

April 18, 2008

Mr. Jon Hanlon
Boyle Engineering Corporation
1194 Pacific Street, Suite 204
San Luis Obispo, CA 93401

**Re: Alternatives Analysis for Relocation of the San Simeon Community Services District
Wastewater Treatment Facility**

Dear Mr. Hanlon:

The San Simeon Community Services District (District) received comments from the California Coastal Commission (Commission) on their application for a retroactive Coastal Development Permit (CDP) for installation of riprap and other facilities near their existing wastewater treatment facility (WWTF). As part of the permit application, the Commission requested that alternative locations for relocating the WWTF be evaluated.

Approach

Rincon analyzed vacant sites within the District's service area boundary (i.e., San Simeon Acres) in accordance with several criteria established in consultation with Boyle Engineering (Figure 1). The intent of this analysis was to select potential alternative locations for the San Simeon WWTF based on an initial review of all possible alternative locations. This analysis included mapping, aerial photography, and a visual resource analysis involving photographic documentation.

Vacant land approximately one acre in size or greater was identified on an aerial photograph. These sites are shown in Figure 2.

The following criteria were used:

1. **Size.** Only areas approximately one-acre in size or greater were considered, based on the size of the existing WWTF and the space constraints experienced therein.
2. **Topography.** Only areas containing flat or gently sloping topography were considered in order to avoid construction on steep slopes or on or near coastal bluffs.
3. **Land Use Designations and Zoning.** Land use designations (according to the County of San Luis Obispo North Coast Area Plan) and Zoning (according to the County of San Luis Obispo Coastal Zone Land Use Ordinance) were considered (Figure 3 and 4).



4. **Sensitive Receptors.** Consideration was given to potential impacts to neighboring properties that could result from the construction and operation of the WWTF, including odor and noise nuisances and obstruction of ocean views.
5. **Visibility.** Only areas where general visibility was limited were considered, including visibility from roads, residences or hotels, and the beach.
6. **Important Farmland.** The California Department of Conservation Farmland Mapping and Monitoring Program (FMMP) was referenced to determine the presence of Prime or Unique Farmland, with the intent of avoiding placement on status farmland (Figure 5).
7. **Biological Resources.** Areas not supporting sensitive habitat or special-status plant and animal species were considered.
8. **Cultural Resources.** Consideration was given to areas that have been previously disturbed, as these areas are not likely to contain important cultural resources¹.

Discussion

Table 1 summarizes each site shown in Figure 2 with respect to the criteria discussed above.

Site A – This site is 7.01 acres and is adjacent to the District’s well field. It has areas of steep slopes and riparian vegetation. It is highly visible from Highway 1. Because the site is adjacent to Pico Creek, the potential for presence of cultural resources is high. The potential for sensitive habitat and other special-status species is also high due to the proximity to Pico Creek and Pico Pond. A search of the California Natural Diversity Database (CNDDDB) identified that California red-legged frogs and two-stripe garter snake have previously been found at Pico Creek/Pico Pond.

The northern portion of site A is designated Urban and zoned Multi-family Residential, while the southern portion is designated Commercial Retail and zoned Commercial/Retail. The site is designated Farmland of Local Importance under the FMMP.

As indicated on Figure 2, this site was considered but subsequently rejected as a potential alternative location for the WWTF. The site was rejected primarily because steep slopes, riparian vegetation, and high visibility from Highway 1 could result in potentially significant impacts to the environment should a facility be constructed in this location.

Site B – This site is 0.8 acres and is north of Avonne Avenue. It has ruderal vegetation with four trees located along the northeastern property boundary. It is relatively flat and not visible from Highway 1. Because the site is not adjacent to a creek, the potential for presence of cultural resources is low. The potential for sensitive habitat and other special-status species is also low. The site is designated Urban and zoned Multi-family Residential. The site is designated Urban under the FMMP.

¹ A cultural resources record search was not completed, nor was a cultural resources surface survey conducted.

Table 1 – Alternative Sites Summary

Site (Figure 2)	Size (Acres)	Topography	Land Use Designation	Zoning*	Adjacent Existing Land Uses	Visibility (Low, Medium, High)	Status Farmland	Biological Resources (Low, Medium, High)	Cultural Resources (Low, Medium, High)
A	7.01	Steep	Urban and Commercial Retail	MFR C/R	Open space and commercial	Medium – Visible from Highway 1	Farmland of Local Importance	High – Riparian area	High – Adjacent to riparian area
B	0.8	Flat	Urban	MFR	Residential	Low – Visible from Jasper and Penn Ways	Urban	Low – Ruderal with a few trees	Low – Past disturbance evident
C	2.84	Flat	Urban	MFR	Residential and hotel	Low – Visible from Avonne Ave	Urban	Low – Ruderal with scattered trees	Low – Past disturbance evident
D	0.92	Flat	Urban	MFR	Residential and hotel	Low – Visible from Avonne Ave	Urban	Low – Ruderal	Low – Past disturbance evident
E	2.45	Flat	Commercial Retail	C/R	Residential and hotel	High – Visible from Avonne Ave, Castillo Drive, and Highway 1	Urban	Low – Ruderal with a few trees	Low – Past disturbance evident
F	7.36	Cliff face	Commercial Retail	C/R	Hotel	High – Visible from Highway 1, Pico Avenue, Hearst Drive, and beach	Farmland of Local Importance and Urban	Medium – Ruderal and riparian area	Medium – Adjacent to riparian area
G	1.8	Flat	Urban	MFR	Residential and hotel	Low – Visible from Balboa Ave	Urban	Medium – Ruderal, but adjacent to Arroyo del Padre Juan	Medium – Adjacent to Arroyo del Padre Juan
H	0.87	Flat	Commercial Retail	MFR	Residential and hotel	High – Visible from Vista Del Mar and Highway 1	Urban	Medium – Ruderal, but near Arroyo del Padre Juan	Medium – Near Arroyo del Padre Juan
I	1.7	Flat	Urban	MFR	Residential	High – Visible from Vista Del Mar and Highway 1	Urban	Low – Ruderal	Low – Past disturbance evident

*MFR = Multi-Family Residential; C/R = Commercial/Retail



The site is bordered by mobile homes to the northwest, multi-family residences to the southwest and southeast, and open space to the northeast. Development of a WWTF in this location could result in noise or odor nuisance effects to these surrounding residences. The site is located along the northeastern boundary of the community and development in this location may not significantly block public or private views of the ocean.

Three baseline photographs were taken of Site B during a site visit on March 11, 2008. The locations of these photographs are indicated on Figure 6 and the photographs are shown on Figure 7.1 (Photo Plate 1: Site B).

Site C - This site is 2.84 acres and is north of Avonne Avenue. It has ruderal vegetation with approximately 25 to 30 trees scattered along the northern portions of the site. The site is relatively flat, although a small drainage ditch is located near the center of the site's southwest boundary along Avonne Avenue (visible in Photo 5 on Figure 7.2). The site is not visible from Highway 1 due to existing hotel and commercial uses southwest of the property (between Avonne Avenue and Castillo Drive). Because the site is not adjacent to a creek, the potential for presence of cultural resources is low. The potential for sensitive habitat and other special-status species is also low. The site is designated Urban and zoned Multi-family Residential. The site is designated Urban under the FMMP.

Site C is bordered by multi-family residences to the west and east, multi-family residences and hotel uses to the southwest and open space to the northeast. A single-family residence is located on Site C, near the northwestern site boundary accessible from Avonne Avenue. Development of a WWTF in this location could result in noise or odor nuisance effects to these surrounding residences. However, because the site is located along the northeastern boundary of the community, development in this location would not block public or private views of the ocean.

Three baseline photographs were taken of Site C during a site visit on March 11, 2008. The locations of these photographs are indicated on Figure 6 and the photographs are shown on Figure 7.2 (Photo Plate 2: Site C).

Site D - This site is 0.92 acres and is north of Avonne Avenue. It has ruderal vegetation. The site is relatively flat and is not visible from Highway 1 due to existing hotel and commercial uses southwest of the property (between Avonne Avenue and Castillo Drive). Because the site is not adjacent to a creek, the potential for presence of cultural resources is low. The potential for sensitive habitat and other special-status species is also low. The site is designated Urban and zoned Multi-family Residential. The site is designated Urban under the FMMP.

Site D is bordered by multi-family residences to the northwest and southeast, multi-family residences and hotel uses to the south, and open space to the northeast. Development of a WWTF in this location could result in noise or odor nuisance effects to these surrounding residences. However, because the site is located along the northeastern boundary of the community, development in this location would not block public or private views of the ocean. Three baseline photographs were taken of Site D during a site visit on March 11, 2008. The locations of these photographs are indicated on Figure 6 and the photographs are shown on Figure 7.3 (Photo Plate 3: Site D).



Site E – This site is 2.45 acres and is north of Castillo Drive. It has ruderal vegetation with a few trees. It is relatively flat and is visible from Highway 1. Because the site is not adjacent to a creek, the potential for presence of cultural resources is low. The potential for sensitive habitat and other special-status species is also low. The site is designated Commercial Retail and zoned Commercial/Retail. The site is designated Urban under the FMMP.

Site E is bordered by hotel uses to the northwest, hotel and commercial uses to the southeast, multi-family residences to the northeast, and Castillo Drive and Highway 1 to the southwest. The northernmost corner of the property abuts Site C (vacant land) and the westernmost corner of the property abuts Site D (vacant land). Development of a WWTF in this location could result in noise or odor nuisance effects to adjacent residences. This site is located between existing residences and the Pacific Ocean, such that ocean views may be obstructed.

Three baseline photographs were taken of Site E during a site visit on March 11, 2008. The locations of these photographs are indicated on Figure 6 and the photographs are shown on Figure 7.4 (Photo Plate 4: Site E).

Site F – This site is 7.36 acres and is south of Highway 1 and Hearst Drive. The northernmost portion of the site is visible from Highway 1. Because the site is located on the western side of Highway 1, development of a WWTF in this location could block public views of the Pacific Ocean. In addition, the northern portion of the site has riparian vegetation, whereas the southern portion has ruderal vegetation. The northern portion slopes toward Pico Creek and the western boundary of the site borders a steep shore bluff. The northern portion of site is adjacent to Pico Creek, such that the potential for cultural resources and sensitive habitat and other special-status species is high. The southern portion of the site is currently being used as a park; the potential for presence of cultural resources and sensitive habitat and other special-status species in this area is low. The entire site is designated Commercial Retail and zoned Commercial/Retail. The FMMP designates the northern portion of the site as Farmland of local importance and the eastern portion as Urban.

As indicated on Figure 2, this site was considered but subsequently rejected as a potential alternative location for the WWTF. The site was rejected primarily because riparian vegetation, coastal bluffs, and high visibility from Highway 1 could result in potentially significant impacts to the environment should a facility be constructed in this location.

Site G – This site is 1.8 acres and is south of Hearst Drive and north of Balboa Avenue. It has ruderal vegetation with a few trees. The site is relatively flat and is not visible from Highway 1 due to intervening structures (hotels). The site is adjacent to Arroyo del Padre Juan Creek. Therefore, the potential for presence of cultural resources and sensitive habitat and other special-status species is medium. The site is designated Urban and zoned Multi-family Residential. The FMMP designates this site as Urban.

As indicated on Figure 2, this site was considered but subsequently rejected as a potential alternative location for the WWTF. This site was rejected primarily because the site's adjacency to Arroyo del Padre Juan Creek could result in potentially significant impacts to the biological and cultural resources should a facility be constructed in this location.



Site H – This site is 0.87 acres and is south of Hearst Drive and northeasterly adjacent to Vista Del Mar. It is relatively flat and has ruderal vegetation. The site is visible from Highway 1 while traveling northbound, south of the community of San Simeon. The site is near Arroyo del Padre Juan Creek. Therefore, the potential for presence of cultural resources and sensitive habitat and other special-status species is medium. The site is designated Commercial Retail and zoned Multi-family Residential. The FMMP designates this site as Urban.

Hotel uses to the northwest and northeast, multi-family residences to the southwest, and open space to the southeast border site H. Development of a WWTF in this location could result in noise or odor nuisance effects to adjacent residences. However, because this site is located on the eastern side of existing residences, private views of the ocean would not be obstructed. Similarly, because the site is only visible for a short time from Highway 1 with residences and hotel uses in the background, public views of the ocean would similarly be unobstructed.

Three baseline photographs were taken of Site H during a site visit on March 11, 2008. The locations of these photographs are indicated on Figure 6 and the photographs are shown on Figure 7.5 (Photo Plate 5: Site H).

Site I – This site is 1.7 acres and is located north of the corner of Balboa Avenue and Vista del Mar. It is relatively flat and has ruderal vegetation and two trees located near the center of the site. The site is briefly visible from Highway 1 while traveling northbound, south of the community of San Simeon. Because the site is not adjacent to a creek, the potential for presence of cultural resources is low. The potential for sensitive habitat and other special-status species is also low. The site is designated Urban and zoned Multi-family Residential. The site is designated as Urban under the FMMP.

Site I is bordered by multi-family residences to the northwest and northeast, open space to the southeast, and open space and multi-family residences to the southwest. Development of a WWTF in this location could result in noise or odor nuisance effects to adjacent residences. In addition, because this site is located on the western side of existing residences, private views of the ocean could be obstructed. Public views of the ocean might also be obstructed from motorists traveling northbound on Highway 1.

Three baseline photographs were taken of Site I during a site visit on March 11, 2008. The locations of these photographs are indicated on Figure 6 and the photographs are shown on Figure 7.6 (Photo Plate 6: Site I).

Conclusion

Relocation of the WWTF to a site near Pico Creek, Arroyo del Padre Juan Creek, or coastal bluffs could result in substantial environmental impacts. Based on this criteria, three sites were eliminated from further consideration: Site A (due to proximity to Pico Creek), Site F (due to proximity to coastal bluffs), and Site G (due to proximity to Arroyo del Padre Juan Creek). Visual analyses were not conducted for these properties.



Of the six remaining alternative sites, Sites B and C were rejected due to the number and proximity of adjacent residences (including a single-family residence on Site C). Construction and operation of a new WWTF in these areas would result in nuisance noise and odor impacts to a greater extent than the other remaining alternative sites. Moreover, relocation of the WWTF to Site B could result in removal of a large number of trees (up to approximately 25 to 30).

Of the three remaining sites, Site I can be rejected due to the potential for blocking both public and private views of the Pacific Ocean.

The two remaining sites (Sites D and E) are located near existing residences. Neither site is expected to contain significant cultural or biological resources. Development of a WWTF in these areas may not significantly affect public or private views of the Pacific Ocean. Based on the above analysis, Sites D and E would be the most probable candidate alternate locations for relocation of the WWTF. However, construction and operation of the WWTF at either of these sites would likely require an amendment to the North Coast Area Plan to change the land use designation to Public Facility and a zone change. Furthermore, demolition of the existing WWTF and relocation to either Site D or E would result in short-term and long-term environmental effects.

Sincerely,
RINCON CONSULTANTS, INC.

Kris Vardas
Senior Planner

Attachments:

- Figure 1 - District Boundary
- Figure 2 - WWTF Site Alternatives
- Figure 3 - Land Use Designations
- Figure 4 - Zoning
- Figure 5 - Farmland Status
- Figure 6 - Photo Location Map
- Figure 7.1 - Photo Plate 1: Site B
- Figure 7.2 - Photo Plate 2: Site C
- Figure 7.3 - Photo Plate 3: Site D
- Figure 7.4 - Photo Plate 4: Site E
- Figure 7.5 - Photo Plate 5: Site H
- Figure 7.6 - Photo Plate 6: Site I

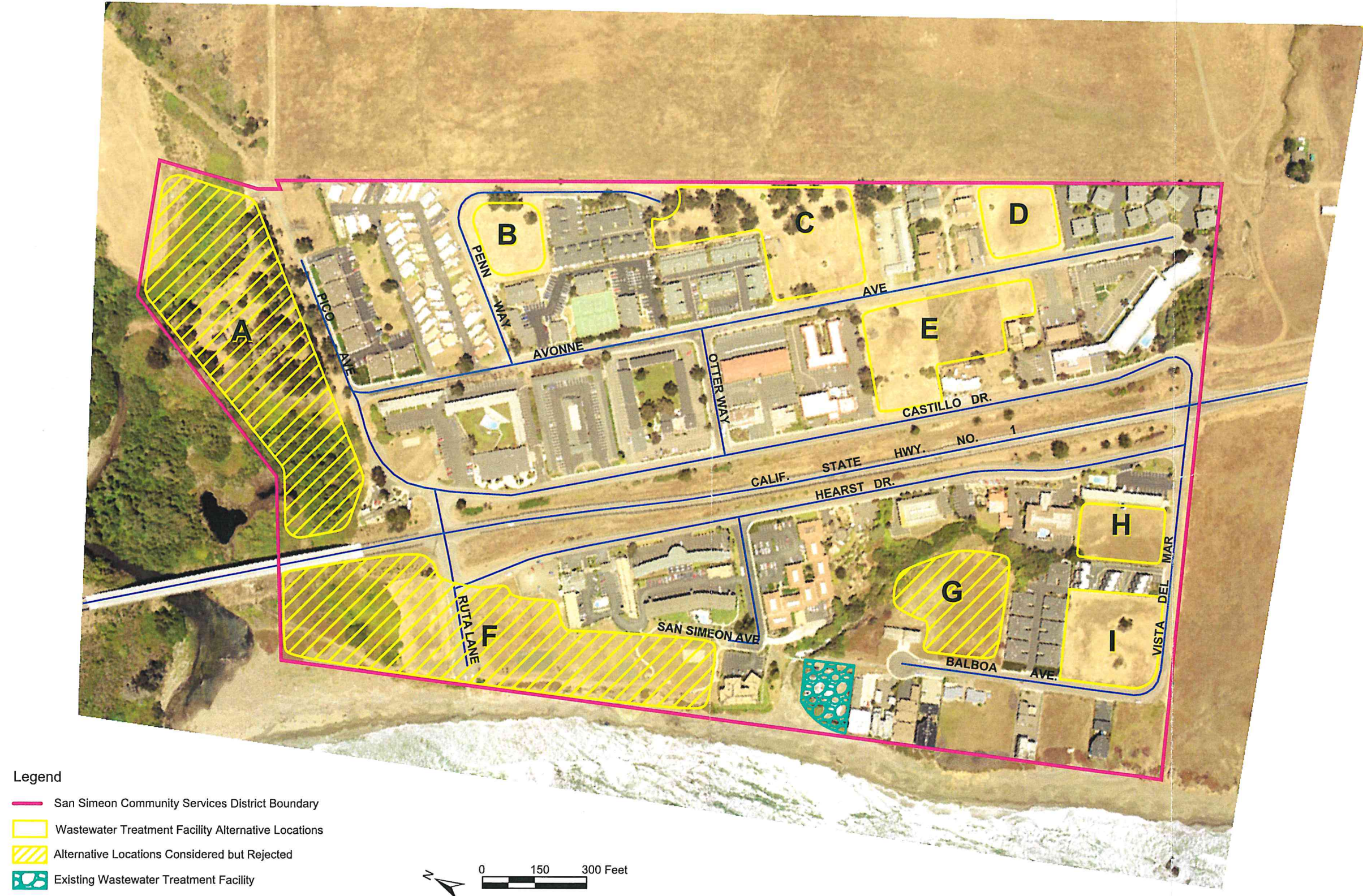


Legend

— San Simeon Community Services District Boundary



District Boundary



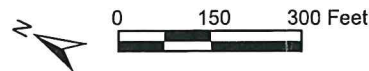
WWTF Site Alternatives

Figure 2



Legend

-  Commercial Retail
-  Urban
-  Public Facilities
-  San Simeon Community Services District Boundary
-  Wastewater Treatment Facility Alternative Locations
-  Alternative Locations Considered but Rejected
-  Existing Wastewater Treatment Facility



Land Use Designations

Source: Boyle Engineering, 2007 and San Luis Obispo Department of Planning, 2004.

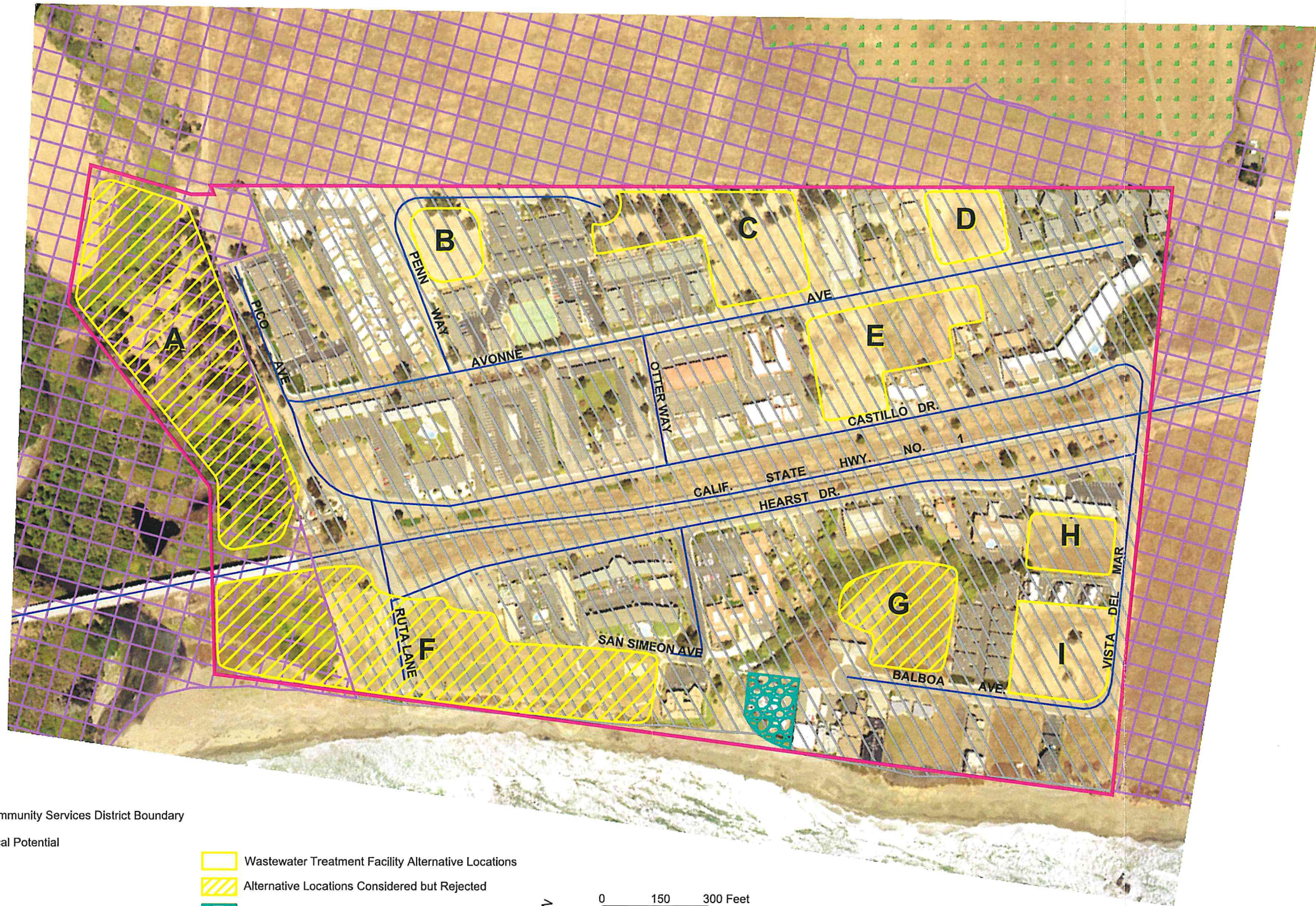


Legend

- San Simeon Community Services District Boundary
- Wastewater Treatment Facility Alternative Locations
- Multi-Family Residential
- Alternative Locations Considered but Rejected
- Commercial/Retail
- Existing Wastewater Treatment Facility



Zoning



Legend

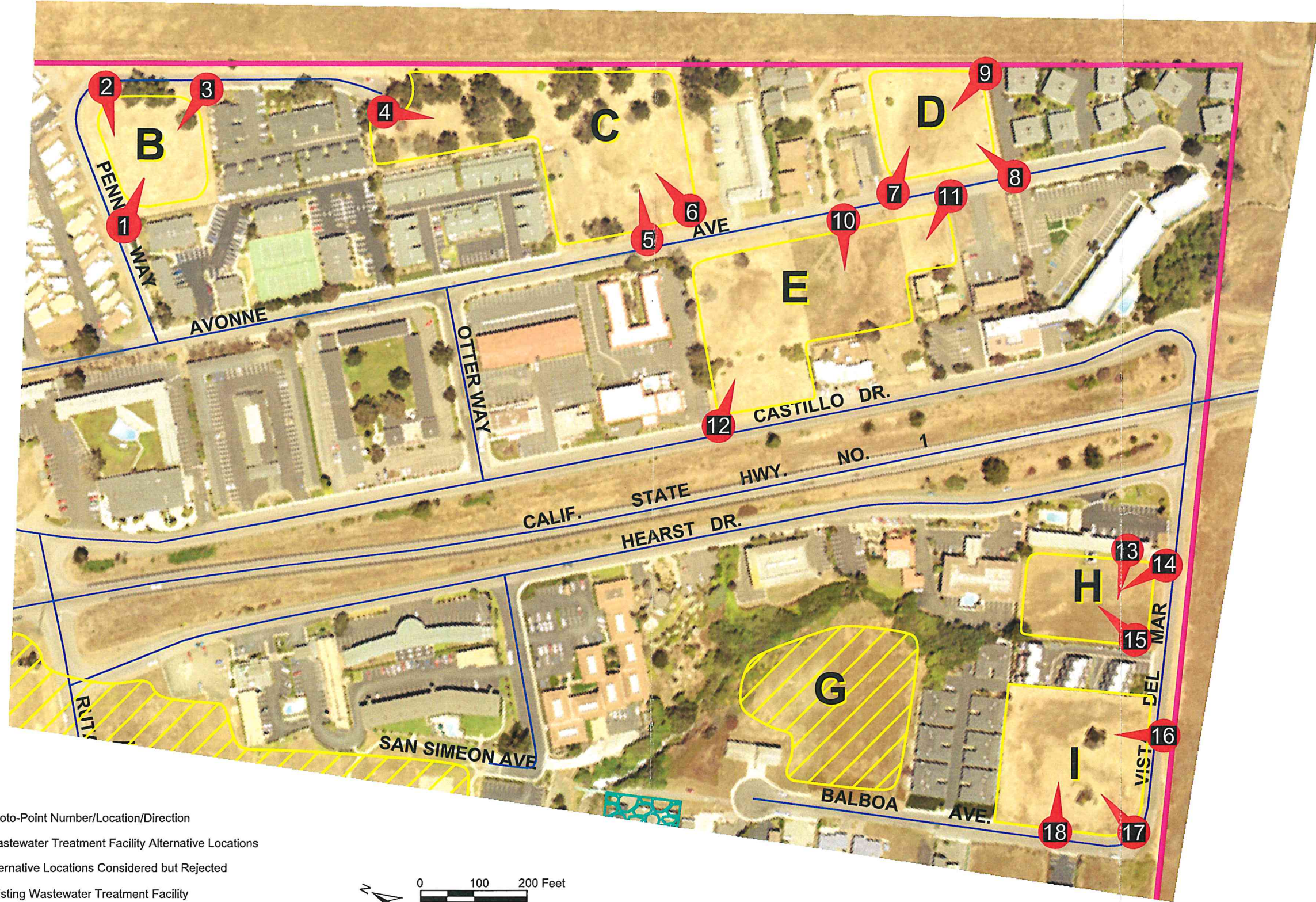
- San Simeon Community Services District Boundary
- Farmland of Local Potential
- Urban
- Grazing

- Wastewater Treatment Facility Alternative Locations
- Alternative Locations Considered but Rejected
- Existing Wastewater Treatment Facility



Farmland Status

Source: Boyle Engineering, 2007 and California Department of Conservation, 2004.



- Legend
- # Photo-Point Number/Location/Direction
 - Wastewater Treatment Facility Alternative Locations
 - Alternative Locations Considered but Rejected
 - Existing Wastewater Treatment Facility
 - San Simeon Community Services District Boundary

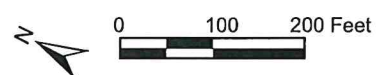
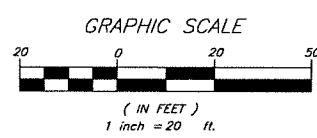
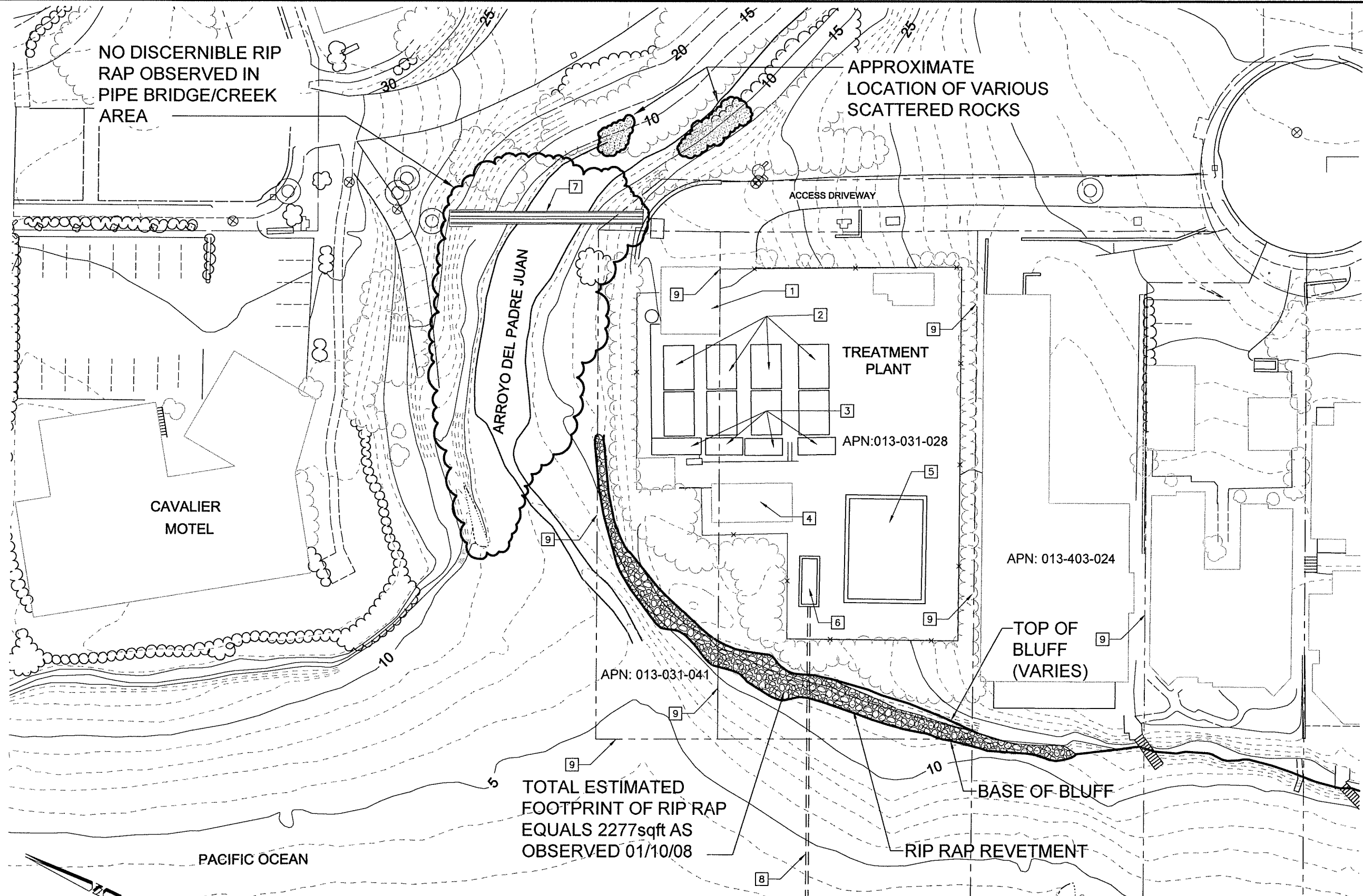


Photo Location Map

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- LEGEND**
- | | |
|-----------------------------|---------------------------|
| 1 BLOWER/CONTROL ROOM | 6 CHLORINE CONTACT BASIN |
| 2 AERATION BASINS (TOTAL 4) | 7 SEWER PIPE BRIDGE |
| 3 CLARIFIERS (TOTAL 4) | 8 OFFFALL/DIFFUSER SYSTEM |
| 4 OFFICE | 9 PROPERTY LINES |
| 5 EQUALIZATION BASIN | |

VERIFY SCALES
 BAR IS ONE INCH ON ORIGINAL DRAWING
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CDP APPLICATION NO. 3-05-019
 ATF REVETMENT REQUEST
 FOR SAN SIMEON CSD
SITE PLAN

**BASE MAP BY EDA

BEC PROJECT NO. S4310007	EXHIBIT 1
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Photo 1 - Site B from the western corner of the site, facing east.



Photo 2 - Site B from the northeastern property boundary, near northern corner, facing southwest.



Photo 3 - Site B from the eastern corner of the site, facing west.



Photo 4 - Site C from the cul-de-sac at the northern edge of the property, facing south/southeast.



Photo 5 - Site C from the southwest property boundary, facing northeast.



Photo 6 - Site C from the southern corner of the site, facing northeast.





Photo 7 - Site D from the western corner of property, facing east.



Photo 8 - Site D from the southern corner of property, facing north.



Photo 9 - Site D from the eastern corner of the property, facing west.

Photo Plate 3: Site D



Photo 10 - Site E from northeastern property boundary (on Avonne Ave), facing west/southwest.



Photo 11 - Site E from the eastern corner of the property, facing west.



Photo 12 - Site E from the western corner of the property, facing east.



Photo 13 - Site H from the northeastern property boundary, facing southwest.



Photo 14 - Site H from the eastern corner of the site, facing west.



Photo 15 - Site H from the southern corner of the site, facing north.



Photo 16 - Site I from the southeast property boundary (on Vista del Mar), facing northwest.

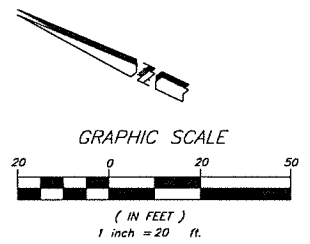
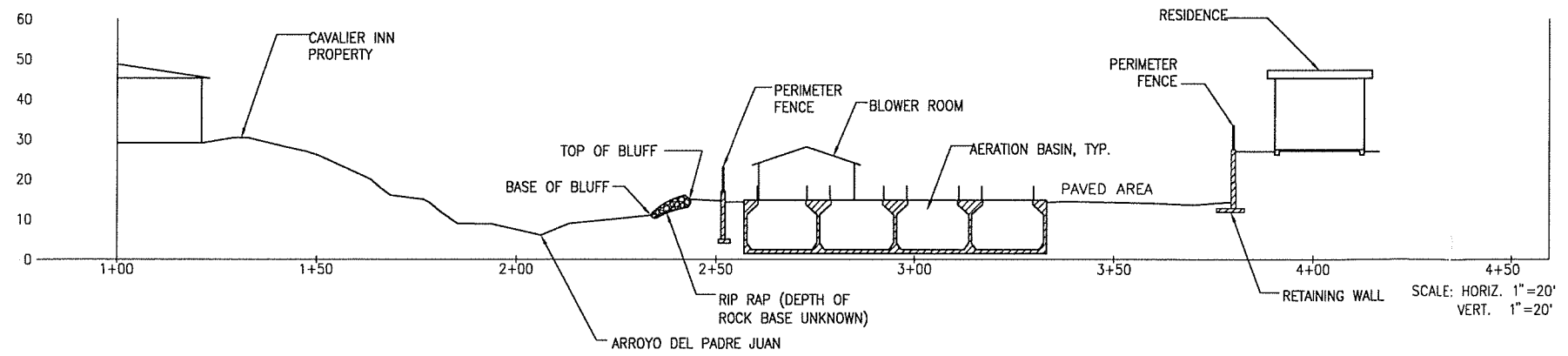
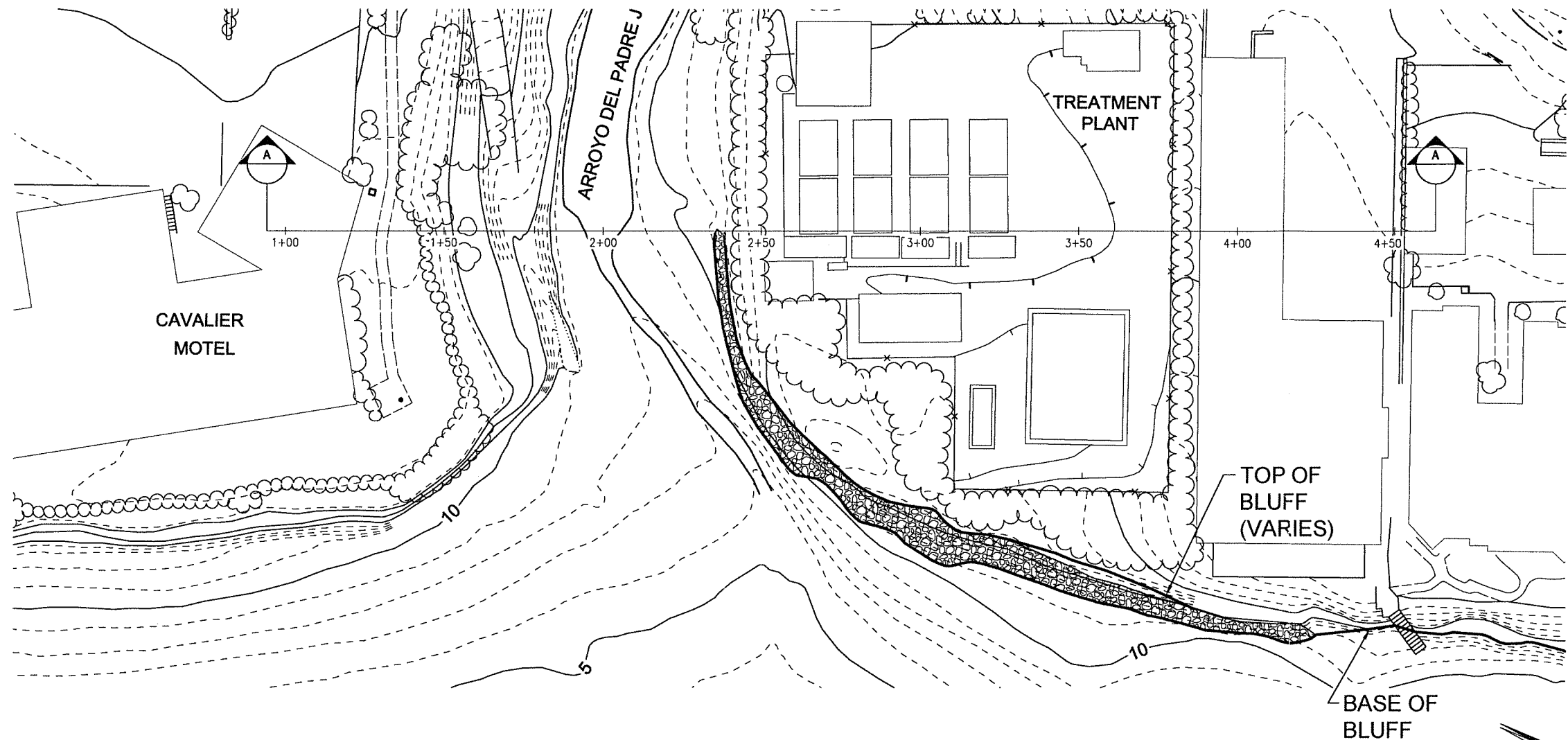


Photo 17 - Site I from the southern corner of the property, facing north.



Photo 18 - Site I from the southwestern property boundary (on Balboa Ave), facing northeast.

Photo Plate 6: Site I



SECTION A-A

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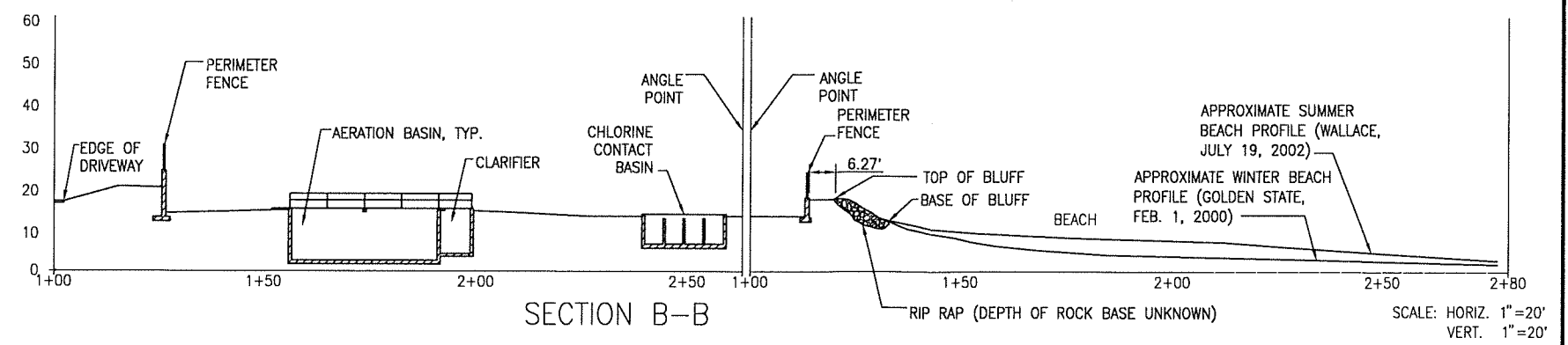
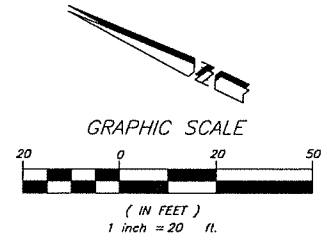
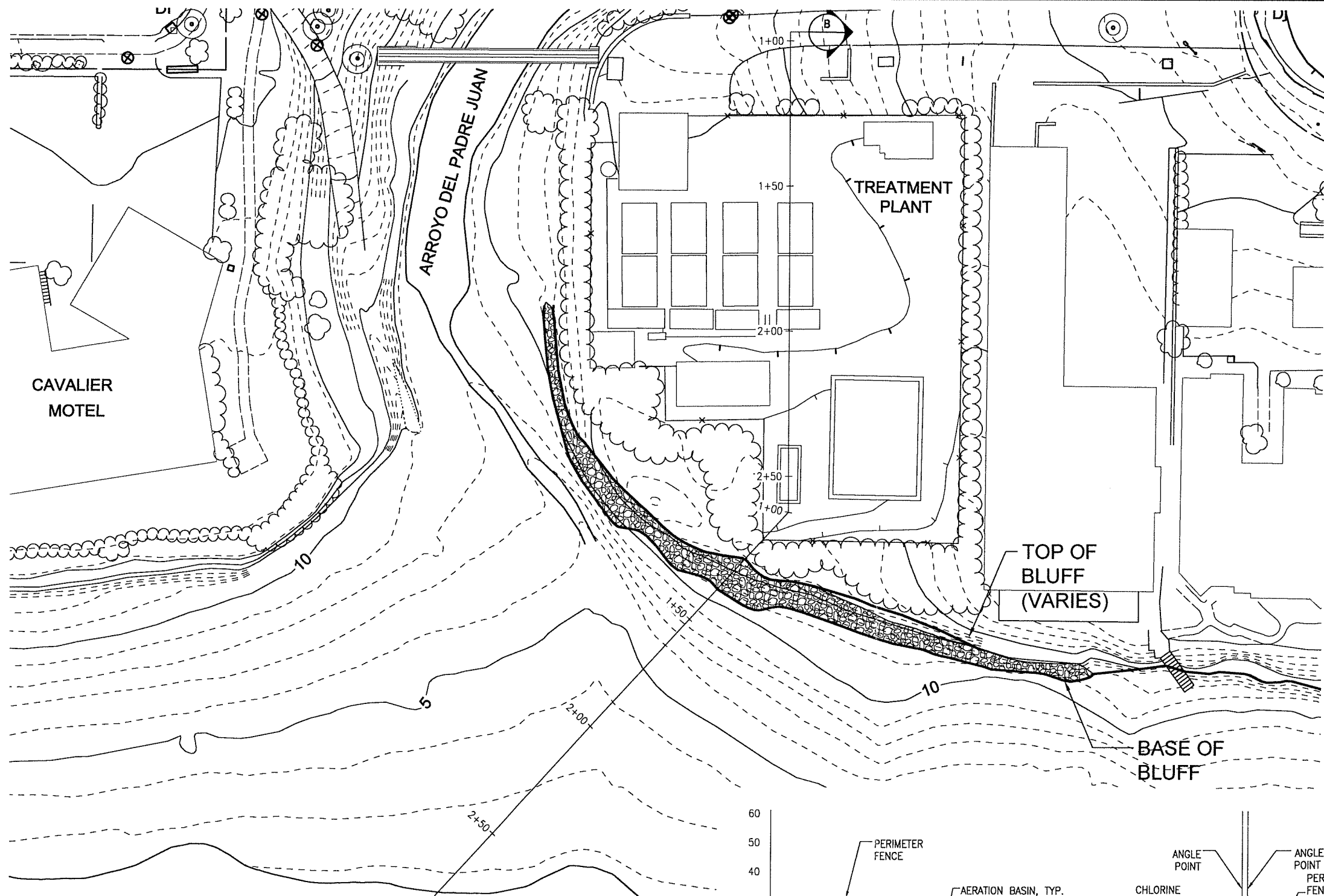
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BEC PROJECT NO.
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EXHIBIT
2

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 DATE: May 09, 2008 11:24am



SECTION B-B

SCALE: HORIZ. 1"=20'
VERT. 1"=20'

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SITE SECTION

BEC PROJECT NO.
S4310007

EXHIBIT
3



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May 1, 2008

Jon Hanlon
Boyle Engineering
1194 Pacific Street, Suite 202
San Luis Obispo, CA 93401

Subject: San Simeon Community Services District Wastewater Treatment Plant Amended Coastal Development Permit Information (Application Number 3-05-019)

Dear Mr. Hanlon:

Environmental Science Associates (ESA) is pleased to provide you with the following information on habitats and other agency regulatory compliance issues in support of the San Simeon CSD after-the-fact Coastal Development Permit (CDP) for projects around the wastewater treatment plant (WWTP). It is my understanding this CDP will cover the following actions that are fully described in your CDP application for this project:

- 1983 emergency placement of riprap in front of the WWTP.
- 1984 replacement of the ocean outfall line.
- 1995 emergency repair and maintenance of the original pipe support structure and riprap within Arroyo Del Padre Juan Creek.

Response 3 d. – Project Plans: Habitats

The May 27, 2006 biological assessment prepared by David Wolff Environmental described the existing conditions of the vegetation and habitat types surrounding the WWTP. Attention was paid mostly to the areas immediately adjacent to the WWTP along Arroyo Del Padre Juan Creek. The attached Figures 1 and 2 illustrate the existing conditions surrounding the WWTP, with Figure 2 delineating the extent of habitat types based on dominant vegetation observed throughout this current evaluation and confirmed on a field visit by David Wolff on April 18, 2008. To be thorough in addressing the CCC request for habitat information, Figure 2 and the descriptions below include vegetation around the WWTP, on both sides of the creek, and for a distance upstream of the pipe bridge. The aerial extent of habitat types are those shown as polygons on Figure 2 that extend beyond the immediate limits of the WWTP and pipe bridge but are included to provide context the project area.

- **Cypress Trees** – Several Monterey cypress trees are located on the north bank of the creek below the hotel and appear to be ornamental in nature. (2,614 sq. ft. canopy coverage)
- **Ice Plant** – Dense mats of ice plant shown occur on the bluff face to the north and south of the creek and throughout the study area shown on Figure 2 total as approximately 15,682 square feet. Ice plant also occurs as a non-dominant element in other habitat areas as is common along the Central Coast.
- **Myoporum** – Shrub, tree, and wind-pruned forms of myoporum occur around the WWTP extending upstream above the pipe bridge totaling approximately 20,909 square feet as shown on Figure 2.
- **Myoporum-Willow** – The habitat polygon extending upstream of the project area to the culvert outlet under the development is a mix of willow and myoporum trees creating a riparian canopy along Arroyo Del Padre Juan Creek. This habitat type extends to the end of the above ground creek totaling 44,431 square feet as shown on Figure 2.

Jon Hanlon, Boyle Engineering
May 1, 2008 SSCSD ATF CDP Response
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- **Riprap** – The aerial extent of the 1983 riprap discussed throughout this application is approximately 2,277 square feet as observed by Boyle Engineering in the field and shown on Figure 2.
- **Salt Marsh** – The small area of salt marsh at the mouth of the creek adjacent to the WWTP is described in the May 27, 2006 biological assessment totals approximately 5,227 square feet that includes the small variable sized “lagoon” that changes regularly in response to the seasonal creek flows and ocean tides.
- **Turf Grass** – The area around the north bank of the creek and hotel grounds are managed and mowed turf grass (9,583 sq. ft.).

Response 3 e. – Project Plans: Riprap

The aerial extent of the 1983 riprap is approximately 2,277 square feet as observed by Boyle Engineering in the field and shown on Figure 2.

Response 5 – Other Agency Approvals

The following agency approvals are anticipated for the 1983 emergency riprap placement and 1984 emergency ocean outfall replacement project elements subject to this ATF CDP. Records in the file and those obtained from Bruce Henderson of the U.S. Army Corps of Engineers (Corps) document that a determination that the maintenance exemption applied to the 1995 emergency riprap placement around the existing water line and sewer line bridge abutments and creek bank. As such, this project was exempt from Clean Water Act regulation. In addition, the California Department of Fish and Game and the County of San Luis Obispo issued their respective approvals for the pipe bridge emergency maintenance work so no further approvals are required by those agencies. This maintenance/emergency exemption and approvals for the pipe bridge activities did not include the beach riprap or ocean outfall projects.

The following is based on current statutes and implementing regulations as well as those that existed at the time the emergency riprap and ocean outfall projects were implemented as there have been changes in implementing regulations and permit processing during the intervening time. Table 1 below provides a matrix of other agency regulatory approvals.

Rivers and Harbors Act & Clean Water Act U.S. Army Corps of Engineers Regulations – In discussions about the riprap and ocean outfall projects with Bruce Henderson of the Corps, he suggested that an application for an after-the-fact Individual Permit would be the appropriate approach to completing Rivers and Harbors Act Section 10 and Clean Water Act Section 404 regulatory compliance. The Rivers and Harbors Act regulates “all work” within waters of the U.S. subject to tidal influence, and the Clean Water Act regulates the discharge of fill material into waters of the U.S. with regulatory limits extending to the mean high tide line.

As is documented in the record, the beach riprap and ocean outfall replacement projects were done as emergency actions. At the time these two projects were implemented, there was not a Corps general permit for emergency actions such as the GP-63 that was reauthorized in 2003 that is currently valid. The Corps regulations at the time of the riprap and ocean outfall projects provided a regulatory compliance exemption for emergency actions as provided in the implementing regulations shown below. However, this process was not followed (the Corps was not notified) for the emergency riprap and ocean outfall projects.

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***Code of Federal Regulations 323.2(e)(4) Emergency procedures.** Division engineers are authorized to approve special processing procedures in emergency situations. An "emergency" is a situation which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures. In emergency situations, the district engineer will explain the circumstances and recommend special procedures to the division engineer who will instruct the district engineer as to further processing of the application. Even in an emergency situation, reasonable efforts will be made to receive comments from interested Federal, state, and local agencies and the affected public. Also, notice of any special procedures authorized and their rationale is to be appropriately published as soon as practicable.*

Bruce Henderson of the Corps suggested the preparation and submittal of a permit application that documents the circumstances under which the emergency actions were taken would suffice for initiating the process for after-the-fact permitting for the riprap and ocean outfall projects. Assuming the circumstances meet the emergency criteria in the regulations, then this would be an appropriate regulatory compliance process for after-the-fact permitting of the riprap and ocean outfall projects. If after-the-fact permits are required, then it must comply with the currently authorized permit process. As such, the current 2007 Nationwide Permits (NWP) that cover outfall structures (NWP 7) and bank stabilization projects (NWP 13) may be applicable to permitting these two projects. If the Corps determines that the emergency approval process and/or the NWP 7 and NWP 13 do not apply, then the Individual Permit process may be needed to provide for the after-the-fact permit and project authorization under the Clean Water Act and Rivers and Harbors Act. In either event, the first step will be to submit a permit application package with all available project information to the Corps so the proper permit/authorization process can be determined and followed.

California Regional Water Quality Control Board – Authorization of the after-the-fact Corps permit, NWP, or individual permit would require a Clean Water Act Section 401 water quality certification from the RWQCB (401 certification). This would be included with the after the fact Corps permit process as the RWQCB and 401 process is not an independent regulatory action but tied to the Corp permit process. The application for the 401 certification requires a detailed project description and all measures that were employed to avoid and minimize water quality impacts. Currently, the RWQCB requires an application fee of \$500 and up to \$2,150 per acre of impact. Documentation of CEQA compliance will be required for this process as well. Depending on the CCC and/or local environmental review process, validity of the certification may be conditioned on the completion of a CEQA determination. Completion of the Coastal Development Permit process would suffice as a CEQA equivalent for the 401 certification as it is considered a certified regulatory program under the CEQA Statute.

California Department of Fish and Game – The riprap and ocean outfall projects may require a Streambed Alteration Agreement (SAA) from the CDFG pursuant to Fish and Game Code Section 1600. There is no provision for after-the-fact agreements and emergency projects require a notification process with the CDFG

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within 14 days of the action. It is recommended that the simplest approach to obtaining CDFG approval is to submit the SAA notification package and fee to get a determination if the SAA is needed. Fees are based on project cost and range from \$200 to \$4,000. The CDFG has a notification procedure that is essentially the same application process for the SAA for emergency projects and for reporting after-the-fact impacts under CDFG jurisdiction. The CDFG now requires CEQA compliance for these agreements. Depending on the CCC and/or local environmental review process, validity of the agreement may be conditioned on the completion of a CEQA determination. The Coastal Development Permit process would suffice as a CEQA equivalent for the CDFG SAA process as it is considered a certified regulatory program under the CEQA Statute.

Table 1 – Regulatory Compliance Scenarios			
Agency-Regulation	1983 Beach Riprap	1984 Ocean Outfall	1995 Pipe Bridge
Corps R&H Sec 10 & CWA Sec 404 (one of these actions would satisfy both)	After the fact: - Emergency Exemption - NWP 7 - Individual Permit	After the fact: - Emergency Exemption - NWP 13 - Individual Permit	Maintenance Exemption
RWQCB 401 Certification	401 Certification	401 Certification	None required as exempt from CWA regulation
CDFG Section 1600	Streambed Alteration Agreement	Streambed Alteration Agreement	Streambed Alteration Agreement Issued
CA Coastal Commission	After-the-fact CDP	After-the-fact CDP	After-the-fact CDP
CEQA Compliance	CDP	CDP	Notice of Exemption filed

Thank you for the opportunity to assist the San Simeon CSD and California Coastal Commission in obtaining the necessary permits for the WWTP projects. Please call me directly if you have any questions or need any additional information.

Sincerely,



David K. Wolff
 Director, Biological Resources
 Certified Professional Wetland Scientist

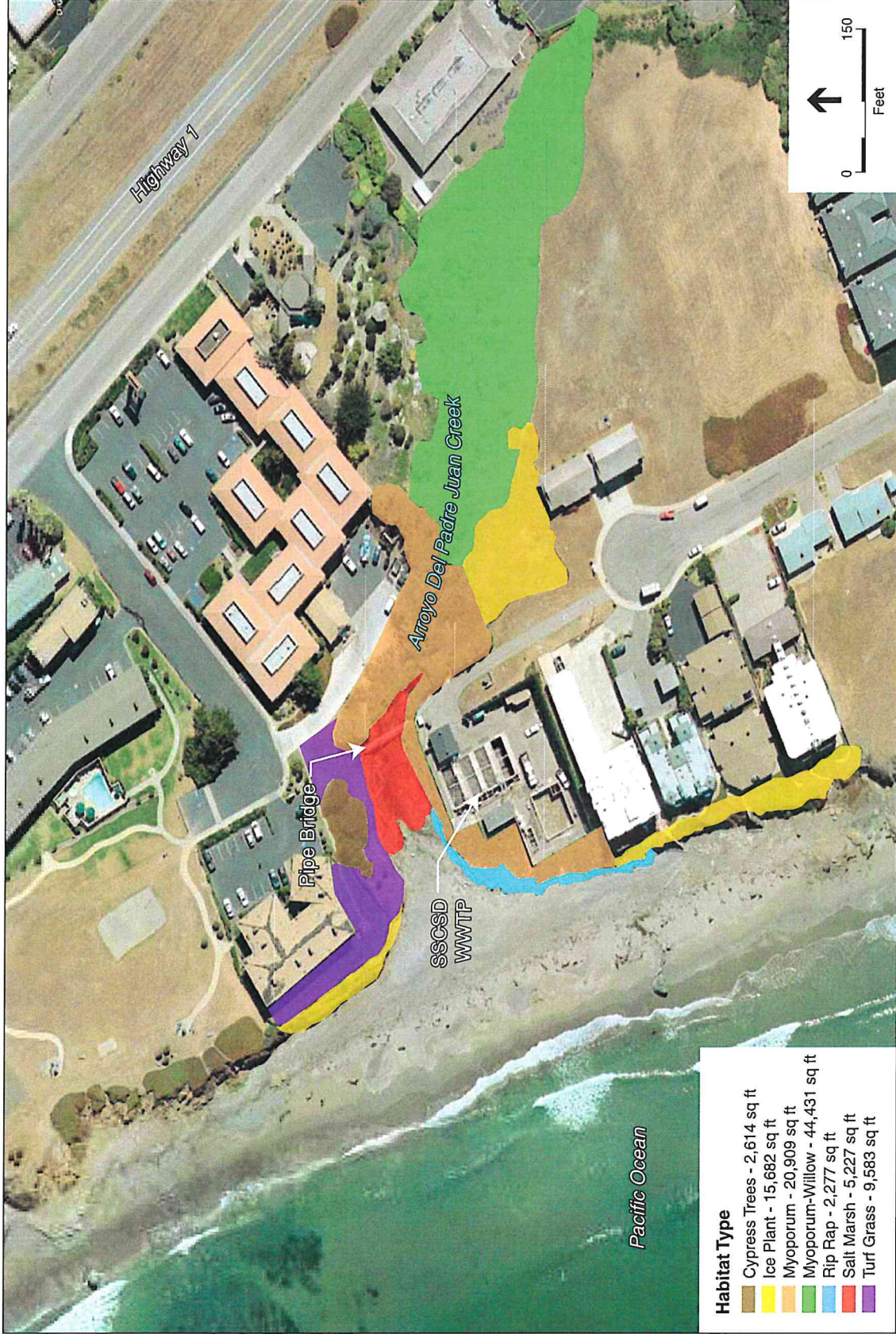
Attachments: Figure 1 – Aerial View
 Figure 2 – Habitat Map



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Figure 1
Project Site and Vicinity Aerial Map

SOURCE: GlobeXplorer, 2007; ESA, 2008.



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Figure 2
Habitat Map

SOURCE: GlobeXplorer, 2007; ESA, 2008.