

Table 1. (Continued)

II. PROJECT ALTERNATIVES

Alternative	Effect
A. No Project	Elimination of all project related impacts Conforms with land use policies for area. Does not achieve applicant's objectives.
B. Changes in Project Design	
1. Relocation of major facilities within lease area.	1. Current site design minimizes impact on La Graciosa thistle and avoids grading central dune. Other configurations would cause greater effect.
2. Relocate reservoir	2. No change in loss of coastal dune habitat area. Decrease in visual scarring of hillside. Eliminates potential impacts on willows at base of hill. Decreases effort needed to prevent excessive erosion. Increase in elevation may exceed applicant's criteria for pumping height.
C. Alternative Locations	
1. Site A - north of river in San Luis Obispo County. (Application has also been submitted for this site.)	1. Not located in wetlands. Economically feasible (has been proposed by applicant to San Luis Obispo County). Greater disturbance of coastal dune scrub vegetation, which is a significant but sitigatable impact. Unknown impact on cultural resources but high potential for sites. Conforms with land use policies for area. Greater costs due to longer pipelines. Visually screened by existing river vegetation. Fewer geologic constraints than project site.
2. Site B - to the east of project site in similar habitats.	2. Potentially similar wetland habitat as project site, lower population of thistle. Visually screened by existing vegetation. Low potential for cultural resource sites.

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Table 1. (Continued)

II. PROJECT ALTERNATIVES

Alternative	Effect
3. Sites C and D - south and east of river; outside dune system.	3. Currently in agricultural use, both sites visible from access road to County Park, but not in a significant view area. This impact is mitigable by landscape screening. Unknown effect on cultural resources. Fewer geologic constraints than project site and other alternatives. Requires river crossing of salt water pipelines which may not be feasible. Economic feasibility unknown. Conforms with land use policies for area.

Environmentally Superior Alternative. An alternative location for the main facilities site is the environmentally preferred alternative. Sites A, C, and D are suitable, with Sites C and D slightly preferred, but are potentially not economically feasible. Site A is probably both environmentally and economically feasible.

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EXHIBIT "D"

STATEMENT OF FINDINGS
ABALONE UNLYD. DEVELOPMENT PLAN
ED86-154 (D860425:1)

I. THE RECORD

For the purposes of CEQA and the findings identified in Section III, the record of the Board of Supervisors relating to the application includes:

- A. Documentary and oral evidence received and reviewed by the Planning Commission during the public hearing on the project, in addition to that received and reviewed by the Board of Supervisors.
- B. The Final Environmental Impact Report and Supplement prepared for Abalone Unlimited Development Plan which is comprised of the full Environmental Impact Report prepared and circulated in 1986, and the Supplement EIR prepared and circulated in 1987, and all appendices for the above.
- C. Matters of common knowledge to the Commission which it considers, such as:
 - a. The County General Plan, including the Land Use Maps and elements thereof;
 - b. The text of the Land Use Element.
 - c. The County Land Use Ordinance.
 - d. The County Code of San Luis Obispo County.
 - e. The County Environmental Quality Act Guidelines.
 - f. Other formally adopted policies and ordinances.
- D. The Planning Department staff reports, including all attachments, prepared for the September 10, 1987 Planning Commission Hearing and the January 12, 1988 Board of Supervisors Hearing.

II. CERTIFICATION OF THE FINAL EIR AND SUPPLEMENT

The Board of Supervisors makes the following finding with respect to the Abalone Development Plan Final EIR and Supplement.

- A. The Final EIR and Supplement for the Abalone Unlimited Development Plan has been completed in compliance with CEQA and the CEQA Guidelines.
- B. The Final EIR and Supplement and all related public comments and responses have been presented to the Board of Supervisors and the Board of Supervisors has considered the information contained in the Final EIR and Supplement and presented at the public hearings prior to approving the project.

III. FINDINGS

The Planning Department staff reports (and attachments) dated September 10, 1987 and January 12, 1988 are hereby incorporated by reference into these findings.

A. Unavoidable Significant Adverse Impacts

1. Impacts to Vegetation - During grading and construction activities candidate rare and endangered La Graciosa thistle and its habitat would be affected. Development of the project site, especially the ten-foot wide construction corridor for the pipelines, would disturb dense concentrations of the La Graciosa thistle west of the raceway. (La Graciosa thistle is not present at the main building facility site.)

Development of the main building facility would result in the unavoidable loss of approximately 25,000 square feet of coastal dune habitat until the end of the useful life of the project.

The impacts to La Graciosa thistle have been partially mitigated through several Conditions of Approval which have been incorporated into the project. Condition 5 requires that all pipeline routes shall be staked in the field and surveyed by the environmental monitor for rare plants. In addition, this condition requires that the pipeline corridor shall be rerouted around concentrations of such plants. Condition 12 establishes the requirement for the applicant to submit a revegetation plan addressing construction impacts. The plan is to include a propagation program for the La Graciosa thistle. Condition 13 requires that all La Graciosa thistle in danger of being disturbed by development of the project shall be removed and replanted in a similar habitat onsite. This may be only a partial mitigation measure due to the fact that the Supplement points out that replanting is not a proven technology.

The unavoidable loss of approximately 25,000 square feet of coastal dune habitat has been partially mitigated through project revisions and Conditions of Approval. The applicant has eliminated the proposed reservoir from the project description. The reservoir would have disturbed approximately one acre of well developed coastal dune shrub.

The impacts to vegetation are considered acceptable because the project has been revised and all feasible mitigation measures have been required.

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8. Adverse Impacts Which Can Be Mitigated to Insignificance

1. Impacts to Wetland Habitat - The raceways are located partially in a transitional wetland habitat of approximately 33 acres. There is disagreement among experts regarding the wetland status of the raceway site. During the public review period of the EIR Supplement, we received letters from both the U.S. Fish and Wildlife Service and the State Department of Fish and Game (see Appendix B).

According to the letter of comment from the Fish and Wildlife Service, (see Appendix B, Final EIR Supplement), the presence of wetland indicator species and seasonally ponded water leads the service to conclude that the raceway area is a wetland. The service further believes that the mitigation proposals for the loss of habitat at the raceway site, conversion of uplands to wetlands, is inappropriate.

Contrary to the opinion of the Fish and Wildlife Service, the Department of Fish and Game indicates that the development of the raceway site will affect less than one acre of ephemeral freshwater wetland habitat. (See Appendix B, Final EIR Supplement). It is the opinion of the Department of Fish and Game that the applicant's proposal to create approximately two acres of additional wetland will adequately mitigate the impact associated with development of the raceway site.

It is clear that there is a disagreement between experts regarding the wetland impacts associated with the project. The California Environmental Quality Act (CEQA) states that disagreement among experts does not render an EIR adequate. Rather, the direction provided by CEQA is that the main points of disagreement should be included in the EIR and that appropriate findings be made.

According to the Final EIR Supplement, the raceway site is an area which is transitional between wetland and upland habitats. The proposed raceway site is at the margin of the description (San Luis Obispo County Land Use Element, Coastal Plan Policies) between a wetland and upland vegetation and contains examples of both. The Final EIR Supplement states that the raceways are to be located partially in a transitional wetland habitat of about 33 acres. The Supplement further states that impacts can be mitigated.

Condition of Approval Number 3 requires that the applicant shall submit an additional detailed wetland study to provide a site specific characterization of the wetland or upland nature of the raceway site. The study and the qualifications of the consultant preparing the study shall be reviewed and approved by the Environmental Coordinator's Office in consultation with the Department of Fish and Game and the U.S. Fish and Wildlife Service. If the

to be inadequate, the applicant shall be required to amend the study appropriately. Submittal of the Wetlands Determination required for the Army Corps of Engineers Section 404 permit may be substituted for the above-mentioned study.

Based on the information provided in the Final EIR and Supplement (including letters of comment) it is clear that mitigation of potential wetland impacts will be necessary. These mitigations include replacement by the applicant of acreage of wetland defined by the study that is required by Condition 3; or the applicant shall be required to redesign the raceway site to provide 100 foot setbacks from identified wetland areas. Implementation of these mitigations will reduce the potentially significant impacts to a level of insignificance. In addition to Condition 3, please see conditions 2, 12, 13, and 31.

2. Saltwater Spillage - There is the potential for salt water spillage into the freshwater marsh area due to accidental pipeline failure. The potential occurrence will be adequately mitigated to insignificant levels by installation of emergency power cut-off switches for pumps. Please see Condition 18.
3. Snowy Plover - There is the potential for construction activities to impact the nesting of Snowy Plover, a candidate species. Condition 7 will require that construction activities shall not occur during this nesting period. The suspension of construction activities during this period will adequately mitigate impacts to the nesting Snowy Plover.
4. Dune and Wetland Vegetation - The removal of dune (2.2 acres) and wetland (1.7 acres) vegetation along pipeline corridors has been identified in the Final EIR Supplement as a significant impact. The applicant has agreed to reseed and revegetation of pipeline corridors with native plants. The site specific location of the pipeline alignment will be examined by the Environmental Monitor. Alignment of the pipeline corridor shall be rerouted around rare and wetland species, as to be discussed in the revegetation plan. These measures will mitigate the impact of pipeline construction to insignificant levels. Please see conditions 5, 6, 12, 13, 14, and 30.
5. Pismo Clam Population - Potentially significant long-term impacts to the Pismo Clam population may occur from construction of the intake system. The probability of this occurrence is low due to population depletion. The applicant has agreed to provide a bottom survey which will indicate the presence of Pismo Clams. If present, construction shall not be conducted during the Pismo Clam spawning periods (late July to early August). Please see Condition

3. Planktonic Organisms - Construction activities could result in temporary interference with phytoplankton productivity and zooplankton feeding. This is largely caused by decreased light transparency of water due to suspended sediment. However, the extent of this impact is limited and the distribution of phytoplankton is so highly variable in time and space that this effect is considered insignificant. It should be noted that this assessment is echoed in the environmental analysis for the San Miguel Project, in which pipeline construction in this area was considered an insignificant effect to plankton. Planktonic organisms would be entrained in the intake system during operation of the intake pumps. This would not be a significant impact due to the relatively low volume of seawater intake and the planktonic organisms' ability to survive transit through the system.
4. Other Marine Organisms - Small fish, such as anchovy, surf perch, and various juvenile commercial flatfish, will be entrained through the 1-inch by 2-inch openings in intake. Because of the low numbers of these fish expected to be entrained, this is not considered significant.
5. Traffic/Circulation - Insignificant project traffic generation and low traffic volumes in the area would not change the current adequate levels of service on the existing road network. Vanpooling of employees from the project site will reduce traffic volumes on the Union Oil property.
6. Energy - Project energy demands of 6.0 to 6.5 million kwh/year would be adequately served by Pacific Gas and Electric.
7. Housing/Employment/Growth Inducement - Project employment is expected to draw from the local labor supply with less than 10% (3.5 persons) likely to come from outside the area. Existing housing in the general vicinity is expected to be adequate to house the employees new to the area. High vacancy rates in south San Luis Obispo would offset lower vacancy rates in the Santa Maria area. Area population growth projections would not be significantly affected.

IV. ALTERNATIVES

The Final EIR and Supplement studied four project location alternatives. The proposed project is considered to be one of the three environmentally superior alternatives as compared to that originally proposed in Santa Barbara County. The alternative of no reservoir will result in fewer environmental impacts and is the environmentally superior project alternative.

V. STATEMENT OF OVERRIDING CONSIDERATIONS

The unavoidable significant impacts of the project are found to be acceptable due to overriding considerations. It is recognized that the project may result in unavoidable environmental impacts to biological resources. The potential for these impacts to occur is substantially reduced through the redesign of the project and mitigation measures to be included in the project. Specifically, the impact resulting from the loss of coastal dune habitat has been substantially reduced by the elimination of the originally proposed reservoir. The reservoir would have resulted in the unavoidable loss of one acre of well-developed coastal dune scrub. Potential impacts to the La Graciosa thistle have been lessened by incorporating into the project a thistle propagation program, flagging of the thistle populations along the pipeline route, and rerouting of the pipeline route in order to avoid dense thistle concentrations.

The project is considered to be one of the three environmentally superior project locations as compared to that originally proposed in Santa Barbara County. The alternative of no reservoir will result in fewer environmental impacts and is the environmentally superior project alternative. This alternative comes closest to meeting the applicant's objectives while minimizing environmental impacts.

In balancing the project benefits against the unavoidable environmental impacts, the Board reaches the following conclusions:

1. Impacts to biological resources have been substantially reduced.
2. The project is considered to be the environmentally preferred alternative as discussed in the Final EIR and Supplement.
3. The project comes closest to meeting the applicants objectives while minimizing environmental impacts.
4. The project could satisfy demands for seed animals for replenishment programs to reestablish the existence of wild, offshore populations of abalone.
5. The project will create 30-35 new jobs.

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EXHIBIT B
EXHIBIT D860425:1A
CONDITIONS OF APPROVAL

AUTHORIZED USE

1. This approval authorizes establishment of an aquaculture facility. This facility includes a 18,000 square foot main building not to exceed 20 feet in height; a 33-acre raceway; a six-foot high impervious core levee of approximately 2,260 feet in length; and intake and discharge pipelines for saltwater circulation. The use shall be reviewed 20 years from the date of approval to evaluate the compatibility of the project with surrounding uses. Thereafter, the use shall be reviewed at five-year intervals to evaluate compatibility. In the event that the oil facility is no longer operating at the time of project review, the use shall be deemed to be no longer appropriate for the site and shall have six months in which to remove all improvements and begin site restoration.

ENVIRONMENTAL MONITOR

2. The county shall hire a qualified environmental monitor at the applicant's expense to oversee construction activities and mitigation measure implementation. The monitor shall submit a work program to the Planning Department for review and approval prior to issuance of grading/building permits. The work program shall include timing of proposed activities, methods used to monitor activities, criteria for evaluation, and timing of reports to the county Planning Department. The reports shall detail the applicant's compliance with conditions of approval and the mitigation measures outlined in the project EIR and supplement. In the event that field conditions warrant changes in design, the environmental monitor shall have the authority to stop work on the project until the re-design has been reviewed and approved by the Planning Department.

CREATION OF WETLAND

3. The applicant shall submit an additional detailed wetland study to provide a site-specific characterization of the wetland or upland nature of the soils and vegetation throughout the raceway site. The study and the qualifications of the consultant preparing the study shall be reviewed and approved by the Environmental Coordinator's Office in consultation with the Department of Fish and Game and the U.S. Fish and Wildlife Service. If the study is determined to be inadequate, the applicant shall be required to amend the study appropriately. Submittal of the Wetlands Determination required for the Army Corps of Engineers Section 404 Permit may be substituted for the above mentioned study. The applicant shall either replace the acreage of wetland, defined by the additional detailed wetland study,

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at a ratio identified by the State Department of Fish and Game, or the applicant shall redesign the raceway site to provide 100 foot setbacks from areas identified as wetlands (as defined by the additionally required detailed wetland study). The final design of the raceway shall be subject to review and approval by the Planning Department prior to issuance of grading/building permits.

CONSTRUCTION

4. The environmental monitor shall oversee all initial grading. If archaeological resources are discovered, a qualified archaeologist shall be contacted and all activity shall cease until further authorized.
5. Pipeline routes shall be staked in the field and surveyed by the environmental monitor for rare plant and wetland species. The pipeline corridor shall be rerouted around concentrations of such plants. Specific location of the pipeline should avoid willow areas as much as feasible.
6. Pipeline construction shall utilize existing roads for access. The construction width shall not exceed ten feet from the side of existing roads, with the exception of an interval along the oil road adjacent to the fresh water ponds where the lines will be buried under the existing road. Pipelines shall be buried three feet deep.
7. Construction activities shall not occur during spring months (May 1 - July 31). If a bottom survey indicates the presence of Pismo Clams, construction shall not be conducted during Pismo Clam spawning periods (late July to early August).
8. Excavation for burial of the pipelines at the foot of dune slopes shall not disturb the dune slopes. The environmental monitor shall oversee all excavation.
9. No borrow areas for "extra fill" shall be permitted without review and approval by the Planning Department of precise plans depicting the exact location and extent of excavation.
10. The main building site shall be graded first and shall serve as a staging area for equipment, pipes, and other materials.
11. The Division of Oil and Gas (DOG) shall be consulted prior to issuance of grading permits. The applicant shall submit detailed plans and shall work with DOG to locate any wells within areas proposed for construction or grading. If necessary, the wells shall be reabandoned in accordance with state guidelines.

NATIVE PLANTS/REVEGETATION

12. The applicant shall submit a revegetation plan to address construction impacts for review and approval by the Planning Department and the Environmental Coordinator's Office, prior to issuance of grading/building permits. The plan shall include the following:
 - a. Revegetation and stabilization of disturbed areas.
 - b. Propagation program for La Graciosa Thistle.
13. All La Graciosa thistle in danger of being disturbed by the development shall be removed and replanted in a similar habitat immediately adjacent to the raceway site, within a site downstream, or replanted along the pipeline corridor. The Environmental Monitor shall oversee this activity.
14. Pipeline right-of-way and levee banks shall be re-seeded and re-planted with appropriate mixes of wetland and coastal dune plants propagated from local native plants. Willows shall be re-planted in locations where disturbed by construction. No non-native species shall be used in this area. The Environmental Monitor shall oversee this activity.

INTAKE/DISCHARGE STRUCTURES

15. Engineering studies shall be performed on the sediment at the location of the proposed sea water intake structures to determine the intake screen size needed to prevent sand damage to the pump works. Discharge pipeline shall be fitted with a diffuser head to minimize erosion from discharge water and discharge head shall be tilted at least 20 degrees above horizontal.
16. The sump for saltwater intake shall be buried as much as feasible, with not more than three feet to extend above ground level.
17. Energy-efficient electric pumps shall be used for the intake systems.
18. Procedures shall be developed and submitted for review and approval to the Planning Department, to limit the likelihood of a spill from the proposed pipelines. These procedures may include the periodic inspection of pipelines and shall include plans to facilitate cleanup of the site in the event of spillage or leakage from the pipeline. Emergency cut-off switches to turn off the saltwater pumps shall be located at the intake and main facilities.

ARCHAEOLOGY

19. The proposed construction area shall be flagged in the field within 100 feet of the Sensitive Archaeological Area outlined on Map 3 of the Spanne Report (1986). A Phase II program of archaeological testing shall be conducted by qualified archaeologist to determine if the site boundary extends into the construction zone. If necessary, a data recovery program shall be implemented. In the event that archaeological resources are discovered, construction activities shall cease until further authorized by the Planning Department.

UTILITIES

20. All utility lines shall be underground, except where crossing the Santa Maria River or where existing poles and lines provide access to the site.

FIRE PROTECTION

21. The applicant shall install required fire improvements prior to final inspection of the main building. The probable fire improvements are listed in the attached letter from the county Fire Captain.

SEWAGE DISPOSAL

22. The applicant shall submit plans for the proposed septic system designed by a registered engineer for review and approval prior to issuance of permits. Such plans shall certify that proper separation be maintained between groundwater and leach lines at all times. Low water-using fixtures shall be used for onsite bathrooms.

LEVEE DESIGN

23. Final design plans for the proposed earth levee shall demonstrate protection for the southerly river bank and the wetlands downstream. The design of levee shall be such that no other erosion control structures will be necessary downstream, upstream or along the southerly river bank. The intent of this condition is to protect the river and riverbanks and the habitat values they provide. Plans shall ensure protection of the site and stability of the proposed 1:1 slope. These plans shall be reviewed and approved by the Building Division and by the Department of Fish and Game prior to issuance of grading and building permits.
24. The applicant shall submit permits, or submit evidence that none are required, from the Army Corps of Engineers and the California Department of Fish and Game, to the Planning Department prior to issuance of grading and building permits.

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COASTAL APPROVAL

25. Submit a copy of a valid "Coastal Development Permit" from the California Coastal Commission, with any special conditions of approval and any project revisions in compliance with that permit, to the Development Review Section of the Planning Department before issuance of building and grading permits. Provide a notice of exemption if no coastal permit is required.

If the California Coastal Commission has not approved the project upon transfer of coastal development review authority to the project, the applicant shall apply for and receive approval of a coastal development permit from the county prior to issuance of building or grading permits.

OPERATION

26. The applicant shall provide bus or van pooling to the site once the number of employees exceeds ten. Planning staff shall perform site visits after the first year of operation and periodically thereafter to ensure compliance with this condition.

DRAINAGE AND EROSION CONTROL

27. Submit grading, sedimentation and erosion control, and drainage plans prepared in accordance with the requirements of Section 22.05.024, 22.05.028, 22.05.036 and 22.05.044 of the county Land Use Ordinance to the Planning Department for review and approval before issuance of grading and building permits. If so required, review of the plan shall be subject to an inspection and checking agreement with the Engineering Department and/or the plan shall be prepared by a registered civil engineer.
28. The grading and/or drainage plans required by the Land Use Condition No. 26 shall demonstrate to the County Engineering Department that the following factors have been evaluated and incorporated into the final design:
- a. Flood hazard information as required by LUO Sections 22.07.064 and 22.07.066.
 - b. Slope stability and soil erodibility.
 - c. Bearing capacity.
 - d. Seismic loads.
 - e. Liquefaction potential and soil strength.
 - f. Wind and run-off erosion.

~~29. Drainage and erosion control plans shall also be submitted for review and approval for pipeline corridor areas that exceed 15 percent slope prior to issuance of grading and building permits.~~

30. For construction in vegetated dune areas, the erosion control plan shall include the following:
- a. Stockpiling of topsoil/topsand for respreading in construction-scarred areas.
 - b. Prior to construction, remove seeds from plants that will be lost to construction.
 - c. Transplant seedlings of endemic plants to other locations for use in revegetation.
 - d. Conduct floral recovery program and invite representatives of botanical organizations and other conservation groups to remove plants to gardens or herbarium.

RECLAMATION

31. A reclamation plan shall be submitted to the Planning Department for review and approval prior to issuance of grading/building permits. The plan shall include the following:
- a. Restoration of all disturbed wetlands to previous condition taking into account the clay content of soils supporting the wetland plants.
 - b. Buried pipelines to be drained and abandoned in place. Exposed pipelines to be removed.
 - c. Pumps to be removed from inlet facility and snags reduced to one foot below the ground surface and buried.
 - d. Metal sheds, concrete pads, and concrete raceways to be removed from the site.
 - e. Major building site to be scarified to two-foot depth and revegetated with a mix of native dune plant seeds collected from the project vicinity.
 - f. Removal of levee.
32. Applicant shall enter into a performance agreement in a form acceptable to County Counsel and submit a bond to ensure compliance with restoration/reclamation plan.

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EXHIBIT "E"

The following potentially significant environmental effects have been identified in the final EIR for that part of the project under the jurisdiction of the Commission.

1. Oceanographic/Marine Biology

a. Impact: Planktonic organisms could suffer mortality due to reduction in water quality during construction activities.

Mitigation: Construction activities shall avoid peak phytoplankton and zooplankton production periods (June-July and January-February)

Finding: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

The proposed lease requires the Applicant to schedule and conduct construction activities outside the identified peak phytoplankton and zooplankton production periods.