

**CALIFORNIA COASTAL COMMISSION**

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# F15a

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 4-19-1158

**Applicant:** Santa Barbara County Flood Control District

**Agent:** Seth Shank

**Project Location:** Atascadero Creek, Goleta, County of Santa Barbara

**Project Description:** Implement an annual desilting program for a 1.4 mile reach of Atascadero Creek that will include removal of 2,000 – 30,000 cu. yds. of sediment on an as-needed basis, discing in the late fall, and application of herbicide in spring/summer. Excavated material will be temporarily stockpiled adjacent to the creek approximately 30 to 100 ft. in distance from the top of the bank. The program also includes potential placement of suitable excavated material in the surfzone at Goleta Beach County Park. Excavated material unsuitable for the beach will be disposed of at an appropriate location outside of the coastal zone.

**Staff Recommendation:** Approval with conditions.

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### SUMMARY OF STAFF RECOMMENDATION

The proposed project is for the implementation of an annual desilting program for a 1.4-mile long reach of Atascadero Creek for a term of 5 years. The proposed program includes dredging/removal of up to 30,000 cu. yds. of sediment each year on an as-

needed basis and annual maintenance activities. Desilting/dredging activities involve the use of a crane rigged with a clamshell bucket that is operated from the adjacent stream bank. All dredged material will be stockpiled in designated areas adjacent to the creek where it is allowed to dewater. Stockpiles will be set back a minimum of 30 ft. from the top edge of the stream bank. The program also includes potential placement of suitable excavated material in the surfzone at Goleta Beach County Park. Excavated material unsuitable for beach disposal will be disposed of at either an appropriate location outside the Coastal Zone, or at a location within the coastal zone permitted to receive such fill. The proposed desilting would occur on as-needed basis because high sediment laden flows can result in excessive sedimentation of Atascadero Creek that may result in increased flood hazard to adjacent developed areas. The proposed project also includes annual maintenance activities involving: (1) discing of the channel in late fall using a bulldozer with a blade attached to uproot vegetation and (2) mowing in the channel and/or herbicide application in spring/summer.

The stated purpose of the program is to maintain existing flood water carrying capacity in the upper Atascadero Creek area to reduce potential flooding of adjacent residential areas and the Santa Barbara City Airport. Although the Commission has previously certified a Local Coastal Program for Santa Barbara County, this project is located within an area of Santa Barbara County where the Commission has retained jurisdiction over the issuance of coastal development permits, and the standard of review for this project is the Chapter 3 policies of the Coastal Act.

The Commission has previously issued five Coastal Development Permits (CDPs), one in each of 1994, 2000, 2003, 2010 and 2015 to the Santa Barbara County Flood Control District (District) for substantially the same project as is proposed by this application, including CDP 4-94-061, CDP 4-00-025, CDP 4-03-025, CDP 4-09-068, and CDP 4-14-1900, respectively. These permits were subject to several special conditions, including a specific provision that limited the effective term of each permit to a five-year period, after which time any future desilting/beach deposition activities would require a new permit from the Commission. CDP 4-14-1900 is set to expire in July 2020; therefore, the District is proposing the subject permit application to continue the ongoing desilting/dredging and sediment disposal program for an additional five-year period.

Staff recommends approval of the proposed project with twelve (12) special conditions regarding: (1) Timing and Operational Constraints, (2) Southwestern Pond Turtle Habitat and Enhancement Program, (3) Sediment Analysis, Monitoring, and Deposition, (4) Operations and Maintenance Responsibilities, (5) Stockpile Sites, (6) Herbicide Use, (7) Project Monitoring Responsibilities, (8) Public Access Program, (9) Required Approvals, (10) Assumption of Risk, (11) Duration of Permit, and (12) Fish Passage Improvement Plan.

Commission staff recommends that the Commission **approve** the subject coastal development permit application, as conditioned. The motion is on page 4.

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### **EXHIBITS**

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Aerial Overview](#)

[Exhibit 3 – Site Plans](#)

[Exhibit 4 – Conceptual Plans for Southwestern Pond Turtle Enhancement and Fish Passage Improvements](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit No. 4-19-1158 pursuant to the staff recommendation.

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

### Resolution to Approve the Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## II. STANDARD CONDITIONS

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

### III. SPECIAL CONDITIONS

#### 1. Timing and Operational Constraints

- A. Except as provided in Sections D and E below of this condition, all project maintenance operations, including desilting/dredging activities, shall occur only during the period between September 15 and December 15, unless additional time is granted by the Executive Director for good cause.
- B. Sediment disposal/beach replenishment operations may occur Monday through Friday, excluding state holidays. No work shall occur on Saturday or Sunday.
- C. All construction operations, including operation of equipment, material placement, placement or removal of equipment or facilities, restricting public access, beach re-grading following nourishment, or other activities *shall be prohibited in the following circumstances:*
  - i. On any part of the beach and shorefront in the project area from the Friday prior to Memorial Day in May through Labor Day in September to avoid impacts on public recreational use of the beach and other public amenities in the project vicinity;
  - ii. On any part of the beach and shorefront in the project area when California Grunion (of any life stage, including eggs) are present during any run periods and corresponding egg incubation periods, as identified by the surveys conducted pursuant to Special Condition Seven (7), to avoid impact on the spawning of the California Grunion;
  - iii. On any part of the beach and shorefront in the project area when Western Snowy Plover are present, as identified by the surveys conducted pursuant to Special Condition Seven (7), to avoid adverse effects to Western Snowy Plovers; and
  - iv. On any part of the beach and shorefront in the project area when Beldings Savannah Sparrow are present, as identified by the surveys conducted pursuant to Special Condition Seven (7), to avoid adverse effects to Beldings Savannah Sparrow.
- D. Project operations, including dredging, discing, operation of equipment, and all other maintenance activities shall be prohibited within 50 feet of any ponding/pools along Atascadero Creek, year around. From 50 feet to 100 feet from the ponding/pools, activities shall be conducted with hand tools only. Equipment may not be driven within 50 feet of the ponds.
- E. Channel clearing of target emergent vegetation by use of hand tools or mower may be conducted at any time of year, but only as follows: (1) one

time during spring/summer, during the bird breeding and nesting season (March 15 through August 31), and (2) an unlimited number of times outside of the identified bird breeding/nesting season.

## **2. Southwestern Pond Turtle Habitat Enhancement and Monitoring Program**

- A. WITHIN 90 DAYS OF COMMISSION ACTION ON THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit an updated Southwestern Pond Turtle Habitat Enhancement and Protection Plan for review and approval by the Executive Director. This updated habitat enhancement and protection plan shall be prepared by a qualified biologist or environmental resource specialist with field experience in assessing habitat requirements for the southwestern pond turtle and qualifications acceptable to the Executive Director. The plan shall include a timeline for completion of two of the components of the habitat enhancement and monitoring plan previously approved by the Commission, but not yet implemented, including: (1) the plunge pool basking feature and (2) bank restoration. The plan shall indicate that the fish passage improvement component of the previously approved program will be part of a new coastal development permit application or permit amendment pursuant to Special Condition 12 below. The updated habitat enhancement plan shall, at a minimum, include the following:
- i. Provisions for maintenance necessary to ensure that the pond enhancement does not become heavily shaded and to ensure large algal mats do not accumulate on the pools and are not supplanted by growth of vegetation. The Plan shall also describe potential annual repair activities after the storm season. Protection measures shall include the avoidance of mosquito abatement activities in the pond enhancement area and any such activity shall require a separate coastal development permit.
  - ii. Provisions stating that flood control activities shall be prohibited within the ponds. If vegetation in the ponds raises issues with respect to flood control requirements, a separate coastal development permit shall be required for any subsequent flood control activities in the ponds.
  - iii. Provisions requiring sufficient native vegetation (such as coyote bush and/or blackberry) to be planted and maintained, that upon maturity, serves to restrict or deter pedestrian access at the Patterson Avenue bridge location. Signage shall be placed along the project reach identifying the sensitive nature of the creek and stating that access is restricted.
  - iv. If a qualified academic group or nonprofit agency, with qualifications acceptable to the Executive Director, proposes a southwestern pond

turtle recovery project, the applicant shall make the enhancement pond areas available for such purposes. The recovery program would be subject to Executive Director approval and may require a separate coastal development permit.

- v. Final plans for the proposed bank revegetation near the Patterson Avenue bridge shall be included within the enhancement plan.
- B. The updated habitat enhancement plan shall be implemented and completed within two years from the date of Commission action on this permit, and final implementation shall be reported to the Executive Director of the Coastal Commission upon completion. The Executive Director may grant additional time for good cause.
- C. The habitat enhancement project shall be monitored by the applicant for five years from the date that completion of the enhancement program is reported to the Executive Director. The updated habitat enhancement plan shall include a monitoring program that includes performance standards and milestones to ensure that that enhancement program is successful. The program shall be implemented to monitor the project for compliance with the specified guidelines and performance standards. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:
- i. All revegetation shall consist of native plant species locally endemic to riparian habitat and wetland areas in the watershed. Invasive, non-indigenous plant species shall not be used and invasive species shall be removed concurrent with periodic channel maintenance.
  - ii. Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with revegetation requirements.
  - iii. The permittee shall undertake the enhancement in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to this coastal development permit, unless the Executive Director determines that no amendment is required.
- D. The applicant shall submit, on an annual basis for a period of five years from completion of the enhancement project, a written report prepared by a qualified resource specialist, evaluating the extent of the success or failure of the enhancement project. This report shall include further recommendations and requirements for additional activities in order for the project to meet the specified criteria and performance standards. These reports shall also

include photographs taken from pre-designated sites (annotated to a copy of the site plans) indicating the progress of recovery at each of the sites.

- E. At the end of the five-year period, a final detailed report shall be submitted for the review and approval of the Executive Director. If the report indicates that any portion of the project standards are not met, the report shall provide recommendations to compensate for those portions of the original program which were not successful. The applicant shall be responsible for implementing additional remedial actions and provide continued monitoring as the Executive Direction may determine necessary to ensure compliance.
- F. In addition to the above requirements, the District shall encourage the construction of a new pedestrian bridge over Atascadero Creek in the vicinity of the existing Atascadero Creek restoration site. The purpose of the bridge is to provide adequate access to adjacent recreation trails thereby reducing existing patterns of pedestrian trespass through the sensitive creek habitat. An appropriate bridge design would span the creek and be located as far as feasible from the existing pond.

### **3. Sediment Analysis, Monitoring and Deposition**

- A. At least two (2) weeks prior to disposal of excavated material, the applicant shall provide evidence to the Executive Director of the location and method of disposal to an approved disposal location that is either a site outside of the coastal zone, a site within the coastal zone permitted to receive such fill, or at Goleta Beach. If the excavated material will be deposited at Goleta Beach, an engineer(s) or environmental professional(s), with appropriate qualifications acceptable to the Executive Director, shall: (1) prepare a Sampling and Analysis Plan and conduct testing at the source and receiver site for the review and approval of the Executive Director and (2) monitor the site during all beach nourishment activities. The Sampling and Analysis Plan shall be consistent with the following:
  - i. Sampling Frequency. Samples shall be collected from both the receiver sites and the source sites. For the receiver site, samples shall be collected along transects that are approximately perpendicular to the shoreline, with one (1) transect per each 0.5 miles of receiver beach length. For the source sites, samples shall be collected throughout the source area, with one (1) sample per 0.5 acres, and a minimum of five (5) samples per source site for contaminant testing and a minimum of three (3) samples per source site for all other sediment testing. For the source site samples, the boring depth shall extend approximately one-foot (1- ft) below the anticipated excavation depth.
  - ii. Grain Size. Physical analysis shall be conducted on representative samples of each source material proposed for placement at the

Goleta Beach deposition site and on samples from each transect of the receiver beach. The material shall be analyzed for consistency with the U.S. Army Corps of Engineers (ACOE) / Environmental Protection Agency (EPA), State Water Resources Control Board and California Regional Water Quality Control Board (RWQCB) criteria for beach replenishment. Deposition of source material shall occur consistent with the following:

- a) Source material meeting all applicable federal and state beach nourishment requirements, and for which an average of 75% or more of the material is coarse grained (retained on a Standard U.S. Sieve Size No. 200), may be deposited below the mean high tide for the purpose of beach nourishment.
  - b) Source material meeting all applicable federal and state beach nourishment requirements, and for which an average of 90% or more of the material is coarse grained (retained on a Standard U.S. Sieve Size No. 200), may be deposited above the mean high tide line for the purpose of beach nourishment.
  - c) Source material that does not meet the applicable physical, chemical, color, particle shape, debris, and/or compactability standards for beach replenishment shall not be used.
- iii. Contaminants. Based on U.S. EPA Tier I analyses results, Tier II bulk chemical analysis shall be conducted on representative composite samples of each source material proposed for placement at the Goleta Beach deposition site. The material shall be analyzed for consistency with EPA, ACOE, State Water Resources Control Board and RWQCB requirements for beach replenishment. At a minimum, the chemical analysis shall be conducted consistent with the joint EPA/ACOE *Inland Testing Manual*. If the ACOE, EPA, State Water Resources Board, or RWQCB determine that the sediment exceeds Effects Range Medium (ER-M) contaminant threshold levels according to the National Oceanic and Atmospheric Administration (NOAA) Screening Quick Reference Tables (SQUIRTs), the materials shall not be placed at the site.
- iv. Color. Color classification shall be conducted on representative samples of each upland source material proposed for placement at the Goleta Beach deposition site. The color shall reasonably match the color of the receiving beach after reworking by wave action. Color is only an issue for upland sediment, but is not as significant for marine-derived sediment sources.
- v. Particle Shape. Particle shape classification shall be conducted on representative samples of each source material proposed for

placement at any of the five deposition sites. For beach replenishment, the source material shall consist of a minimum of 90% rounded particles (i.e., maximum of 10% angular particles).

- vi. Debris Content. A visual inspection of the source location shall be conducted to determine the presence and types of debris such as trash, wood, or vegetation. The amount of debris within the material shall be estimated, as a percentage of the total amount of source material. Prior to placement of opportunistic sand at any beach/shoreline receiver site, all such debris material shall be separated from the sand material (by mechanical screening, manual removal or other means) and taken to a proper disposal site authorized to receive such material.
  - vii. Compactability. Chemical and visual inspections of the source location shall be conducted to determine the presence of elements such as iron oxides which can compact to form a hardpan surface. Source material with compactable material shall be considered for placement below the mean high tide only.
  - viii. Turbidity. The monitor shall observe and document the turbidity of coastal waters during all construction activities related to beach nourishment. The extent of turbidity plumes shall be recorded/mapped by the monitor. Monitoring of turbidity shall occur during and immediately after beach fill placement. In regards to beach nourishment activities, if the monitoring indicates that turbidity attributed to the project is not completely diminished immediately following construction (1- 2 days), then the rate of placement of sand will be modified so that large, long lasting turbidity plumes are no longer created. In such cases, construction methods shall be modified to reduce levels, by such means as: use of coarser beach nourishment material, avoidance of periods of high surf/high tides, and monitoring.
- B. The analysis shall include confirmation by the U.S. Army Corps of Engineers, the EPA, and State Water Resources Control Board/Regional Water Quality Control Board that the material proposed for beach replenishment meets the minimum criteria necessary for placement on the sandy beach.
- C. If sediment will be disposed of at Goleta Beach, the total amount of sediment/beach replenishment material deposited at Goleta Beach pursuant to this permit, in combination with any other sediment disposal/beach replenishment projects, shall not exceed a cumulative total of 200,000 cu. yds. of sediment/year. The applicant shall be responsible for coordinating with all other potential sediment disposal/beach replenishment projects at Goleta Beach. If material is placed at Goleta Beach as part of any other

beach replenishment project, then the applicant shall limit the amount of material placed at Goleta Beach pursuant to this permit to ensure that no more than 200,000 cu. yds. of material is deposited at Goleta Beach during any given year for the life of this project. The placement of additional quantities of material greater than 200,000 cu. yds. at Goleta Beach during any given year will require an amendment to this coastal development permit.

#### **4. Operations and Maintenance Responsibilities**

- A. It shall be the applicant's responsibility to assure that the following occurs concurrent with, and after completion of, all project operations:
- i. At the completion of sediment disposal operations, and a minimum of one month prior to Memorial Day in May, any sand deposited on the beach shall be graded to match natural beach contours to restore the shoreline habitat and to facilitate recreational use.
  - ii. If sand has been deposited on the beach, disturbance to beach wrack and coastal strand/southern foredune habitat shall be minimized to the maximum extent feasible. The applicant shall monitor for vertical scarping along the shorefront which may occur as waves rework the seaward edge of the replenishment project area. The applicant shall grade the beach to natural beach contours to avoid hazardous drop off conditions, consistent with the timing constraints listed in Special Condition 1.
  - iii. Staging areas shall be used only during active construction operations and shall not be used to store materials or equipment between operations.
  - iv. The applicant shall not store any construction materials or waste where it will be, or could potentially be, subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to implement the project.
  - v. Construction equipment shall not be cleaned on the beach or in the beach parking lots.
  - vi. Construction debris and sediment shall be properly contained and secured on site with best management practices (BMPs) to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain, or tracking.
  - vii. Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and

other debris which may be discharged into coastal waters. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours. Debris shall be disposed at a debris disposal site outside of the coastal zone or at a location within the coastal zone authorized to receive such material.

- viii. The applicant shall be responsible for removing all unsuitable material or debris within the area of placement should the material be found to be unsuitable for any reason, at any time, when unsuitable material/debris can reasonably be associated with the placement material. Debris shall be disposed at a debris disposal site outside of the coastal zone or at a location within the coastal zone authorized to receive such material.
- ix. All areas disturbed as a result of this project shall be planted and maintained for habitat restoration and erosion control purposes as soon as possible after disturbance has occurred. Disturbed areas within the streambed/channel may be planted and maintained with locally native seeds or plants endemic to riparian habitat areas.

## **5. Stockpile Sites**

- A. Permanent stockpiling of material at any of the stockpile sites subject to this permit shall not be allowed. The stockpile sites must be cleared and returned to their pre-construction condition with no remaining equipment, silt fencing, or construction equipment remaining on-site within one week of the end of each project.
- B. Stockpiled materials shall be located as far from stream areas on the designated site(s) as feasible and in no event shall materials be stockpiled less than 30 ft. in distance from the top edge of a stream bank.
- C. Temporary erosion control measures, such as sand bag barriers, silt fencing, and/or swales, shall be implemented for all stockpiled material. These temporary erosion control measures shall be required at the site(s) prior to or concurrent with the initial grading operations and shall be monitored and maintained until all stockpiled fill has been removed from the project site. Successful implementation of erosion control measures will ensure that the material is completely stabilized and held on site.

## **6. Herbicide Use**

Herbicides shall not be used within any portion of the stream channel as measured from toe of bank to toe of bank. Herbicide use in upland areas outside of the stream channel shall be restricted to the use of Glyphosate Aquamaster™ (previously Rodeo™) herbicide for the elimination of non-native and invasive vegetation for purposes of habitat restoration only. The environmental resource specialist shall conduct a survey of the project site each day prior to commencement of vegetation

removal and eradication activity involving the use of herbicide to determine whether any native vegetation is present. Native vegetation shall be clearly delineated on the project site with fencing or survey flags and protected. In the event that non-native or invasive vegetation to be removed or eradicated is located in close proximity to native riparian vegetation or surface water, the applicant shall either: (a) remove non-native or invasive vegetation by hand (*Arundo donax* shall be cut to a height of 6 inches or less, and the stumps painted with Glyphosate Roundup™ herbicide), or (b) utilize a plastic sheet/barrier to shield native vegetation or surface water from any potential overspray that may occur during use of herbicide. In no instance shall herbicide application occur if wind speeds on site are greater than 5 mph or 48 hours prior to predicted rain. In the event that rain does occur, herbicide application shall not resume again until 72 hours after rain.

## 7. Project Monitoring Responsibilities

PRIOR TO THE COMMENCEMENT OF WORK PURSUANT TO THIS PERMIT, the applicant shall retain the services of: (1) a qualified biologist or environmental resource specialist; (2) a qualified engineer, soil scientist, or resource specialist; and (3) a qualified archaeologist and appropriate Native American consultant, with appropriate qualifications acceptable to the Executive Director. All desilting, dredging and sediment disposal activities shall be carried out consistent with the following:

- A. Turbidity. The qualified biologist or environmental resources specialist shall monitor and document the turbidity of coastal waters during all project construction activities. The extent of turbidity plumes shall be recorded/mapped by the monitor. Monitoring of turbidity shall occur during and immediately after beach fill placement. If the monitoring of the beach fill project indicates that turbidity attributed to the replenishment project is not completely diminished immediately following construction (1-2 days), then the rate of placement of sand will be modified so that large, long lasting turbidity plumes are no longer created. In such cases, construction methods shall be modified to reduce levels, by such means as: use of coarser beach nourishment material, avoidance of periods of high surf/high tides, and monitoring.
- B. Grain Size & Debris: The qualified engineer, soil scientist, or resource specialist shall be present whenever sand is being placed on the beach or within the surfzone. The monitor shall, through grab samples, visual inspection, or other methods, ensure that the delivered material is within the acceptable size ranges for nourishment material. If the material is not sand or is not within the acceptable size range, the monitor shall halt the placement of sand on the beach or surfzone. The monitor shall also examine the material to determine presence of debris. If any debris or non-sand material is detected, deposition activities shall be halted. Deposition activities shall not continue until an updated analysis of the composition of the sand material is approved by the Executive Director.

Prior to resuming operations, all debris shall be removed to the maximum feasible extent.

- C. Archaeology. The qualified archaeologist and appropriate Native American consultant shall be present on-site during all desilting/dredging activities which occur within or adjacent to the archaeological sites in the project area. Specifically, the desilting/dredging operations on the project site shall be controlled and monitored by the archaeologist with the purpose of locating, recording and collecting any archaeological materials. In the event that any significant archaeological resources are discovered during operations, all work in this area shall be halted and an appropriate data recovery strategy be developed, subject to review and approval of the Executive Director, by the applicant's archaeologist and the native American consultant consistent with CEQA guidelines.
- D. Biology. The qualified biologist or environmental resources specialist shall conduct a survey of the project site, to determine presence and behavior of sensitive species, one day prior to commencement of any desilting, dredging, or disposal/beach nourishment operations. Prior to commencement of any development, the applicant shall submit the contact information of all monitors with a description of their duties and their on-site schedule. Prior to initiation of daily project activities, the resource specialist shall examine the project site to preclude impacts to sensitive species. Project activities including desilting, dredging, disposal/beach nourishment operations, or grading or grooming of the beach, shall not occur until any sensitive species (e.g., western snowy plovers, Belding's savannah sparrows, Steelhead trout, pond turtle, etc.) have left the project area or its vicinity. In the event that any sensitive wildlife species (including but not limited to western snowy plover, Belding's savannah sparrow, pond turtle, California grunion, steelhead trout) exhibit reproductive or nesting behavior, the environmental specialist shall require the applicant to cease work, and shall immediately notify the Executive Director and local resource agencies. Project activities shall resume only upon written approval of the Executive Director. The monitor(s) shall require the applicant to cease work should any breach in permit compliance occur or if any unforeseen sensitive habitat issues arise. The monitor(s) shall immediately notify the Executive Director of activities outside of the scope of this coastal development permit. If significant impacts or damage occur to sensitive wildlife species, the applicant shall be required to submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be processed as an amendment to this coastal development permit.
- E. The applicant shall submit an annual post-construction assessment summarizing the maintenance practices, timing of implementation, and

whether any sensitive species were observed and any measures were taken to avoid or mitigate disturbance.

- F. Proposed changes to the project may require a permit amendment or new permit. Any proposed changes to the approved program shall be reported to the Executive Director. No change to the program shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.

## **8. Public Access Program**

PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, a report which describes the methods (including signs, fencing, posting of security guards, etc.) by which safe public access to or around the beach deposition sites and/or staging areas shall be maintained during all project operations. Where public paths or bikeways shall be closed during active operations, a person(s) shall be on-site to detour traffic. The report shall include plans for staging and storage of equipment. Where use of public parking spaces is unavoidable, the minimum number of public parking spaces that are required for the staging of equipment, machinery and employee parking shall be used. The applicant shall post each construction site with a notice indicating the expected dates of construction and/or beach closures.

## **9. Required Approvals**

By acceptance of this permit, the applicant agrees to obtain all other necessary State or Federal permits that may be necessary for all aspects of the proposed project (including the NOAA/National Marine Fisheries Service, California Department of Fish and Wildlife, California State Lands Commission, Regional Water Quality Control Board, and the U.S. Army Corps of Engineers).

## **10. Assumption of Risk**

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from storm waves, surges, erosion, and flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement.

PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

#### **11. Development Authorization Period**

This coastal development permit authorizes implementation of the approved desilting and deposition activities only for a period of five (5) years from the date that Coastal Development Permit 4-19-1158 is approved by the Commission. After such time, the authorization for continuation of the development approved in this permit shall cease, unless re-authorized by the Commission pursuant to a new coastal development permit.

#### **12. Fish Passage Improvement Plan**

WITHIN 5 YEARS OF COMMISSION ACTION ON THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit a complete permit amendment application, or a complete application for a new coastal development permit (as part of re-authorization of the approved desilting and deposition activities), for the required fish passage improvement project at the Patterson Avenue bridge within Atascadero Creek. The application shall include, at a minimum, an evaluation of the proposed project and all feasible alternatives to better facilitate fish passage at the base of the Patterson Avenue bridge in a manner that is consistent with the approved southwestern pond turtle habitat enhancement plan and all other coastal resource protection policies of the Coastal Act. The application shall also include evidence of relevant resource agency approvals and an estimated timeline for project completion. The applicant shall pursue the application in good faith through Commission action and shall implement the approved permit.

### **IV. FINDINGS AND DECLARATIONS**

#### **A. Project Description and Background**

The proposed project by the Santa Barbara County Flood Control District (District) is for the implementation of an annual desilting program for a 1.4-mile long reach of Atascadero Creek for a term of 5 years. The proposed program includes dredging/removal of up to 30,000 cu. yds. of sediment on an as-needed basis and annual maintenance activities. Maintenance activities proposed within the streambed would involve discing in late fall and minor application of herbicide on cracks in the concrete-lined bank in spring/summer. The program also includes potential placement of suitable excavated material in the surfzone at Goleta Beach County Park. Excavated material unsuitable for beach disposal will be disposed of at either an appropriate location outside the Coastal Zone, or at a location within the Coastal Zone permitted to receive such fill.

The project site is a 1.4 mile long segment of Atascadero Creek beginning approximately 4,400 ft. upstream from the mouth of Goleta Slough at a point immediately south of the terminus of Ward Drive and extending upstream to a point immediately south of the terminus of Via Miguel Avenue ([Exhibits 1-3](#)). Public access is available along the entire length of the project site via an existing bicycle/pedestrian path located adjacent to Atascadero Creek.

The channel for Atascadero Creek is approximately 40-75 ft. in width as measured from toe of bank to toe of bank. The proposed project includes periodic desilting/dredging by the dragline method and maintenance of an approximately 35-40 ft. wide portion of the total channel. The purpose of the proposed desiltation program is to maintain the floodwater carrying capacity in Atascadero Creek to reduce the likelihood of flood damage to adjacent residential areas. In general, this portion of Atascadero Creek is an area of sediment deposition primarily because the gradient of the creek is substantially reduced in the project reach, which in turn, decreases the velocity of water and allows sediments to drop out. The annual removal of vegetation within in the maintained portion of the channel by discing removes channel obstructions and ensures that creek velocities are preserved. The remaining unmaintained portion of the channel (which is at a higher elevation than the maintained portion of the channel and is, therefore, only subject to streamflow during high-flow events) will remain as undisturbed area.

Atascadero Creek is designated as an environmentally sensitive habitat area (ESHA) by the Santa Barbara County Local Coastal Program. In addition, the entire creek channel on site is also identified as wetlands. A public bicycle/pedestrian trail is located adjacent to and north of the top bank of the creek. Two identified archaeological sites (SBA-45 and SBA-1588) are located within the project reach adjacent to areas where desilting and maintenance activities will occur.

### **Desilting/Dredging**

The desilting/dredging activities are proposed to be implemented on an as-necessary basis, whenever the channel becomes overly sedimented. Future dredging activities are expected to result in the removal of no more than 30,000 cu. yds. of material within the project reach per year. Desilting/dredging activities involve the use of a crane rigged with a clamshell bucket that is operated from the adjacent stream bank. All dredged material will be stockpiled in designated areas adjacent to the creek where it is allowed to dewater. Stockpiles will be set back a minimum of 30 ft. from the top edge of the stream bank. The sediment will be allowed to dewater for several weeks before it is hauled to a suitable disposal site. The District estimates desilting is typically necessary in the project reach every 5 to 10 years. However, the proposed desilting would occur on as-needed basis because high sediment laden flows can result in sedimentation of the creek that increases the potential flooding hazard to adjacent developed areas.

### **Annual Maintenance Activities**

The proposed project also includes annual maintenance activities involving: (1) discing of the channel in late fall and (2) mowing and/or herbicide application in the channel in spring/summer. Discing of the streambed is carried out using a bulldozer with a blade or

ripper attachment to uproot vegetation and loosen the top layers of soil. Approximately 50 cu.yds. of sediment within the channel is upturned and loosened by discing to facilitate downstream flushing of sediment during the rainy season. The vegetation and some sediment is then stacked along the toe of the north bank. Discing is proposed in order to remove all emerging vegetation in the channel prior to the rainy season (typically late October or November) when stream flow is minimal and the majority of the channel bottom is dry. The area that is disced annually is approximately 10 acres. This includes discing a 35-foot wide swath from the confluence of Hospital Creek to Patterson Avenue, and a 40-foot wide swath from Patterson Avenue to the check structure located in the vicinity of Ward Drive.

The proposed annual maintenance activities will also include the application of *Aquamaster*<sup>™</sup> (formerly *Rodeo*<sup>™</sup> or *Round-up*<sup>™</sup>) herbicide to all existing vegetation (both native and non-native) within the stream channel during spring/summer months. Individual plants and clumps of plants are sprayed with a hand-held spray wand. Only vegetative material is sprayed; herbicide is not applied to open water. Herbicide would be applied to both non-native and native wetland vegetation, specifically cattails (*Typha sp.*) and bulrush (*Scirpus sp.*). The purpose of the herbicide application is to prevent plant growth within the channel in order to minimize the effort required to later remove vegetation by discing in the fall prior to the rainy season. Vegetation growing within the streambed may also be mowed, if necessary, to further inhibit growth and facilitate the discing that takes place in the fall.

### **Southwestern Pond Turtle Habitat Enhancement and Fish Passage Improvements**

The proposed project also includes implementation of two components of the previously approved southwestern pond turtle habitat enhancement program (a turtle basking feature in the plunge pool and bank restoration) that have not yet been implemented due to delays in obtaining authorization from California Department of Fish and Wildlife (CDFW) and California's Central Coast Regional Water Quality Control Board (RWQCB). The District is in the process of applying to CDFW and RWQCB. The District anticipates receiving permit approval from both agencies soon and completing the basking feature and bank restoration during the 2020 maintenance season, between September and December 2020.

A third component of the previously approved southwestern pond turtle habitat enhancement program was a boulder weir structure that would function to elevate the grade of the creek by approximately 18 inches, but not eliminate the plunge pool, which is known to be occupied by southwestern pond turtles, and also provides good habitat for steelhead moving through the Atascadero Creek system. The originally proposed structure would be constructed of large rip-rap with keyed-in boulders grouted below grade with two outer arms pointing upstream into the flow at an angle of approximately 30 degrees to the banks. The intent of this design was to bring the water surface elevation in the existing pool up 18 inches, thus reducing the height of the jump over the existing impediment underneath the bridge to approximately 2 feet, and thus facilitating fish passage. Although originally approved pursuant to CDP 4-03-025, and included in

the subsequent project approvals for CDPs 4-09-068 and 4-14-1900, the boulder weir has not yet been constructed.

Throughout the process of receiving Commission approval of CDP 4-03-025 and the subsequent project CDP approvals, the District has been coordinating with the National Marine Fisheries Service (NMFS) because implementation of the weir would ultimately require separate permit approval from NMFS. Additionally, the District has been working with a local non-profit habitat restoration organization, South Coast Habitat Restoration (SCHR), on the design of the fish passage improvements. In coordination with NMFS and SCHR it was determined that due to the extremely flat stream gradient in this area of Atascadero Creek and the fine-grained substrate and sand within the watershed, the original proposed design would likely not increase the water surface elevation at the bridge. Instead, the boulder weir would effectively trap, and backfill, with the fine-grained materials and result in a creek check structure, reducing the size and depth of the pool located upstream at the bridge. Additionally, this would create a large height impediment at the base of the weir for fish migrating upstream. Because of these issues, NMFS determined that the proposed boulder weir would not benefit fish passage and would therefore not be eligible for a NMFS permit.

The District, NMFS, and SCHR are now in the process of planning an alternative design to improve fish passage that will likely consist of a series of baffles within the footprint of the Patterson Avenue Bridge as well as placement of engineered streambed material upstream and downstream of the bridge to create a slowly-flowing low point within the streambed ([Exhibit 4](#)). Collectively these measures are intended to facilitate fish passage within the area of the bridge by eliminating height obstructions and slowing the flow of water. While the District has provided a conceptual design plan for this fish passage improvement, the District and NMFS do not have a final design, analysis, or funding for construction of the improvements ready at this time for Commission authorization.

## **B. Past Commission Action**

The project site has been subject to past Commission action. Coastal Development Permit (CDP) 4-94-061 was previously approved by the Commission for the initial removal of 30,000 cu. yds. of sediment and vegetation from the subject portion of Atascadero Creek. A 35-40 ft. wide channel was deepened within Atascadero Creek. The permit also provided for annual maintenance activities including discing the streambed and channel in late fall to remove vegetation and the use of herbicide within stream channel in spring and summer. CDP 4-96-061 was approved pursuant to a number of special conditions to mitigate for the adverse effects to the wetland and riparian habitat on site. This included the acquisition and enhancement of 26 acres of existing riparian habitat and wetland areas located adjacent to a portion of the subject site. There were also special conditions relating to dredging monitoring reports, timing of dredging, and that the approval was for a limited duration of five years from the date of Commission action and would expire on November 16, 1999.

Additionally, CDP 4-00-205 was approved by the Commission for annual desilting and maintenance in the subject reach of Atascadero Creek and deposition of the excavated material at Goleta Beach for the purpose of beach nourishment, subject to seven special conditions regarding revegetation program, dredging program, project monitoring and responsibilities, limited duration and long-term solution alternatives, archaeological monitoring, required approvals, and assumption of risk. The CDP approved the flood control activities for the 2000/2001 winter storm season with the requirement that an evaluation of feasible alternatives be submitted as part of any future permit applications. Furthermore, CDP 4-00-205 specified that herbicides and non-native plants shall not be used in the course of the flood control activities.

CDP 4-03-025 was approved by the Commission for annual desilting and maintenance activities in the subject reach of Atascadero Creek and deposition of the excavated material at Goleta Beach for the purpose of beach nourishment subject to nine special conditions regarding: timing of operations, a dredging program, project monitoring, archaeological resources and monitoring, required agency approvals, assumption of risk, waiver of liability and indemnity agreement, revised plans, permit expiration, and a southwestern pond turtle habitat enhancement and monitoring program. The components of the southwestern pond turtle habitat enhancement and monitoring program required by CDP 4-03-025 included enhancement of a pond feature ("long pond"), creation of a basking feature in the plunge pool immediately downstream of Patterson Avenue, bank restoration immediately downstream of the Patterson Avenue bridge along the north bank of the creek, and construction of a new ramp and a boulder weir. Enhancement of the "long pond" and riparian habitat restoration of approximately 3,500 sq. ft. of the south bank downstream of the bridge was completed by the District pursuant to that permit.

CDP 4-09-068 was approved by the Commission in 2010 for another 5 year authorization of the flood control project, with substantially similar required conditions of approval. However, since three components of the southwestern pond turtle habitat enhancement and monitoring program required by CDP 4-03-025 had not yet been implemented (basking feature in the plunge pool, bank restoration, and the boulder weir), CDP 4-09-068 required that those components be implemented within two years of permit authorization.

CDP 4-14-1900 was approved by the Commission in 2015 for another 5 year authorization of the flood control project, with substantially similar required conditions of approval. However, since the same three components of the Southwestern Pond Turtle Habitat Enhancement and Monitoring Plan (Enhancement Plan) required by CDP 4-03-025 and 4-09-068 had not yet been implemented, CDP 4-14-1900 required that those components be implemented within two years of permit authorization.

### **C. Environmentally Sensitive Habitat and Marine Resources**

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30236 of the Coastal Act states:

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30231 requires that the biological productivity and quality of coastal waters be maintained. Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. Section 30236 allows for

alterations to streams when required for flood control projects where no other less damaging alternative is feasible and when necessary to protect public safety or existing development. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas (ESHA) shall be protected and that development within or adjacent to such areas must be designed to prevent impacts which could degrade those resources.

The proposed project and annual maintenance activities will result in significant disturbance to existing riparian habitat and wetland areas on site. The proposed discing of the streambed, which will occur each fall, consists of the operation of a bulldozer with a blade or ripper attachment which uproots all vegetation (native and non-native) within the stream channel and upturns and loosens the top 18-24 inches of soil. Approximately 50 cu. yds. of sediment within the channel is upturned and loosened by discing to facilitate downstream flushing of sediment during the rainy season. In addition, the proposed use of herbicide may result in the loss of native vegetation and potential adverse effects to water quality on site and to downstream Goleta Slough.

The subject site provides habitat for Steelhead trout, a federally listed endangered species. In addition, the subject reach of Atascadero Creek has been identified as providing habitat for several other species of special concern. In addition, a large number and variety of wildlife species occur within the subject area, including:

- Various riparian migrant birds that are of limited distribution, including the tree swallow and blue grosbeak, state listed rare species (and possibly the southwestern willow flycatcher, a state listed endangered species).
- Rare breeding birds such as yellow warbler, a CDFW "Species of Special Concern."
- Breeding habitat for the rare white-tailed kite at the nearby More Mesa grasslands (currently a wintering population).
- Habitat for resident populations of the southwestern pond turtle, a CDFW "Species of Special Concern" and federal candidate species.

The Environmental Impact Report (EIR) for the Atascadero Creek Maintenance project that is listed as a Substantive File Document in Appendix 1 of this report describes the habitat resources for avifauna:

Atascadero Creek supports a variety of riparian and wetland habitats despite its proximity to residential areas and routine channel maintenance activities over the past few decades. The riparian and wetland areas along the creek provide excellent habitat to a wide diversity of avifauna species. The majority of these species are migrants passing through in spring and fall, including many rare fall migrant birds...Atascadero Creek supports a variety of common riparian breeding birds such as northern rough-winged swallow, black-headed grosbeak, Hutton's vireo, common yellowthroat and song sparrow. The only sensitive species possibly

breeding within the project reach is yellow warbler; one to two males have summered here the last two years.

### **Sensitive Bird Species**

The project's EIR reports that several sensitive bird species occur along the project reach, including great blue heron, northern harrier, white-tailed kite, Cooper's hawk, sharp-shinned hawk, merlin, yellow-billed cuckoo, willow flycatcher, purple martin, tree swallow, loggerhead shrike, yellow warbler, least Bell's vireo, blue grosbeak, and Belding's savannah sparrow. To avoid potential project impacts to avian species during the breeding season (March 15 through August 31), **Special Condition One (1)** restricts flood control maintenance activities in and along Atascadero Creek, on an annual basis. Special Condition 1 allows maintenance activities to occur between September 15 and December 15 to avoid sensitive species timing constraints. However, to allow adequate flood control activities, target vegetation may be removed by hand tools or mowing in spring or summer as proposed.

The Commission notes that the proposed project may result in potential adverse effects to surrounding habitat due to unintentional disturbance from construction equipment and desilting activity. Therefore, to ensure that all recommendations of the EIR are properly implemented, and to ensure that any potential adverse effects to sensitive riparian habitat and wetlands are minimized, **Special Condition Seven (7)** requires that a qualified environmental resource specialist conduct a survey of the project site each day prior to commencement of any excavation/dredging, or maintenance activity (including discing and mowing), to determine whether any sensitive wildlife species are present. In the event that any sensitive wildlife species are present on the project site, the environmental resource specialist shall either: (1) initiate a salvage and relocation program prior to any excavation/maintenance activities to move sensitive species and significant wildlife features (such as southwestern pond turtles, breeding bird nests, etc.) by hand to safe locations elsewhere along the project reach or as appropriate, and (2) implement a resource avoidance program with sufficient buffer areas to ensure adverse effects to such resources are avoided. The monitor shall have the authority to require the District to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. If significant impacts or damage occur to the beach, slough, or marine environment on site beyond the scope of work allowed for by this permit, the District shall be required to submit a revised, or supplemental, restoration program to adequately mitigate such impacts. The revised, or supplemental, restoration program shall be processed as an amendment to this coastal development permit.

Furthermore, the project includes access ramps for equipment which requires cutting back the riparian vegetation to reach the stream and also includes bank restoration near the Patterson Avenue Bridge. **Special Condition Four (4)** requires all areas of the subject site disturbed as a result of this project to be planted and maintained for habitat restoration and erosion control purposes as soon as possible after disturbance has occurred. **Special Condition Four (4)** also provides that disturbed areas within the

streambed/channel may be planted and maintained with locally native seeds or plants endemic to riparian habitat areas.

### Herbicide Use

As mentioned above, the proposed annual maintenance activities include the application of *Aquamaster*<sup>™</sup> (formerly Rodeo<sup>™</sup> or Round-up<sup>™</sup>) to existing vegetation within the dry portions of Atascadero Creek streambed during spring/summer months. The active ingredient in *Aquamaster*<sup>™</sup> is glyphosate. *Aquamaster*<sup>™</sup> is applied with a surfactant to enhance its effectiveness by spreading and retaining the herbicide on plant surfaces, and by promoting absorption. Surfactants are blends of petroleum-based oils that reduce surface tension on the leaf surface. The surfactant used by the District would be LI-700.

Herbicide would be applied to both non-native and native wetland vegetation. Individual plants and clumps of plants are sprayed with a hand-held spray wand. Only vegetative material is sprayed; herbicide is not applied to open water. Herbicide would be applied to both non-native and native wetland vegetation, specifically cattail (*Typha* sp.) and bulrush (*Scirpus* sp.). The purpose of the herbicide application is to prevent plant growth within the channel in order to minimize the effort required to later remove vegetation by discing in the fall prior to the rainy season. Glyphosate herbicide is currently registered by the United States Environmental Protection Agency (EPA) as a non-selective herbicide of relatively low toxicity suitable for use in wetland and riparian areas. The Glyphosate Environmental Assessment Report by the EPA dated September 1993 states:

Glyphosate is of relatively low oral and dermal acute toxicity. It has been placed in Toxicity Category III for these effects (Toxicity Category I indicates the highest degree of acute toxicity, and Category IV the lowest)...Based on current data, EPA, has determined that the effects of glyphosate on birds, mammals, fish, and invertebrates are minimal....Glyphosate adsorbs strongly to soil and is not expected to move vertically below the six inch soil layer...Glyphosate is readily degraded by soil microbes...However, glyphosate does have the potential to contaminate surface waters due to its aquatic use patterns...If glyphosate reached surface water, it would not be broken down readily by water or sunlight.

The District asserts that “it is impossible to ignore the fact that using herbicide to control silt trapping vegetation in Atascadero Creek is the far superior alternative with negligible impacts to the most sensitive aquatic wildlife (salmonids)” (Santa Barbara County Flood Control, correspondence dated February 17, 2004). The District maintains that without the application of herbicide, achieving the same results by mowing or hand crews would cost significantly more money and time. In order to accomplish this task, it takes two crew members with backpack sprayers approximately one day on foot applying herbicide. Although the District estimates that it would take approximately the same amount of time to mow the vegetation instead of spraying herbicide, it would likely require at least one additional operation because the plants would begin to grow back immediately, doubling the amount of time.

The District prepared a Routine Maintenance Program EIR (November 2001) for Flood Control practices throughout Santa Barbara County. The EIR reports the following regarding Glyphosate:

1. Since glyphosate is a non-selective herbicide capable of controlling a variety of species of plant life, it can impact plants that are considered to be rare or of regional significance. Non-target plants located in and around flowing channels subject to Aquamaster TM treatment would be especially vulnerable.
2. Glyphosate application can result in ecological upset for avian species that have considerable interaction with creek channel environments.
3. A low potential exists for bioconcentration of glyphosate in aquatic organisms.

...

12. Non-target plants outside the intended spray area may also be affected due to herbicide drift from aerial application.

The Routine Maintenance Program EIR (November 2001) further states:

The primary water quality impact is the potential for elevated levels of herbicide (and its active ingredient, glyphosate) in the water of a drainage. Herbicides can only be introduced to the drainage water by three mechanisms: (1) overspray that deposits herbicide directly into open water; (2) overspray that deposits herbicide on dry substrates where it may be dissolved by flowing water at a later time; and herbicide dripping from a plant leaf onto water below due to excessive application.

In addition, the Final Supplement to Environmental Impact Report (94-EIR-1) by URS Corporation dated September 2000 for the project indicates that the "slightly toxic" threshold for Glyphosate herbicide requires concentrations in water between 10 and 100 mg/L for rainbow trout and oyster larvae. Acute toxicity in trout was only observed with 96-hour dosages of over 1,000 mg/L. The Supplemental EIR also indicates that there is only a very low potential for the compound to build up in the tissues of aquatic invertebrates or other aquatic organisms. The half-life of Glyphosate herbicide in water varies from 35 to 65 days. The District has sampled water in the creek within the subject reach of Atascadero Creek to determine the concentration of Glyphosate herbicide after spraying had occurred. Results are shown below in Table 1:

Table 1

Concentrations of Herbicide in Atascadero Creek after Spraying (mg/L)<sup>1</sup>

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<sup>1</sup> From the Final Supplement to Environmental Impact Report (94-EIR-1) by URS Corporation dated September 2000

Location	August 14, 1995	March 27, 1996
Confluence with Hospital Creek	38	0.42
Near Via Miguel St.	1.9	30
Upstream of Patterson Ave.	14	No Data
Downstream of Patterson Ave.	23	No Data

The Final Supplement to Environmental Impact Report (94-EIR-1) by URS Corporation dated September 2000 asserts that the above data indicates that the proposed use of herbicide will have no significant adverse effects to fish and wildlife within Atascadero Creek because the results indicate levels of herbicide within the creek at “slightly toxic” levels or lower only. The Supplemental EIR states:

These data indicate that maximum concentrations of Rodeo™ in the surface waters of the creek are below the EPA thresholds for aquatic invertebrates and fish under prolonged exposure (i.e., 48 hours or more), and significant below acute toxicity thresholds. Rodeo™ concentrations at greater distances from the application site would be much lower because of dilution, and because the herbicide will adsorb onto sediment particles in the creek bottom and suspended in the water.

Additionally, the District has submitted a water quality testing summary which provides results from a previous application of Glyphosate herbicide (1% solution) on Atascadero Creek. A pre-test was conducted to determine if there was any glyphosate present in the system prior to spraying. After the spraying occurred, the District measured glyphosate concentrations: (a) 1-2 hours after application; (b) the morning following application; and (c) several weeks later. All pre-testing was non-detectable for glyphosate. The results for the 1-2 hour sampling indicated a low of .026 mg/l and a maximum of 2.0 mg/l within the sprayed area. The results for the following morning detected glyphosate concentrations between .016 mg/l and .095 mg/l within the sprayed area. Glyphosate was not detected within the sprayed area several weeks later. The results for downstream monitoring were all non-detect except for concentrations measured at Patterson Avenue Bridge the following morning at concentration of .051 mg/l. Based on this information, the District considers the impact of herbicide spraying to be minimal to habitat and wildlife since residual levels are negligible to LC50 for the rainbow trout (>1,000 mg/l for glyphosate for 96-hour exposure), the levels are generally below safe drinking water standards even at the 1-2 hour testing period, and break down completely in subsequent weeks.

Correspondence with the County Flood Control (February 17, 2004) states:

One acre-foot (af) of water equals 326,700 gallons. If a 1% solution of glyphosate [Aquamaster™] and LI-700 [surfactant] is applied over 1 af of water and none of it is taken up by plants or adheres to soil particles (the typical fate of glyphosate until it breaks down), then the residual concentration of glyphosate is 1.6 mg/l and for LI-

700 it is 2.4 mg/l. Typical depths when herbicide is applied in Atascadero Creek are closer to 0.1'. Therefore, maximum concentrations of glyphosate and LI-700 are 16 mg/l and 24 mg/l respectively. Considering the facts that most of the herbicide is taken up by plants, salmonids cannot live in 0.1' of water, and it is impossible to maintain these concentrations for 96 hours without constantly adding herbicide, potential impacts to salmonids are negligible. Furthermore, water quality samples taken in Atascadero Creek and others after herbicide applications frequently indicate residual levels well below safe drinking water standards (0.7 mg/l for glyphosate) let alone LC50s for salmonids.

In previous permit actions, the Commission has allowed for the use of Glyphosate herbicide (*Aquamaster*<sup>™</sup>) within sensitive wetland and riparian when it was found that use of an herbicide was necessary for habitat restoration and that there were no feasible alternatives that would result in fewer adverse effects to the habitat value of the site. However, the Commission notes Glyphosate herbicide, although determined by the EPA to be low in toxicity, is still toxic and will still result in some adverse effects to wildlife when used in sensitive habitat areas such as the subject site. Even if it is assumed that the above data can be extrapolated to encompass applications of herbicides in all subsequent years, it appears that in at least one case (Patterson Avenue Bridge) the herbicide did migrate downstream, and although levels are considered relatively low and breakdown over time, they are still present on a temporary basis within the environmentally sensitive habitat and wetland area of Atascadero Creek. Additionally, there is direct impact (loss of non-target vegetation) to surrounding habitat from overspray.

In the case of the proposed project, Glyphosate herbicide (*Aquamaster*<sup>™</sup>) is only proposed for use during spring and early summer when stream flow is minimal. The District has indicated that the herbicide is only applied to patches of vegetation (primarily emergent willows and cattails) located within dry portions of the creek channel where no flow activity is present. The purpose of the herbicide spraying is to decrease the amount of vegetation present in the channel that will need to be removed the following fall during the annual discing activity.

The Commission notes that some level of flood control maintenance is necessary within the subject reach of Atascadero Creek. In addition, the Commission notes that alteration of streambeds, as proposed by this project, is consistent with Section 30236 of the Coastal Act when required for flood control projects and when necessary to protect public safety or existing development. However, the Commission further notes that Section 30236 also requires that such projects shall incorporate the best mitigation measures feasible. In addition, Section 30240 of the Coastal Act requires that all development within environmentally sensitive habitat areas must be carried out in a manner designed to minimize or prevent potential adverse effects to those resources. As such, the Commission notes that flood control activities on the subject site should be carried out in the least environmentally damaging manner. In this case, alternatives may exist to the proposed annual maintenance activities which would reduce adverse effects to wetland and riparian habitat on site, such as mechanical or hand removal of

vegetation (or mowing and cutting of vegetation) within the stream channel instead of utilizing herbicide in the same area.

Staff notes that there is a certain amount of overspray that will result from the application of the herbicide that cannot be avoided even with the proper application. There is a potential for the herbicide to be introduced to the aquatic environment and there is a potential for other non-targeted vegetation to receive overspray. Given that this is designated environmentally sensitive wetland habitat and that other methods of removal may be implemented, the Commission requires **Special Conditions Six (6)** and **Seven (7)** to minimize adverse effects to habitat from the implementation of the annual flood activities. **Special Condition Six (6)** restricts the application of herbicide within any portion of the stream channel as measured from toe of bank to toe of bank. Herbicide use in upland areas outside of the stream channel shall be restricted to the use of Glyphosate (Roundup™) herbicide for the elimination of non-native and invasive vegetation for purposes of habitat restoration only, and conducted according to the specified guidelines as described in **Special Condition Six (6)**. Native vegetation shall be clearly delineated on the project site with fencing or survey flags and protected.

### **Steelhead**

In August 1997, the National Marine Fisheries Service (NMFS) designated populations of the southern steelhead (*Oncorhynchus mykiss*) along the coast of Santa Barbara (within the South-Central Evolutionary Significant Unit) as endangered. The subject site also provides habitat for Steelhead trout. Southern steelhead trout are anadromous (migrating from freshwater to the ocean as juveniles and returning to freshwater as an adult to spawn). Spawning occurs from December through June when higher winter stream flows occur. Individual steelhead have been observed in Atascadero Creek and in Maria Ygnacio Creek (an upstream tributary of Atascadero Creek which converges within the project reach). As such, steelhead may potentially be present within the subject reach of Atascadero Creek as the steelhead migrate upstream in search of spawning habitat. Adults typically migrate upstream during the period of December through March, while juveniles typically travel downstream between February through May. The proposed dredging or discing activity within the subject reach of Atascadero Creek during identified seasonal migratory periods may result in potential adverse effects to steelhead. The Final Supplement to Environmental Impact Report (94-EIR-1) by Santa Barbara County Flood Control District and URS Corporation dated September 2000 states:

The current maintenance program includes only two physical disturbances to the creek bed that could directly affect any fish or aquatic organisms in the creek: annual discing and periodic channel desilting. Both activities occur in October or November when the channel is mostly devoid of water, and steelhead are not migrating. Hence, there would be no direct effect on steelhead from these activities.

As noted above, the proposed project may result in adverse effects to steelhead (a federally listed endangered species) if the proposed desilting or maintenance activities occur while steelhead are migrating. Therefore, **Special Condition One (1)** requires

that all project operations, with the exception of hand clearing and mowing of target emergent vegetation, occur only during the period between September 15 and December 15, to avoid sensitive species timing constraints. This timing will ensure that project activities do not occur between December 15 and June 30 when high winter stream flows occur, to avoid adverse effects to steelhead trout.

In addition, to further mitigate adverse effects to fish populations within Atascadero Creek from the proposed project, the District provided an analysis of the feasibility of removing or modifying all existing grade stabilizer "check" structures within Atascadero Creek to better facilitate passage, as part of the alternatives analysis required by Special Condition 4 of CDP 4-00-205. Two existing grouted rock rip-rap and concrete "check" structures or grade stabilizers are located within Atascadero Creek south of Ward Drive (near the western terminus of the project reach) and at the base of the Patterson Avenue Bridge. These structures extend across the entire width of the active stream channel (ranging in height from 6 inches to 6 feet) and present obstacles (although not impassable barriers during high-flow events) to fish movement up and downstream. The District has indicated that the date of construction of the structures is unknown but that they have existed on site prior to the passage of the Coastal Act.

Based on discussions with NMFS staff, the District concluded that the only grade control structure within the project boundaries that poses an impediment to fish is located at the Patterson Avenue Bridge. "The check structure located near the end of Ward Drive does not pose an impediment to fish under most flow conditions and does not need to be considered for modification according to Mr. Stan Glowacki of the NMFS" (Alternatives Analysis dated February 2003).

The Patterson Avenue Bridge abutments and concrete apron within the creek invert essentially act as a grade control structure at the confluence of Maria Ygnacio and Atascadero Creek. However, downcutting immediately downstream of the bridge has created a large pool (50' x 40' and approximately 7' deep) and associated fish impediment, rather than a barrier. The District met with Stan Glowacki to discuss possible modifications to eliminate this impediment and make this structure passable under most flow conditions.

In order to bring the grade of the creek up approximately 18 inches but not eliminate the pool, which is currently occupied by at least one southwestern pond turtle and can also provide good habitat for steelhead moving through the system, the District originally proposed to install a rock weir structure approximately 100 feet downstream from the bridge. The structure would have been constructed of large rip-rap with keyed-in boulders grouted below grade and two outer arms pointing upstream into the flow at an angle of approximately 30 degrees to the banks. The center of the structure would have been perpendicular of the flow and occupy approximately 18 inches above grade to bring the water surface elevation in the existing pool up 18 inches, thus reducing the jump over the existing impediment to approximately 2 feet.

The NMFS generally recommends an 18-inch jump height for adults and 6-inch jump height for juveniles. Though not considered an outright barrier to fish passage, the

Patterson Avenue Bridge is considered a substantial impediment to fish passage because on average it represents approximately a 4-foot jump height. Technically, the Patterson Avenue Bridge is considered “take” of this species. According to NMFS staff, the originally proposed rock weir required hydraulic analysis evaluated by NMFS specialists to ensure that the pond would not be adversely affected, while also bringing the water elevation up 18 inches.

As a result of hydraulic analysis in coordination with NMFS, it was determined that due to the extremely flat stream gradient in this area of Atascadero Creek and the fine-grained substrate and sand within the watershed, the boulder weir design would likely not increase the water surface elevation at the bridge. Instead, the proposed weir would effectively trap, and backfill, with the fine-grained materials and result in a creek check structure, reducing the size and depth of the pool located upstream at the bridge and create a large height impediment at the base of the weir for fish migrating upstream. Because of these issues, NMFS determined that the proposed boulder weir would not benefit fish passage and would not be eligible for a NMFS permit.

The District has been working with NMFS and with a local non-profit habitat restoration organization, South Coast Habitat Restoration (SCHR), on redesigning the fish passage enhancement project in the area below the Patterson Avenue bridge. The District has provided preliminary plans illustrating that the design will likely consist of a series of baffles within the footprint of the Patterson Avenue Bridge as well as placement of engineered streambed material upstream and downstream of the bridge to create a slowly-flowing low point within the streambed ([Exhibit 4](#)). Collectively these measures are intended to help facilitate fish passage within the area of the bridge by eliminating height obstructions and also slowing the flow of water.

Previous CDPs for the project included the boulder weir as part of the requirements of **Special Condition Two (2)** (Southwestern Pond Turtle Habitat Enhancement and Protection Plan) because construction and function of the weir are intrinsically tied to the function of the plunge pool, southwestern pond turtle basking features, and habitat located in the project area. However, at this time the District and NMFS do not have a final design for the fish passage improvements nor the necessary studies for construction of the improvements that would need to be analyzed for these improvements to be approved as part of the Commission’s review of this CDP. Additionally, the District has indicated that funding for the fish passage improvements is currently unavailable and it is uncertain when there will be sufficient funding in the future to implement this component of the project. In order to ensure that adverse effects to fish populations as a result of the project are adequately mitigated and to ensure that the fish passage improvements are adequately analyzed, permitted, and ultimately implemented in a timely manner, while not delaying the necessary flood control work authorized by this CDP, the Commission finds **Special Condition Twelve (12)** is necessary to require the District to submit a complete permit amendment application or a complete application for a new CDP for the required fish passage improvements within 5 years of the date of Commission action on this CDP. **Special Condition 12** will allow the District time to finalize the design of the improvements and allow the Commission to thoroughly review the final design and ensure that construction and

function of the passage will avoid or minimize impacts to coastal resources in the area, consistent with the approved Southwestern Pond Turtle Enhancement Plan of **Special Condition Two (2)** and the mandates of Coastal Act Sections 30231, 30236 and 30240 that require permitted substantial alterations of rivers and streams to incorporate the best mitigation measures feasible and maintain the biological productivity and quality of coastal waters.

### **Southwestern Pond Turtle**

The southwestern pond turtle is classified as a Species of Special Concern by the California Department of Fish and Wildlife, and previously classified as a Category 2 species by the U.S. Fish & Wildlife Service. Southwestern pond turtle have been observed within the project reach. Habitat requirements for adults include permanent freshwater lakes, ponds, and low-flowing streams, rivers, and irrigation ditches. These water sources must be fairly deep, support adequate growths of aquatic vegetation, as well as a diverse invertebrate fauna, and possess suitable protected basking sites (rocks, ledges, logs, etc.). Breeding habits are poorly known.

Southwestern pond turtles were observed during biological surveys in the project reach in ponds located between Turnpike Road and Patterson Avenue. Informally, five fairly persistent ponds which may support southwestern pond turtle occur along the project reach. Based upon field surveys conducted by the District, the southwestern pond turtle occurs in very limited numbers along the creek due to poor quality habitat. Several turtles were observed at the “elbow” of the concrete lined channel near the dead end of Via Miguel, and a single southwestern pond turtle has been observed downstream of the Patterson Avenue Bridge.

There is every indication that the population of pond turtles in this area is very small. Even so, it should be noted that the seasonal timing of the pre-construction biological surveys were not optimal for observing turtles, but were conducted to ensure that southwestern pond turtles were not in the project reach prior to invasive flood control activities. In general, pond turtle activity is greatly reduced by early fall and most individuals would be expected to have left the stream channel in favor of upland winter retreats by this time. Channel maintenance is intentionally timed to coincide with this period of inactivity, in order to reduce the potential for incidental mortality.

The 1994 Project EIR states that the project would result in several potentially significant impacts to biological resources: (1) including temporary and permanent loss of several riparian/wetland habitat types; (2) potential reduction in the amount and quality of habitat for aquatic organisms, breeding or migrating birds, and pond turtles; (3) potential direct mortality to pond turtles; (4) potential sedimentation impacts affecting downstream species in Goleta Slough; and (5) enhancement of riparian and wetland habitats at the mitigation areas. The 1994 EIR lists the “clearing of emergent wetlands from the channel bottom on an annual basis would remove habitat for the southwestern pond turtle, and possibly cause mortality” as an avoidable significant impact of the project. There is a clear nexus between the ongoing flood control maintenance activities and the additional degradation of the habitat due to modification and additional

trespass. Without the project activities, Atascadero Creek would be a densely vegetated area which would hinder trespass by humans and animals.

As part of the Commission's approval of CDP 4-94-061 in 1994, the project included the creation and restoration of approximately 26 acres of upland and wetland habitats at three mitigation sites adjacent to the project reach to compensate for the loss of habitat in the Atascadero Creek channel: 14.57 acres of riparian woodland to be established on the vacant land between the creek and bike path; 11.04 acres of emergent and forested wetlands to be established and/or protected on a parcel adjacent to the creek that was purchased by the District; and 2.23 acres of emergent and forested wetlands to be established on existing District owned property adjacent to the project reach. This restoration was intended to offset the impacts of the channel clearance and provide long-term protection to habitats subject to modification and disturbance.

This restoration was completed in phases over four years: commencing in 1994 with the excavation of emergent wetland basins and continued planting of the wetland and riparian woodland through 1997. This restoration has been successfully implemented in accordance with the performance criteria as provided in the annual monitoring reports, 1995-1999. However, this mitigation was not intended to address the impacts to southwestern pond turtle. The 1994 Project EIR specifically states:

Removal of emergent wetlands from the channel bottom on an annual basis would directly affect the southwestern pond turtle because it would remove known turtle habitat and food supply. Suitable aquatic and emergent wetland habitat for the turtle would not be created at the mitigation sites.

The District has indicated that the above-mentioned restoration project is intended to fully mitigate all past, present, and future impacts associated with the project. Though the restoration project was successful, Commission staff does not find that the impact to the southwestern pond turtle has been fully mitigated. CDP 4-94-061 was approved pursuant to five special conditions, including Special Condition Two which specifically stated that the Commission's approval of the proposed project was for a limited duration of five years from the date of Commission action. The findings of CDP 4-94-061 state:

The project also has the potential to adversely affect sensitive species such as the Southwestern Pond Turtle. The County has proposed to survey the areas to be dredged or cleared prior to undertaking these activities to locate and temporarily relocate any turtles until the channel clearing has been completed. To ensure that these and other mitigation measures adequately protect sensitive species, it is necessary to limit the time of the permit and to monitor the effectiveness of the mitigation measures. Accordingly, this permit is conditioned to limit the permit to no more than five years, and to require annual monitoring of the channel clearing activities.

It is important to note that the proposed activities are annual and ongoing. Past Commission action does not support the idea that uncertain future impacts are mitigated

by one-time habitat restoration projects if specific measures within the project area itself (in this case Atascadero Creek) could be taken to mitigate the impacts of the project.

Current mitigation includes avoidance of activities within 50 feet of the ponds and pre-construction surveys to determine presence and subsequent action to temporarily relocate turtles. To mitigate potential impacts to resident turtles that might result from dredging and clearing operations a "Southwestern Pond Turtle Salvage and Reintroduction Plan" (Collins and Storrer 1994) was developed. Following this protocol, prior to construction, an attempt would be made to capture any individuals sighted, per the approved salvage and reintroduction plan. These specimens would be temporarily held in captivity, then released near their point of capture following completion of channel maintenance operations.

Therefore, in order to ensure that the potential disturbance from construction equipment and desilting activity on pond turtles is minimized consistent with the mandates of Section 30230 that marine resources shall be maintained to sustain healthy populations of species, and to ensure that all recommendations of the environmental consultant are properly implemented, **Special Condition Seven (7)** requires that a qualified environmental resource specialist to conduct a survey of the project site each day prior to commencement of any excavation/dredging, or maintenance activity (including discing and mowing), to determine whether any sensitive wildlife species are present. In the event that any sensitive wildlife species are present on the project site, the environmental resource specialist shall either: (1) initiate a salvage and relocation program prior to any excavation/maintenance activities to move sensitive species and significant wildlife features (such as southwestern pond turtles, breeding bird nests, etc.) by hand to safe locations elsewhere along the project reach or (2) as appropriate, implement a resource avoidance program with sufficient buffer areas to ensure adverse effects to such resources are avoided. The monitor shall have the authority to require the District to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. If significant impacts or damage occur to the beach, slough, or marine environment on site beyond the scope of work allowed for by this permit, the District shall be required to submit a revised, or supplemental, restoration program to adequately mitigate such impacts. The revised, or supplemental, restoration program shall be processed as an amendment to this coastal development permit.

As a component of the Southwestern Turtle Enhancement project, approved prior to issuance of CDP 4-03-025, the District modified a portion of the Atascadero Creek restoration site to create a perennial, protected pond habitat area. A benefit of this setup is its proximity to the south bank of Atascadero Creek which may provide potential nesting habitat. Additionally, there is opportunity to protect the known pond turtle habitat at the Patterson bridge, including the relocation of the existing access ramp for flood control equipment further downstream and the planting of a vegetative barrier to discourage further trespass into these areas.

Since three components of the Southwestern Pond Turtle Habitat Enhancement and Monitoring Program (Enhancement Plan) required by CDP 4-03-025 had not been

implemented (basking feature in the plunge pool, bank restoration, and the boulder weir), CDPs 4-09-068 and 4-14-1900 required that those components be implemented within two years of permit authorization. However, those three remaining components of the Enhancement Plan still have not been implemented by the District. The District had been ready to place the basking feature in early 2020 under CDP 4-14-1900, but discovered that none of the components of the approved Enhancement Plan were included in its California Department of Fish and Wildlife (CDFW) permit approval. As such, the District will need to amend the existing CDFW permit or apply for a new permit, to include the components of the Enhancement Plan. Additionally, the District indicated that it will likely need to amend the RWQCB permit as well to include the components of the Enhancement Plan. As part of the subject permit application, the District has indicated that they are in the process of obtaining approvals of the basking feature and bank restoration components of the project and expect to begin implementation between September and December 2020 assuming the subject CDP is approved by the Commission to complete this work. As discussed above, the boulder weir is no longer being considered.

To avoid significant disruption of the habitat values of the pond turtle habitat as required by Section 30240 of the Coastal Act, **Special Condition Two (2)** requires an updated Southwestern Pond Turtle Habitat Enhancement and Monitoring Program, prepared by a qualified biologist or environmental resource specialist with qualifications acceptable to the Executive Director. It shall include a timeline for completion of the two components of the habitat enhancement and monitoring plan previously approved as part of the Southwestern Turtle Enhancement Program under prior CDP's, but not yet implemented, the plunge pool basking feature and bank restoration. **Special Condition Two (2)** of this permit requires the Enhancement Program to be completed within two years of the Executive Director's approval of the updated Enhancement Program under this CDP. The Executive Director may grant additional time for good cause.

**Special Condition Two (2)** also requires the habitat enhancement to be monitored by the District for five years, and shall preclude the planting of non-native species within the enhancement areas. The District is required to submit, on an annual basis for a period of five years, a written report prepared by a qualified resource specialist, evaluating the extent of the success or failure of the enhancement project. At the end of the five-year period, a final detailed report shall be submitted for the review and approval of the Executive Director. If the report indicates that any portion of the project standards are not met, the report shall provide recommendations to compensate for those portions of the original program which were not successful. The District shall be responsible for implementing additional remedial actions and provide continued monitoring as the Executive Director may determine necessary to ensure compliance.

**Special Condition Two (2)** further provides that if a qualified academic group or nonprofit agency, with qualifications acceptable to the Executive Director, proposes a southwestern pond turtle recovery project, the District shall make the enhancement pond areas available for such purposes. The recovery program would be subject to Executive Director approval and may require a separate coastal development permit.

In addition to the above requirements, **Special Condition Two (2)** provides that the District should encourage the construction of a new pedestrian bridge over Atascadero Creek in the vicinity of the existing Atascadero Creek restoration site. The purpose of the bridge is to provide adequate access to adjacent recreation trails thereby reducing existing patterns of pedestrian trespass through the sensitive creek habitat. An appropriate bridge design would span the creek and would be located as far as feasible from the existing pond.

As noted above, the proposed project may result in adverse effects to southwestern pond turtles if the proposed desilting activities or maintenance activities occur in and along Atascadero Creek in the project area before the southwestern pond turtles have left the area to migrate to upland retreats for the winter. Therefore, the Commission requires **Special Condition One (1)** which requires that all project operations, with the exception of hand clearing and mowing of target emergent vegetation, occur only during the period between October 1 and December 15, to avoid sensitive species timing constraints. **Special Condition One (1)** specifically provides the proposed practice to prohibit flood control activities within 50 feet of any ponding/pools along Atascadero Creek, year around. From 50 feet to 100 feet from the ponding/pools, activities shall be conducted with hand tools only. Equipment may not be driven within 50 feet of the ponds.

### **Beach and Intertidal Habitat**

The Commission finds that the proposed project is necessary in order to prevent flooding of existing development. In addition, the Commission finds that alteration of streambeds, as proposed by this project, is consistent with Section 30236 of the Coastal Act which allows for flood control projects to protect public safety or existing development when adverse effects have been mitigated to the maximum extent feasible. In this case, the Commission notes that the proposed flood control project may result in some potential adverse effects to surrounding habitat due to unintentional disturbance from construction equipment and dredging activity. Therefore, to ensure that any potential adverse effects to sensitive riparian habitat, wetlands, and beach environment are minimized during actual dredging activities, **Special Condition Seven (7)** requires that a qualified biologist or environmental resource specialist shall conduct a survey of the project site each day prior to commencement of any desilting/dredging or beach disposal activities to determine whether any sensitive wildlife species are present. In the event that any sensitive wildlife species (including but not limited to western snowy plover, Belding's savannah sparrow, California grunion, steelhead trout) are present on the project site and exhibit reproductive or nesting behavior, the environmental specialist shall require the District to cease work, and shall immediately notify the Executive Director and local resource agencies. Project activities shall resume only upon written approval of the Executive Director. The monitor(s) shall require the District to cease work should any breach in permit compliance occur or if any unforeseen sensitive habitat issues arise. The monitor(s) shall immediately notify the Executive Director of activities outside of the scope of this coastal development permit. If significant impacts or damage occur to sensitive wildlife species, the District shall be required to submit a revised, or supplemental program to adequately mitigate such

impacts. The revised, or supplemental, program shall be processed as an amendment to this coastal development permit.

In addition, the Commission notes that the sandy beach at Goleta Beach has been identified as a potential grunion spawning location. Sediment disposal/beach nourishment activities are not proposed to occur within the seasonally predicted run period and egg incubation period of the California grunion. However, the Commission notes that any potential disposal of large quantities of sediment into the surf zone may result in adverse effects to grunion due to direct disturbance by construction activity and use of heavy equipment on the sandy beach, as well as indirect impacts from smothering of eggs previously deposited on the sandy beach. Therefore, to ensure that any potential adverse effects to grunion are avoided, **Special Conditions One (1) and Seven (7)** prohibit any sediment disposal/beach nourishment activities from occurring on any part of the beach and shorefront in the project area when California grunion (of any life stage, including eggs) are present during any run periods and corresponding egg incubation periods. Further, to ensure that adverse impacts to the above referenced sensitive species are avoided, **Special Condition Seven (7)** also requires a qualified biological monitor to be present during all project activities. The monitor shall have the authority to cease operations should any breach in permit compliance occur or if any unforeseen sensitive habitat issues arise. If significant impacts or damage occur to sensitive wildlife species, the District shall be required to submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be processed as an amendment to this coastal development permit.

In addition, the District has previously submitted information that testing by District staff of dredged/excavated material from the subject creeks that was carried out over the past 10 years pursuant to the three previous coastal permits determined that those sediments met federal and state beach nourishment and spoil discharge criteria, including physical and chemical criteria. However, the Commission notes that because this project is proposed over a five-year period of time, and that water and sediment quality in creeks may change over time due to changed conditions resulting from new upstream development or potential new non-point source pollution impacts, that continued testing of all excavated material to determine suitability for beach deposition is necessary to minimize potential adverse impacts to the marine environment. Therefore, to ensure the long-term protection of marine resources, **Special Condition Three (3)** requires that all excavated/dredged material meet federal and state beach nourishment and spoil discharge criteria, including through physical and chemical testing as described in **Special Condition Three (3)** prior to surfzone disposal. Additionally, **Special Condition Seven (7)** requires pre- and post-construction monitoring of the shoreline project areas, including beach width and sand volume changes. This information will be important to assess the project and its potential impacts.

The placement of source material on the beach is expected to result in increased turbidity at the deposition site. Temporary increases in turbidity and suspended solids decrease light penetration, causing a decline in primary productivity due to decreased

photosynthesis by phytoplankton and may result in adverse impacts to marine organisms. Any appreciable turbidity increase may also cause clogging of gills and feeding apparatuses of fish and filter feeders. Peak turbidity impacts due maximum concentrations are anticipated to be generally restricted to the lower water column, and decreasing rapidly with distance due to settling and dilution. However, the impacts of surfzone and beach fill placement activities (i.e., increased turbidity, sedimentation, dissolved oxygen reduction, burial of organisms) are expected to be relatively localized in nature and mobile organisms would likely relocate to an undisturbed area. Following deposition activities, organisms are expected to recolonize previously disturbed areas.

As such, the duration impacts from sediment re-suspension caused by the project are anticipated to be short-term. In addition, the proposed deposition site is located in an area that is considered to have naturally high levels of turbidity due to high wave energy and creek outfall, particularly during the winter season when operations would take place. This project is proposed for a limited term of five years, to ensure that this critical information regarding potential impacts to marine resources is recorded and reported to the Executive Director for consideration of future project approvals. **Special Condition Seven (7)** requires a qualified biologist or resource specialist to monitor turbidity during all project construction activities. If the monitoring indicates that turbidity attributed to the replenishment project is not completely diminished immediately following deposition activities (1-2 days), then the rate of placement of sand will be modified so that large, long lasting turbidity plumes are no longer created.

The composition (i.e., grain size) of the deposition material can also affect the marine environment. For instance, material with higher fine-grained material content will contribute to higher rates of turbidity (see above discussion of turbidity impacts) and will have a higher likelihood of containing contaminants. In general, the higher the amount of coarse grained sand, the lower the turbidity and associated risks to offshore resources and productivity. As a result, the grain-size of the material is an important design characteristic of the project. Therefore, in order to ensure that biological productivity of coastal waters and the offshore environment is maintained, the Commission finds that a maximum of 25% fine-grained material shall be placed at Goleta Beach, as provided in **Special Condition Three (3)**. This percentage of fine-grained material would be consistent with past Commission action in its approval of previous beach nourishment projects for Goleta Beach, including the Commission's approval of CDP 4-02-074 (BEACON). In addition, to ensure that only appropriate material is deposited within the surfzone and marine environment, **Special Condition Three (3)** also addresses the placement of coarse-grained material at the deposition sites. **Special Condition Three (3)** requires that of the coarse-grained material (retained on a Standard U.S. Sieve Size No. 200), no more than 0.5 percent shall consist of gravel or pebble-sized material. To achieve the desired gradation of material, the source may be screened out or mechanically sorted, or alternately, the source shall not be deposited at the site.

Debris such as trash, wood, or vegetation could also be present within the source material, especially material generated from flood control debris basins and creek desilting when dragline excavation is utilized. Screening may be performed by

mechanically sifting the material through a coarse mesh to catch debris at the site, using conventional earthmoving equipment. To ensure that only material appropriate for beach nourishment be deposited within the surfzone and marine environment, **Special Condition Seven (7)** requires an on-site monitor, with qualifications acceptable to the Executive Director, to be present during all deposition operations to assess grain size and debris content. The monitor shall, through grab samples, visual inspection, or other methods, ensure that the delivered material is within the acceptable size ranges for nourishment material. If the material is not sand or is not within the acceptable size range, the monitor shall halt the placement of sand on the beach. The monitor shall also examine the material to determine presence of debris. If any debris or non-sand material is detected, deposition activities shall be halted. Deposition activities shall not continue until an updated analysis of the composition of the sand material is approved by the Executive Director. Prior to resuming operations, all debris shall be removed to the maximum feasible extent.

The Commission notes that the proposed project, in combination with any other authorized beach replenishment project that could be implemented separately as stand-alone projects in the same year, could potentially allow for the discharge/placement of a greater amount of material in the surfzone than has been separately analyzed under each permit application. In May 2012, the Commission approved CDP 4-11-069, which authorizes slough/creek dredging for portions of Goleta Slough for a period of five years and potential deposition of dredged sand material in the surfzone at Goleta Beach County Park through May 9, 2017. In February 2017, the Commission approved CDP Amendment 4-11-069-A2 which included a new special condition that extended the expiration date of the permit to five years from the date of Commission action on the amendment, with a provision that the permit expiration date may be extended an additional five years if approved by the Executive Director. As of the date of this staff report the expiration date for CDP 4-11-069 is February 8, 2022. The permit authorizes removal of between 20,000 cu. yds. and 200,000 cu. yds. of sediment/year, and in no case shall the amount of excavation exceed 200,000 cu. yds. of sediment/year. The Commission notes that the cumulative impacts from the combined projects are not known. District staff have indicated that it is not the District's intention to implement both of these projects separately from each other and that no more than 200,000 cu. yds./year of total deposition at Goleta Beach is currently envisioned. Therefore, to ensure that the cumulative effects of the development authorized by this permit and by other previously approved coastal permits for similar beach nourishment projects at the project site, are not inadvertently greater than have been analyzed separately under any single application, **Special Condition Three (3)** limits the total amount of sediment/beach replenishment material that is deposited at Goleta Beach from all sediment disposal/beach replenishment projects to no more than 200,000 cu. yds. of sediment/year. The District shall be responsible for coordinating with all other potential sediment disposal/beach replenishment projects at Goleta Beach. If material is placed at Goleta Beach as part of any other beach replenishment project, then the District shall limit the amount the amount of material placed at Goleta Beach pursuant to this permit to ensure that no more than 200,000 cu. yds. of material is deposited at Goleta Beach during any given year for the life of this project. The placement of additional quantities of

material greater than 200,000 cu. yds. at Goleta Beach during any given year will require an amendment to this coastal development permit.

The riparian, wetland, and marine environment could also be adversely impacted as a result of the implementation of project activities by unintentionally introducing sediment, debris, or chemicals with hazardous properties. To ensure that construction material, debris, or other waste associated with project activities does not enter the water, the Commission finds **Special Condition Four (4)** is necessary to define the District's responsibility to ensure proper disposal of solid debris and material unsuitable for placement into the marine environment. As provided under **Special Condition Four (4)**, it is the District's responsibility to ensure that no construction materials, debris or other waste is placed or stored where it could be subject to wave erosion and dispersion. Furthermore, **Special Condition Four (4)** assigns responsibility to the District that any and all construction debris, sediment, or trash shall be properly contained and removed from construction areas within 24 hours. Further, construction equipment shall not be cleaned on the beach or in the beach parking lots.

The Commission finds that the proposed project, as conditioned, will serve to minimize effects to existing habitat and wildlife resources on site while meeting necessary flood control requirements. However, the Commission also finds that the marine, beach and riparian habitats on site are subject to potential changes over time as new species migrate into the area or as potential unidentified impacts from the proposed dredging operation may be discovered over time. Therefore, to ensure that any potential changed circumstances which may be discovered in the future, such as new information regarding sensitive habitat and wildlife resources on site, or new impacts from the dredging project, are considered, **Special Condition Eleven (11)** specifically limits the authorization period of all activities approved by this permit (including dredging and sediment deposition) to no more than five (5) years from the date of Commission action, after which time the authorization for continuation of the development approved as part of this permit shall cease, unless re-authorized by the Commission pursuant to a new coastal development permit. This will allow the Commission to learn of any changed circumstances (including any modifications to the design of the project) or unanticipated resource impacts, and to consider the project's consistency with the policies of the Coastal Act.

In addition, the proposed project will involve work within streams, wetland areas, and tidally influenced portions of the sandy beach and will also require approval from the United States Army Corps of Engineers, California State Lands Commission, California Department of Fish and Wildlife, and the Regional Water Quality Control Board. Therefore, **Special Condition Nine (9)** requires the District to obtain all other State or Federal permits that may be necessary for all aspects of the proposed project.

As discussed above, the portion of Atascadero Creek that is proposed to be annually maintained contains areas of ESHA and also provides habitat for endangered species and species of special concern, and the proposed maintenance activities have the potential to impact the identified ESHA and species. Coastal Act Section 30240 requires that ESHA shall be protected from disruption and while the potential impacts associated

with the maintenance activities are not fully consistent with the ESHA protection requirements of Section 30240, because the project is necessary for flood control it is one of the few types of stream alterations permitted per Section 30236. Additionally, 30236 requires that permitted alterations of streams incorporate the best mitigation measures feasible and the project is conditioned to thoroughly mitigate any impacts to the ESHA and species.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, 30236, and 30240 of the Coastal Act.

## **D. Hazards and Shoreline Processes**

Section 30253 of the Coastal Act states in part that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter the natural landforms along bluffs and cliffs.

Section 30253 of the Coastal Act mandates that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard. The purpose of the proposed desilting program is to maintain the floodwater carrying capacity in Atascadero Creek to reduce the likelihood of flood damage to adjacent residential areas. In general, Atascadero Creek is an area of sediment deposition primarily because the gradient of the creek is substantially reduced in the project reach, which in turn, decreases the velocity of water and allows sediments to drop out. The annual removal of vegetation in the channel by discing removes channel obstructions and ensures that creek velocities are preserved.

The proposed project includes desilting/dredging activities to be implemented on an as-necessary basis. The District has indicated that excavation/dredging is currently necessary with at least 3,000 cu. yds. of material to be removed. Additionally, dredging of the subject reach of Atascadero Creek may be necessary at an undetermined future point in time in the event that the channel becomes overly sedimented. Future dredging activities are expected to result in the removal of no more than 30,000 cu. yds. of material within the project reach per year. Desilting/dredging activities involve the use of a crane rigged with a clamshell bucket that is operated from the adjacent stream bank. All dredged material will be stockpiled in designated areas adjacent to the creek where it is allowed to dewater. Stockpiles will be set back a minimum of 30 ft. from the top edge of the stream bank. The sediment will be allowed to dewater for several weeks and then it will be hauled to a suitable disposal site. The District estimates desilting is typically necessary in the project reach every 5 to 10 years. However, the proposed desilting would occur on an as-needed basis because high sediment laden flows can result in sedimentation that requires desilting.

The District has stated that the stockpiled material is intended to be utilized for beach nourishment activities at Goleta Beach. However, in the event that the material is determined not to be suitable for beach nourishment, then the District proposes to dispose of the material at a suitable alternative disposal site outside the Coastal Zone (or to a permitted location within the Coastal Zone). However, no alternative disposal sites have been specifically identified. Staff notes that a suitable site is one that has all the necessary federal, state, and local approvals to receive such material. Additionally, no information regarding the suitability of sediment to be utilized for beach nourishment has been submitted as part of this application. Therefore, **Special Condition Three (3)** requires that prior to disposal of excavated material, the District shall provide evidence to the Executive Director of the location and method of disposal to an approved disposal location either outside the coastal zone, a site within the coastal zone permitted to receive such fill, or at Goleta Beach. If the material will be utilized for beach nourishment at Goleta Beach, then **Special Condition Three (3)** further requires the District to submit a determination of the suitability of the sediment for beach/surfzone disposal, including a determination by the U.S. Army Corps of Engineers as to whether the excavated material meets the minimum criteria necessary for placement on the sandy beach or within the surf zone. Material meeting all applicable federal and state beach nourishment or dredge spoil discharge requirements shall be reserved for such use.

As stated above, all dredged material will be stockpiled in designated areas adjacent to the creek for dewatering, approximately 30 to 100 ft. in distance from the top of the bank. However, the Commission notes that excavated materials that are placed in stockpiles are subject to increased erosion and potential adverse effects to adjacent streams and wetland areas from re-sedimentation and increased turbidity. The Commission also notes that additional landform alteration would result if the excavated material were to be retained on site. Therefore, in order to ensure that dredged material will not be permanently stockpiled on site and that erosion and re-sedimentation of the streams on site are minimized during any temporary stockpiling activities, **Special Condition Three (3)** also requires that any stockpiled materials be located as far from the stream or wetland areas on site as feasible and in no event shall materials be stockpiled less than 30 ft. in distance from the top edge of the stream bank. Temporary erosion control measures (such as sand bag barriers, silt fencing; swales, etc.) shall be implemented in the event that temporary stockpiling of material is required. These temporary erosion control measures shall be monitored and maintained until all stockpiled fill has been removed from the project site. Permanent stockpiling of material on site is not allowed.

In addition, the Commission notes, based on the information submitted by District, that the proposed development is located in an area of the Coastal Zone which has been identified as subject to potential hazards from flooding. The District has indicated that the areas surrounding Atascadero Creek have previously been subject to substantial damage from seasonal flood events during the winter storm season. As such, the Commission notes that evidence exists that the project site is subject to potential risks due to erosion and flooding. The Commission further notes that although the proposed

development is intended as a flood control project and will serve to reduce the potential for flooding of the developed areas immediately upland of the project site, there remains some inherent risk to any flood control projects. The Coastal Act recognizes that certain types of development, such as the proposed project, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property. As such, the Commission finds that due to the possibility of erosion and flooding, the District shall assume these risks as a condition of approval. Therefore, **Special Condition Ten (10)** requires the District to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The District's assumption of risk, will show that the District is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30253.

## **E. Public Access and Visual Resources**

Section 30210 of the Coastal Act states:

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

Section 30251 of the Coastal Act states:

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

Coastal Act section 30210 mandates that maximum public access and recreational opportunities be provided. In addition, Coastal Act Section 30251 requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored.

The proposed project will be located adjacent to and within public recreational areas including the Atascadero Creek Bikeway system ([Exhibit 2](#)). A public bicycle/pedestrian trail is located adjacent to several areas of the creek where dredging will occur. The proposed dredging activities will result in some potential temporary disruption to the public's ability to use the bicycle/pedestrian trail on site resulting from construction vehicles crossing the bicycle path during dredging operations. Disruptions are expected to be minor and would not result in the closure of any bicycle or pedestrian paths.

Dredged material will be stockpiled in designated areas adjacent to the creek for dewatering, approximately 30 to 100 ft. in distance from the top of the bank. Temporary stockpiles would be expected to remain on site for several months until all material has been adequately dewatered and removed to a suitable disposal site. Stockpiled materials, which would be visible from several public viewing areas including the bicycle/pedestrian trails on site, would result in some adverse temporary impacts to public views.

The Commission notes that excavated materials that are placed in stockpiles are subject to increased erosion and that additional landform alteration would result if the excavated material were to be permanently retained on site. The resulting landform alteration and increased erosion on site would adversely impact public views along the Atascadero Creek Bikeway and these impacts to public views along the bikeway would be inconsistent with the requirements of Section 30251 that the scenic and visual qualities along scenic coastal areas are protected. Therefore, to ensure that public views are protected and landform alteration is minimized **Special Condition Five (5)** requires that stockpile sites be temporary, and only as long as necessary for the dewatering process to be complete. In addition, stockpiled materials shall be located as far from the stream or wetland areas on site as feasible and in no event shall materials be stockpiled less than 30 ft. in distance from the top edge of the stream bank. Temporary erosion control measures (such as sand bag barriers, silt fencing; swales, etc.) shall be implemented in the event that temporary stockpiling of material is required. These temporary erosion control measures shall be monitored and maintained until all stockpiled fill has been removed from the project site. Permanent stockpiling of material on site is not allowed. The District shall provide evidence to the Executive Director of the location of the permanent disposal site for all excavated material prior to removal of the material from the project site. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required. In addition, to ensure that all disturbed areas (including temporary stockpile areas) are adequately revegetated, **Special Condition Four (4)** requires that all accessways on the subject site disturbed as a result of this project be planted and maintained for habitat restoration and erosion control purposes as soon as possible after disturbance has occurred. Disturbed areas within the streambed/channel may be planted and maintained with locally native seeds or plants endemic to riparian habitat areas.

In addition, the Commission notes that the desilting/dredging activities are proposed during the fall and winter months when visitor-use of Goleta Beach County Park is lowest. The Commission also notes that closure of portions of the beach to public use during spring and summer months (during maximum visitor-use of the park) would result

in significant impediment to the public's ability to fully utilize the public beach areas on site. In order to minimize disturbance to park users, as balanced with minimizing impacts to wildlife on site, the District is proposing to limit desilting/dredging operations between the period of September 15 through December 15. Therefore, in order to ensure that the District's proposal to limit the duration of the proposed dredging project is implemented and to ensure that adverse effects to public access and recreation are minimized, **Special Condition One (1)** limits desilting/dredging activities to the period between September 15 and December 15, unless additional time is granted by the Executive Director for good cause.

Furthermore, though the winter and early spring seasons are the appropriate times of year to implement project activities, given the mild climate, each of these sites are still expected to attract extensive public visitorship on any given weekend. Since Goleta beach is subject to higher levels of public use during weekends, sediment disposal/placement activities during these times would result in significant adverse impacts to public access. Therefore, to ensure that maximum access is maintained for the public in the project area consistent with Coastal Act Section 30210, **Special Condition One (1)** requires that all beach nourishment/sediment disposal operations, including any restrictions on public access, be prohibited on any part of the beach and shorefront in the project area on Saturdays and Sundays, thereby removing the potential for construction-related disturbances to conflict with weekend visitor activities. In this way, scheduling operations outside of peak recreational times will serve to minimize potential impacts on public access.

To ensure the safety of recreational users of the project site and to ensure that the interruption to public access of the project site is minimized, the Commission requires the District to submit a public access plan, pursuant to **Special Condition Eight (8)**, to the Executive Director for review and approval. **Special Condition Eight (8)** requires a description of the methods (including signs, fencing, posting or security guards, etc.) by which safe public access to and around the receiver site shall be maintained during and after beach deposition activities. Where use of public parking spaces is unavoidable, the minimum number of public parking spaces (on and off-street) that are required at each receiver site for the staging of equipment, machinery and employee parking shall be used.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30210, 30211, and 30251 of the Coastal Act.

## **F. Archaeological Resources**

Section 30244 of the Coastal Act states:

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

Archaeological resources are significant to an understanding of cultural, environmental, biological, and geological history. The Coastal Act requires the protection of such resources and the need to reduce potential adverse impacts to such resources through the use of reasonable mitigation measures. Degradation of archaeological resources can occur if a project is not properly monitored and managed during earth moving activities and construction. Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be permanently lost. In the past, numerous archaeological sites have been destroyed or damaged as a result of development. As a result, the remaining sites, even though often less rich in materials, have become increasingly valuable as a resource. Further, because archaeological sites, if studied collectively, may provide information on subsistence and settlement patterns, the loss of individual sites can reduce the scientific value of the other sites which remain intact.

The District has submitted Environmental Impact Report (94-EIR-1) by Santa Barbara County Flood Control District and Woodward-Clyde Consultants dated July 1994 which indicates that Native American Archaeological resources have been identified within two separate areas (SBA-45 and SBA-1588) near the proposed development in Atascadero Creek. In order to minimize the potential for adverse effects to cultural resources, the proposed dredging will only occur in the same areas of stream channel where dredging has occurred in previous years. In addition, in order to avoid disturbance to cultural resources on site, the buffer areas have been delineated adjacent to all identified resource areas where dredging activities shall be prohibited.

However, the Commission notes that potential adverse effects to those resources may still occur due to inadvertent disturbance during dredging activity. To ensure that impacts to archaeological resources are minimized, **Special Condition Seven (7)** requires that if project activities are undertaken within an area known to have archaeological resources, the District agrees to have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all desilting/dredging activities which occur within or adjacent to the archaeological sites in the project area. Specifically, if required as described above, the desilting/dredging operations on the project site shall be controlled and monitored by the archaeologist(s) with the purpose of locating, recording, and collecting any archaeological materials. Alternately, under the direction of a qualified archaeologist and/or appropriate Native American consultant, the District may implement alternative techniques designed to temporarily protect such resources (e.g., placing temporary cap material in accordance with accepted protocols for archaeological resource protection). In the event that any significant archaeological resources are discovered during operations, all work in this area shall be halted and an appropriate data recovery strategy shall be developed, subject to review and approval of the Executive Director, by the District's archaeologist and the native American consultant consistent with CEQA guidelines.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30244 of the Coastal Act.

## **G. California Environmental Quality Act**

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

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, the proposed project, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures which will minimize all adverse environmental impacts have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

4-19-1158  
Santa Barbara County Flood Control

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

Coastal Development Permit Application No. 4-19-1158 and associated file documents.

Proposed Final Supplement to the Environmental Impact Report (94-EIR-1) by Santa Barbara County Flood Control District and URS Corporation dated September 2000

Revised Final Environmental Impact Report (94-EIR-1) by Santa Barbara County Flood Control District and Woodward-Clyde Consultants dated July 1994

Seeding Evaluation for Atascadero Creek by Rachel Tierney, August 2001

Coastal Development Permit Nos. 4-94-061, 4-00-205, 4-03-025, 4-09-068, 4-11-069, 4-14-1900 (Santa Barbara County Flood Control District)