MINUTE ITEM
This Calendar Item No. C05 was approved as Minute Item No. 05 by the California State Lands Commission by a vote of 3 to 0 at its 2/8/00 meeting.

CALENDAR ITEM
C05

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B. Dugal

ONE PERMIT FOR TELEPHONE LINE RIGHT OF WAY AND FOUR GENERAL LEASES - NON-EXCLUSIVE RIGHT OF WAY USE

APPLICANT:
MFS Globenet, Inc.
6929 N. Lakewood Avenue
Tulsa, Oklahoma 74117

AREA, LAND TYPE, AND LOCATION:
Parcel 1 – 0.69 acres, more or less
Parcel 2 – 5.41 acres, more or less
Parcel 3 – 5.35 acres, more or less
Parcel 4 – 0.69 acres, more or less
Parcel 5 – 0.69 acres, more or less

All five parcels involve sovereign lands located in the Pacific Ocean, offshore of the community of Los Osos, San Luis Obispo County.

BACKGROUND INFORMATION:
The Applicant has applied for Rights-of-Ways to construct a fiber optic cable system that involves the construction of five conduits and placement of two fiber optic cables within two of the newly constructed conduits. One of the cable systems is referred to as "Southern Cross" and is identified as **Parcel 2.** The second cable system is referred to as "Japan-US" and is identified as **Parcel 3.** The empty conduits involve three parcels identified as **Parcels 1, 4, and 5.**

Pursuant to Public Utilities Code Section 7901 (PUC §7901), telephone corporations may construct and operate lines and equipment along and upon any public road, highway or the navigable waters of the State, without payment of compensation, provided the lines and facilities do not interfere with the public use. In order to qualify for the rent-free use of public lands under PUC §7901, an applicant must be authorized to provide telecommunication services within the

State of California and the facilities in question must be operated for the purpose of providing telecommunication services to the public. Projects meeting the foregoing criteria are entitled to a rent-free Permit. Private carriers not undertaking the duty to provide telecommunication services to the public are not entitled to the rent-free use of public lands, but may apply to the Commission for a rent-based right-of-way lease. MFS Globenet, Inc.'s application includes both public and private carrier cables.

As part of the application process, the Applicant was required to provide copies of all licenses and permits required to proceed with the project. Applicant has provided two cable landing licenses issued by the Federal Communication Commission (FCC) and one Certificate of Public Convenience and Necessity (CPCN) issued by the California Public Utilities Commission (CPUC).

Parcel 2- Southern Cross Cable
Applicant has submitted copies of Decision No. 98-08-070, issued by the CPUC authorizing the Applicant to provide telecommunication services within the State; and a Cable Landing License issued by the FCC, No. DA 98-272, as amended by the FCC, No. DA 99-1713, authorizing the landing and operation of the Southern Cross Cable System as a common carrier. Applicant has further represented to staff that Southern Cross will be operated as a common carrier cable system. On the basis of the Applicant's representations and the written materials submitted by Applicant in support of its application for a Right-of-Way Permit, staff has determined that the Southern Cross project qualifies for a rent-free Right-of-Way Permit pursuant to PUC §7901.

Parcel 3 - Japan-US Cable - Segment 1
Applicant's parent corporation, MCI WORLDCOM, Inc., is a member of a consortium (the "Consortium") which owns the Japan-US Cable System. MCI WORLDCOM, Inc., through the Applicant, is the Landing Party for Segment 1 of the Japan-US Cable System. As part of its Landing Party obligations, Applicant is to install and provide a landing station and associated telecommunication services to the Consortium. The cable will be landed and operated pursuant to a Cable Landing License issued by the FCC, No. DA 99-167, in favor of MCI WORLDCOM, Inc., AT&T Corp., Sprint Communications Company, L. P. and others. The Cable Landing License authorizes the Japan-US Cable System to be operated as a private carrier with no obligation to offer its capacity

indifferently to the public. Staff has determined that a rent-based lease is appropriate for the Applicant's Japan-US Cable - Segment 1.

Parcels 1, 4 and 5 – Empty Conduit
The Applicant's project also includes three empty conduits that are intended to accommodate fiber optic cable in the future. To date, these conduits have not been identified to an approved use, nor have they been dedicated to provide telecommunication services to the public. Therefore, staff has determined that a rent-based lease is appropriate for Parcels 1, 4, and 5.

SPECIFIC PERMIT TERMS FOR PARCEL 2

Authorized Use:
Installation (via directional boring) and maintenance of one six-inch diameter steel conduit and the placement of one fiber optic cable within the steel conduit. Based on the projected risk to the cable, several types of armored cable will be installed. Therefore, the size of the cable will vary from 1.2 inches to 1.10 inches in diameter.The fiber optic cable will carry diverse digital communications traffic including voice, data and video.

Permit Term:
Continuous use plus one year, commencing February 8, 2000.

Consideration:
No monetary consideration shall be charged for the placement, use, and maintenance of the conduit and fiber optic cable or other similar transmission devices placed by those qualifying under the scope of PUC §7901.

SPECIFIC LEASE TERMS FOR PARCEL 3

Authorized Use:
Installation (via directional boring) and maintenance of one six-inch diameter steel conduit and the placement of one fiber optic cable within the steel conduit. Based on the projected risk to the cable, several types of armored cable will be installed. Therefore, the size of the cable will vary from 1.2 inches to 1.10 inches in diameter. The fiber optic cable will carry diverse digital communications traffic including voice, data and video.

Lease Term: Ten years, commencing February 8, 2000, with the right to renew for one additional period of 15 years, subject to such reasonable renewal terms and conditions as the State may impose.

Consideration:

$116,361 per year. Lessor may modify the method, amount or rate of consideration effective on the second anniversary of the beginning date of the Lease. Irrespective of whether Lessor exercises the right to modify the consideration on the second anniversary, it may do so on the fifth anniversary and subsequently thereafter.

Insurance:
Combined single limit coverage no less than $1,000,000

Bond:
$500,000

SPECIFIC LEASE TERMS FOR PARCELS 1, 4, AND 5

Authorized Use for Each Lease:
Installation (via directional boring) and maintenance of one six-inch diameter steel conduit.

Lease Terms for Each Lease:
Ten years, beginning February 8, 2000, with the right to renew for one additional period of 15 years, subject to such reasonable renewal terms and conditions as the State may impose.

Consideration for Each Lease:
$15,093 per year. Lessor may modify the method, amount or rate of consideration effective on the second anniversary. Irrespective of whether Lessor exercises the right to modify the consideration on the second anniversary of the beginning date of the Lease, it may do so on the fifth anniversary and subsequently thereafter. The conduit Right-of-Way Leases each contain a provision whereby if, during the Lease term, Lessee becomes entitled to a rent-free permit pursuant to PUC §7901, the Lessee may apply to the Commission for and receive a rent-free Right-of-Way Permit in replacement of the affected conduit lease. However, this is contingent upon a finding by the Commission that the Lessee is entitled, pursuant to PUC §7901, to the rent-free use of the subject lands.

Insurance Provision for Each Lease:
Combined single limit coverage no less than $1,000,000

Bond Provision for Each Lease:
$75,000

Special Lease Provisions:
Applicant contemplates the future assignment of the conduit Right-of-Way Leases covering parcels 4 and 5 to AT&T Corp. Accordingly, Applicant has

requested the Commission grant its consent to the future assignment of these leases to AT&T Corp.

OTHER PERTINENT INFORMATION:

1. Applicant has the right to use the uplands adjoining the permit/lease premises.

2. The Applicant has advised staff that the conduit for Parcel 1 will be used to accommodate Segment 9 of the Japan-US Cable System for which AT&T Corp. has an application pending with the Commission. Staff has advised the Applicant that the Commission makes no representation or assurance that it will grant the necessary authorization for any future cable. Any future fiber optic cable project would remain entirely within the discretion of the Commission, subject to compliance with the California Environmental Quality Act.

3. The San Luis Obispo County Planning Commission considered this proposed project at its meeting on January 27, 2000. At that time, the Planning Commission, acting as lead agency under the California Environmental Quality Act (CEQA), certified the Final Environmental Impact Report (FEIR) and approved the project. The County, as required by CEQA Guidelines Section 15094, has filed a Notice of Determination. Interested persons have 14 days from action by the County Planning Commission to file an appeal for hearing by the County Board of Supervisors. In the absence of such an appeal, the project approval and FEIR certification are final. The Commission will be acting as a responsible agency under CEQA when considering this project. The Commission's meeting date, February 8, is within the County's 14-day appeal period. Rather than waiting for the appeal period to elapse and then scheduling the project for consideration at a subsequent Commission meeting, staff recommends that the Commission consider the project at the February 8 meeting with the following conditions:

   a) If an appeal is accepted by the San Luis County Board of Supervisors prior to the Commission's meeting on February 8, the matter will be removed from the Commission's calendar and will be rescheduled at a later date after final resolution of the appeal by the County of San Luis Obispo.

b) If an appeal is accepted by the County between the time of the Commission's action on the project at its February 8 meeting and the expiration of the County's appeal period, then the Commission's action on the project will be invalidated in its entirety. It would then be necessary for the matter to be rescheduled for Commission action after final resolution of the appeal by the County of San Luis Obispo.

By following the procedures outlined above, the Commission can properly fulfill its role as a responsible agency without the delay that would result from postponing action until the expiration of the County's appeal period. Commission staff has consulted with staff of the County who agrees that the procedure outlined above is appropriate.

4. An EIR was prepared and certified for this project by the County of San Luis Obispo. The California State Lands Commission staff has reviewed such document and Mitigation Monitoring Program adopted by the lead agency. Findings made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, sections 15091 and 15096) are contained in Exhibit A, attached hereto.

Information regarding the above issues has become available to the Commission as a consequence of its serving as lead agency for other proposed sub sea fiber optic cable projects, specifically Global West, Global Crossing and AT&T Projects. The analyses within the cited documentation conclude that a cable burial depth of .6-1.0 m is sufficient to reduce impacts to marine mammals and commercial trawl fishermen to a level of insignificance. Correspondingly, the .6-1.0 m depth will avoid the higher levels of impacts associated with a 1.5 m burial depth within the issues of marine sediment disturbance, air quality and disturbance to the sea floor during removal of the cable.

Accordingly, the Commission adopts the additional and modified mitigation measures stipulated below in addition to the associated Supplemental and Original Findings pursuant to Title 14, California Code of Regulations, sections 15091 and 15096(h).

5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

6. A Statement of Overriding considerations made in conformance with the State CEQA Guidelines (Title 14, California Coode of Regulations, section 15093) is contained in Exhibit A, attached hereto.

APPROVALS OBTAINED:

County of San Luis Obispo

FURTHER APPROVALS REQUIRED:

United States Army Corps of Engineers
California Coastal Commission
California Department of Parks and Recreation
California Regional Water Quality Control Board
California State Lands Commission

EXHIBITS:

A. CEQA Findings/Statement of Overriding Considerations
B. Additional and Modified Mitigation Measures and Supplemental CEQA Findings
C. Mitigation Monitoring Plan
D. Location Map
E. Parcel 1 – Land Description
F. Parcel 2 – Land Description
G. Parcel 2 – Site Map
H. Parcel 3 – Land Description
I. Parcel 3 – Site Map
J. Parcel 4 – Land Description
K. Parcel 5 – Land Description

PERMIT STREAMLINING ACT DEADLINE:

July 25, 2000

Revised 02/07/2000 4:24 PM

RECOMMENDED ACTION:
IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT AN EIR WAS PREPARED AND CERTIFIED FOR THIS PROJECT BY THE COUNTY OF SAN LUIS OBISPO AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

ADOPT THE FINDINGS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTIONS 15091 AND 15096 (h), AS CONTAINED IN EXHIBITS A AND B, ATTACHED HERETO.

ADOPT THE STATEMENT OF OVERRIDING CONSIDERATIONS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS SECTION 15093, AS CONTAINED IN EXHIBIT A, ATTACHED HERETO.

ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED IN EXHIBIT C, ATTACHED HERETO.

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

1) AUTHORIZE, SUBJECT TO THE LIMITATION SET FORTH IN PARAGRAPH 4 BELOW, ISSUANCE TO MFS GLOBENET, INC., OF THE FOLLOWING:
    A) ONE PERMIT FOR TELEPHONE LINE RIGHT-OF-WAY, FOR CONTINUOUS USE PLUS ONE YEAR, BEGINNING FEBRUARY 8, 2000, FOR THE CONSTRUCTION, INSTALLATION, OPERATION, MAINTENANCE AND USE OF ONE SIX-INCH DIAMETER STEEL CONDUIT AND ONE FIBER OPTIC CABLE, ON THE LAND DESCRIBED ON EXHIBIT F

ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION: EXEMPT PURSUANT TO SECTION 7901 OF THE PUBLIC UTILITIES CODE.

B) ONE GENERAL LEASE - NON-EXCLUSIVE RIGHT OF WAY USE, BEGINNING FEBRUARY 8, 2000, FOR A TERM OF TEN YEARS, WITH THE RIGHT TO RENEW FOR ONE ADDITIONAL PERIOD OF 15 YEARS, SUBJECT TO SUCH REASONABLE RENEWAL TERMS AND CONDITIONS AS THE STATE MAY IMPOSE, FOR THE CONSTRUCTION, INSTALLATION, OPERATION, MAINTENANCE AND USE OF ONE SIX-INCH DIAMETER STEEL CONDUIT AND ONE FIBER OPTIC CABLE, ON THE LAND DESCRIBED ON EXHIBIT H ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION: $116,361 PER YEAR, LESSOR MAY MODIFY THE METHOD, AMOUNT OR RATE OF CONSIDERATION EFFECTIVE ON THE SECOND ANNIVERSARY. IRRESPECTIVE OF WHETHER LESSOR EXERCISES THE RIGHT TO MODIFY THE CONSIDERATION ON THE SECOND ANNIVERSARY, IT MAY DO SO ON THE FIFTH ANNIVERSARY AND SUBSEQUENTLY THEREAFTER; INSURANCE: LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF NOT LESS THAN $1,000,000; SURETY BOND IN THE AMOUNT OF $500,000.

C) THREE GENERAL LEASES - NON-EXCLUSIVE RIGHT-OF-WAY USE, COMMENCING FEBRUARY 8, 2000, FOR A TERM OF TEN YEARS, WITH THE RIGHT TO RENEW FOR ONE ADDITIONAL PERIOD OF 15 YEARS, SUBJECT TO SUCH REASONABLE RENEWAL TERMS AND CONDITIONS AS THE STATE MAY IMPOSE, FOR THE CONSTRUCTION, INSTALLATION, OPERATION, AND MAINTENANCE OF ONE SIX-INCH DIAMETER STEEL CONDUIT PER LEASE, ON THE LAND DESCRIBED ON EXHIBITS E,

J, AND K ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION: $15,093 PER YEAR, PER LEASE; LESSOR MAY MODIFY THE METHOD, AMOUNT OR RATE OF CONSIDERATION EFFECTIVE ON THE SECOND ANNIVERSARY. IRRESPECTIVE OF WHETHER LESSOR EXERCISES THE RIGHT TO MODIFY THE CONSIDERATION ON THE SECOND ANNIVERSARY, IT MAY DO SO ON THE FIFTH ANNIVERSARY AND SUBSEQUENTLY THEREAFTER; INSURANCE: LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE NO LESS THAN $1,000,000; SURETY BOND IN THE AMOUNT OF $75,000 PER LEASE.

2) APPROVE THE FUTURE ASSIGNMENT OF THE RIGHT-OF-WAY LEASES COVERING PARCELS 4 AND 5 TO AT&T CORP. SUBJECT TO THE SPECIFIC TERMS AND CONDITIONS OUTLINED IN THE LEASE DOCUMENTS.

3) AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE ALL DOCUMENTS NECESSARY TO AFFECT THIS COMMISSION ACTION.

4) PROVIDE FURTHER, THAT THE ACTION TAKEN BY THE COMMISSION IN THIS MATTER SHALL BECOME NULL AND VOID IF AN APPEAL CHALLENGING THE SAN LUIS OBISPO COUNTY PLANNING COMMISSION'S DECISION TO CERTIFY THE FINAL ENVIRONMENTAL IMPACT REPORT AND/OR PROJECT APPROVAL IS ACCEPTED BY THE COUNTY BOARD OF SUPERVISIORS PRIOR TO THE ELASPE OF THE COUNTY'S 14-DAY APPEAL PERIOD FOLLOWING THE PLANNING COMMISSION'S ACTION OF JANUARY 27, 2000.

EXHIBIT A

REQUIRED CEQA FINDINGS
MFS GLOBENET CORP./WORLDCOM NETWORK SERVICES
FIBER OPTIC CABLE PROJECT

I. PROJECT DESCRIPTION

The project applicant is proposing to construct and operate undersea telecommunications fiber optic cables. The cables will land in Montana de Oro State Park, west-southwest of the community of Los Osos, California and will terminate at existing MCI fiber optic cable facilities located in the vicinity of the City of San Luis Obispo, approximately 14.0 miles inland from the offshore landing.

The onshore component of the project will extend from two landing vaults located in the Sandspit Road parking lot in Montana de Oro State Park. From the landing vaults the cables will consolidate and continue along Pecho Valley and Los Osos Valley Roads to a 30,000 square foot telecommunications building located near the intersection of 10th Street and Los Olivos Avenue in Los Osos. From the telecommunications facility, the proposed project will include two fiber optic cable lines, following two separate east-west routes. The two separate routes are proposed to achieve diversity (or redundancy) between lines and will terminate at different points at existing MCI facilities located in the vicinity and within the City of San Luis Obispo.

A. OFFSHORE ALIGNMENTS AND CHARACTERISTICS

The offshore component extending west from Sandspit Road parking lot in Montana de Oro State Park is proposed to consist of five separate submarine cables to be buried in the ocean floor.

The "near" onshore and offshore project specific components of the project as proposed consist of five individual bore pipes extending westerly from the Sandspit Road parking lot in Montana de Oro State Park. The five bore pipes terminate at seafloor portals located at points approximately 2,400 feet west of the mean high water line. These pipes consist of the "conceptual" and "project specific" components of the project. The "project specific" aspect of the project consists of three of the five directional bore pipes and portals being proposed to contain fiber optic cables that have been assigned specific routes and system designations (i.e., WorldCom's Southern Cross Segment D and Japan-U.S. Segment 1, and AT&T's Japan-U.S. Segment 9). The "conceptual component" of the project includes two fiber optic cables extending from the remaining two new unused bore pipes and portals to undetermined points.

1. Cable Alignments of the Offshore Component

Four types of cables that would be used for the proposed project include double armored (DA), single armored (SA), single armored light (SAL) and lightweight (LW). The double, single and

single lightweight armored cables would be used in the project area out to a depth of 2,000 meters (6,000 feet). The lightweight cable would be used in waters deeper than 2,000 meters. The cables would be coated with naturally occurring bitumen (asphalt) as a compound to adhere the outer polypropylene covering to the armor wires on the armored shallow water cables. The other cable components in contact with the sea are the galvanized steel armor wires and the polyethylene sheath.

Five bore holes or conduits would be installed as part of the proposed project. Directional boring would be used to install steel conduit from the landing (beach) vault seaward to the ocean floor trench. To accomplish the approximately 1,300-meter directional bores from the landing vault to the ocean, a suitably large boring machine must be employed. Bentonite would be used during the directional boring process to lubricate the drill bit and remove the drilling muds.

2. Near Shore Construction Activities

All directional bores involving encroachment into the sea would be staged from the Sandspit Road parking lot at Montana de Oro State Park. The favored method of cable burial is plowing, and the prime objective of the project proponent is to maximize the proportion of the length buried by this method.

Post lay inspection by ROV (to the 2,000-meter depth) would occur shortly after the burial machine operations are finished. Where the cable is not buried sufficiently by the plow, the ROV would bury the cable (via jetting) in the 500-meter buffer zones on each side of each cable crossing over existing cables.

3. Maintenance and Repair

It is not anticipated that extensive cable maintenance and repair would be required over the life of the project. The cables are designed to operate maintenance-free for 25 years. However, should the cable be damaged during the life of the project, the damaged portion of the cable would need to be lifted from the seafloor to the surface and repaired.

4. Cable Abandonment

Following the useful life of the cable, the cable would likely be abandoned. However, once the cable is retired from service, options could include purchase by another operator and continued use, research use, abandonment in place or removal and salvage. Current and future regulations may require the removal of cables within the jurisdiction of the regulatory agencies.

B. ONSHORE COMPONENT -- PROJECT CHARACTERISTICS

1. Fiber Optic Cable Alignments

If viewing the project in a west to east sequence, the five cables are proposed to land onshore and consolidate into two vaults located in Sandspit Road parking lot in Montana de Oro State Park. At this point, the cables located in the two parking lot landing vaults will be further consolidated into one fiber optic cable conduit. The following is a description of the onshore cable

alignment(s) that have been broken down into the three major sections: 1) Common Route; 2) Northern Route; and, 3) Southern Route.

a. Common Route

From the two vaults in Sandspit Road parking lot, one directional bore will be implemented which provides conduit with capacity to extend the five undersea fiber optic cables in an easterly and up-slope direction to a point adjacent to Pecho Valley Road. From the point where the directional bore surfaces (or is staged) adjacent to Pecho Valley Road in Montana de Oro State Park, the cable route will continue north and east along Pecho Valley Road and Los Osos Valley Road to a recently constructed telecommunications facility located at 1101 Los Olivos Avenue, in the community of Los Osos.

b. Northern Route

The Northern Route extends north from the telecommunications facility in Los Osos along 10th Street to Santa Ynez Street, east along Santa Ynez Street to 11th Street, north along 11th Street to Santa Ysabel Avenue, east along Santa Ysabel Avenue to South Bay Boulevard, north along South Bay Boulevard to Turri Road, east along Turri Road to private easements, east along the private easements to O'Connor Way, and east along O'Connor Way to Foothill Boulevard where it will connect to an existing MCI fiber optic cable line. The section of the Northern Route extending along private easements generally parallels Los Osos Valley Road (located to the south) while maintaining a separation of distance of approximately 1,500 feet from the Southern Route.

c. Southern Route

The Southern Route extends east from the telecommunications facility located on Los Olivos Avenue along Los Olivos Avenue to South Bay Boulevard, south along South Bay Boulevard to Los Osos Valley Road. From Los Osos Valley Road the route extends east along Los Osos Valley Road to Madonna Road, north along the parallel Madonna Road frontage road and north to El Mercado, east along El Mercado and under Highway 101 to Elks Lane. The route continues north along Elks Lane to South Higuera Street, north along South Higuera Street to Bridge Street, east along Bridge Street to Beebee Street, north along Beebee Street to Branch Street, east along Branch Street to Broad Street, south along Broad Street to Francis Avenue, and east along Francis Avenue to the Union Pacific Railroad right-of-way where it will connect to an existing MCI fiber optic line.

This portion of the project includes multiple conduit for various other companies. In order to reduce impacts to Los Osos Valley Road, the County required a single "joint venture" proejct for this segment.

2. Telecommunications Facility

WorldCom applied to the County of San Luis Obispo for and received a land use permit to construct a 30,000 square foot telecommunications facility in the community of Los Osos to

serve the proposed trans-Pacific fiber optic cable project. The land use permit was issued by the County in July 1998 and construction of the building was completed in June 1999.

The telecommunications facility project was proposed by WorldCom as a building to be used as a "telecommunications facility or other allowable use" should the essential fiber optic cable portion of the project not be constructed. The fact that the building could also be used for allowable uses other than a telecommunications facility, enabled the applicant to proceed under a separate land use permit and CEQA determination. The proposed project examined the issues associated with connecting this facility with the rest of the proposed systems.

3. Onshore Infrastructure

The grounding systems for the project are proposed to be conventional rod type arrays. Each of the three proposed WorldCom trans-Pacific cables landing at Montana de Oro State Park will require a separate earth array and each array will consist of four rods. The proposed location of the system ground arrays is on a 400 feet x 10 feet private property right-of-way adjacent to the intersection of Los Osos Valley Road and Jacaranda Lane.

II. THE RECORD

The California Code of Regulations, Title 14, Section 15091(b) requires that the Lead Agencies' findings be supported by substantial evidence in the record. Accordingly, the Lead Agencies' record consists of the following:

1. Documentary and oral evidence, testimony, and staff comments and responses received and reviewed by the Lead Agencies during information workshops, public review, and the public hearings on the project. All files of the County of San Luis Obispo Planning Department pertaining to MFS Globenet Corp and WorldCom Network Services are part of the County record.

2. The MFS Globenet Corp./WorldCom Network Services Fiber Optic Cable Project Final Environmental Impact report, as certified on January 27, 2000.

3. Application and supporting materials for the proposed project submitted by WorldCom.

4. Supporting materials submitted by WorldCom on alternate project routes, required in Alternative K, evaluated in the EIR Alternatives section.

5. Matters of common knowledge to the Lead Agencies which they consider, such as:
   - The County General Plan, including the land use maps and elements thereof.
   - The text of the Land Use Element.
   - The California Environmental Quality Act (CEQA) and the state CEQA guidelines implementing the act.
   - The County of San Luis Obispo Environmental Quality Act Guidelines.

- Other formally adopted policies and ordinances of the County of San Luis Obispo.
- Relevant adopted policies and regulations of the U.S. Fish and Wildlife Service
- Relevant adopted policies and regulations of the State Department of Fish and Game
- Relevant adopted policies and regulations in the California Coastal Act.

III. FINDINGS FOR PROJECT IMPACTS

The following section contains the findings required by section 21081 of the California Public Resources Code. These findings are organized by resource issue area, with impacts that result form the project as a whole or a combination of all project components contained at the end of the section. The organization of this section is as follows, and reflects the organization of the January 2000 Final Environmental Impact Report for the MFS Globenet Corp./WorldCom Network Services Fiber Optic Cable Project (Final EIR):

Offshore Environmental Impacts

V.A. Marine Geologic Hazards
V.B. Marine Water Quality and Oceanography
V.C. Marine Biological Resources
V.D. Marine Cultural Resources
V.E. Marine Transportation
V.F. Commercial and Recreational Fishing
V.G. Socioeconomics

On Shore Environmental Impacts

V.H. Geologic and Seismic Hazards
V.I. Drainage, Erosion and Sedimentation
V.J. Surface Water Quality
V.K. Biological Resources
V.L. Cultural Resources
V.M. Paleontological Resources
V.N. Visual Resources
V.O Traffic Safety
V.P. Agricultural Resources
V.Q. Public Services

Project Wide Environmental Impacts

V.R. Air Quality
V.S. Noise
V.T. Other Issues

Each impacts of the project is set forth below, followed by the recommended mitigation measures, a specific finding for the impacts, the supporting evidence, and a description of the residual impact after the mitigation has been implemented.

IV. FINDINGS

OFFSHORE ENVIRONMENTAL IMPACTS

a. Marine Geologic Hazards (MGH)

Impact – The following impact was identified in the January 2000 FEIR:

MGH 1– While it now appears unlikely that surface rupture along the active, main strand of the Los Osos fault will result in rupture of the cables in the directional borings westerly from the Sandspit Road parking lot, this possibility cannot be precluded.

Mitigation Measure – The mitigation measure recommended in the January 2000 FEIR is given as follows:

MGH/mm1 – During construction (i.e., drilling of the directional borings from the Sandspit parking lot), the applicant shall implement feasible measures to minimize the potential for surfacing of drilling mud during the drilling operation. Such measures shall include, but not necessarily be limited to, monitoring of the drilling process to ensure drilling pumps are shut off if there is pressure loss, monitoring of the beach during drilling, and providing contingency measures for spill clean-up. [Note: The report on the fault investigation by the applicant's geologist is still required and is expected soon.]

Mitigation has been required as Condition of Approval 8.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – The FEIR requires additional geological investigation to define the location and alignment of the Los Osos fault zone with respect to directional borings and imposes the requirement for feasible measures to minimize the surfacing of drilling mud during the drilling operation. Recent information supplied by the applicant indicates that the cable will not cross the fault zone and therefore no risks of fault rupture are anticipated.

Impact – The following impact was identified in the January 2000 FEIR:

MGH 2 -- Surface rupture along the active, main strand of the Los Osos fault may result in dislocation and exposure of the cables on the seafloor.

Mitigation Measure – The mitigation measure recommended in the January 2000 FEIR is given as follows:

***MGH/mm 2** – Implement mitigation measures CF/mm-2 (periodic cable inspection).*

The ability to change the project to implement the above measure lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – The FEIR contains summaries of geologic investigations and hard/soft bottom surveys. The findings are based on past studies of fault zones in the area and general fiber optic construction methodologies. Periodic inspection would identify areas of the cable that may become exposed due to seismic activity.

Impact – The following impact was identified in the January 2000 FEIR:

MGH 3 – The installation of five sub-sea cables could complicate future resource exploitation efforts.

***MGH Mitigation Measure** – None required.*

Residual Impacts – No residual impacts are anticipated.

Findings – Impact not identified as significant; therefore, no mitigation is necessary.

Supportive Evidence – The FEIR and data supplied from WorldCom provides the supportive evidence that cable routes will be clearly marked. Standard procedures of marking the locations of the cable lines on nautical charts guarantees that future exploration activities will be aware of the location of the cables within the designated right of way.

Impact – The following impact was identified in the January 2000 FEIR:

MGH Cumulative Impacts – Potential geologic and seismic hazards are location-specific to the extent that they may result in significant impacts on the environment, and they are not "cumulative" in the sense normally applied in CEQA documents. The loss of use of the proposed cables should rupture of the Los Osos fault actually occur, may be cumulative in that such a rupture may also affect existing cables in this area. However, loss of use is not, herein, considered an impact on the environment, and therefore, also not a cumulative impact.

***MGH Cumulative Mitigation Measure** – None Required.*

MGH Residual Cumulative Impacts – None.

Findings – Impact not identified as significant; therefore, no mitigation is necessary.

Supportive Evidence – The FEIR and published data from USGS provide the supportive evidence that cumulative geologic and seismic hazards would be location-specific and that cumulative impacts would be insignificant. Loss of service could occur throughout the area should a rupture occur but this would be temporary until other services were instated because the fiber optic cables are a redundant system.

b. Marine Water Quality and Oceanography (MWQ)

Impact – The following impact was identified in the January 2000 FEIR:

MWQ 1 – Reduced marine water and sediment quality will result from the oceanic discharge of drilling mud during installation of the directional bores.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR are given as follows:

MWQ/mm1 *– No toxic compounds, such as diesel pills or chrome-based lignosulfonates, shall be added to the drill mud at any time prior to or during bore hole drilling. If mineral oil is added, the drill mud shall pass a "bucket sheen" test (USEPA, 1985) immediately prior to emergence of the drill bit offshore. If a sheen is observed, the drill mud shall be replaced with new mud prior to further drilling and the used oil-contaminated mud shall not be discharged offshore. If the low marine toxicity of the drill mud and additives cannot be certified, trace-metal concentrations in the drill mud shall also be tested. They shall not exceed the maximum values established for generic drilling mud (USEPA, 1983) or the mud will be replaced prior to continued drilling.*

MWQ/mm-2 *– The applicant shall acquire all the necessary discharge permits or consistency certifications from the Central Coast Regional Water Quality Control Board prior to commencing drilling operations. The applicant shall abide by any waste discharge requirements imposed by the discharge permit.*

MWQ/mm-3 *– The applicant shall implement reasonable engineering methods for limiting the amount of drill mud discharged to the ocean environment at the completion of a directional bore. For example, onshore mud circulation pumps should stop injection of drilling fluid into the bore hole as soon as well pressure drops due to emergence of the drill-head offshore. Excess drill mud remaining in the bore should be collected onshore to the extent possible. Any subsequent flushing of the bore hole should use seawater, freshwater, or pressurized air to clear the bore hole rather than drill mud or other potentially toxic material. Debris removed from the drill pipe during pigging and brushing prior to commissioning the conduit, shall be collected and disposed of onshore.*

MWQ/mm-4- *After completion of the bore hole, all drill mud collected onshore shall be disposed of onshore or used in a subsequent bore hole. None of the excess drill mud or drill cuttings collected onshore shall be discharged or dumped into marine or onshore surface waters.*

MWQ/mm-5- *Emergency spill cleanup equipment, including but not limited to sorbent booms, shall be staged onshore during bore hole drilling. They shall be deployed in the event of an accidental release of drill mud to prevent it from reaching the sensitive intertidal habitat.*

Mitigation has been required as Condition of Approval 9, 10, 11, 12 & 13.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – Various agencies regulate the composition of drill mud; however, it is unavoidable that some muds will enter the marine environment. The ability to minimize discharge has been examined in the past and current technology minimizes the amount and quality of the discharge. Adverse impacts from drill-mud discharge are considered *significant but mitigable*. After mitigation, discharge of drill mud will continue to have adverse impacts on turbidity within the water column. However, these impacts will be temporary (no more than a few days following discharge), of limited areal extent (detectable only immediately surrounding the bore hole exit), and of minor amplitude compared to the natural background variability in the suspended sediment loads near the surfzone. This is largely because the surfzone experiences naturally high turbidity due to energetic wave-induced resuspension of ambient sediments.

By restricting the introduction of toxic contaminants into the drill mud, such as petroleum hydrocarbons and chrome lignosulfonate, any potentially significant chemical impacts will be mitigated. Within the drill-mud plume, temperature and pH may be slightly elevated, while oxygen and salinity will probably be lower than ambient seawater. However, beyond the immediate area of the discharge, these seawater anomalies are likely to be imperceptible and well within the standards set forth in the California Ocean Plan. Seawater anomalies resulting from effluent discharge at a seafloor site in the same water depth within northern Estero Bay, cannot be detected within 15 m of the discharge point (MRS, 1999). The effluent discharge flow rate at this site is 1,000 times larger than that of the projected drill-mud release.

Finally, particles settling out of the drill-mud plume may adversely affect sessile infaunal organisms within about 15 m of discharge point. However, because of the comparatively low density of organisms around the seaward portals, this temporarily burial will probably only adversely affect a small number of infaunal organisms. Also, recruitment is likely to be rapid from adjacent areas and the overall impact to sediment habitat will be insignificant. Similarly, the drill-mud plume could impinge on sensitive hydrocoral colonies residing on the rocky reef immediately offshore of the bore hole exit locations. However, given the variability of the flow field and the 1.5-km distance to the colonies, impingement is not likely. Even if the drill-mud plume were to impinge on the colonies, the increased turbidity is likely to be brief and small in

amplitude. Its impact on epifauna will be far smaller than that reported offshore Point Conception after discharging more than 40 x 10^6 L (10.6 million gallons) of drill mud over a period of two years (Hyland *et al.*, 1994).

Mitigation given above assumes worst case of all drill muds discharging into the marine environment, and at worst-case, the impacts are considered to be short-term and consist of brief turbidity of small amplitude. The affects on infaunal organisms would be limited to about 15m of discharge point and because of the low density of organisms along the cable route, the impacts is considered to adversely affect a small number of infaunal organisms.

Impact – The following impact was identified in the January 2000 FEIR:

MWQ 2 – Routine or accidental discharge of contaminants or non-native species to marine waters from vessels operating offshore during installation, repair, or removal of the cables could adversely affect marine water quality.

Mitigation Measure – The mitigation measure recommended in the January 2000 FEIR is given as follows:

MWQ/mm-6 – There shall be no intentional discharge of sewage or bilge/ballast water from vessels performing the installation, repair, or removal of the fiber optic cables while operating within U.S. territorial waters. The potential for an accidental discharge of oil to marine waters shall be mitigated through the development of a written oil-spill contingency plan.

The ability to change the project to implement the above measure lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Although the impact was identified as adverse but not significant, application of additional mitigation measures would further reduce impacts to insignificance.

Findings – The impact given above was identified as adverse, but not significant.

Supportive Evidence – This mitigation prohibits discharge of sewage or bilge/ballast water from vessels. The potential for impacts resulting from pollutants is thereby avoided. Federal and State criteria and standards regulate these discharges.

MWQ 3 – Re-suspension of surficial sediments during pre-lay grapnel runs, burial by hydroplow, post-lay burial by jetting, and repair or removal using a de-trenching grapnel, will increase particulate loads within the water column immediately above the seafloor.

Mitigation Measures-No mitigation is required for this adverse but less-than-significant impact.

Residual Impacts – No residual impacts are anticipated.

Findings – Impact is not identified as significant; therefore, no mitigation is necessary.

Supportive Evidence – From information gathered from similar activities, the resulting sediment re-suspension from proposed operations along the seafloor has been found to be brief and localized. Although the disturbance of seafloor sediments by the project activities will be adverse, they will be temporary (less than a day), of limited areal extent (immediately above the seafloor and restricted to the area near the cable corridor) and of minor amplitude compared to the natural background variability in the suspended sediment loads in this coastal region.

Impact – The following impact was identified in the January 2000 FEIR:

MWQ 4 – Leaching of chemical constituents from the cable coating will increase contaminant levels in marine sediments, interstitial waters, and the water column.

Mitigation Measure – The mitigation measure recommended in the January 2000 FEIR is given as follows:

MWQ/mm-7 – No anti-fouling substance shall be added to the protective cover on the cables other than the naturally occurring bitumen (asphalt) coating described in the proposed project.

The ability to change the project to implement the above measure lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Although the impact was identified as adverse but not significant, application of additional mitigation measures would further reduce impacts to insignificance.

Findings – The impact given above was identified as adverse, but not significant.

Supportive Evidence – The leaching of chemical constituents from the cable coating will insignificantly increase contaminant levels in marine sediments, interstitial waters and the water column and can be mitigated by requiring no anti-fouling substance to be added to the protective cover on the cables other than the naturally occurring bitumen coating. The applicant has stated that no anti-fouling chemicals will be added to the exterior cable sheath. During the hard-substrate biological survey, an existing cable was observed to have marine growth on the cable and further confirms its lack of toxicity to marine organisms. The bitumen (asphalt) coating is commonly used in marine construction.

Impact – The following impact was identified in the January 2000 FEIR:

MWQ 5 – Lubricants applied to the cables as they are pulled onshore through the bore hole conduits could introduce contaminants into the water column and seafloor sediments.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR are given as follows:

MWQ/mm-8 *– Lubricants applied in the marine environment shall be restricted to non-petroleum based products that do not contain contaminants in concentrations known to be toxic marine organisms.*

MWQ/mm-9 *– Discharge of lubricants to the marine environment shall be limited by using the best available engineering techniques to minimize the volume applied to the cables and to contain the lubricant within the conduit. Techniques include precise computation of required lubricant quantities and the use of lubrication equipment such as sealed containers, feeder systems, foam spreaders, front-end lubricant filled bags, and conduit inserts and collars.*

The ability to change the project to implement the above measure lies within another agency's jurisdiction and the measure given above should be adopted by that agency. For the onshore portion of the offshore activities, the mitigation measures is required as Condition of Approval 14.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – During installation, divers routinely apply lubricant to fiber-optic cables as they are pulled onshore through the bore hole conduits. It is likely that some of the lubricant will be introduced into the marine environment and unless the use of the lubricant is regulated, it could have deleterious impacts on marine water and sediment quality. Although the effects are likely to be temporary and localized, it is still prudent to require non-toxic lubricants and minimize the amount used during the pulling of cables.

Impact – The following impact was identified in the January 2000 FEIR:

MWQ Cumulative Impacts – After mitigation, residual impacts to marine water quality from the proposed project are less than significant. Also, they are of limited duration and spatial extent. Because there are no other active or proposed projects that are expected to occur at precisely the same time and location as the proposed project, incremental impacts to marine water quality resulting from the proposed project, in combination with impacts from other projects, will be less than significant.

Mitigation Measures – None required.

Residual Impacts – No residual impacts are anticipated.

Findings – Impact not identified as significant; therefore, no mitigation is necessary.

Supportive Evidence – No other fiber optic cable or similar projects are expected to occur at precisely the same time and location as the proposed project. Incremental impacts resulting from the proposed project are limited and of short duration and in combination with other project would still be considered insignificant on marine water quality.

c. Marine Biological Resources

Impact – The following impact was identified in the January 2000 FEIR:

MBR 1 – Whales and other marine mammals may be adversely impacted by a insufficiently buried cable or a cable suspended 5 to 30 m above the seafloor.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR are given as follows:

MBR/mm-1 *– The proposed JUS-9, SC-D, and JUS-1 cables shall be rerouted to the north or south of the hard-bottom structure located within three-nautical miles from shore. The SC-D cable shall also be rerouted around the pinnacle structure located seven-nautical miles from shore. By rerouting and avoiding hard-bottom structures, it will be possible to bury the cable in soft-bottom substrates.*

MBR/mm-2 *– Cables shall be buried to a target depth of 1.5 m to avoid entanglement with gray whales during possible feeding and to avoid gear entanglement with bottom trawlers.*

MBR/mm-3 *– When known, the mitigated corridor shall be submitted to the County of San Luis Obispo and state and federal permitting agencies for review and approval. After installation, documentation that supports rerouting around hard-bottom structures and adequate cable burial depth shall also be submitted.*

MBR/mm-4 *– Although the corridors for the two additional cables that are part of this project remain unknown, they also shall be routed to avoid hard-bottom structures. When known, corridors shall be submitted to the County of San Luis Obispo and state and federal permitting agencies for review and approval.*

MBR/mm-5 *- Because abrupt alter-courses (AC) along the mitigated cable corridors reduce cable-laying precision and because of the increased target burial depth of 1.5 m, a plow shall be used for cable burial within 3-nautical miles (nm) from shore whenever feasible. Use of a plow will eliminate cable movement associated with post-lay jetting and will allow for deeper penetration in resistant sediments which may occur within 3-nm from shore. As required in mitigation measure CF/mm-1, maps and documentation identifying precise post-lay cable location and depth shall be provided to the County of San Luis Obispo and state and federal permitting agencies.*

MBR/mm-6 *- Once out of service, abandoned cables shall be removed from the seafloor. Removal shall occur out to the jurisdictional limit of the permitting agencies, but at a minimum between the shoreline and the 1,000-fathom depth contour. However, during the*

application for removal phase, the applicant may provide evidence to the permitting agencies identifying the benefits of abandoning the cable in place. The decision regarding abandonment by removal or in place shall reside with the permitting agencies.

The ability to change the project to implement the above mitigation measures lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – Although entanglements by whales have not been reported offshore California, there are 14 instances of sperm whale entanglements in other locations of the world. Because of their feeding behavior, gray whales may also potentially come into contact with a bottom cable. Because cables will be unburied over hard-bottom structures they will be exposed and contact resulting in entanglement of whales can occur resulting in injury to marine mammals. By implementing the above mitigation and rerouting the cables around hard bottom areas, the cables can be buried at target depths and thereby avoids the potential for impacts related to entanglements.

Impact – The following impact was identified in the January 2000 FEIR:

MBR 2 – The trenching and burial activities associated with cable installation, repair, or abandonment will disturb soft bottom habitats and destroy populations of benthic invertebrates residing in the activity area.

Mitigation Measures *– No mitigation is required for this adverse but less-than-significant impact.*

Residual Impacts – No residual impacts are anticipated.

Findings – Impact is not identified as significant; therefore, no mitigation is necessary.

Supportive Evidence – Benthic invertebrates residing in and on soft-sediment surfaces are not endangered or threatened, and can re-colonize and recruit from adjacent areas. Impacts are therefore short-lived and require no mitigation.

Impact – The following impact was identified in the January 2000 FEIR:

MBR 3 – Buried cables are typically not monitored after they are retired from service. They may hence become unburied or daylight on the seafloor and present hazards to marine mammals and commercial fishing operations.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR is given as follows:

MBR/mm-5 *– Once out of service, abandoned cables shall be removed from the seafloor. Removal shall occur out to the jurisdictional limit of the permitting agencies, but at a minimum between the shoreline and the 1,000 fathom depth contour.*

The ability to change the project to implement the above mitigation measures lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – As described in Impact MBR-1 above, unburied cables can become a threat to marine mammals, most notably whales. In addition, unburied cables present a hazard to certain fishing operations due to conflict with fishing gear. Cables no longer in useful service are not typically monitored and may become unburied. Proposed mitigation would require the removal of the cables at the end of their useful service life.

Impact – The following impact was identified in the January 2000 FEIR:

MBR 4 – Activities associated with the installation, repair, and abandonment of cable laid on hard-bottom structures can adversely impact hard-bottom epibenthic organisms and potentially damage hard-bottom habitats.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR are given as follows:

Mitigation measure MBR/mm-1& 2 apply*. The three proposed cables (JUS-9, SC-D, and JUS-1) shall be rerouted to avoid hard-bottom structures. Rerouting and avoiding hard-bottom structures will allow for cable burial in soft-bottom substrates. Cables shall be buried to a depth of 1.5 m to avoid entanglement with gray whales during feeding and to avoid gear entanglement with bottom trawlers.*

MBR/mm-8 *– A anchoring plan which identifies procedures for avoiding hard-bottom habitats shall be developed and provided to the County of San Luis Obispo and state and federal permitting agencies. The plan shall also provide illustrations of potential anchoring patterns super imposed on maps identifying the locations of hard-bottom features in the anchoring area. The maps identifying the locations of the hard-bottom features shall be derived from the side-scan sonar survey conducted during the initial site characterization phase of the project and be presented at a scale of 1:3000.*

The ability to change the project to implement the above measure lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – Rerouting of cables and implementation of plans to avoid hard-bottom structures will also reduce the potential impacts on hard bottom that would result from repair or removal operations. Given that re-routed cables will likely be in the vicinity (as opposed to crossing) hard bottom features, some impacts could still occur due to anchoring while repairing or removing cables. Preparation of an anchoring plan designed to avoid these features would mitigate this impact.

Impact – The following impact was identified in the January 2000 FEIR:

MBR 5 – Sound or noise created by cable installation, repair, and abandonment activities may potentially disturb marine mammals and seabirds in the project area.

Mitigation Measures *– No mitigation is required for this adverse but less-than-significant impact.*

Residual Impacts – No residual impacts are anticipated.

Findings – Impact is not identified as significant; therefore, no mitigation is necessary.

Supportive Evidence – The loudest noise sources associated with construction are from compressors and diesel engines located on the installation and support ships. The degree of noise impacts will depend on the emitted sound level and the proximity to marine mammals; noise from vessels have been shown to elicit a startle reaction form gray whales. There is very limited data on sound levels involved but effects are associated with vessels nearby whales and would be temporary in nature lasting only a few hours.

Impact – The following impact was identified in the January 2000 FEIR:

MBR 6 – Increased particulate loads can be deleterious to marine organisms.

Mitigation Measures *– No mitigation is required for this adverse but less-than-significant impact.*

Residual Impacts – No residual impacts are anticipated.

Findings – Impact is not identified as significant; therefore, no mitigation is necessary.

Supportive Evidence – Evidence given in the FEIR indicates that turbidity is localized and limited in spatial extent. Although the impacts will be adverse, the organisms for the most part are able to re-colonize and recruit from adjacent areas and habitat recovers quite rapidly.

Impact – The following impact was identified in the January 2000 FEIR:

MBR 7 – Drill muds that contain additives such as petroleum-based lubricants, or lubricants that are used in the installation of cable through conduits, when released, can be fatal to marine organisms. Fatalities to marine invertebrates, and to endangered or threatened species such as the brown pelican and sea otter may result.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR are given as follows:

MGH/mm-1 *– This measure states that during construction (i.e., drilling of the directional borings from the Sandspit parking lot), the applicant shall implement feasible measures to minimize the potential for surfacing of drilling mud during the drilling operation. Such measures shall include, but not necessarily be limited to, monitoring of the drilling process to ensure drilling pumps are shut off if there is pressure loss, monitoring of the beach during drilling, and providing contingency measures for spill clean-up.*

MWQ/mm-1 and MWQ/mm-8 *– These measures state that toxic additives, including petroleum-based lubricants, not be utilized in drill muds used for the directional bores. Also described, are limitations to the types of lubricants that may be used during cable installation through drilled conduits.*

The ability to change the project to implement the above measure lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Although the impact was identified as adverse but not significant, application of additional mitigation measures would further reduce impacts to insignificance.

Findings – Impact is not identified as significant; therefore, no mitigation is necessary.

Supportive Evidence – Various agencies regulate the composition of drill mud; however, it is unavoidable that some muds will enter the marine environment. The ability to minimize discharge has been examined in the past and current technology minimizes the amount and quality of the discharge. Mitigation measures designed to minimize the potential for drill mud "blow-out" by the *identification* of fracture or faults combined with the restriction to use toxic additives such petroleum-based lubricants in drill muds will result in an *adverse and insignificant impact* Mitigation given above assumes worst case of all drill muds discharging into the marine environment, and at worst-case, the impacts are considered to be short-term and consist of brief turbidity of small amplitude. The affects on infaunal organisms would be limited to about 15m of discharge point and because of the low density of organisms along the cable route, the impacts is considered to adversely affect a small number of infaunal organisms.

Impact – The following impact was identified in the January 2000 FEIR:

MBR Cumulative Impacts – Several cables are planned in the same general vicinity as the proposed project. Because all identified impacts from the proposed project can be mitigated to insignificant levels, impacts resulting from this project will not adversely contribute to the cumulative scenario. If the mitigation measures are not implemented, substantial impacts to marine mammals, endangered and threatened species, hard-bottom habitats and biota can result and would be *significant and adverse.*

***Mitigation Measure** – No additional Mitigation Measures are Required beyond those listed above for Marine Biological Resources.*

Residual Impacts – Implementation of the Marine Biological Resources mitigation measures would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – Incremental impacts resulting from the proposed project are limited and of short duration and in combination with other project would still be significant on marine biological resources if mitigation measures, such as avoidance of hard bottom habitats, were not implemented. With mitigation measures implemented on the proposed projects that avoid hard bottom habitats and reduce pollutants in soft bottom habitats, then cumulative impacts would be reduced.

d. Marine Cultural Resources

Impact – The following impact was identified in the January 2000 FEIR:

MCR 1 – The pre-lay grapnel run and/or cable installation could potentially damage or destroy a previously unknown shipwreck of potential cultural resource value.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR are given as follows:

***MCR/mm-1** – Prior to the pre-lay grapnel run and cable installation, the applicant shall provide a detailed analysis of side scan sonar and magnetometer data for each proposed cable route between the shoreline and the 1,000 fathom depth contour. The analysis shall identify and analyze all magnetic and side scan sonar anomalies that occur in the cable corridor, which is defined by a lateral distance of 1 kilometer (500 meters on each side of the proposed cable route). The analysis shall also include analysis of the potential cultural significance of each anomaly identified within the cable corridor. The applicant must submit the side scan sonar and magnetometer data, and an accompanying report which analyzes the data. Final approval from the State Lands Commission (for areas within the three mile limit)*

and Army Corps of Engineers (areas between the three mile limit and the edge of the continental shelf) must be received prior to the pre-lay grapnel run and cable installation.

***MCR/mm-2** – Should a previously unknown shipwreck of potential cultural resource value be discovered within the proposed cable corridor as a result of the study required in Mitigation Measure MCR/mm-1, the proposed cable route shall be modified to avoid the potentially significant cultural resource.*

The ability to change the project to implement the above measure lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – Marine Cultural Resources survey conducted as part of the EIR indicates that no shipwreck size bottom feature of potential cultural resource value was observed in the proposed cable corridors. Since these cable routes will be altered as required by other mitigation measures, it is possible that a previously unknown shipwreck of potential cultural resource value could be damaged or destroyed during pre-lay grapnel run or during cable installation. Mitigation measures have been recommended that would require careful examination of side scan sonar and magnetometer data for the new routes and adjustment of those routes to avoid any potential shipwrecks.

Impact – The following impact was identified in the January 2000 FEIR:

<u>MCR Cumulative Impact</u> – A potential disturbance and/or damage to known and previously unknown shipwrecks of potential cultural resource value are location-specific to the extent that they may result in significant impacts on the environment, and they are not "cumulative" in the sense normally applied in CEQA documents. The analyses of side scan sonar and magnetometer data that is routinely conducted as part of each cable project could result in the discovery of previously unknown shipwrecks of potential cultural resource value. Given the cost associated with these surveys, and rarity of their occurrence, it is possible that previously unknown shipwrecks of potential cultural resource value will be discovered. Therefore, potential impacts associated with cumulative cable surveys and installation are considered beneficial due to the potential benefit associated with mapping a large area of the seafloor and potential discoveries of previously unknown shipwrecks.

Mitigation Measures – None required.

Residual Impacts – No residual impacts are anticipated.

Findings – Impact not identified as significant; therefore, no mitigation is necessary.

Supportive Evidence – The FEIR contains survey information regarding shipwrecks in the vicinity of the cable installation. However, due to cost of the surveys and lack of data within the vicinity, any cumulative surveys would be considered beneficial due to the potential benefit associated with mapping a large area of the seafloor and potential discoveries of previously unknown shipwrecks.

e. Marine Transportation

Impact – The following impact was identified in the January 2000 FEIR:

MT 1 – Increase in marine traffic accidents or disruption and delays to existing marine traffic caused by the addition of cable installation, support, or crew exchange vessels.

Mitigation Measures *– No mitigation measures are required for this less than significant impact.*

Residual Impacts – No residual impacts are anticipated.

Findings – Impact not identified as significant; therefore, no mitigation is necessary.

Supportive Evidence – The FEIR includes data regarding marine traffic loads and documents the low number of accidents that have occurred in nearby waters. Based on the 300 vessels operating out of local harbors and the average of 5 accidents a year, the potential for accidents to occur as a result of the cable installation is considered low and impacts would be insignificant.

Impact – The following impact was identified in the January 2000 FEIR:

MT 2 – Cable installation, repair and maintenance, and cable removal vessels will be a navigational hazard to other marine vessels that utilize the project area.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR are given as follows:

MT/mm-1 *– All project vessels will be equipped and marked in accordance with U.S. Coast Guard regulations during cable installation, repair, maintenance, and removal activities.*

MT/mm-2 *– Vessel activity, work location, and schedule shall also be posted with the U.S. Coast Guard Notice to Mariners. The same schedule shall also be posted with Harbor Patrol offices in Morro Bay and Port San Luis so that mariners will be informed of offshore project activities and project vessels at all times.*

The ability to change the project to implement the above measure lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Although the impact was identified as adverse but not significant, application of additional mitigation measures would further reduce impacts to insignificance.

Findings – Impact is not identified as significant; therefore, no mitigation is necessary.

Supportive Evidence – Standard conditions of vessels operating in U.S. Waters would be required by applicable agencies. Markings and work schedules will identify the vessels associated with the project.

Impact – The following impact was identified in the January 2000 FEIR:

MT Cumulative Impact – The installation schedules for all cable projects remain unknown but they are not expected to occur simultaneously. They will most likely occur singly or in sequence so cumulative impacts associated with simultaneous installation is not expected. Repair and abandonment activities are likely to occur on an as needed basis. Similarly, cumulative impacts are not expected for repair, maintenance, and abandonment phases.

Mitigation Measures – *No mitigation measures are required for this less than significant impact.*

Residual Impacts – No residual impacts are anticipated.

Findings – Impact not identified as significant; therefore, no mitigation is necessary.

Supportive Evidence – Standard conditions of vessels operating in U.S. Waters would be required by applicable agencies. Markings and work schedules will identify the vessels associated with the project.

f. Commerical and Recreational Fisheries and Socioeconomic Impacts on Fishing (CF)

Impact – The following impact was identified in the January 2000 FEIR:

CF 1 – The three proposed project cables (JUS-9, SC-D, and JUS-1) will traverse hard-bottom habitats along its route. In many locations, the cable will be suspended above the seafloor. Because fishing gear may become entangled with suspended cable segments, fishers will be restricted from fishing in historically important fishing grounds or, if fished, loss of fishing gear can occur. In both instances, economic losses to fishers will result.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR are given as follows:

Mitigation Measures – MBR/mm-1and MBR/mm-2 should be implemented.

The ability to change the project to implement the above measure lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – Catch statistics and fishing gear characteristics given in the FEIR provide supportive information regarding potential for impacts resulting from competition between cable placement and bottom trawling, gill nets and long line fishing. The avoidance of hard bottoms and burial of the cables eliminates the conflicts with the fishing industry.

Impact – The following impact was identified in the January 2000 FEIR:

CF 2 – Bottom trawls may become entangled with insufficiently buried cables or with cables that become exposed over time. Hence, when feasible, cables should be buried to depths sufficient to avoid entanglement with bottom trawls.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR are given as follows:

MBR/mm-2 *should be implemented.*

CF/mm-1 *– Provide documentation of cable location and depth after installation to assure that accurate positions and depths are known to fishers and other interested parties. Positions for the installed cable shall be obtained by an acoustic navigation system linked to surface DGPS. The transponder for the acoustical navigational system shall be mounted on the equipment used for cable installation (i.e., plow or ROV). The cable installation phase shall be monitored by a representative of San Luis Obispo County or the state and federal permitting agencies and the acoustical navigation task shall be accomplished by a third party agreed-to by the same agencies.*

CF/mm-2 *– Conduct post-lay cable burial verification survey every 18 months or after events that may cause buried cable to daylight. The survey shall be conducted by an ROV equipped with video and still cameras and by a third party agreed-to by the County of San Luis Obispo and the permitting state and federal agencies. A report providing verification of cable burial shall be submitted to the permitting agencies.*

The ability to change the project to implement the above measure lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – The FEIR contains information regarding bottom trawling characteristics. Bottom trawls maintain constant contact with the seafloor. Because the trawls maintain contact with the bottom, they can potentially become entangled with cables on the

seafloor. Entanglement can result in loss or damage to the trawl, damage to the cable, or both. Due to the economic loss associated with fishing down-time, this can be a significant impact. By burying the cables at sufficient depth (1 1/2m) to avoid entanglement, the impacts to fishing can be reduced to insignificance.

Several cables are proposed in the same general vicinity of the proposed WorldCom project. Because the identified commercial and recreational fishing impacts from this proposed project can be mitigated to insignificant levels, they will not significantly contribute to the cumulative impact scenario.

g. Socioeconomic Impacts

Impact – The following impact was identified in the January 2000 FEIR:

SE 1 – Cable in place would create potential for snagging trawl and non-trawl fishing gear, reduce catch, and/or increase operating costs and risks for commercial fishermen.

Mitigation Measure – The mitigation measure recommended in the January 2000 FEIR is given as follows:

SE/mm-1 *– Notify fishing organizations, U.S. Coast Guard, National Oceanic and Atmospheric Administration, California State Lands Commission, California Department of Fish and Game, County of San Luis Obispo, City of Morro Bay, and Port San Luis Harbor District and distribute specific information regarding installation and location of cables.*

SE/mm-2 *– Provide 24-hour toll-free contact number and free nautical charts showing cable locations to help fishers avoid conflicts with portions of the cable that are exposed or buried less than the target depth of 1 1/2 meters.*

SE/mm-3 *– Enter into an agreement with fishers that would minimize impacts of the proposed project on commercial fishing operations and would protect fishers against potential economic losses in the event that project impacts on commercial fishing operations are greater than anticipated due to changes in the project, as described in this EIR, or the applicant's inability to fully implement other mitigation measures identified in this EIR. At a minimum, the agreement shall contain each of the elements as identified in the "Interim Agreement Between Cable Companies and Fishermen" dated 22 July 1999, and shall also be amended to include the more restrictive measures contained in this EIR, such as increased cable target burial depth and routing.*

Measures in the agreement designed to protect fishers, such as holding fishers harmless from redress for unintentional damage to buried cables that result from normal legal fishing activities, shall also apply to fishers that are not a signatory to the agreement, recognizing that fishers from other ports may not have an opportunity to participate in the agreement.

Should the applicant be unable to reach an agreement, as described above, with fisher groups or individuals, the applicant shall enter into binding arbitration to resolve

outstanding issues that prevented an agreement. The mediator for this arbitration must be acceptable to both parties and approved by the San Luis Obispo County Planning Director.

The ability to change the project to implement the above measure lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – Conflicts with buried and unburied cable can significantly affect the commercial fishing industry. The FEIR contains information regarding adequate burial depths for cable. The target depth of 1.5 meters ensures that the cable will remain covered over the entire length of the route. In addition, other measures are proposed to increase the information transmitted to fishermen regarding the location of the cables, contact number in case of snags, and a process for reimbursement in case of lost fishing gear due to a snag.. With the implementation of these measures, the impacts to fishing can be reduced to insignificance.

Impact – The following impact was identified in the January 2000 FEIR:

SE 2 – The proposed project would result in a reduction of employment from the proposed project and cumulative if other cable projects were to occur due to potential losses in the commercial fishing industry.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR are given as follows:

***Mitigation Measures** – SE/mm-1 through SE/mm-3, MBR/mm-1, MBR/mm-2, CF/mm-1 and CF/mm-2.*

The ability to change the project to implement the above measure lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – Mitigation measures have been identified to reduce the impact as a result of conflicts with cables primarily through increased target burial depth, regular inspection and reburial of exposed cable, accurate depiction of cable locations, conflict resolution and gear replacement process between fishermen and cable companies. These measures applied to the

proposed project, and other projects in the area would reduce the impact on the industry as a whole to a level of insignificance.

Impact – The following impact was identified in the January 2000 FEIR:

SE 3 – Potential reductions in commercial fishing income would result in losses of income at Morro Bay and Port San Luis Harbors.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR are given as follows:

Mitigation Measures *– SE/mm-1 through SE/mm-3, MBR/mm-1, MBR/mm-2, CF/mm-1 and CF/mm-2*

The ability to change the project to implement the above measure lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – Mitigation measures have been identified to reduce the impact as a result of conflicts with cables primarily through increased target burial depth, regular inspection and reburial of exposed cable, accurate depiction of cable locations, conflict resolution and gear replacement process between fishermen and cable companies. These measures applied to the proposed project, and other projects in the area would reduce the impact on the industry as a whole to a level of insignificance. Elimination of impacts to the industry as a whole would also eliminate impacts to the ports serving that industry.

Impact – The following impacts were identified in the January 2000 FEIR:

SE 4 – Temporary disruption would occur to users of Montana de Oro State Beach during cable installation and possible repair from equipment and work crews.

SE 5 – Cable installation would require recreational boaters (party boats and others) to avoid the cable-laying vessel on a short-term basis.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR are given as follows:

SE/mm-4 *– Schedule work during periods of lower Park usage (e.g. weekdays) to minimize impacts during period of greatest beach use.*

SE/mm 5 – Post *information about the project at the work site, at the park entrance, and elsewhere in the vicinity to keep the general public informed about the work in progress and avoid confusion that could reduce beach and park use.*

Mitigation has been required as Condition of Approval 50.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – Information in the FEIR provides data on visitor usage at Montana de Oro State Park and the potential short-term impacts resulting from closure of the Sand Spit Road and parking lot . If the closure is timed so as to avoid the peak (Memorial Day – Labor Day) use period, and measures to notify park users of the conflict are taken, the impact can be reduced. Short-term and insignificant impacts would also be associated with the loss of recreational boating in the area of cable pulling for the duration of construction. Since the impacts are localized and do not affect the entire park usage, the impacts are considered insignificant.

SE 6 Cumulative Impacts – Cumulative cable in place would create potential for snagging trawl and non-trawl fishing gear, reduce catch, and/or increase operating costs and risks for commercial fishers.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR are given as follows:

Mitigation Measures – SE/mm-1 through SE/mm-3, MBR/mm-1, MBR/mm-2

The ability to change the project to implement the above measure lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supporting Evidence – See FEIR.

SE 7 Cumulative Impacts - The proposed project would result in a reduction of employment due to potential losses in the commercial fishing industry.

SE 8 Cumulative Impacts - Potential reductions in commercial fishing income would result in losses of income at Morro Bay and Port San Luis Harbors.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR are given as follows:

Mitigation Measures *– SE/mm-1 through SE/mm-3, MBR/mm-1, MBR/mm-2, and CF/mm-1 and CF/mm-2.*

The ability to change the project to implement the above measure lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supporting Evidence – See FEIR.

SE 9 Cumulative Impacts - Temporary disruption to users of Montana de Oro State Beach during cable installation and possible repair from equipment and work crews.

SE 10 Cumulative Impacts - Cable installation would require recreational boaters (party boats and others) to avoid the cable-laying vessel on a short-term basis.

SE 11 Cumulative Impacts - Potential reductions in commercial fishing income would result in losses of income at Morro Bay and Port San Luis Harbors.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR are given as follows:

Mitigation Measures *– SE/mm-1 through SE/mm-5,, MBR/mm-1, MBR/mm-2, and CF/mm-1 and CF/mm-2.*

The ability to change the project to implement the above measure lies within another agency's jurisdiction and the measure given above should be adopted by that agency.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supporting Evidence – See FEIR.

ONSHORE ENVIRONMENTAL IMPACTS

h. Geologic and Seismic Hazards

Impact – The following impact was identified in the January 2000 FEIR:

GH 1 – While it now appears unlikely that surface rupture along the active, main strand of the Los Osos fault will result in rupture of the cables in the directional borings westerly from the Sandspit Road parking lot, this possibility cannot be precluded.

Mitigation Measure – The mitigation measures recommended in the January 2000 FEIR are given as follows:

GH/mm-1 *– Refer to mitigation measure MGH/mm-1.*

Mitigation has been required as Condition of Approval 8.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – The EIR provides information regarding the likelihood of a surface rupture, the likelihood of such an event is estimated at approximately 1 in 2,000 in any year. While such an event would probably be a major inconvenience to the applicant, it would not result in a significant impact on the environment as defined under CEQA.

Impact – The following impact was identified in the January 2000 FEIR:

GH Cumulative Impacts – Potential geologic and seismic hazards are location-specific to the extent that they may result in significant impacts on the environment, and they are not "cumulative" in the sense normally applied in CEQA documents. The loss of use of the proposed cables should rupture of the Los Osos fault actually occur, may be cumulative in that such a rupture may also affect existing cables in this area. However, loss of use is not, herein, considered an impact on the environment, and therefore, also not a cumulative impact.

GH Cumulative Mitigation Measure *– None Required.*

Mitigation Measures *– No mitigation measures are required for this less than significant impact.*

Residual Impacts – No residual impacts are anticipated.

Findings – Impact not identified as significant; therefore, no mitigation is necessary.

Supportive Evidence – The FEIR and published data from USGS provide the supporting evidence that cumulative geologic and seismic hazards would be location-specific and that

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cumulative impacts would be insignificant. Loss of service could occur throughout the area should a rupture occur but this would be temporary until other services were instated because the fiber optic cables are a redundant system.

i. Drainage, Erosion and Sedimentation

Impact – The following impact was identified in the January 2000 FEIR:

DES 1 – Erosion and sedimentation impacts have the potential to occur due to improper storage of pothole spoils during wet season construction.

DES 2 – Erosion and sedimentation impacts have the potential to occur subsequent to completion of dry season construction and exposure of recently disturbed areas during the following wet season.

Mitigation Measures – The mitigation measures recommended in the January 2000 FEIR are given as follows:

DES/mm-1 *– During construction (regardless of the time of year), the applicant shall implement the following measures related to the disposal and storage of spoils in that section of the project.*

a. *The time of construction is limited to between March 15 through November 15, or unless authorized by the County of San Luis Obispo.*

b. *Earth materials removed by excavation or boring (i.e., "spoils"), and deemed unsuitable for use as backfill, shall be removed from the project corridor the same day as excavated and disposed of at a site previously approved for such disposal by the Environmental Division of the County Planning Department.*

c. *Spoils deemed suitable for backfill may be stored within the project corridor during the day they are excavated provided they are not placed at a location that may convey concentrated runoff or where they may act to concentrate runoff. Examples of locations that may convey concentrated runoff include, but are not limited to: 1) watercourses or gullies in off-road areas; 2) gutter areas where curbs have been installed along roadways; and 3), roadside ditches where curbs have not been installed along roadways. An example of the placement of spoils so as to concentrate runoff would be a row of spoils that would force sheet flow from a field or roadway to concentrate along the toe of the spoils row, resulting in the potential for erosion and transport of the spoils.*

d. *No spoils may be stored within the project corridor overnight.*

e. *Spoils suitable for backfill, that cannot be stored within the project corridor for the reasons above, shall be removed prior to the end of the working day and stored at a location previously approved for such storage by the Environmental Division of the County Planning Department.*

DES/mm-2 *– During construction and upon completion of any defined section of the project along or within a road right-of-way, the applicant shall:*

a. *For those sections excavated through the road pavement, repave as soon as feasible the completed section to the satisfaction of the responsible agency involved (the County Engineering Department or the Public Works Department of the City of San Luis Obispo).*

b. *For those sections excavated within a road right-of-way, but off the paved section, replace as soon as feasible any protective material such as road base, gravel, etc., to the satisfaction of the responsible agency involved (the County Engineering Department or the Public Works Department of the City of San Luis Obispo).*

DES/mm-3 *– During construction and upon completion of any defined section of the project within the off-road section of the northern route, the applicant shall:*

a. *Seed all disturbed areas as soon as feasible consistent with the approved Revegetation Plan.*

b. *On slopes greater than 10% and in areas not cultivated for agricultural purposes:*

1. *Stockpile soils from the top 10-12 inches of the trench separately from other excavated material, and replace as the top 10-12 inches of the backfill.*

2. *Provide water bars, or other devices approved by the County's Environmental Monitor, to prevent concentration of runoff along the excavated alignment with minimum spacing as follows: 10-20% slope, 100 feet; 20-30% slope, 50 feet; greater than 30% slope, 20 feet.*

3. *Provide for monitoring of revegetation by a consultant approved by the Environmental Division of the County Planning Department for a period of three years, or two years after vegetation has been reestablished to the satisfaction of the Environmental Division, whichever is greater. Should the revegetated area be damaged by erosion during the monitoring period, the applicant shall implement, or cause to be implemented, repairs of the soil section and reseeding as necessary to revegetate the disturbed area.*

In areas where repairs and reseeding are required, monitoring of the results shall continue for a period of three years, or two years after vegetation has been reestablished to the satisfaction of the Environmental Division (i.e., specifically, reestablished to pre-project conditions), whichever is greater.

Mitigation has been required as Condition of Approval 21.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – The EIR provides information regarding the soils and erosion characteristics along Sandspit Road Parking Lot -- Montana de Oro State Park Boundary/Pecho Valley Road and WorldCom Telecommunications Facility *(Common Route*) and to the Coastal Zone Boundary at O'Connor Way *(portion of Northern Route). Soils* are comprised of Holocene and late-Pleistocene windblown sands that have very little cohesion and are very susceptible to erosion by both rain and wind. A small portion of this route is comprised of rocks of the Franciscan Formation that contain moderate to high amounts of clay and are only moderately susceptible to erosion by runoff from rainfall. The recommended mitigation measures in the EIR will reduce the impacts from sedimentation and erosion to insignificance.

The FEIR indicates that sections from the Telecommunications facility through to the Foothill Boulevard terminus (Northern and Southern route sections) include the steepest slopes, and as such has the potential for the most significant impacts. Near the northwesterly end of the ridge, the overall slope along the alignment between the 200-foot and 520-foot levels is 23%, and it is 40% in one section 300 feet in length. Near the southeasterly end of the ridge, the overall slope above the 200-foot level is also 23%, and the steepest section is 27%. This section also includes 5 creek crossings, 2 in the westerly portion before reaching the crest of the ridge, and 3 between the bottom of the ridge and O'Connor Way. These crossings would be bored, and potential operational impacts would be avoided. By implementing the above mitigation measures, the impacts associated with sedimentation and erosion can be reduced to insignificance.

Impact – The following impact was identified in the January 2000 FEIR:

<u>DES Cumulative Impact</u> – Potential erosion and sedimentation effects are location-specific to the extent that they may result in significant impacts on the environment, and they are not "cumulative" in the sense normally applied in CEQA documents.

DES Mitigation Measures. *No mitigation is required for cumulative DES impacts.*

Residual Impacts – No residual impacts are anticipated.

Findings – Impact not identified as significant; therefore, no mitigation is necessary.

Supportive Evidence – The FEIR indicates that section of the project includes the steepest slopes, and as such has the potential for the most significant impacts. By implementing the above mitigation measures for drainage, erosion and sedimentation impacts, the impacts associated with sedimentation and erosion can be reduced to insignificance.

j. Surface Water Quality (SWQ)

Impact – The following impact was identified in the January 2000 FEIR:

SWQ 1 – Construction during the wet season has the potential to result in surface water quality impacts to sensitive water bodies and wetland areas.

Mitigation Measures – The mitigation measure recommended in the January 2000 FEIR is given as follows:

SWQ/mm-1 *– Prior to issuance of construction permits, the applicant shall submit evidence of an approved Storm Water Pollution Prevention Plan (SWPPP) covering all aspects of the project and specifically addressing conditions and measures to be implemented to minimize the adverse effects of erosion and/or a spill of toxic material. The SWPPP should include but not be limited to spill contingency measures relating to all onshore directional boring activities, vehicle ad equipment maintenance, and dewatering potentially required during trenching and other subsurface activities.*

Mitigation has been required as Condition of Approval 22.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – The FEIR provides information on surface water quality. On the west, the area of the project drains directly to Morro Bay or to streams that drain to Morro Bay. On the east, the area of the project drains to San Luis Obispo Creek or to tributaries of that creek. All of these water bodies are environmentally sensitive, and any increase in erosion or any spill of a toxic substance within any portion of the watersheds may result in a significant impact. Implementation of mitigation measure that reduce to insignificance the potential for erosion or any spill of a toxic substance will reduce the impacts to a less than significant level.

Impact – The following impact was identified in the January 2000 FEIR:

SWQ Cumulative Impacts – Potential effects of the project on surface water quality are location-specific to the extent that they may result in significant impacts on the environment, and they are not "cumulative" in the sense normally applied in CEQA documents.

SWQ Cumulative Mitigation Measures. *No mitigation is required for cumulative DES impacts.*

Residual Impacts – No residual impacts are anticipated.

Findings – Impact not identified as significant; therefore, no mitigation is necessary.

Supportive Evidence – The FEIR provides information on surface water quality. Morro Bay and streams that drain into Morro Bay and Los Osos Creek are environmentally sensitive. Any increase in erosion or any spill of a toxic substance within any portion of the watersheds may result in a significant impact. Implementation of mitigation measure that reduce to insignificance the potential for project specific erosion or any spill of a toxic substance will reduce the potential for cumulative impacts to a less than significant level.

k. Biological Resources (BR)

Impact – The following impact was identified in the January 2000 FEIR:

BR 1 – Increased nighttime lighting and noise associated with construction and daylighting of drill lubricant during directional boring could disturb sensitive terrestrial and aquatic biological resources and habitats.

Mitigation Measures – The mitigation measure recommended in the January 2000 FEIR is given as follows:

BR/mm-1 *– Prior to issuance of construction permits, the applicant shall retain a County qualified biological monitor to supervise all construction activities located within or directly adjacent to sensitive communities including intertidal and sandy beach areas, central dune scrub habitats, and potential wetland areas. The biological monitor shall conduct a brief training session prior to commencement of construction to advise construction personnel on the biological sensitivity of various habitats and discuss various measures for minimizing potential construction-related impacts. The biological monitor shall visit construction zones located within or near sensitive areas at a frequency and duration determined appropriate by the County and based on construction timing and sensitivity of resources at issue. Weekly reports will be prepared by the monitor which document construction activities and associated effects on sensitive biological resources.*

BR/mm-2 *– During construction, monitor directional bore alignments for potential daylighting of drill lubricant. To reduce potential impacts to sensitive biological resources that could occur in the unforeseeable event of daylighting of drill lubricant during boring activities and impacts associated with noise and lighting, the following measure should be implemented throughout construction.*

a) During boring activities, the biological monitor should inspect the alignment from the surf zone to the parking area on a daily basis. If drill lubric

material is encountered, clean-up operations should immediately be implemented and notification of appropriate response and regulatory agencies should occur. The biological monitor should closely supervise all clean-up efforts to ensure that disturbance of vegetation is minimized, and closely supervise the use of any equipment during clean-up operations.

b) *Appropriate materials for clean-up of drill-lubricant should be retained on site throughout the duration of construction.*

c) *During construction, all stationary directional boring equipment generating the greatest levels of noise (i.e., drilling rig, mud pump, solid control) shall install flexible exhaust pipes on the exhaust stacks and orient the exhaust pipes downward.*

d) *Prior to and during construction, the applicant shall erect temporary sound barrier walls (typically plywood with soundboard built into the walls) around the perimeter of the parking lot (all directions).*

e) *Throughout construction, orient lighting so that it is directed downward and toward the work area located within the existing parking lot to minimize spillover to adjacent areas.*

Mitigation has been required as Condition of Approval 4, 23, 7, 15 & 17.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – The FEIR provides information on biological resources for Mean High Tide Line -- Sandspit Road Parking Lot and Montana de Oro State Park Boundary/Pecho Valley Road and WorldCom Telecommunications Facility *(Common Route)*and indicates that the habitat is extremely sensitive, containing listed and non-listed plant and wildlife species. The daylighting of drill lubricant could significantly affect these species unless mitigation is implemented. Noise and lighting associated with nighttime drilling could also impact listed wildlife species. The provision of the above listed mitigation measures will ensure that any daylighting of drill lubricant would be cleaned up as soon as possible and the sound barriers would reduce noise.

Impacts – The following impacts were identified in the January 2000 FEIR:

BR 2 – Central dune scrub may be disturbed by beach visitors during temporary closure of the Sandspit Road Parking Lot.

BR 3 – Central dune scrub may be disturbed by beach visitors during temporary closure of the Sandspit Parking Lot.

BR 4--Approximately 500 square feet of central dune scrub may be temporarily disturbed along Pecho Valley Road to create an equipment staging area.

BR 5 – Central Dune Scrub will be disturbed at the entrance and exit points, and at each manhole location, along the bore alignment.

BR 6 – Special-status plants may be disturbed or removed at the boring sites, manhole locations, and equipment staging areas.

BR 7 – Morro shoulderband snails, or their habitat, may be disturbed or removed at the boring sites, manhole locations, and equipment staging areas.

BR 8 – Development of the Telecommunications Facility will result in loss of Morro shoulderband snails and their habitat.

Mitigation Measures – The mitigation measures recommended in the January 2000 FEIR are given as follows:

***Mitigation measure BR/mm-1** should be implemented.*

***BR/mm-3** – During construction, a temporary access route should be designated which leads from Pecho Valley Road to the beach boardwalk to minimize indirect impacts to central dune scrub and habitat for sensitive species resulting from temporary closure of the parking lot and associated increased foot traffic. The temporary access route(s) will be located along one of the existing, un-maintained trails which lead from Pecho Valley Road to the beach. Establishing the temporary access route will not require additional removal of any native vegetation. The entrance point for the access route should be clearly posted on Pecho Valley Road and the access route should be clearly marked throughout its length. A sign should be posted at the entrance point which indicates the sensitivity of biological resources of the surrounding area and the importance for staying on the designated pathway. A qualified biologist should be retained well in advance of closure of the parking area to select the most appropriate route for the temporary access route or routes. The qualified biologist shall coordinate with representatives from California State Parks to determine the most appropriate route(s) for the temporary access path(s).*

***BR/mm-4** – Prior to issuance of construction permits, the applicant shall obtain required permits from applicable State and Federal Resource agencies including the U.S. Fish and Wildlife Service (Service). Project implementation may result in direct or indirect disturbance or potential take of federal listed species, primarily Morro shoulderband snail. Project implementation would therefore require authorization for this disturbance from the Service. At a maximum, authorization for take by the Service would require issuance of a section 10(a)(1)(B) permit. This permit requires the development and implementation of a Habitat Conservation Plan (HCP). The applicant is in the process of preparing an HCP for Morro shoulderband snail, and a public draft of the document is currently under review. The*

HCP currently covers activities associated with construction of the telecommunications facility. The applicant would seek an amendment to the incidental take permit at a later date, if deemed necessary by the Service, for activities associated with remaining components of the fiber optic cable project. Mitigation measures currently proposed under the HCP to mitigate for impacts to Morro shoulderband snail include conducting sensitive species training and retaining a biological monitor at all construction sites, moving snails away from areas of disturbance, providing funding for habitat restoration within Montana de Oro, and providing funding for purchase of high-quality off site habitat.

In addition, a van shuttle service will be established to provide access to beach visitors. Under this option, service will be provided from a designated parking area to and from alternative beach access points, as designated by California State Parks.

As indicated, an amendment to the incidental take permit, issued for the telecommunications facility, may be required prior to implementation of any other fiber optic cable components. However, there is potential for the Service to issue a "no effect" determination for impacts to Morro shoulderband snail associated with the remaining fiber optic components. If the Service does determine that an amendment to the incidental take permit is required, purchase of 3.38 acres of high-quality habitat at an off-site location will function as mitigation for the incidental take.

BR/mm-5 *– Prior to issuance of construction permits, the applicant shall prepare and submit a revegetation, restoration and exotic plant control plan to the Department of Planning and Building/Environmental Coordinator. The plans should be prepared by a qualified botanist, restoration specialist, or firm that is approved by the County. The plan shall address all natural communities (e.g., central dune scrub, chaparral, annual grassland, and coastal scrub) impacted by <u>all phases</u> of the proposed project (e.g., Pecho Road Directional Bore staging area, temporary trails, etc.). The plan shall provide detailed specifications for replacement and restoration of all affected natural communities, including appropriate replacement ratios for disturbed native plants, and shall specify the duration and frequency of monitoring associated with revegetation/restoration efforts. The plan will also identify the entities responsible for implementing the revegetation and exotic control plan, monitoring revegetation areas, and ensuring compliance.*

BR/mm-6 *– Upon completion of construction, the applicant shall implement the pre-approved revegetation, restoration and exotic plant control plan described above. Following completion of construction along each route, immediately revegetate all areas of central dune scrub and annual grassland disturbed as a result of project implementation. Areas that may require revegetation include the proposed locations of pot hole and bore entrance and exit points, construction staging areas (e.g., in Montana de Oro), and areas experiencing trenching. Revegetate only with appropriate indigenous native vegetation and plants from local seed stock. At a minimum, the structure and composition of habitats restored should reflect pre-project site conditions or better. The health and maintenance of all replacement vegetation should be monitored for a sufficient duration and frequency to ensure successful establishment of the vegetation.*

During and upon completion of construction, further introduction of invasive exotic plants shall be controlled. To control further introduction of invasive exotic plants within areas disturbed by proposed construction activities, implement the following measures.

a) Use only clean fill material (free of weed seeds) within all construction zones.

b) Prohibit planting or seeding disturbed portions of natural communities with non-native plant species.

c) Control the establishment of invasive exotic weeds in all disturbed areas.

***BR/mm-7** – During construction, avoid or minimize disturbance of special-status plants and sensitive habitat types, including Morro manzanita, sand almond, central dune scrub, and wetlands by implementing the following measures:*

a) Prior to initiation of construction activities, define and clearly mark the construction zone and retain a qualified biologist to clearly map each individual or groups of Morro manzanita and sand almond located in the immediate vicinity with highly visible flagging. Morro manzanita located in the southwestern portion of the Common Route should be mapped, flagged, and completely avoided.

b) Provide instruction to construction personnel regarding avoidance of sensitive habitats and special-status plants located in the vicinities of areas experiencing ground disturbance.

c) In the event an identified rare plant cannot be avoided during ground disturbance activities, CDFG should be contacted to determine appropriate avoidance measures prior to construction. Various measures may include relocation and transplanting of individual plants, and/or stockpiling of existing soils to retain the seed bank.

d) The use of all heavy equipment should be restricted to within the identified work area throughout the duration of construction and all construction personnel should be advised of the importance of limiting ground disturbance and construction activities to within the identified work areas.

***BR/mm-8** – Prior to and during construction, minimize loss of Morro shoulderband snail. To minimize the direct loss of Morro shoulderband snail and their habitat which may occur within proposed staging areas and boring sites, various measures identified in the applicant's HCP for the species (in preparation) should be implemented. Measures may include, but will not be limited to, retention of a qualified biologist to move living snails to unaffected, adjacent habitats, and restoration of areas disturbed during construction.*

These mitigation measures have been required as Conditions of Approval 4, 23 through 27.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – The FEIR provides information on biological resources for this area and indicates that the central dune scrub habitat is extremely sensitive, containing listed and non-listed plant and wildlife species, particularly the federally-listed Morro shoulderband snail. Closure of the Sandspit parking lot will indirectly cause the public to find other routes to the boardwalk that could cause significant impacts to sensitive habitat unless mitigation is implemented. There are adjacent paths that could be marked for use during construction and parking could be provided from nearby designated areas with van shuttle service to the boardwalk. These mitigation measures would reduce the impacts caused by the public on the surrounding habitat.

Disturbance of central dune scrub communities at the entrance and exit points, and at each manhole location, along the bore alignment, could result in disturbance or removal of individuals specimens of Morro manzanita and sand almond known to occur in the immediate vicinity. No other rare plants are expected to be affected by project implementation along this section of the route. Removal or disturbance of any rare plants during construction would be considered a significant adverse impact that can be mitigated by avoidance of sensitive plants as much as possible and by revegetation.

The FEIR provides information with regard to the habitat and characteristics of Morro shoulderband snails within the common route through the northern route to Turri Road Intersection. Within the areas of the boring sites, manhole locations and equipment staging areas of Sandspit Road parking and Pecho Valley areas could result in a minor loss of potential habitat for Morro shoulderband snail. Individual living specimens occurring within the immediate vicinity of any of these sites at the time of construction could also be impacted directly by construction activities. Direct mortality of this species or loss of its habitat is considered "take" under the FESA and a potentially significant, adverse impact.

A habitat conservation plan is being prepared for the Morro shoulderband snail and the mitigation measures listed above should be included in the plan. Implementation of these mitigation measures would reduce the impacts caused by the project on the dune scrub habitat and the Morro shoulderband snail

Impacts – The following impacts were identified in the January 2000 FEIR:

<u>BR 9</u> – Aquatic habitat of Los Osos Creek could be degraded if sedimentation or fuel spills were to occur in association with pot hole and boring activities.

<u>BR 10</u> – Habitat for sensitive aquatic species could be indirectly impacted by boring activities and equipment operation near Los Osos Creek (Northern Route).

BR 12 – Aquatic habitat of Los Osos Creek and seasonal drainages may be degraded if sedimentation or fuel spills were to occur in association with pot hole and boring activities.

BR 13 – California red-legged frog may be adversely affected by construction-related sedimentation or spilled fuel within various seasonal drainages along the bore alignment.

BR 15 – Aquatic habitat of various seasonal drainages could be degraded if sedimentation or fuel spills were to occur in association with pot hole and boring activities.

BR 17 – Habitat for special-status aquatic species could be indirectly impacted as a result of construction activities near Los Osos Creek.

BR 18 – Aquatic habitat of San Luis Obispo Creek or other seasonal drainages, such as Prefumo Creek, may be degraded if sedimentation or fuel spills were to occur in association with pot hole and boring activities.

BR 19 – Habitat for special-status aquatic species associated with San Luis Obispo Creek, or its tributaries, may be indirectly disturbed during boring activities.

Mitigation Measures – The mitigation measures recommended in the January 2000 FEIR are given as follows:

Mitigation Measures BR/mm-1, and BR/mm-4, BR/mm-7, and BR/mm-9 *should be implemented.*

BR/mm-9 *– Prior to and during construction, implement erosion and spill control measures. To reduce the potential for inadvertent release of sediment or fuel from construction areas to adjacent drainage and wetland areas, the following measures should be implemented.*

a) Install appropriate erosion control devices (i.e., hay bales, silt fences) around the perimeter of each construction zone and areas experiencing disturbance of the ground surface. Erosion control devices should be checked on a daily basis to ensure proper function.

b) To the extent feasible, limit construction activities to the typical dry season to avoid indirect impacts to seasonal drainages and wetland habitats related to increased runoff and sedimentation from areas experiencing ground disturbance.

c) During construction, avoid all cleaning and refueling of equipment and vehicles within the vicinities of existing drainages and associated seasonal wetland habitat.

d) Following completion of construction-related activities, revegetate all disturbed and barren areas with appropriate native vegetation to reduce the risk of erosion and sedimentation in adjacent drainage areas.

***BR/mm-12** – During construction, avoid disturbance of riparian vegetation. The construction plans specify that two short directional bores will be used in this area to install the fiber optic cable beneath the various drainages. Construction staging areas will only be located within the existing farmed land. The farmed land located between the drainages will only be accessed using the existing farm road. No new crossings of existing drainages or riparian vegetation will be established, and no riparian vegetation will be disturbed while accessing the bore entry/exit points. All construction vehicles will be required to use designated access routes throughout the duration of construction activities. The locations of the bore entry/exit points will be a minimum of 25 feet from the upland extent of the dripline of riparian vegetation.*

Mitigation measures have been required as Condition of Approval 4, 23 through 27.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – The FEIR incorporates the results of field surveys for aquatic species and habitats. A variety of special-status aquatic species, including California red-legged frog, southern steelhead, and southwestern pond turtle, have the potential to occur in the reach of Los Osos Creek which intersects this section of the route. In addition, portions of Prefumo Creek that intersect this section of the route have the potential to be used as migration corridor by steelhead on a seasonal basis.. Therefore, if sedimentation from nearby ground disturbance were to occur in the stream or fuel spill from construction equipment were to occur, aquatic species such as these, could be adversely affected. Any disturbance of sensitive aquatic species or degradation of their habitat would be considered take under the ESA and a significant, adverse impact. The implementation of the above mitigation measures including setbacks from creeks and erosion control measures, for protection of special-status species would mitigate the impacts to insignificance.

Impacts – The following impacts were identified in the January 2000 FEIR:

<u>BR 11</u> – California black rail could be adversely affected by noise associated with construction activities near Los Osos Creek.

<u>BR 14</u> – Breeding and nesting of special-status bird species, potentially associated with various seasonal drainages, may be adversely affected by construction-related noise.

<u>BR 20</u> – Breeding and nesting of special-status birds potentially associated with San Luis Obispo Creek could be disturbed by construction-related noise.

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Mitigation Measures – The mitigation measures recommended in the January 2000 FEIR are given as follows:

Mitigation Measure BR/mm-1, BR/mm-4, BR/mm-7, and BR/mm11 *should be implemented.*

BR/mm-10 *– During construction, avoid disturbance of California black rail breeding and nesting. As specified by CDFG, avoid all construction activities within the immediate vicinity of Los Osos Creek during the time period of March through August (typical breeding season). Only surveying activities shall be allowed in the immediate vicinity of the Los Osos Creek crossing during the specified time period unless specific written authorization from CDFG is submitted.*

BR/mm-11 *– During construction, avoid disturbance of rare bird breeding and nesting activities. To avoid indirect disturbance of breeding and nesting activities or rare songbirds, including willow flycatcher, yellow warbler, and yellow-breasted chat, limit all excessive noise-producing activities that will occur in the vicinities of well-developed riparian scrub/forest, to outside of the typical breeding periods for these species. The typical time period for breeding and nesting of these species occur between April and early September. If construction within the immediate vicinity of well-developed riparian vegetation cannot be avoided during the typical breeding season, retain a qualified biologist to conduct pre-construction surveys (approximately 1 week prior to construction) to determine presence/absence. If no breeding or nesting activities of identified rare birds are detected within 500 feet of the proposed work area, noise-producing construction activities may proceed.*

As indicated in BR/mm-10, no construction activities will occur in the immediate vicinity of the Los Osos Creek crossing during the typical breeding season for California black rail unless specific written authorization from CDFG is submitted.

Mitigation has been required as Condition of Approval 27, 4.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – The FEIR provides information on the Black Rail, a listed species. If construction in the vicinity of the South Bay Boulevard crossing over Los Osos Creek were to occur during the breeding season of the Black Rail, disturbance of breeding activities due to any excessive construction noise would be considered significant but could be avoided through implementation of the above mitigation measures.

Based on studies conducted as part of the EIR process and other available evidence, no direct disturbance of breeding willow flycatcher, yellow-breasted chat, yellow warbler or their habitat

is expected to occur, due to implementation of directional boring beneath all drainages and associated riparian vegetation which intersect the fiber optic cable route. However, depending on construction timing, excessive noise-producing activities which occur near areas of well-developed riparian scrub such as along San Luis Obispo Creek could result in disturbance of breeding and nesting activities of these species. Disruption of breeding and nesting of these species would result in short-term significant impacts; however, implementation of the above mitigation measures should reduce any impacts to insignificance.

Impacts – The following impacts were identified in the January 2000 FEIR:

BR 16 -Oak tree drip lines located adjacent to Los Osos Valley Road could be disturbed during construction activities.

Mitigation Measures – The mitigation measures recommended in the January 2000 FEIR are given as follows:

Mitigation measures BR/mm-1, BR/mm-4, BR/mm-7 *should be implemented.*

BR/mm-13 *– During construction, avoid disturbance of coast live oak drip lines. To avoid direct disturbance of the drip lines of oak trees located along this section of the route, primarily in the area of the Los Osos Oaks Preserve, implement the following measures.*

a) Prior to commencement of project implementation along this section of the route, place highly visible fencing around the perimeters of the driplines of all coast live oaks located near the existing fiber optic cable alignment. The portion of the dripline located adjacent to the existing roadway should be clearly marked.

b) Avoid all soil disturbance, compaction, and grading activities within and adjacent to the associated dripline of each individual oak located within or adjacent to the alignment.

c) Retain a qualified botanist to supervise all associated construction activities to minimize disturbance to identified trees and their root zones wherever possible.

The mitigation measures have been required as Conditions of Approval 27, 4.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – Implementation of pot hole and bore construction along the route is not expected to result in any losses of oak tree or significant disturbance of oaks located within the area. However, boring activities implemented in the vicinity of the Los Osos preserve, along

the southern side of Los Osos Valley Road, have the potential to damage the root systems of trees located adjacent to the construction zone. Implementation of the above mitigation measures would reduce these impacts to insignificance.

Cumulative Impacts – The following impacts were identified in the January 2000 FEIR:

Impacts – The following impacts were identified in the January 2000 FEIR:

BR 21 – Minor disturbance of various plant communities associated with the various projects may encourage further introduction of invasive exotic species and gradual increases in occurrence of non-native species in the area.

Mitigation Measures – The mitigation measures recommended in the January 2000 FEIR are given as follows:

***BR/mm-1, BR/mm-5 through BR/mm-6, and BR/mm-7** are recommended.*

The mitigation measures have been required as Conditions of 23 through 27.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – A variety of fiber optic cable projects have been implemented or are proposed for implementation within coastal and inland areas of San Luis Obispo County. Implementation of the proposed project, in conjunction with other fiber optic cable projects, is not expected to result in a significant reduction or disturbance of sensitive biological resources. However, the minor disturbance of various plant communities associated with implementation of this project may encourage further introduction of invasive exotic species and gradual increases in the occurrence of non-native species in the area. With implementation of the above mitigation measures, including revegetation with appropriate native or non-invasive species, adverse impacts would be minimized.

l. Cultural Resources

Impacts – The following impacts were identified in the January 2000 FEIR:

CR 1 – Fiber optic cable construction activities have the potential to impact surface and subsurface cultural resources.

Mitigation Measures – The mitigation measures recommended in the January 2000 FEIR are given as follows:

CR/mm-1 *– During construction, the following activities shall be excluded from designated sensitive areas: 1) Unnecessary or expansive excavation; 2) Staging equipment or machinery on undisturbed or exposed portions of the cultural resource; 3) Failure to immediately contain and collect any chemical spills; 4) Collection, removal or unnecessary displacement of any artifacts, ecofacts or other cultural remains; 5) Stockpiling of imported soils within the designated sensitive area; 6) Removal of native soils outside a sensitive area.*

CR/mm-2 *– During construction, cultural resource monitoring should be conducted by a qualified archaeologist and Native American monitor familiar with the resource types potentially present in these locations. The qualified archaeologist shall conduct monitoring activities based on an cultural resources monitoring plan (refer to following mitigation measure).*

CR/mm-3 *– Prior to issuance of construction permits, the applicant shall prepare and submit a cultural resources monitoring plan to the Department of Planning and Building/Environmental Coordinator. The plan shall be prepared by a qualified archaeologist or firm that is approved by the County. The plan shall address issues (but not be limited to) such as specific subsections warranting monitoring, physical monitoring boundaries (e.g., 100-feet each side of a site), site security, protocol for notifying local authorities (i.e. Sheriff, Police) should site looting and other illegal activities occur during construction.*

Mitigation measures have been required as Conditions of Approval 28, 29, 30.

Residual Impacts – Implementation of the above mitigation measure would reduce the impact to a less than significant level.

Findings – Mitigation measures and features incorporated into the proposed project will reduce the significant environmental effect as identified in the FEIR to an insignificant level.

Supportive Evidence – The EIR and records searches provide information regarding the presence of known cultural resources. Recorded cultural resources within the study area could be impacted all mechanical and manual excavation taking place in and around the locations of the sites and these activities may potentially damage significant deposits. Mitigation measures recommended above would assist in ensuring that the resources are protected from any impacts, by avoiding known sites and monitoring in areas of cultural sensitivity. This would reduce adverse impacts to insignificance.

m. Paleontological Resources

Impacts – The following impacts were identified in the January 2000 FEIR: