007

California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

Agenda Item Th18c
Rob Cozens
Requesting Denial

Jim Bassler

Carson Bell

Richard Charter

Rob Cozens

Norman de Vall

Susan Garbini

Jeffrey Gunning

Allan Jacobs

Larry Knowles

Michael Koepf

Steve Lackey

Roger Little

Ian MacGregor

Atta Stevenson

Julie Verran

Rixanne Wehren

In memorium:
John E. Arner
1923-2005

Dear Commissioners,

I am writing to convey Mendonoma Marine Life Conservancy's request that Application E-07-001 (Cambria Community Services District) be denied or referred back to the applicant with instructions to address possible Substantial Issues associated with the project that is envisioned if preliminary test results prove favorable.

While Commission staff may be technically correct in saying [Section 4.4.2.4], *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.*, it is naive to suggest that the proponents, having already invested significant time and resources, would not proceed with the remainder of the project if test results are favorable, especially since only a single geographic location is being evaluated.

Furthermore, staff's assertion [same section], ... *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*, is only partially accurate. Since CCSD is not evaluating multiple geographic locations, many of the environmental impacts can be predicted in the absence of the test results this application proposes to produce.

If it is possible to identify now any Substantial Issues that would compel denial of the follow up application for permanent desalination-related structures, it will save CCSD taxpayers and officials considerable time and money.

Commission staff admits [page 3] *the LCP does not allow at this location the types of structures that would be needed for such a facility*, but fails to address MMLC's contention that a land-based desalination plant situated at the proposed location would fail to comply with the California Environmental Quality Act because there is an alternative that would substantially lessen any significant adverse impacts of the development on the environment: offshore desalination using wave energy conversion (WEC) technology.

Promoting A Healthy & Bountiful Offshore Environment

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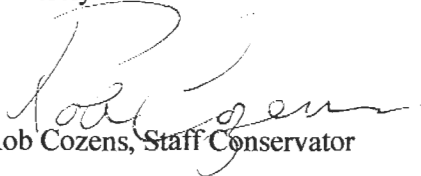
Australia's first WEC-based desalination plant began operation off of Port Kembla earlier this year. The A\$6 million (\$4.7 million) floating plant is designed to desalinate 2,000 liters of drinking water each day while also supplying enough electricity to power 500 homes.

Land-based desalination consumes fossil fuels or electricity from the common grid, and, in the case of this project, preempts public use of State Park lands. Offshore WEC-based desalination is powered by renewable, non-polluting wave energy, and its only onshore footprint is the landfall of the fresh water output pipe.

MMLC suggests that WEC-based offshore desalination plants bear substantially fewer adverse environmental risks than their land-based counterparts. And whether this fits the consensus of current thinking, we believe our case will only grow stronger during the two years envisioned for gathering and interpreting test results.

Since there is proof of concept of an alternative approach which can substantially lessen any significant adverse impacts of the development on the environment, we request that Application E-07-001 be denied.

Sincerely



Rob Cozens, Staff Conservator



EPI-Center, 1013 Monterey Street, Suite 207 San Luis Obispo, CA 93401
Phone: 805-781-9932 • Fax: 805-781-9384

San Luis Obispo COASTKEEPER®

September 3, 2007

California Coastal Commission
Patrick Krueger, Chair
C/O Central Coast District Office
725 Front Street
Santa Cruz, CA 95060

Via Facsimile: 813-427-4877

Subject: Appeal A-3-SLO-06-053 & Application E-07-001 (Thursday September 6, Agenda
Th18 b & c)

Chair Krueger and Honorable Commissioners,

On Thursday September 6, 2007 your Commission is scheduled to hear an appeal by the Santa Lucia Chapter of the Sierra Club and SLO County Land Watch as well as an application by Cambria Community Services District regarding geotechnical and hydrologic testing for a proposed desalination facility at San Simeon State Beach in SLO County's North Coast Area.

Staff has provided your Commission with a detailed analysis demonstrating that the appellants have raised Substantial Issue and I am writing to urge your support of Staff recommendation for Motion 1.1.

I also write to urge that your honorable Commission consider setting a De Novo Hearing for Agenda Item 18c (Motion 1.2) on a regular meeting location closer to San Luis Obispo. The issue of how Cambria CSD will resolve their water supply issues is of extremely high interest among San Luis Obispo County's North Coast Planning Area residents - many who will be unable to attend this month's hearing in Eureka. Upcoming Commission meetings in October (San Pedro) or December (San Francisco) would be more accessible for the interested public from the Central Coast.



However, should your Commission consider Staff recommendation and hold the De Novo hearing on Th18 c during the September 6 hearing, I wish to submit the following comment:

The Cambria CSD is proposing a new project which consists of drilling boreholes and installing test wells to determine a possible intake for a planned desalinization plant for the community of Cambria. Installing the well casings and well heads require the use of a very large crane to deliver drilling components, including the well casings, drill heads, and a variety of cables to the State Park Beach.

Improper Segmentation of the Proposed Project: The underlying project is a proposed desalinization plant requiring collection of salt water, delivery of salt water intake to a desal plant, distribution of drinking quality water, and disposal of resulting brine produced in the process. As a CEQA equivalent process, the proposal before the Commission does not provide adequate analysis of the entire project, nor is an alternatives analysis provided.

Well drilling in Recreation Zoning Violates LCP and Coastal Act: Contrary to Staff recommendation, the LCP simply does not allow for the types of structures associated with this project in areas zoned Recreation.

Proposed Project Not an Incidental Public Service: Cambria CSD currently has no public service at the proposed location. The proposal is for a new project, and the test wells are the first phase of the new project and are essential to it – not incidental to an existing service! In addition, no analysis of the possible impacts have been provided for your Commission's review, it is not possible to know if the proposed project is the least damaging alternative.

In conclusion, The San Luis Obispo **COASTKEEPER**® a Program of Environment in the Public Interest urges your Commission to support the appeal and deny the underlying project as proposed.

Respectfully Submitted,



Gordon Hensley, San Luis Obispo **COASTKEEPER**®



**FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS**

Name or description of the project:	Appeal No. A-3-SLO-06-053 (Cambria Community Services District, San Luis Obispo Co.)
Time/Date of communication:	8/26/07, 9am
Location of communication:	22350 Carbon Mesa Rd., Malibu
Person(s) initiating communication:	Micki Burton, Rich Hawley
Person(s) receiving communication:	Sara Wan
Type of communication:	phone call

They are opposed to the project. because this is a new project that has not been analyzed. Staff says casings come out but no analysis of the impacts of this and no analysis of the equipment on the parking lot. The drilling is a component of the deSal facility and they do not have a right under the LCP.

All the infrastructure to get to the MHTL crosses State Park and is prohibited in the LCP even if there aren't any structures.

Public access- lateral access not feasible given the narrowness of the beach, the equipment and the tides- no matter what the condition says, public access is not possible

Fill is being place in coastal waters but there are feasible alternatives. They have access to 400,000 gals of tertiary treated water per day.



Date: 8/18/07

Sara Wan

**FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS**

Name or description of the project: TH 18b&c: b. Appeal No. A-3-SLO-06-053 (Cambria Community Services District, San Luis Obispo Co.)

Time/Date of communication: 8/27/08-9am,10:30am;
8/28/07 9am,3pm, 6pm

Location of communication: 22350 Carbon Mesa Rd., Malibu

Person(s) initiating communication: Dave Grubb, Gabe Solmer, Pam
Heathrington, Nancy Graves, Noah Smuckler, Gordon Hensley, Morgan
Rafferty, Gail Hamilton, Rizzanne Wehren, Rob Cozens, Penny Elia, Joe Geever, Vicki Finan, Mary
Hubbard, Kristen Coppia, Lennie Roberts, John Lynch, Micahel Ferriera, Kathryn Slater-Carter

Person(s) receiving communication: Sara Wan

Type of communication: phone calls

New project consists of drilling boreholes and wells and capping
Installing well casings and wellheads, using a large crane and laying all sorts of cables, vehicles
on the beach and many other activities on the beach.

The contention that this is segmentation of the project raises valid concerns for SI, contrary to
staff recommendation, because LCP does not allow for these types of structures to be located
here and it would involve using a state beach. If this were only a test to determine if the method
works there would be no segmentation issue but they have already stated that if the test show
feasibility they will use this location, therefore there is an issue of segmentation.

This is just another example of attempting to use State Parks for infrastructure- roads, power
plants, power lines and deSal facilities.

No analysis of the impacts of the new project- staff report list mitigations but does not provide
any analysis of the actual impacts so how can you say that all impacts have been mitigated when
they have not been analyzed?

Removal of casings involves major equipment and support lines over the beach, large crane in
the parking lot- all the infrastructure to get to the MHTL must cross the state park and this is not
consistent with the LCP- The parts that cross the state beach, even though they are not
"structures" are elements of the project and therefore it is not consistent with the LCP

This drilling is a component of the deSal facility, it is not isolated but the area is zoned as
recreation so it is not allowable.

Public access impacts-

Requires that lateral access be maintained but does not specify how that would be accomplished-
twice during the day tides are high and no room for equipment and public access.- condition
inadequate because it is impossible to accomplish

Requires monitoring for sensitive species and marine mammals and a report on the impacts but
does not specify what happens if there are impacts, i.e that the project cease and changes be
made to eliminate those impacts.

Simply states monitoring wells will be located at least 100' from snowy plover nests. This is
inadequate- this area is a known Snowy Plover nesting area- plan does not say how close the

activity involved in placing or maintaining those wells can come to active nests and 100' - is not sufficient, particularly for any fledglings. For instance, while placement of the wells cannot proceed during nesting season, once the wells are in there will be maintenance activity and that can impact nests and fledglings.

Seismic survey- mitigations inadequate- not enough to model what the sound levels might be- should require that tests be conducted on the actual in-water sound levels produced. In addition, real-time acoustic monitoring should be conducted during the drilling to see what sound levels are produced. If sounds are above 120db drilling or seismic activity should cease until a revised monitoring and management plan is produced. Again monitoring without stating what happens if the monitoring shows impacts is worthless.

This does not meet the test for "incidental public service". This is not an existing public service and it is not incidental to it. This project is the first phase of the project and is essential to it. In addition, since there is no analysis of the possible impacts nor of any alternatives it is not possible know, even if this is a permissible fill, if this is the least damaging alternative
Urge denial.

Date: 8/29/07

A handwritten signature in cursive script, appearing to read "Sara Wan", is shown over a dark, textured rectangular background.

Sara Wan

**FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS**

Name or description of the project: W4a, W9a, W14a, W15b, W15h, W16a, Th 17a, 18b & c, Th 27b, Th29a, Fri 8a

Time/Date of communication: 9:30am, 8/27/07

Location of communication: 22350 Carbon Mesa Rd, Malibu

Person(s) initiating communication: Pam Heatherington, Nancy Graves, Noah Smuckler, Gordon Hensley, Morgan Rafferty

Person(s) receiving communication: Sara Wan

Type of communication: phone call

W4a- could not find a coastal act issue.

W9a- Violates the LCP provisions for ESHA- septic system within ESHA buffer- no discussion by City of alternatives

If no alternative available then must comply with maximum development standards which this doesn't

Flawed wetland delineation- area with a preponderance of hydrophytic plants was not included and an area with hydrophytic plants was not surveyed

Did not survey the upland portion with native transitional habitat for possibility it is ESHA- area City incorrectly states that the Malibu Colony overlay district supercedes the LUP provisions for ESHA. This is incorrect and if allowed to stand would set a precedent for the interpretation of the Malibu LCP which is, in itself, a basis for finding SI

In addition, does not deal with the protection of the many species of birds, particularly raptors and herons that are in cypress trees that will be impacted by the development

Urge find SI

W14a- The entry block, wall and trellis will adversely impact public access to a required public trail which was required as a condition of the approval of the Brightwater development. Bolsa Chica street is public but this gives impression it is a private street. In addition, project is immediately adjacent to a park and the project would impact public views from the park. It is inconsistent with the LCP as well as the fact that it is situated on public land.

Find SI

W15b-Does not conform to the stringline policies of the LCP and is therefore inconsistent with it and the pattern of development in the area.

In LUP- 3 options for setback but along with that is the intent to setback for habitat protection and avoid encroachment into the canyon

One option is by depth of lot. If choose setback based on depth, because this is a very deep lot will result in development well beyond adjacent development- therefore need to apply stringline- but this does not meet stringline for structure or deck- applicant says can use any one of 3 methods they wish but that ignores the goal of the LUP and that must be read in conjunction with the 3 option. This will set a precedent for future development to move forward

Support staff

15h-find no issue with staff report

Dredging is allowed under 30233 to maintain boating channels and marinas. Only issue for commission is toxicity and nature of disposal

16a- again no issue

Thursday

Th17a-

Cities LCP – 17-20A energy facilities sub-zone states “coastal dependent energy facilities”- facility is not coastal dependent. SCE states that zoning does not require it to be coastal dependent- is a matter of interpretation. Disagree with staff and urge find no SI. However, in the least, this is an issue of major importance to the people of Oxnard and it probably should be continued to October so the community can have a say in this.

Th18b&c

New project consists of drilling boreholes and wells and capping

Installing well casings and wellheads, using a large crane and laying all sorts of cables, vehicles on the beach and many other activities on the beach.

The contention that this is segmentation of the project raises valid concerns for SI, contrary to staff recommendation, because LCP does not allow for these types of structures to be located here and it would involve using a state beach. If this were only a test to determine if the method works there would be no segmentation issue but they have already stated that if the test show feasibility they will use this location, therefore there is an issue of segmentation.

This is just another example of attempting to use State Parks for infrastructure- roads, power plants, power lines and deSal facilities.

No analysis of the impacts of the new project- staff report list mitigations but does not provide any analysis of the actual impacts so how can you say that all impacts have been mitigated when they have not been analyzed?

Removal of casings involves major equipment and support lines over the beach, large crane in the parking lot- all the infrastructure to get to the MHTL must cross the state park and this is not consistent with the LCP- The parts that cross the state beach, even though they are not “structures” are elements of the project and therefore is not consistent with the LCP

This drilling is a component of the deSal facility, it is not isolated but the area is zoned as recreation so it is not allowable.

Public access impacts-

Requires that lateral access be maintained but does not specify how that would be accomplished- twice during the day tides are high and no room for equipment and public access.- condition inadequate because it is impossible to accomplish

Requires monitoring for sensitive species and marine mammals and a report on the impacts but does not specify what happens if there are impacts, i.e. that the project cease and changes be made to eliminate those impacts.

Simply states monitoring wells will be located at least 100' from snowy plover nests. This is inadequate- this area is a known Snowy Plover nesting area- plan does not say how close the activity involved in placing or maintaining those wells can come to active nests and 100'- is not sufficient, particularly for any fledglings. For instance, while placement of the wells cannot proceed during nesting season, once the wells are in there will be maintenance activity and that can impact nests and fledglings.

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This does not meet the test for "incidental public service". This is not an existing public service and it is not incidental to it. This project is the first phase of the project and is essential to it. In addition, since there is no analysis of the possible impacts nor of any alternatives it is not possible to know, even if this is a permissible fill, if this is the least damaging alternative

Urge denial or continuance until issues can be resolved.

Th 27b-Los Osos

Urge SI based on lack of water and erosion issue single house in Cabrillo heights- County required retrofitting of 23 other homes but no program to implement this.

Urge SI

Th29a- Support staff

There is a deed restriction requiring restoration and maintenance of plants native to the Asilomar dunes- have not implemented- and in addition prohibits the alteration of the dunes which this project proposes to do.

Project is inconsistent with ESHA protection policies which would increase the impacts on the dune ESHA. Already have a use of the property so no takings issue

Project would expand the site coverage from 11.6% to 17.5%

Also altered the original location of the driveway- it is 38' wide as compared to 12' width approved- violation

Applicants offer to remove part of driveway and implement dune restoration is not an offer at all since the driveway is a violation and the dune restoration is required regardless

Off of off-site mitigation also does not resolve the additional impacts to ESHA under 30240.

LUP Policy limits maximum site coverage to 15% (this is 17.5%) but requires that development be designed to "minimize" impacts.

Inconsistent with LUP policies regarding site coverage and with the existing deed restriction- although it allows a permit amendment that is always an applicants right to ask for but that amendment must still result in a project consistent with the LUP and section 30240 of the Coastal Act.

Support staff- denial

**FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS**

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Seismic survey- mitigations inadequate- not enough to model what the sound levels might be- should require that tests be conducted on the actual in-water sound levels produced. In addition, real-time acoustic monitoring should be conducted during the drilling to see what sound levels are produced. If sounds are above 120db drilling or seismic activity should cease until a revised monitoring plan is produced. Again monitoring without stating what happens if the monitoring shows impacts is worthless.

This does not meet the test for "incidental public service". This is not an existing public service and it is not incidental to it. This project is the first phase of the project and is essential to it. In addition, since there is no analysis of the possible impacts nor of any alternatives it is not possible to know, even if this is a permissible fill, if this is the least damaging alternative

Urge denial or continuance until issues can be resolved.

Th 27b-Los Osos

Urge SI based on lack of water and erosion issue single house in Cabrillo heights- County required retrofitting of 23 other homes but no program to implement this.

Urge SI

Th29a- Support staff

There is a deed restriction requiring restoration and maintenance of plants native to the Asilomar dunes- have not implemented- and in addition prohibits the alteration of the dunes which this project proposes to do.

Project is inconsistent with ESHA protection policies which would increase the impacts on the dune ESHA. Already have a use of the property so no takings issue

Project would expand the site coverage from 11.6% to 17.5%

Also altered the original location of the driveway- it is 38' wide as compared to 12' width approved- violation

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LUP Policy limits maximum site coverage to 15% (this is 17.5%) but requires that development be designed to "minimize" impacts.

Inconsistent with LUP policies regarding site coverage and with the existing deed restriction- although it allows a permit amendment that is always an applicants right to ask for but that amendment must still result in a project consistent with the LUP and section 30240 of the Coastal Act.

Support staff- denial

**FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS**

Name or description of the project: W4a, W9a, W14a, W15b, W15h, W16a, Th 17a, 18b & c, Th 27b, Th29a, Fri 8a

Time/Date of communication: 9am, 8/28/07

Location of communication: 22350 Carbon Mesa Rd, Malibu

Person(s) initiating communication: Gail Hamilton, Rixanne Wehren, Rob Cozens

Person(s) receiving communication: Sara Wan

Type of communication: phone call

W9a- Violates the LCP provisions for ESHA- septic system within ESHA buffer- no discussion by City of alternatives

If no alternative available then must comply with maximum development standards which this doesn't

Flawed wetland delineation- area with a preponderance of hydrophytic plants was not included and an area with hydrophytic plants was not surveyed

Did not survey the upland portion with native transitional habitat for possibility it is ESHA- area City incorrectly states that the Malibu Colony overlay district supercedes the LUP provisions for ESHA. This is incorrect and if allowed to stand would set a precedent for the interpretation of the Malibu LCP which is, in itself, a basis for finding SI

In addition, does not deal with the protection of the many species of birds, particularly raptors and herons that are in cypress trees that will be impacted by the development

Urge find SI

W14a- The entry block, wall and trellis will adversely impact public access to a required public trail which was required as a condition of the approval of the Brightwater development. Bolsa Chica street is public but this gives impression it is a private street. In addition, project is immediately adjacent to a park and the project would impact public views from the park. It is inconsistent with the LCP as well as the fact that it is situated on public land.

Find SI

W15b-Does not conform to the stringline policies of the LCP and is therefore inconsistent with it and the pattern of development in the area.

In LUP- 3 options for setback but along with that is the intent to setback for habitat protection and avoid encroachment into the canyon

One option is by depth of lot. If choose setback based on depth, because this is a very deep lot will result in development well beyond adjacent development- therefore need to apply stringline- but this does not meet stringline for structure or deck-

applicant says can use any one of 3 methods they wish but that ignores the goal of the LUP and that must be read in conjunction with the 3 option. This will set a precedent for future development to move forward

Support staff

15e- no information-don't know what the argument is- believe this is allowed under the LCP and that a specific amendment was approved that allows this.

Thursday

17a-Cities LCP – 17-20A energy facilities sub-zone states “coastal dependent energy facilities”- facility is not coastal dependent. SCE states that zoning does not require it to be coastal dependent- is a matter of interpretation. Disagree with staff and urge find no SI. However, in the least, this is an issue of major importance to the people of Oxnard and it probably should be continued to October so the community can have a say in this.

18b&c

New project consists of drilling boreholes and wells and capping

Installing well casings and wellheads, using a large crane and laying all sorts of cables, vehicles on the beach and many other activities on the beach.

The contention that this is segmentation of the project raises valid concerns for SI, contrary to staff recommendation, because LCP does not allow for these types of structures to be located here and it would involve using a state beach. If this were only a test to determine if the method works there would be no segmentation issue but they have already stated that if the test show feasibility they will use this location, therefore there is an issue of segmentation.

This is just another example of attempting to use State Parks for infrastructure- roads, power plants, power lines and deSal facilities.

No analysis of the impacts of the new project- staff report list mitigations but does not provide any analysis of the actual impacts so how can you say that all impacts have been mitigated when they have not been analyzed?

Removal of casings involves major equipment and support lines over the beach, large crane in the parking lot- all the infrastructure to get to the MHTL must cross the state park and this is not consistent with the LCP- The parts that cross the state beach, even though they are not

“structures” are elements of the project and therefore it is not consistent with the LCP

This drilling is a component of the deSal facility, it is not isolated but the area is zoned as recreation so it is not allowable.

Public access impacts-

Requires that lateral access be maintained but does not specify how that would be accomplished- twice during the day tides are high and no room for equipment and public access.- condition inadequate because it is impossible to accomplish

Requires monitoring for sensitive species and marine mammals and a report on the impacts but does not specify what happens if there are impacts, i.e that the project cease and changes be made to eliminate those impacts.

Simply states monitoring wells will be located at least 100' from snowy plover nests. This is inadequate- this area is a known Snowy Plover nesting area- plan does not say how close the activity involved in placing or maintaining those wells can come to active nests and 100'- is not

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Urge denial.

Th29a- Support staff

There is a deed restriction requiring restoration and maintenance of plants native to the Asilomar dunes- have not implemented- and in addition prohibits the alteration of the dunes which this project proposes to do.

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Support staff- denial

Friday

8a

Location is highly scenic- highly visible from Highway 1- project consistency with zoning requirements, visual impacts, height limitations, - could minimize the visual impacts but haven't Inadequate, incomplete surveys of property for ESHA

Survey for wetlands did not use State Standard- used Army Corps

Interpretation *1C designation- 10 bedroom B&B - but they are applying for 10 rooms that are large even with kitchens- may be resort- how will this define what is a B & B under *5C-how county will interpret *1C

**FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS**

Name or description of the project: W4a, W9a, W14a, W15b, W 15f, W15h, W16a, Th 17a, 18b
& c, Th 22f, Th 27b, Th28a, Th29a, Fri 8a

Time/Date of communication: 3pm, 8/28/07

Location of communication: 22350 Carbon Mesa Rd, Malibu

Person(s) initiating communication: Penny Elia, Joe Geever, Vicki Finan, Mary Hubbard,
Kristen Coppa

Person(s) receiving communication: Sara Wan

Type of communication: phone call

W4a- concerns about on-going fuel mods and fire department- concerns about the loss of the small patch which is cumulatively important. This is an on-going issue. This is an example

W9a- 2 appellants- Malibu Slow Growth and Steve Littlejohn- Violates the LCP provisions for ESHA- septic system within ESHA buffer- no discussion by City of alternatives

If no alternative available then must comply with maximum development standards which this doesn't

Flawed wetland delineation- area with a preponderance of hydrophytic plants was not included and an area with hydrophytic plants was not surveyed

Did not survey the upland portion with native transitional habitat for possibility it is ESHA- area City incorrectly states that the Malibu Colony overlay district supercedes the LUP provisions for ESHA. This is incorrect and if allowed to stand would set a precedent for the interpretation of the Malibu LCP which is, in itself, a basis for finding SI

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Urge find SI

W14a- The entry block, wall and trellis will adversely impact public access to a required public trail which was required as a condition of the approval of the Brightwater development. Bolsa Chica street is public but this gives impression it is a private street. In addition, project is immediately adjacent to a park and the project would impact public views from the park. It is inconsistent with the LCP as well as the fact that it is situated on public land.

Has been constructed and may be gated someday.

Find SI, need to deal with as enforcement action. If do not find SI can't deal with the enforcement issue.

W15b-Does not conform to the stringline policies of the LCP and is therefore inconsistent with it and the pattern of development in the area.

In LUP- 3 options for setback but along with that is the intent to setback for habitat protection and avoid encroachment into the canyon.
One option is by depth of lot. If choose setback based on depth, because this is a very deep lot will result in development well beyond adjacent development- therefore need to apply stringline- but this does not meet stringline for structure or deck-
applicant says can use any one of 3 methods they wish but that ignores the goal of the LUP and that must be read in conjunction with the 3 option. This will set a precedent for future development to move forward

Support staff

15f- sub-surface temporary demonstration seawater intake system-approx 20 sites proposed up and down the coast – need to minimize entrainment- many are relying on open intake, support this because this is an attempt to answer some of these questions and use best available when these deSal facilities come forward.

15h-& 16a-toxicity and nature of the disposal of the of the sand be closely monitored.

Thursday

17a-Cities LCP – 17-20A energy facilities sub-zone states “coastal dependent energy facilities”- facility is not coastal dependent. SCE states that zoning does not require it to be coastal dependent- is a matter of interpretation. Disagree with staff and urge find no SI. However, in the least, this is an issue of major importance to the people of Oxnard and it probably should be continued to October so the community can have a say in this.

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Public access impacts-

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Urge denial.

Th 22f- require extension and expansion of an existing seawall, etc. – support appeal SI-

Th 27b-Support the staff

Th 28a- bunker style homes – asked to deny the project- commission has dealt with this issue before and has approved them.

Th29a- Support staff

There is a deed restriction requiring restoration and maintenance of plants native to the Asilomar dunes- have not implemented- and in addition prohibits the alteration of the dunes which this project proposes to do.

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Time/Date of communication: 6 pm, 8/28/07

Location of communication: 22350 Carbon Mesa Rd, Malibu

Person(s) initiating communication: Lennie Roberts, John Lynch, Michael Ferriera, Kathryn Slater- Carter

Person(s) receiving communication: Sara Wan

Type of communication: phone call

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Support staff

Thursday

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Urge denial.

Th 28a- Concerned with having the need for seawalls going into Aptos and feel this should not be a developable site- haven't decided what they want to recommend.

Th29a- Support staff

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Support staff- denial

Friday

8a

Location is highly scenic- highly visible from Highway 1- project consistency with zoning requirements, visual impacts, height limitations, - could minimize the visual impacts but haven't Inadequate, incomplete surveys of property for ESHA

Survey for wetlands did not use State Standard-used Army Corps

Interpretation *1C designation- 10 bedroom B&B - but they are applying for 10 rooms that are large even with kitchens- may be resort- how will this define what is a B & B under *5C-how county will interpret *1C

Urge SI

Tom Luster

From: Vanessa Miller
Sent: Wednesday, August 29, 2007 2:04 PM
To: Charles Lester; Tom Luster; Alison Dettmer; Diana Chapman
Cc: Jeff Staben
Subject: FW: Additional materials on Th18 b&c



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-----Original Message-----

From: April Vargas [mailto:april@montara.com]
Sent: Wednesday, August 29, 2007 1:20 PM
To: Vanessa Miller
Subject: Additional materials on Th18 b&c

Hi Vanessa: A resident has forwarded me these materials to review prior to the hearing. My understanding is that before I read anything I should forward the documents to you for distribution to staff and the other Commissioners. If I am incorrect, please advise. I will send them in separate e mails as I don't know if there is a file size limit on your computer.

Thanks so much,

April

PUBLIC RESOURCES CODE
Division 5. Parks and Monuments
Chapter 1. State Parks and Monuments
Article 1.7. Classification of Units of the State Park System

§ 5019.50. All units included except wilderness areas

All units that are or shall become a part of the state park system, except those units or parts of units designated by the Legislature as wilderness areas pursuant to Chapter 1.3 (commencing with Section 5093.30), or where subject to any other provision of law, including Section 5019.80 and Article I (commencing with Section 36600) of Chapter 7 of Division 27, shall be classified by the State Park and Recreation Commission into one of the categories specified in this article. Classification of state marine reserves, state marine parks, and state marine conservation areas, requires the concurrence of the Fish and Game Commission for restrictions to be placed upon the use of living marine resources.

§ 5019.53. Preservation, management, and improvement of parks

State parks consist of relatively spacious areas of outstanding scenic or natural character, oftentimes also containing significant historical, archaeological, ecological, geological, or other similar values. The purpose of state parks shall be to preserve outstanding natural, scenic, and cultural values, indigenous aquatic and terrestrial fauna and flora, and the most significant examples of ecological regions of California, such as the Sierra Nevada, northeast volcanic, great valley, coastal strip, Klamath-Siskiyou Mountains, southwest mountains and valleys, redwoods, foothills and low coastal mountains, and desert and desert mountains.

Each state park shall be managed as a composite whole in order to restore, protect, and maintain its native environmental complexes to the extent compatible with the primary purpose for which the park was established.

Improvements undertaken within state parks shall be for the purpose of making the areas available for public enjoyment and education in a manner consistent with the preservation of natural, scenic, cultural, and ecological values for present and future generations. Improvements may be undertaken to provide for recreational activities including, but not limited to, camping, picnicking, sightseeing, nature study, hiking, and horseback riding, so long as those improvements involve no major modification of lands, forests, or waters. Improvements that do not directly enhance the public's enjoyment of the natural, scenic, cultural, or ecological values of the resource, which are attractions in themselves, or which are otherwise available to the public within a reasonable distance outside the park, shall not be undertaken within state parks.

State parks may be established in the terrestrial or nonmarine aquatic (lake or stream) environments of the state.

§ 5019.56. Recreation units

State recreation units consist of areas selected, developed, and operated to provide outdoor recreational opportunities. The units shall be designated by the commission by naming, in accordance with Article 1 (commencing with Section 5001) and this article relating to classification.

In the planning of improvements to be undertaken within state recreation units, consideration shall be given to compatibility of design with the surrounding scenic and environmental characteristics.

State recreation units may be established in the terrestrial or nonmarine aquatic (lake or stream) environments of the state and shall be further classified as one of the following types:

(a) State recreation areas, consisting of areas selected and developed to provide multiple recreational opportunities to meet other than purely local needs. The areas shall be selected for their having terrain capable of withstanding extensive human impact and for their proximity to large population centers, major routes of travel, or proven recreational resources such as manmade or natural bodies of water. Areas containing ecological, geological, scenic, or cultural resources of significant value shall be preserved within state wildernesses, state reserves, state parks, or natural or cultural preserves, or, for those areas situated seaward of the mean high tide line, shall be designated state marine reserves, state marine parks, state marine conservation areas, or state marine cultural preservation areas.

Improvements may be undertaken to provide for recreational activities, including, but not limited to, camping, picnicking, swimming, hiking, bicycling, horseback riding, boating, waterskiing, diving, winter sports, fishing, and hunting.

Improvements to provide for urban or indoor formalized recreational activities shall not be undertaken within state recreation areas.

(b) Underwater recreation areas, consisting of areas in the nonmarine aquatic (lake or stream) environment selected and developed to provide surface and subsurface water-oriented recreational opportunities, while preserving basic resource values for present and future generations.

(c) State beaches, consisting of areas with frontage on the ocean, or bays designed to provide swimming, boating, fishing, and other beach-oriented recreational activities. Coastal areas containing ecological, geological, scenic, or cultural resources of significant value shall be preserved within state wildernesses, state reserves, state parks,

or natural or cultural preserves, or, for those areas situated seaward of the mean high tide line, shall be designated state marine reserves, state marine parks, state marine conservation areas, or state marine cultural preservation areas.

(d) Wayside campgrounds, consisting of relatively small areas suitable for overnight camping and offering convenient access to major highways.

§ 5019.59. Historical units

Historical units, to be named appropriately and individually, consist of nonmarine areas established primarily to preserve objects of historical, archaeological, and scientific interest, and archaeological sites and places commemorating important persons or historic events. The areas should be of sufficient size, where possible, to encompass a significant proportion of the landscape associated with the historical objects. The only facilities that may be provided are those required for the safety, comfort, and enjoyment of the visitors, such as access, parking, water, sanitation, interpretation, and picnicking. Upon approval by the commission, lands outside the primary historic zone may be selected or acquired, developed, or operated to provide camping facilities within appropriate historical units. Upon approval by the State Park and Recreation Commission, an area outside the primary historic zone may be designated as a recreation zone to provide limited recreational opportunities that will supplement the public's enjoyment of the unit. Certain agricultural, mercantile, or other commercial activities may be permitted if those activities are a part of the history of the individual unit and any developments retain or restore historical authenticity. Historical units shall be named to perpetuate the primary historical theme of the individual units.

§ 5019.62. State seashores

State seashores consist of relatively spacious coastline areas with frontage on the ocean, or on bays open to the ocean, including water areas landward of the mean high tide line and seasonally connected to the ocean, possessing outstanding scenic or natural character and significant recreational, historical, archaeological, or geological values.

The purpose of state seashores shall be to preserve outstanding natural, scenic, cultural, ecological, and recreational values of the California coastline as an ecological region and to make possible the enjoyment of coastline and related recreational activities which are consistent with the preservation of the principal values and which contribute to the public enjoyment, appreciation, and understanding of those values.

Improvements undertaken within state seashores shall be for the purpose of making the areas available for public enjoyment, recreation, and education in a manner consistent with the perpetuation of their natural, scenic, cultural, ecological, and recreational value. Improvements which do not directly enhance the public enjoyment of the natural, scenic, cultural, ecological, or recreational values of the seashore, or which are attractions in themselves, shall not be undertaken.

§ 5019.62. State seashores

State seashores consist of relatively spacious coastline areas with frontage on the ocean, or on bays open to the ocean, including water areas landward of the mean high tide line and seasonally connected to the ocean, possessing outstanding scenic or natural character and significant recreational, historical, archaeological, or geological values.

The purpose of state seashores shall be to preserve outstanding natural, scenic, cultural, ecological, and recreational values of the California coastline as an ecological region and to make possible the enjoyment of coastline and related recreational activities which are consistent with the preservation of the principal values and which contribute to the public enjoyment, appreciation, and understanding of those values.

Improvements undertaken within state seashores shall be for the purpose of making the areas available for public enjoyment, recreation, and education in a manner consistent with the perpetuation of their natural, scenic, cultural, ecological, and recreational value. Improvements which do not directly enhance the public enjoyment of the natural, scenic, cultural, ecological, or recreational values of the seashore, or which are attractions in themselves, shall not be undertaken.

§ 5019.68. State wildernesses

State wildernesses, in contrast with those areas where man and his own works dominate the landscape, are hereby recognized as areas where the earth and its community of life are untrammelled by man and where man himself is a visitor who does not remain. A state wilderness is further defined to mean an area of relatively undeveloped state-owned or leased land which has retained its primeval character and influence or has been substantially restored to a near-natural appearance, without permanent improvements or human habitation, other than semi-improved campgrounds, or structures which existed at the time of classification of the area as a state wilderness and which the State Park and Recreation Commission has determined may be maintained and used in a manner compatible with the preservation of the wilderness environment, or primitive latrines, which is protected and managed so as to preserve its natural conditions, and which:

(a) Appears generally to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable.

(b) Has outstanding opportunities for solitude or a primitive and unconfined type of recreation.

(c) Consists of at least 5,000 acres of land, either by itself or in combination with contiguous areas possessing wilderness characteristics, or is of sufficient size as to make practicable its preservation and use in an unimpaired condition.

(d) May also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

State wildernesses may be established within the boundaries of other state park system units.

§ 5019.71. Natural preserves

Natural preserves consist of distinct nonmarine areas of outstanding natural or scientific significance established within the boundaries of other state park system units. The purpose of natural preserves shall be to preserve such features as rare or endangered plant and animal species and their supporting ecosystems, representative examples of plant or animal communities existing in California prior to the impact of civilization, geological features illustrative of geological processes, significant fossil occurrences or geological features of cultural or economic interest, or topographic features illustrative of representative or unique biogeographical patterns. Areas set aside as natural preserves shall be of sufficient size to allow, where possible, the natural dynamics of ecological interaction to continue without interference, and to provide, in all cases, a practicable management unit. Habitat manipulation shall be permitted only in those areas found by scientific analysis to require manipulation to preserve the species or associations that constitute the basis for the establishment of the natural preserve.

§ 5019.74. Cultural preserves

Cultural preserves consist of distinct nonmarine areas of outstanding cultural interest established within the boundaries of other state park system units for the purpose of protecting such features as sites, buildings, or zones which represent significant places or events in the flow of human experience in California. Areas set aside as cultural preserves shall be large enough to provide for the effective protection of the prime cultural resources from potentially damaging influences, and to permit the effective management and interpretation of the resources. Within cultural preserves, complete integrity of the cultural resources shall be sought, and no structures or improvements that conflict with that integrity shall be permitted.

§ 5019.80. Classification guidelines

(a) The Marine Managed Areas Improvement Act (Chapter 7 (commencing with Section 36600) of Division 27) establishes a uniform classification system for state marine managed areas and is incorporated herein by reference. Any proposals for marine managed areas made after January 1, 2002, shall follow the guidelines set forth in that act. Pursuant to Section 36750, existing marine or estuarine areas within units of the state park system that have not been reclassified in accordance with the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code) on January 1, 2002, shall be reclassified by the State Interagency Coordinating Committee into one of the following classifications:

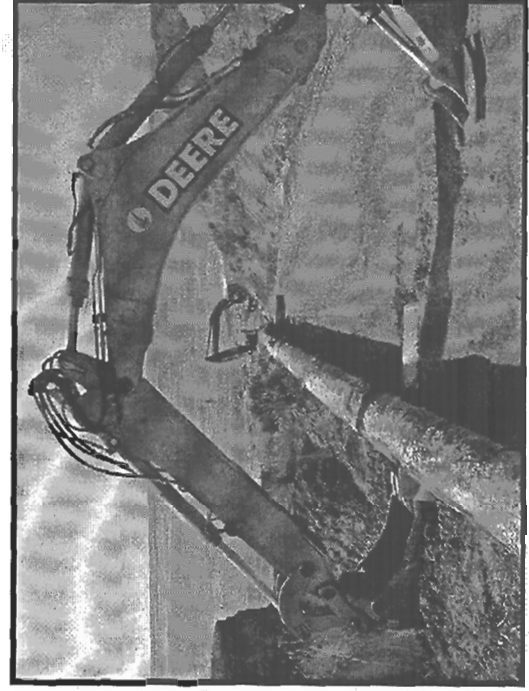
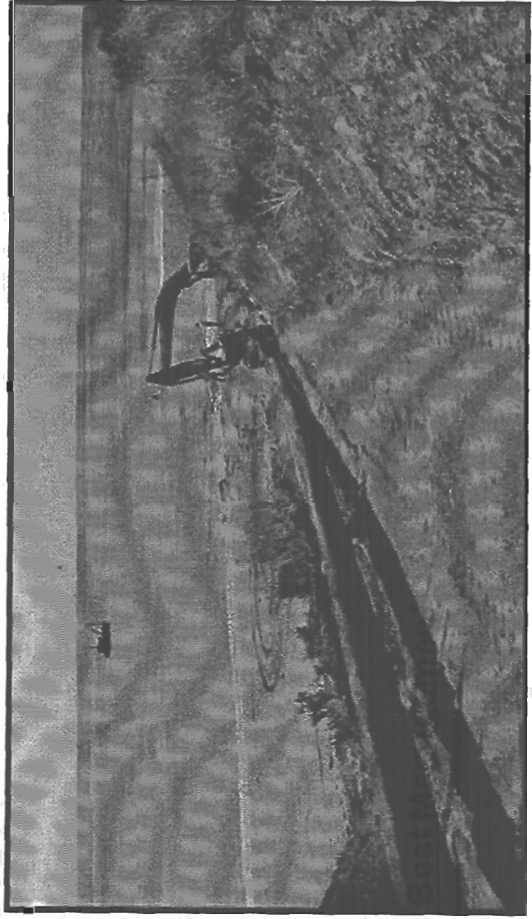
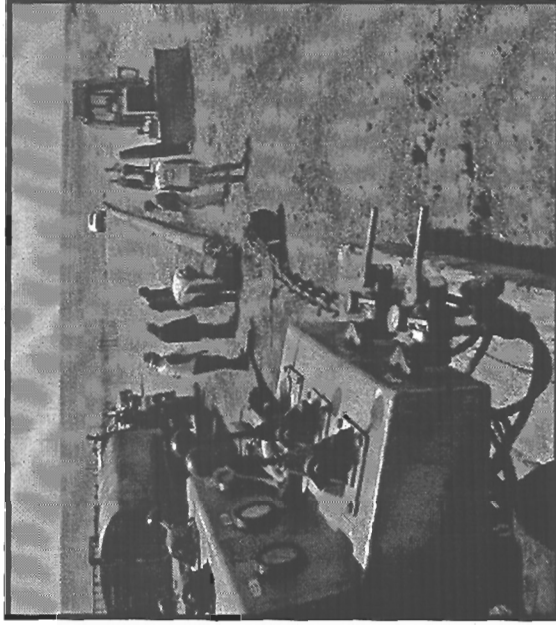
- (1) State marine reserve.
- (2) State marine park.
- (3) State marine conservation area.

(4) State marine cultural preservation area.

(5) State marine recreational management area.

(b) The process for establishing, deleting, or modifying state marine reserves, state marine parks, state marine conservation areas, state marine cultural preservation areas, and state marine recreational management areas shall be established pursuant to that act. The restrictions and allowable uses applicable to those areas are as set forth in that act.

Pipeline Removal In Surf Zone



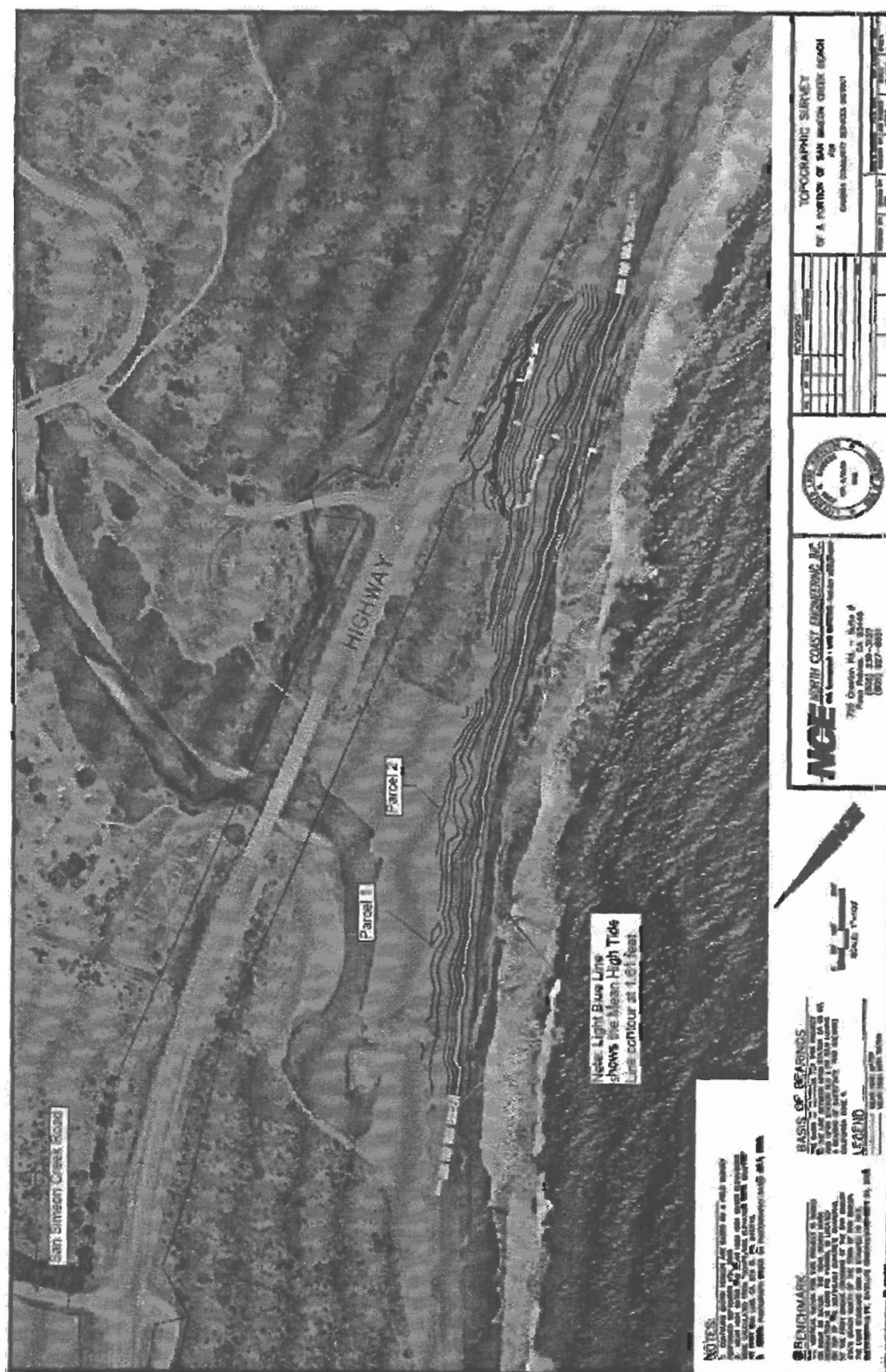


Figure 2. Annotated aerial view of mouth of San Simeon Creek.

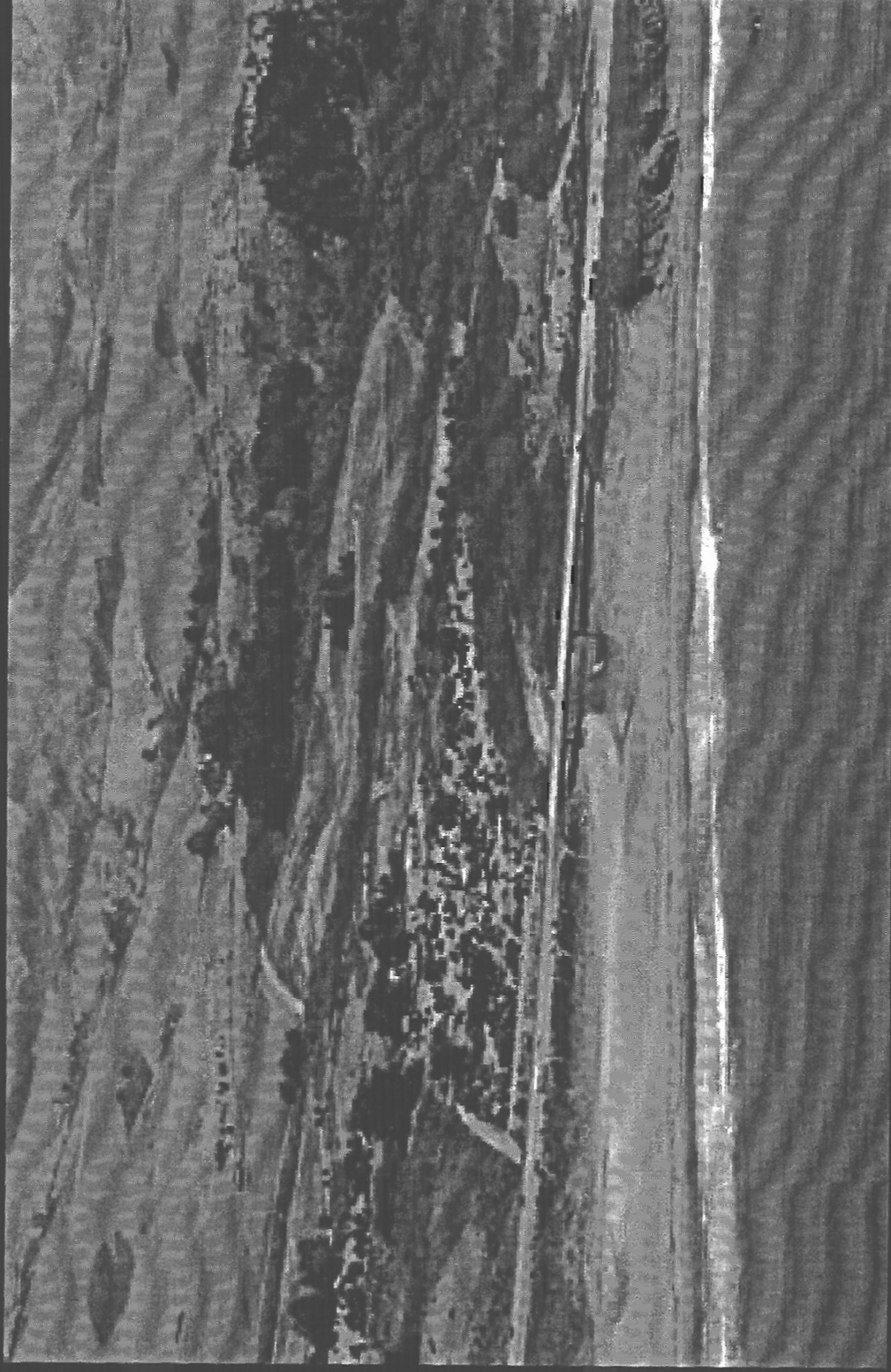
San Simeon Beach & Lagoon

Early Summer

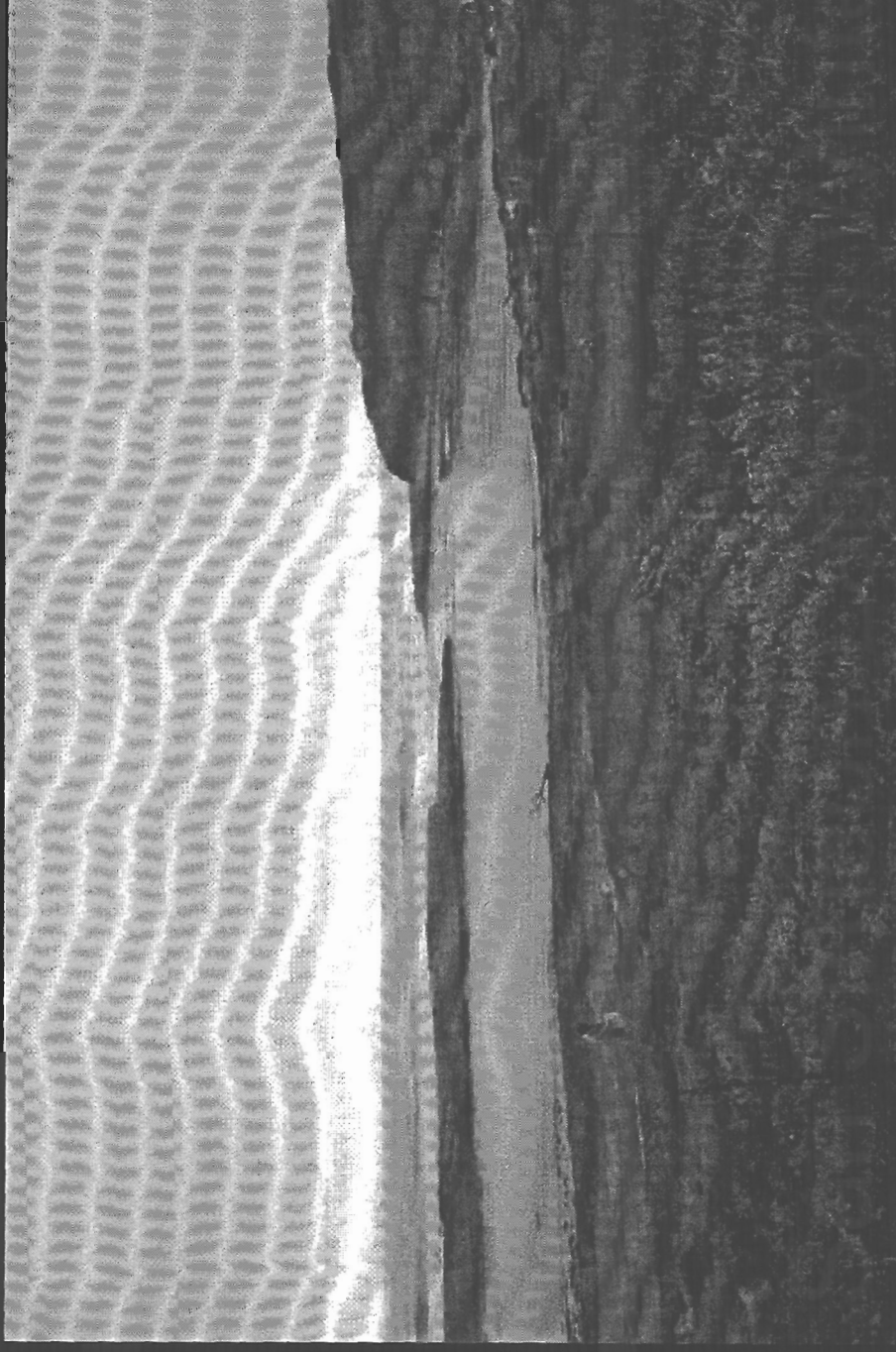


San Simeon Beach & Lagoon

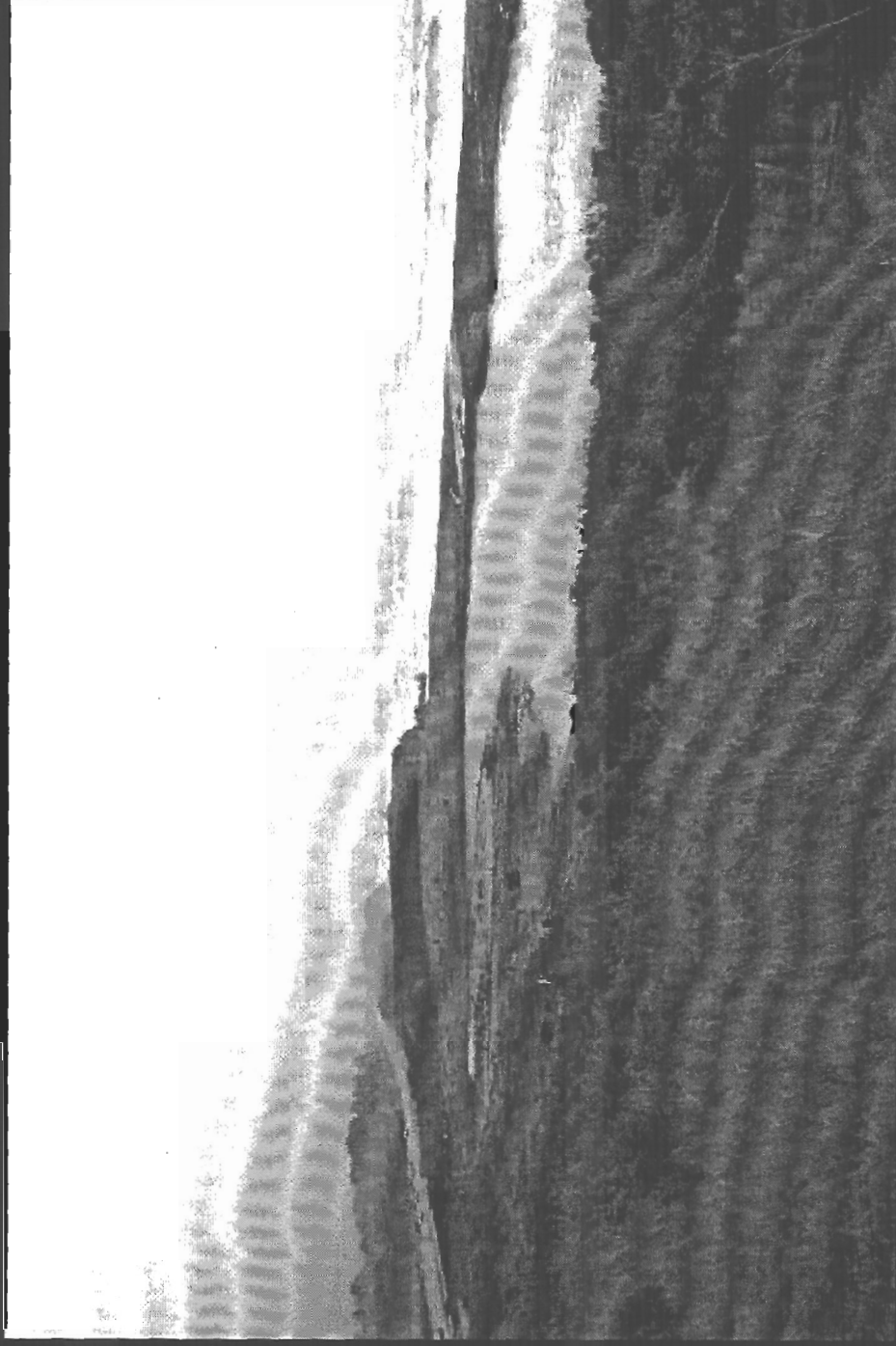
Summertime



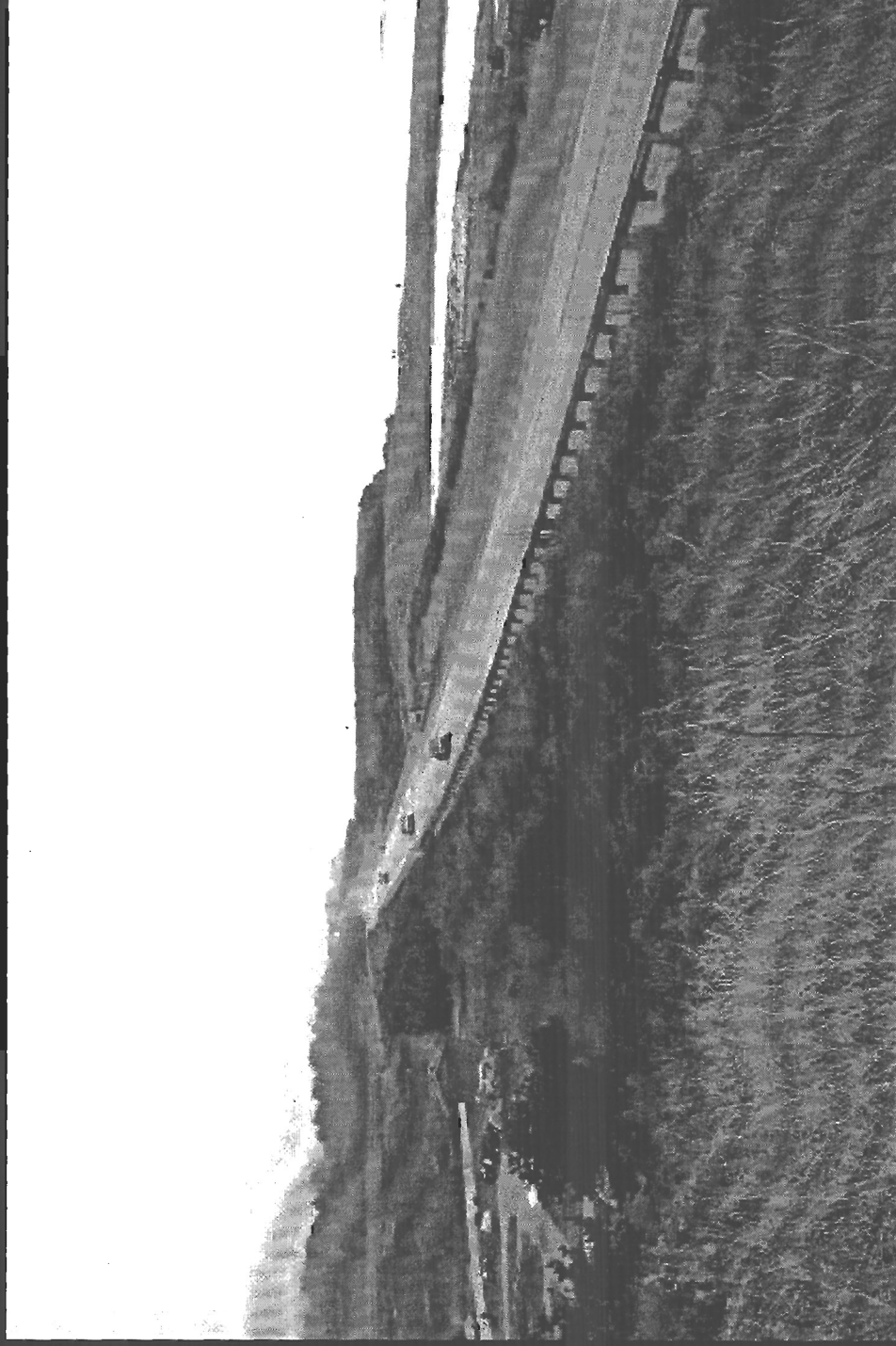
San Simeon Lagoon Winter



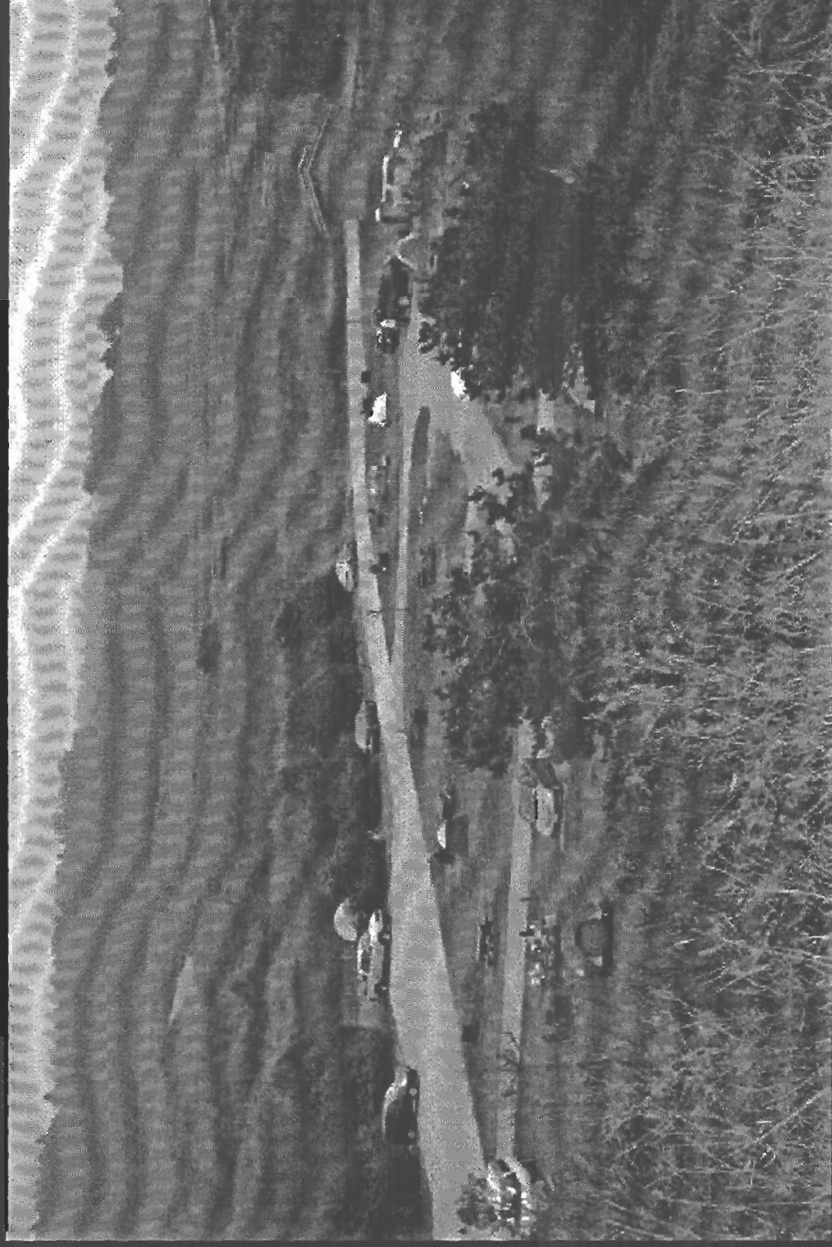
San Simeon Lagoon Winter



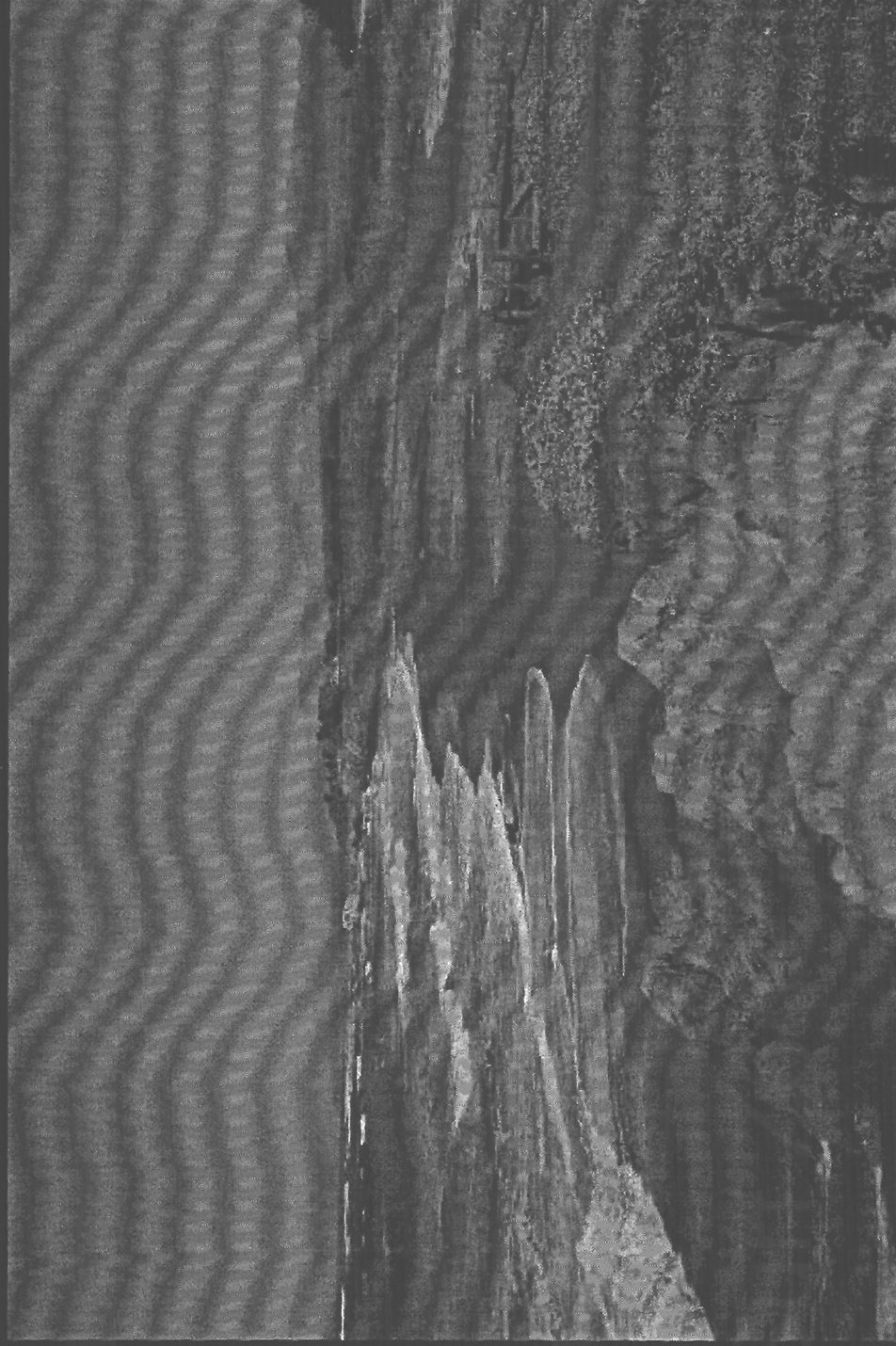
San Simeon State Park Campground & Lagoon



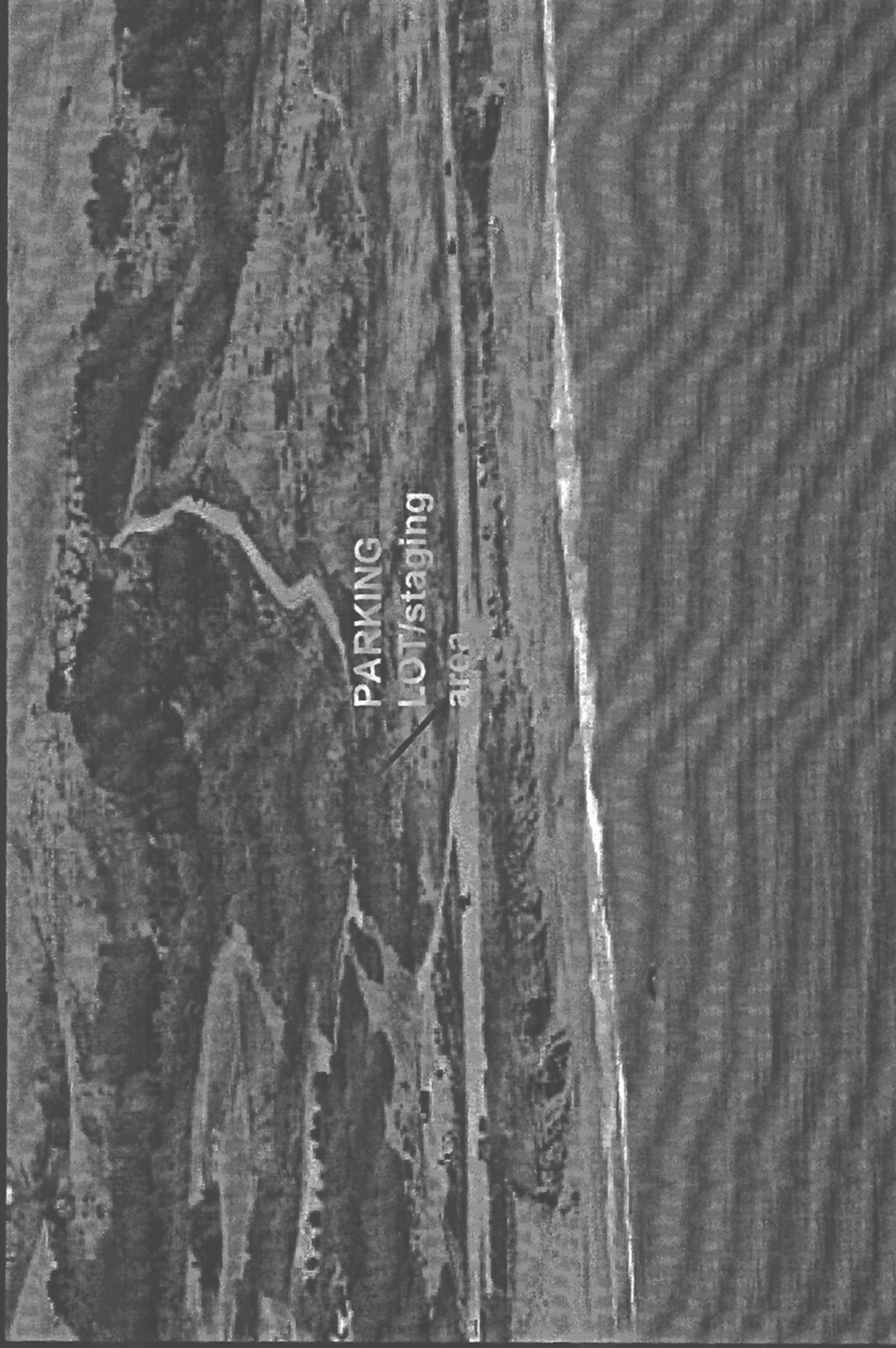
Hiker & Biker Campground across from Lagoon



Surf Zone - Lagoon - Well Sites



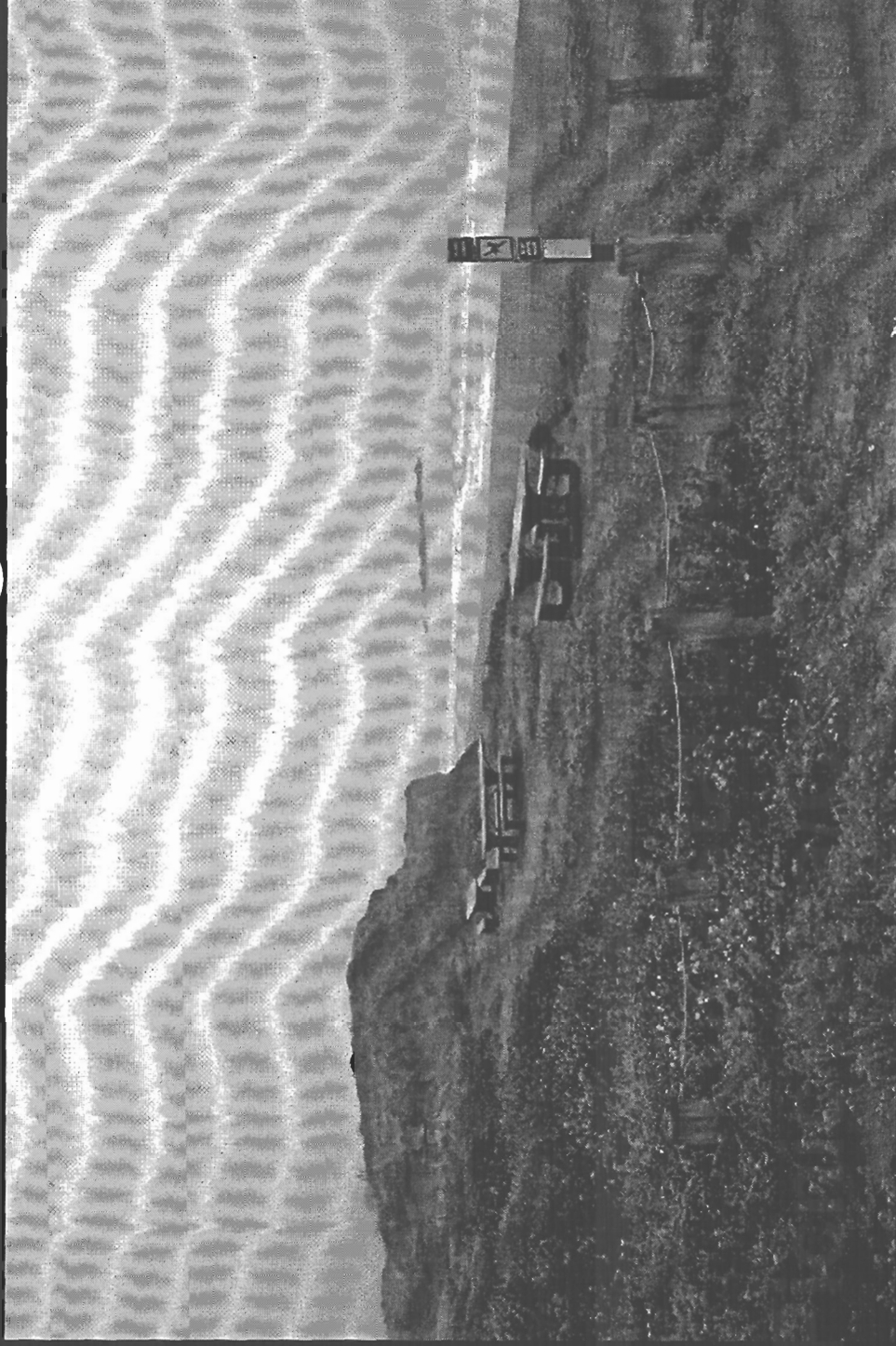
Drilling Site - Staging Area Parking Lot Crane Site



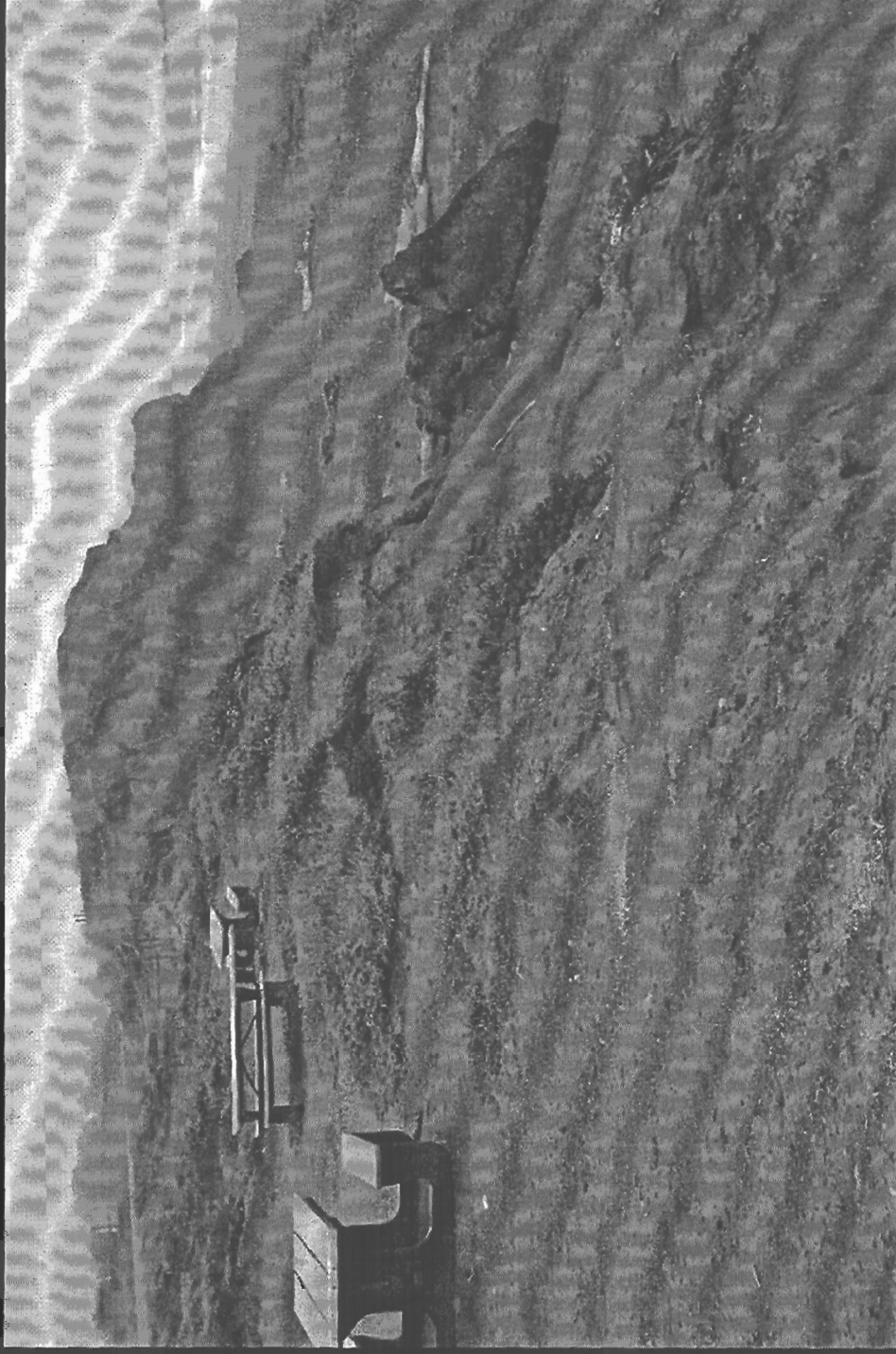
Overview of Staging Area/Parking Lot & Crane Site



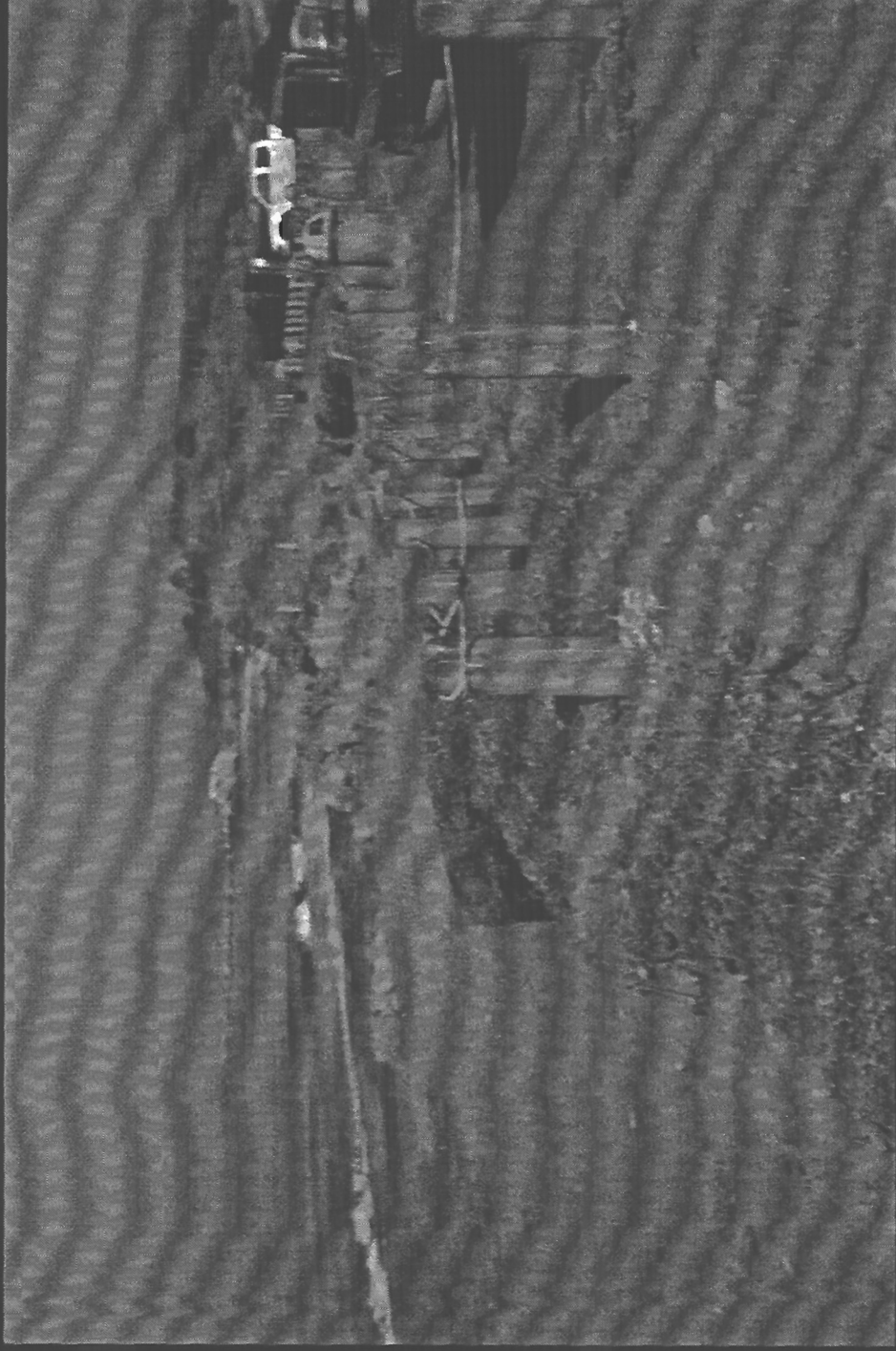
Coastal Dune Scrub Picnic Area/Crane Site at End of Parking Lot



Eroding Bluff at Crane Site



Beach and Eroding Bluff



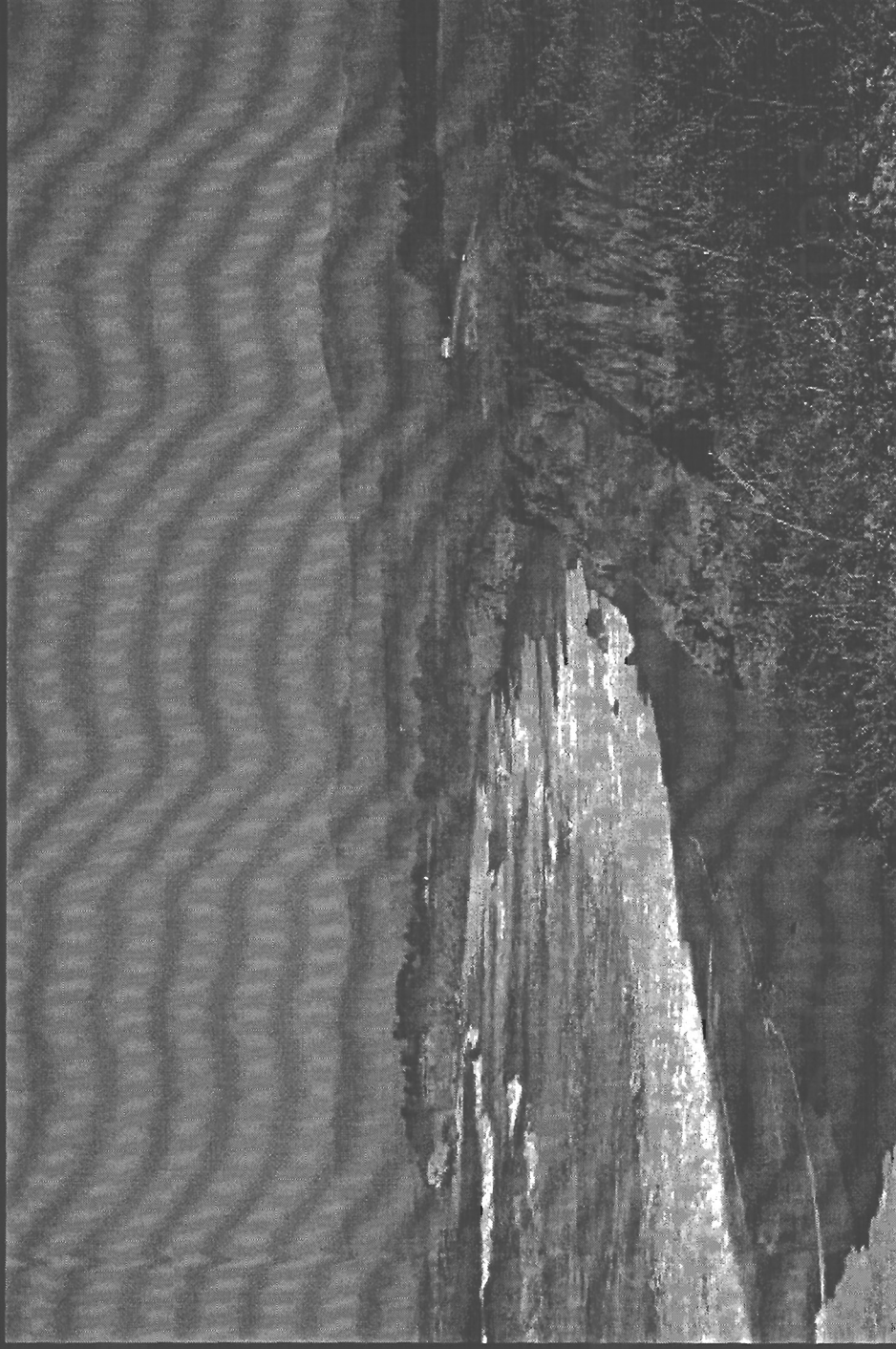
Staging Area/Crane Site Public Beach



The Public Enjoying Surf and Beach



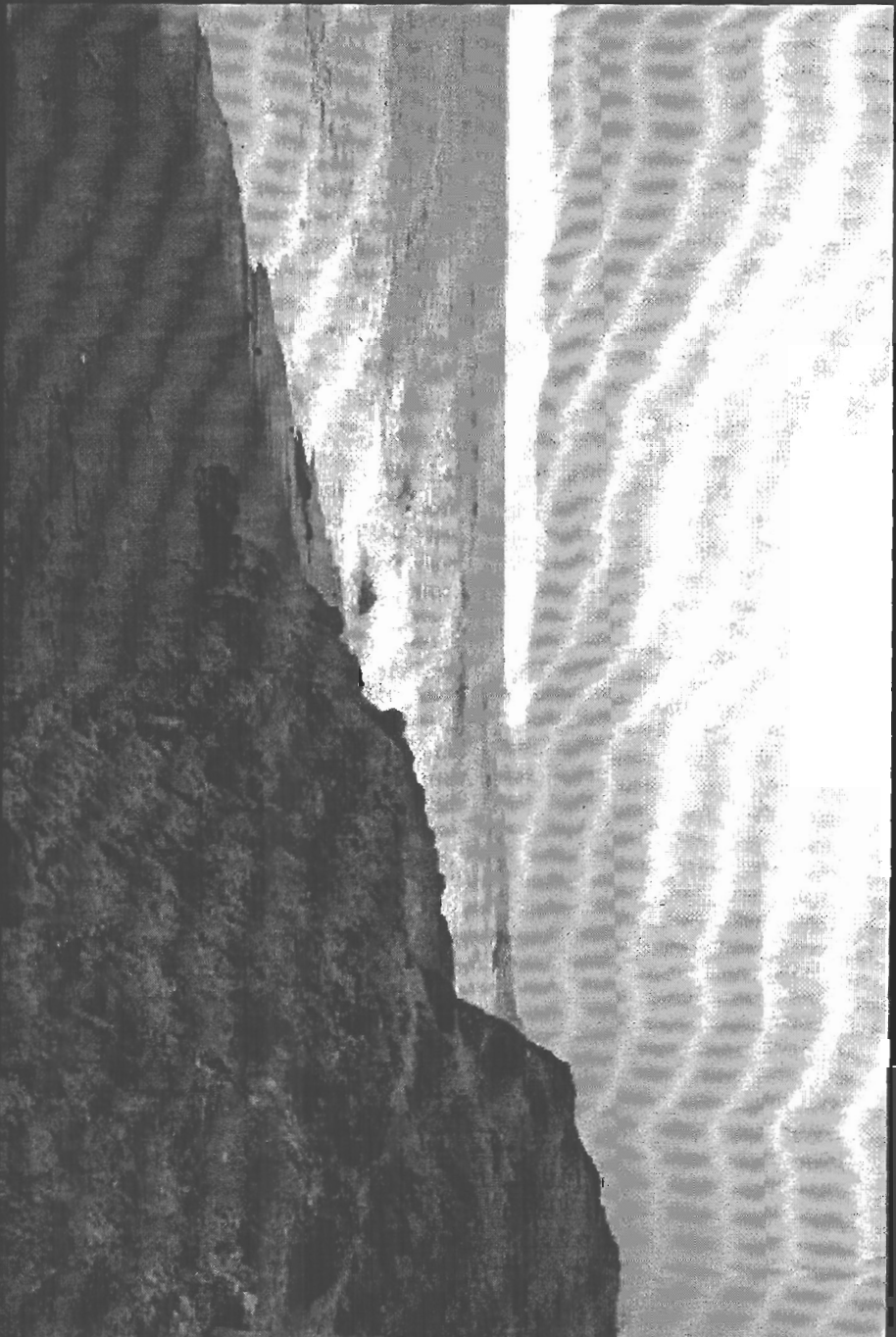
Surf Zone Well Sites



Surf Zone Well Sites



Surf Zone Well Site



Snowy Plover

The health of our sandy beaches and avian environment might be measured by the number of Snowy Plovers residing, nesting, rearing and fledging young



Steelhead Trout Found in San Simeon Creek and Lagoon



Red Legged Frog

(Endangered Species found in SS Creek)

- Largest frog West of Continental Divide
- Near extinction
- Made famous by Mark Twain
- Once a staple cuisine in San Francisco and Central Valley



Commissioner Steve Blank Ex Parte Communication

When: Wednesday, August 29, 2007 3:30 pm

Where: Conference Call

Who: ORCA – Half Moon Bay: Lennie Roberts, Mike Ferreira, Kathryn Slater-Carter and Karen Rosenstein

Projects discussed:

W 9a Appeal No. A-4-MAL-07-095 (Domingue, Malibu)

ORCA requested me to Support the Staff finding of Substantial Issue

- Asked if I could request a hearing date locally so public may attend
- Issues as ORCA sees them:
 - * Proposed project borders Malibu Lagoon – important ESHA
 - * Malibu applied local development overlay district in the Colony inappropriately: the overlay district does not trump LCP Policies
 - * Malibu LCP minimum setback from wetlands is 100 feet, project is within that setback
 - * Mature Cypress trees which are non-native but are important ESHA habitat for herons, osprey, and hawks) may be impacted by project
 - * These issues need to be fully evaluated, therefore Commission should find S.I.

W 14a Appeal No. A-5-HNB-07-242 (Signal Landmark/Hearthside Homes, Inc)

ORCA requested me to Support the Staff finding of Substantial Issue

- Issues as ORCA sees them:
 - * Project is already built and is not in compliance with LCP
 - * Is likely first step to gating off the residential area from public access
 - * This is like asking for forgiveness rather than permission
 - * Illegal construction needs to be removed – possible enforcement issue

W 15b Application No. 5-06-301 (McNamara, San Clemente)

ORCA requested me to the Support Staff findings

- Issues as ORCA sees them:
 - * String line for the location of residence is inconsistent with the LCP policies
 - * Very deep lot means Applicant's choice of criteria for stringline would place this house beyond adjacent development
 - * Stringline policies are intended to protect habitat and avoid canyon – most protective method should be used, in order to comply with goals of LCP
 - * I asked if they want the house accommodated. They said yes, within appropriate stringline setbacks

Th 18b&c Appeal No. A-3-SLO-06-053 and Application E-07-001 (Cambria Community Services District)

ORCA requested me to disagree with the staff recommendations: Staff recommends Approval with Conditions, ORCA asks for a Denial

- Issues as ORCA sees them:
 - * Neither the Project nor this testing is legal under the LCP so this testing is now proposed to be moved to State Park lands subject to Coastal Act – an inappropriate workaround
 - * Inappropriate use in a State Park
 - * Not an “incidental public service”
 - * Project is being segmented – if testing shows desal feasible, no alternative location is identified
 - * At a minimum project needs to be continued until issues can be resolved
 - * I asked and we discussed why we weren’t holding a hearing on the entire desal project in the state park, if this is where it’s going to go.

Th 22f Appeal No. A-2-PAC-07-22 (Pacifica Beach LLC)

ORCA requested me to support Staff and find Substantial Issue

- Asked if I could request a hearing date locally so public may attend (SF-Dec)
- Issues as ORCA sees them:
 - * Project depends upon access from road atop a crumbling seawall
 - * Will require future expansion and raising of dilapidated seawall to protect structure from future storm events
 - * Basement parking/storage is predicted to flood as waves overtop seawall
 - * Project is out of scale for area

Th 28a Appeal No. A-3-SCO-06-59 (Collins, Aptos)

ORCA requested me to disagree with the staff recommendations: Staff recommends Approval with Conditions, ORCA asks for a Denial

- Issues as ORCA sees them:
 - * Landslide instability on bluffs where house is proposed
 - * Engineering solutions are touted as addressing geologic instability, however mitigations often prove inadequate
 - * We discussed the visual issues with the houses on the beach; they completely block public view and access. I asked whether the applicant had opposed any of the 5-plus three story houses built or planned recently. I asked if ORCA was aware of a formal homeowner’s association with CC&R’s. I asked why ORCA believes this wasn’t a dispute between two homeowners in a private gated community.

FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONSRECEIVED
AUG 30 2007
CALIFORNIA
COASTAL COMMISSION

Date and time of communication:

THURS. 30TH AUG. 2007 3PM

Location of communication:

COUNTY GOV. CENTER S.L.O.

(If communication was sent by mail or
facsimile, indicate the means of transmission.)

MEETING

Identity of person(s) initiating communication:

Identity of person(s) receiving communication:

please see
attached

K. ACHADIAN

Name or description of project:

Description of content of communication:

(If communication included written material, attach a copy of the complete text of the written material.)

See attached

8/30/07
Date
Signature of Commissioner

If communication occurred seven (7) or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven (7) days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven (7) days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

Meeting with Commissioner Achadjian

RE: September 2007 Coastal Commission Meeting

Attendees:

Morgan Rafferty, Executive Director, Environmental Center of San Luis Obispo
Gordon Hensley, San Luis Obispo Coastkeeper
Noah Smukler, Board Chair, San Luis Bay Surfrider
August 30, 2007

ISSUES:

Wednesday, September 5.

W9a- Appeal by Malibu Coalition for Slow Growth and Steve Littlejohn from decision of City of Malibu granting permit to **Darren Domingue** for construction of 5,200 sq. ft. single family residence, 1,368 sq. ft., attached garage, pool/spa, and alternative onsite wastewater treatment system at 23405 Malibu Colony Drive, Malibu, Los Angeles County.

We urge a finding of Substantial Issue for the following reasons:

This project violates the LCP provisions for ESHA by locating a septic system within ESHA buffer and providing no discussion by the City of alternative locations. If no alternative is available then the project must comply with maximum development standards.

The wetland delineation is flawed – an area with a preponderance of hydrophytic plants was not included and an area with hydrophytic plants was not surveyed.

The upland portion with native transitional habitat was not surveyed for possibility it is ESHA.

The City incorrectly states that the Malibu Colony overlay district supersedes the LUP provisions for ESHA. This is incorrect and if allowed to stand would set a precedent for the interpretation of the Malibu LCP which alone is a basis for finding Substantial Issue.

In addition, does not deal with the protection of the many species of birds, particularly raptors and herons that are in cypress trees that will be impacted by the development

W14a- Appeal by Commissioners Wan & Shallenberger of decision by City of Huntington Beach granting permit with conditions to Signal Landmark/Hearthside Homes, Inc. to construct entry monument for "**Brightwater**" residential development consisting of 10.5 ft. decorative block wall and trellis structure within portions of public right-of-way, at 17261 Bolsa Chica Street (east and west side of Bolsa Chica Street, south of Los Patos Avenue), Huntington Beach, Orange County.

We ask for a finding of Substantial Issue because the entry block, wall and trellis will adversely impact public access to a required public trail which was required as a condition of the approval of the Brightwater development.

Bolsa Chica Street is public but this gives impression it is a private street. In addition, project is immediately adjacent to a park and the project would impact public views from the park.

Inconsistent with the LCP as well as the fact that it is situated on public land.

W15b-Application of Brian and Sarah McNamara to demolish 1-story, 1,539 sq. ft., single-family home with attached garage and construct 24-ft.-high, 3,900 sq. ft., single-family home, with attached 2-car garage and 1,048 sq. ft. decks on 13,873 sq. ft. canyon lot, at 219 W. Marquita, San Clemente, Orange County.

We ask you to support the staff recommendation because this project does not conform to the stringline policies of the LCP and is therefore inconsistent with it and the pattern of development in the area.

The LUP provides three options for setback with the intent to provide a setback for habitat protection and avoid encroachment into the canyon. One option is by depth of lot. If choose setback based on depth, because this is a very deep lot will result in development well beyond adjacent development- therefore need to apply stringline- but this does not meet stringline for the structure or deck.

The applicant argues they can use any one of the three methods they wish which ignores the goal of the LUP to provide a setback for habitat protection.

Approval as proposed will allow applicants/developers to choose which regulations to follow. And sets a precedent and eliminates the discretionary authority of local jurisdictions or the Commission.

15h-Application of County of Orange, Watershed & Coastal Resources to temporarily install 150 ft. long dock attached to existing marina to moor boats to accommodate dredging of 177,000 cu. yds. from navigational channels, shoaled areas under docks, swimming lagoon and areas adjacent to storm drain outlets to design depths varying from minus 7-ft MLLW in swimming lagoon to minus 8-ft. MLLW in marina and boat dock areas with off-shore disposal, Newport Dunes Waterfront Resort, at 1131 Back Bay Drive, Newport Beach, Orange County.

Please support the staff recommendation.

Thursday

Th17a-Appeal by So. California Edison Co. from decision of City of Oxnard denying permit to construct and operate 45 megawatt "peaker" power plant at 251 N. Harbor Boulevard, in Oxnard, Ventura County

The City's LCP - 17-20A energy facilities sub-zone states "coastal dependent energy facilities"- facility is not coastal dependent. SCE states that the zoning does not require it to be coastal dependent. This is a matter of interpretation.

We ask that you disagree with staff and urge that you find no Significant Issue.

At the very least, we ask you to recognize that this is an issue of major importance to the people of Oxnard and that it should be continued to October so the community can have a say in this.

Th18b&c Cambria Test Wells

New project consists of drilling boreholes and wells and capping. Installing well casings and wellheads, using a large crane and laying all sorts of cables, vehicles on the beach and many other activities on the beach. Zoning = RECREATION

The contention that this is segmentation of the project raises valid concerns for SI, contrary to staff recommendation, because LCP does not allow for these types of structures to be located here and it would involve using a state beach. If this were only a test to determine if the method works there would be no segmentation issue but they have already stated that if the test show feasibility they will use this location, therefore there is an issue of segmentation.

This is just another example of attempting to use State Parks for infrastructure- roads, power plants, power lines and desal facilities.

No analysis of the impacts of the new project- staff report list mitigations but does not provide any analysis of the actual impacts so how can you say that all impacts have been mitigated when they have not been analyzed?

Removal of casings involves major equipment and support lines over the beach, large crane in the parking lot- all the infrastructure to get to the MHTL must cross the state park and this is not consistent with the LCP- The parts that cross the state beach, even though they are not "structures" are elements of the project and therefore is not consistent with the LCP

This drilling is a component of the desal facility, it is not isolated but the area is zoned as recreation so it is not allowable.

Public access impacts-Requires that lateral access be maintained but does not specify how that would be accomplished- twice during the day tides are high and no room for equipment and public access.- condition inadequate because it is impossible to accomplish

Requires monitoring for sensitive species and marine mammals and a report on the impacts but does not specify what happens if there are impacts, i.e that the project cease and changes be made to eliminate those impacts.

Simply states monitoring wells will be located at least 100' from snowy plover nests. This is inadequate- this area is a known Snowy Plover nesting area- plan does not say how close the activity involved in placing or maintaining those wells can come to active nests and 100'- is not sufficient, particularly for any fledglings. For instance, while placement of the wells cannot proceed during nesting season, once the wells are in there will be maintenance activity and that can impact nests and fledglings.

Seismic survey- mitigations inadequate- not enough to model what the sound levels might be- should require that tests be conducted on the actual in-water sound levels produced. In addition, real-time acoustic monitoring should be conducted during the drilling to see what sound levels are produced. If sounds are above 120db drilling or seismic activity should cease until a revised monitoring plan is produced. Again monitoring without stating what happens if the monitoring shows impacts is worthless.

This does not meet the test for "incidental public service". This is not an existing public service and it is not incidental to it. This project is the first phase of the project and is essential to it. In addition, since there is no analysis of the possible impacts nor of any alternatives it is not possible know, even if this is a permissible fill, if this is the least damaging alternative

Urge denial or continuance until issues can be resolved.

Th 27b-Los Osos

Urge SI based on lack of water and erosion issue single house in Cabrillo heights- County required retrofitting of 23 other homes but no program to implement this. As approved, this mitigation is not enforceable (lacks specific details).

Urge SI - to allow Commission to take a look and add appropriate conditions.

Th29a- Support staff

There is a deed restriction requiring restoration and maintenance of plants native to the Asilomar dunes- have not implemented- and in addition prohibits the alteration of the dunes which this project proposes to do.

Project is inconsistent with ESHA protection policies which would increase the impacts on the dune ESHA. Already have a use of the property so no takings issue

FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONSRECEIVED
AUG 30 2007
CALIFORNIA
COASTAL COMMISSIONDate and time of communication: 8/30/07 3:30 PMLocation of communication: COUNTY GOV. CENTER
(If communication was sent by mail or
facsimile, indicate the means of transmission.) MEETINGIdentity of person(s) initiating communication: TAMMY RUDOCKIdentity of person(s) receiving communication: K. ACHADJIANName or description of project: 76 1868CDescription of content of communication:
(If communication included written material, attach a copy of the complete text of the written material.)see attached8/30/07
Date[Signature]
Signature of Commissioner

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Cambria Community Services District

CDP Application No. E-07-001

**September 6, 2007 Coastal Commission
Meeting Agenda Item Th18b&c****Geotechnical Investigation Activities CDP Summary:****Background**

- This temporary project will only collect scientific data.
- The data will be used to develop project alternatives for consideration within a future desalination project EIR/EIS. A primary reason for acquiring this data is to assess whether a subterranean intake well alternative can be included among future project alternatives that would avoid the entrainment and entrapment of marine organisms.
- No permanent structures or features of a future desalination project are proposed under this permit.
- Public access will be maintained at all times.
- The majority of the investigative activities will occur within the first month and during the tourist off-season.
- Two temporary 4 to 6 inch diameter groundwater-monitoring wells are proposed for use during a two-year monitoring period that will be completely removed after collecting the data.
- The monitoring wells will be buried and out of public view. The CCSD commissioned a Scripps Institute expert to set the burial depth of the wellheads. The CCSD will also monitor and lower each well should they ever become exposed.
- A thorough and transparent process has been followed in permitting the data collection activities effort.
 - CEQA clearance was obtained on an Initial Study/Mitigated Negative Declaration following a public hearing on October 14, 2005.
 - The County CDP process included Planning Commission and Board of Supervisors hearings during the spring and summer of 2006.
- Information acquired from the investigation will be shared with a research project that is being partially funded by the State Department of Water Resources on desalination intakes.

Response to Earlier Permitting Concerns

- In response to concerns over the need for an LCP amendment, the two monitoring wells were adjusted slightly to be just below the MHTL. The project description and study area for the two wells is the same as analyzed by the earlier CEQA process and associated IS/MND. A lease was subsequently obtained from the State Lands Commission for the two monitoring wells.
- To further reduce potential project impacts the CCSD removed the originally proposed ramp and inland soil borings from the investigation activities project.

Adopted Mitigation Measures

During its October 16, 2005 CEQA hearing, the CCSD adopted 25 mitigation measures that were developed to avoid potential environmental impacts. These measures include:

- 17 biological mitigation measures
- 3 cultural resource mitigations
- 1 geological mitigation measure
- 1 hazardous spill mitigation measure
- 3 wastewater mitigation measures

Avoiding sensitive species coupled with expert biological monitoring are key protective measures.

More information can also be found at the following web site link: [CCSD White Paper on Geotechnical](#)

COASTAL DEVELOPMENT PERMIT FOR CCSD GEOTECHNICAL/HYDROGEOLOGIC INVESTIGATION ON PENDING DESALINATION PROJECT

» CCSD's long-term water supply planning calls for aggressive water conservation, recycled water for non-potable uses, and a seawater desalination facility to augment its existing potable water supply.¹ Potable water from a future desalination project would protect residents, businesses, and visitors to Cambria from droughts and other emergencies, while also helping to preserve the area's sensitive coastal stream habitats.

INVESTIGATION ACTIVITIES TO SUPPORT FUTURE ENVIRONMENTAL REVIEWS AND PERMITS

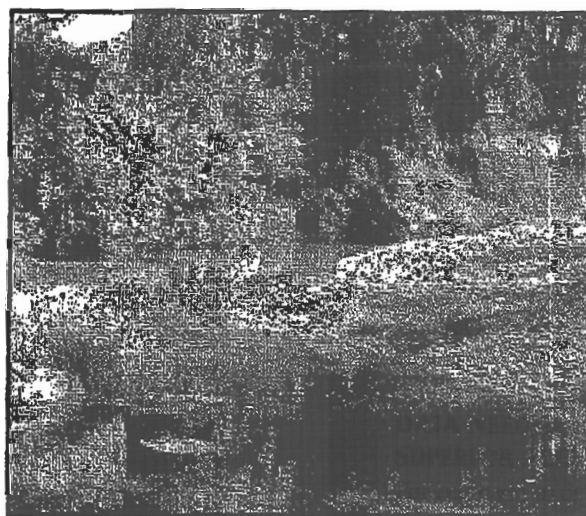
The CCSD is following a methodical and transparent process in its pursuit of a desalination facility to ensure a project that avoids or minimizes the potential for environmental impact to the lowest possible level. To meet this goal, in 2007 an Environmental Impact Report (EIR) is planned that will focus solely on the desalination project. This future EIR will also be reviewed by the public and subject to further regulatory review. Permitting the current investigation activities will not limit the California Coastal Commission's authority or ability to approve or disapprove the future project.

DATA NEEDED TO DEVELOP ENVIRONMENTALLY SUPERIOR ALTERNATIVES

For engineers to develop project alternatives for the pending EIR, scientific data needs to be collected on the subterranean materials in the vicinity of San Simeon State Beach. Past information collected in this area from less resolute, surface-based studies has indicated that deposits made over geologic time may be favorable to placing subterranean wells below the ocean floor. Such alternatives could effectively avoid impacting fish and marine larvae, which are key environmental concerns associated with desalination facilities. The collection of scientific data will help define the project alternatives, and therefore allow for their comprehensive environmental analysis within an EIR.

PUBLIC REVIEW PROCESS FOLLOWED FOR INVESTIGATION ACTIVITIES

Because the study area is environmentally sensitive and used by the public, the CCSD developed an Initial Study/Mitigated Negative Declaration (IS/MND) for the



investigation activities that was further supported by detailed biological field studies. A transparent public review process was also followed by the CCSD in circulating and adopting its IS/MND for the investigation activities. This past effort included newspaper advertisements announcing the availability of the IS/MND as well as its public hearing. Copies were also submitted to the State Clearinghouse, Federal agencies, and private individuals.

Mitigation measures adopted by the CCSD for its investigation are oriented at avoiding impacts entirely.² Ongoing monitoring would ensure that the study would be halted if potential impacts were suspected. The County of San Luis Obispo has approved the CCSD's application for a Coastal Development Permit (CDP) to move the investigation forward. The County's CDP process has also involved a lengthy and highly visible public review process of the proposed investigation.

¹ Further information can be found in the CCSD's adopted 2005 Urban Water Management Plan posted at www.cambriacsd.org.

² The adopted IS/MND for the investigation activities is posted at www.cambriacsd.org.

COASTAL DEVELOPMENT PERMIT FOR CCSD GEOTECHNICAL/HYDROGEOLOGIC INVESTIGATION ON PENDING DESALINATION PROJECT

TEMPORARY DATA COLLECTION REQUIREMENTS

No permanent desalination facilities are required for the pending data collection activities, but there will be some temporary, short-term visual impacts and inconveniences while the testing is underway, e.g., a temporary ramp at the beach parking lot west of Highway 1 for approximately one month to facilitate equipment access to the beach; equipment (about the size of a large passenger van) on the beach for about four weeks to collect soil samples during normal working hours; and, two small-diameter groundwater monitoring wells to remain covered and buried below the beach for approximately one to two years for periodic sampling. Sampling of the monitoring wells will be conducted by a field technician walking the beach without the use of a motorized vehicle.

After initial data collection, the temporary ramp will be removed. The two groundwater-monitoring wells will ultimately be removed, thus leaving the area in its natural state.

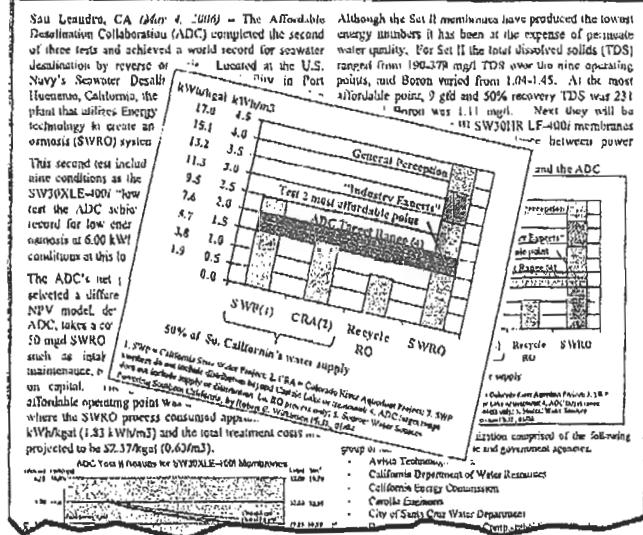
A VISION TOWARDS SOCIAL AND ENVIRONMENTAL RESPONSIBILITY

After the project EIR and related permitting are completed, the CCSD will begin the final design of the desalination project. Besides incorporating the environmentally superior alternatives and any identified mitigation measures to avoid potential impacts, the CCSD facility will include the latest technological advances to lower power requirements. The facility will also incorporate solar panel arrays to further offset energy use and greenhouse gas emission concerns.

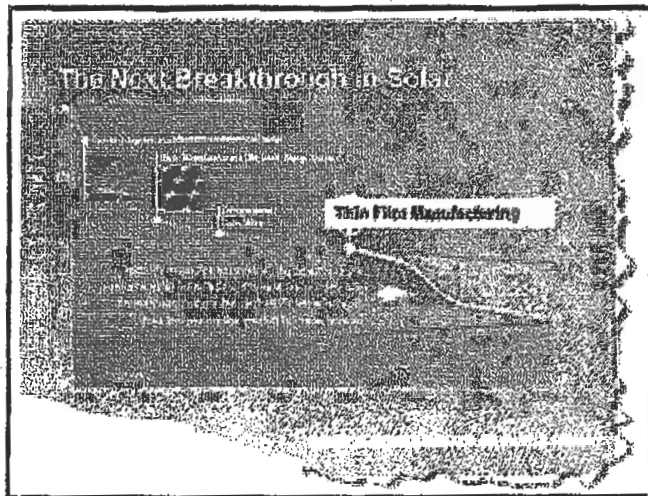
CONTACT INFORMATION

For more detailed information, please log on to the CCSD website at www.cambriacsd.org or contact Bob Gresens, CCSD District Engineer, at 805-927-6223, bgresens@cambriacsd.org

Affordable Desalination Sets Low Energy Record May 4, 2006



▲ Advancements in energy efficient design technology continue to lower future power requirements.



▲ New technologies will further encourage the application of renewable solar power.



CAMBRIA COMMUNITY SERVICES DISTRICT

1316 TAMSON DRIVE, SUITE 201 • PO BOX 65 • CAMBRIA, CA 93428

PHONE: 805/927-6223 • FAX: 805/927-5584 • WWW.CAMBRIACSD.ORG



RECEIVED
AUG 31 2007
CALIFORNIA
COASTAL COMMISSION

FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONS

Date and time of communication:

8/31/07 11AM

Location of communication:

S.L.O. COUNTY GOV. CENTER

(If communication was sent by mail or
facsimile, indicate the means of transmission.)

TELEPHONE

Identity of person(s) initiating communication:

DAVID NELSH

Identity of person(s) receiving communication:

K. ACHADJIAN

Name or description of project:

W 14a / TH 1868c

Description of content of communication:

(If communication included written material, attach a copy of the complete text of the written material.)

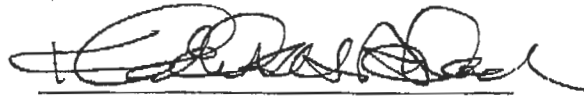
~~Due to~~ Due to lack of time I had a very short conversation
with MR NELSH concerning items listed above.

he was thankful of staff recommendation about for Cambria desert project
and that his client was in agreement to comply with all of the conditions
but for item W14a he suggested that we the commissioners ~~with~~ give
the applicant a chance to represent their case and that the movement
was within the cities jurisdiction and not in coastal appeal zone.

Date

8/31/07

Signature of Commissioner



If communication occurred seven (7) or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director **within** seven (7) days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven (7) days of the hearing, **complete** this form, provide the information **orally** on the record of the proceeding **and** provide the Executive Director with a copy of any written material that was part of the communication.

Tom Luster

From: Jeff Staben
Sent: Friday, August 31, 2007 4:08 PM
To: Tom Luster
Subject: 1 more ex parte FW: Cambria Desal

-----Original Message-----

From: steve blank [mailto:sblank@kandsranch.com]
Sent: Friday, August 31, 2007 4:06 PM
To: Vanessa Miller; Jeff Staben
Subject: FW: Cambria Desal

Ex parte received from Rick Hawley.

From: Rick Hawley [mailto:rick@greenspacecambria.org]
Sent: Friday, August 31, 2007 2:48 PM
To: steve blank
Subject: Cambria Desal

Steve - eight photos are included in the attachment. Hope your holiday is good.

Rick

EX-PARTE COMMUNICATIONS DISCLOSURE

RECEIVED
SEP 04 2007
CALIFORNIA
COASTAL COMMISSION

Person(s) initiating communication: Penny Elia – Sierra Club
Joe Geever – Surfrider Foundation

Person(s) receiving communication: Commissioner Bill Burke

Location of communication: 11110 W. Ohio Ave., LA, CA, 90025
LA Marathon Offices of Bill Burke

Time/Date of communication: August 30, 2007 – 11 am

Type of communication: Meeting

Name or description of the project(s):

Very brief meeting that included a general discussion of desalination with comparisons of Long Beach and Cambria projects, noting that use of parkland space for desalination plants was inappropriate.

Touched on the need to speak early in October on the proposed 241 Toll Road extension that would be heard in October in San Pedro. Commissioner Burke agreed to a meeting and that will be arranged via email through Marni.

Meeting concluded at approximately 11:35 am.

Wm A Burke

9/4/07