MINUTE ITEM
This Calendar Item No. C24 was approved as Minute Item No. 24 by the California State Lands Commission by a vote of 3 to 0 at its 04-07-03 meeting.

CALENDAR ITEM
C24

A 27

S 11,15

PRC 7934

04/07/03
WP 7934.9
N. Quesada

GENERAL LEASE- PUBLIC AGENCY USE

APPLICANT:
County of Santa Cruz, Public Works Department

AREA, LAND TYPE, AND LOCATION:
34.08 acres, more or less, of sovereign lands in the Pajaro River, near Watsonville, Monterey and Santa Cruz Counties.

AUTHORIZED USE:
Continue breaching of the sandbar barrier at the mouth of the Pajaro River to create an outlet channel for flood control purposes.

LEASE TERM:
Five years, beginning December 15, 2002.

CONSIDERATION:
The public health and safety, with the State reserving the right at any time to set a monetary rental if the Commission finds such action to be in the State's best interest.

OTHER PERTINENT INFORMATION:

1. Applicant is permittee of the uplands adjoining the lease premises.

2. Each year, the mouth of the Pajaro River at Monterey Bay is subject to closure by the formation of a sandbar barrier. The sandbar usually forms during the early summer months and remains until late fall or early winter when the outflow from the river is sufficient to overtop the barrier. The sandbar closure causes water levels behind the barrier to rise and creates flooding, health, and safety effects on adjacent agricultural and residential lands, roads, and drainage systems. The breaching of the sandbar is generally accomplished by digging a trench four to six feet deep, 10 to 15 feet wide, and 100 to 600 feet long from the lagoon to the ocean.

3. On December 9, 2002, the County of Santa Cruz breached the mouth of the Pajaro River in response to the staff gauge levels exceeding the maximum threshold of 5.5 feet mean sea level. The breach was completed according to the conditions as set forth in the United States Army Corps breaching permit, file number 22367S

4 A Mitigated Negative Declaration (SCH #2002122066) was prepared and adopted for this project by the County of Santa Cruz. The California State Lands Commission's staff has reviewed such document.

5. A Mitigation Monitoring Program was adopted by the County of Santa Cruz.

APPROVALS OBTAINED:

United States Army Corps of Engineers, Santa Cruz County Planning Department, California Department of Parks and Recreation.

FURTHER APPROVALS REQUIRED:

California Coastal Commission, California Regional Water Quality Control Board, California Department of Fish and Game.

EXHIBITS:

A. Land Description
B. Location Map
C. Mitigation Monitoring Program

PERMIT STREAMLINING ACT DEADLINE:

June 18, 2003

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT A MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING PROGRAM WERE PREPARED AND ADOPTED FOR THIS PROJECT BY THE COUNTY OF SANTA CRUZ, PLANNING DEPARTMENT, AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

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:

AUTHORIZE ISSUANCE TO THE COUNTY OF SANTA CRUZ, PUBLIC WORKS DEPARTMENT OF A GENERAL LEASE - PUBLIC AGENCY USE, BEGINNING DECEMBER 15, 2002, FOR A TERM OF FIVE YEARS, FOR THE PERIODIC BREACHING OF THE SANDBAR BARRIER AT THE MOUTH OF THE PAJARO RIVER TO CREATE AN OUTLET CHANNEL FOR FLOOD CONTROL PURPOSES ON THE LAND DESCRIBED ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION BEING THE PUBLIC HEALTH AND SAFETY, WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENT IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST.

EXHIBIT A

W25354

LAND DESCRIPTION

A parcel of tide and submerged land situate in the Counties of Santa Cruz and Monterey, State of California:

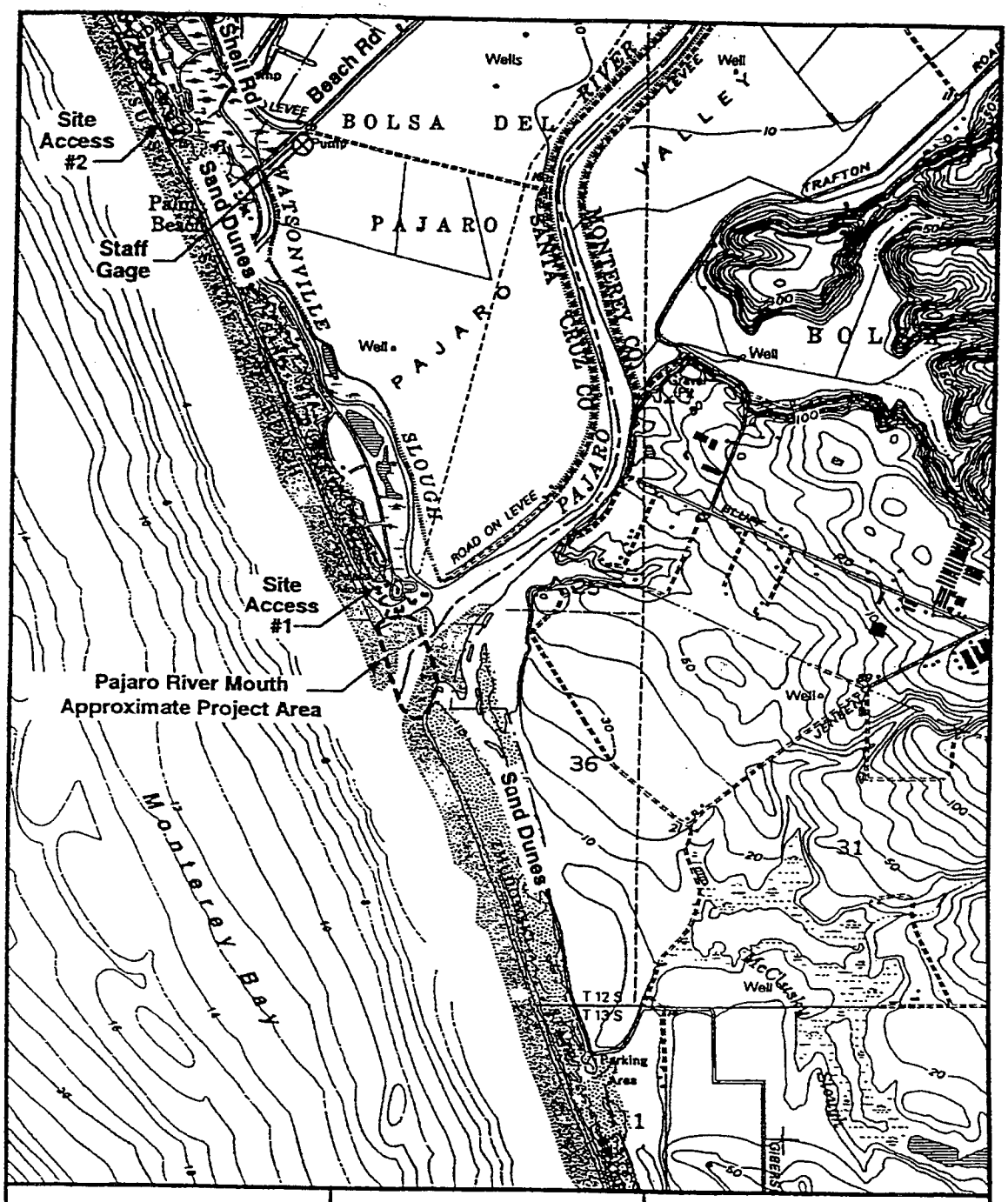
Being a portion of the projected North 1/2 of Section 36,T 12 S, R 1 E MDM, and the projected South 1/2 of Section 25, T 12 S, R 1 E MDM, more directly described as follows:

COMMENCING at the U.S.C.&G.S. triangulation station "Pajaro Mouth #3 as shown on Record of Survey Map Volume 52, page 31 recorded in County of Santa Cruz Surveyor files; thence S 03° 11' 35" E, 553.49 feet, to the **TRUE POINT OF BEGINNING**, said point is marked by a 1-1/2" Iron pipe with 4" B&P cap as shown on State Park Map No. A80-335 filed in the County of Santa Cruz Surveyors files, thence leaving said point of beginning N 64° 01' 50" E, 735.09 feet to the center of Watsonville Slough as described in the above-mentioned State Park Map; thence S 13° 02' 15" E, 2650.00 feet; thence S 75° 00' 00" W, 280.00 feet; thence N 27° 04' 09" W, 2378.70 feet; thence N 23° 43' 55" E, 233.89 feet to the true point of beginning.

END OF DESCRIPTION

REVISED NOV, 1996 BY SFBCC

EXHIBIT B



Purpose: Pajaro River Mouth Sandbar Breaching

Adjacent Property Owners: See Attached Sheet

LEGEND

Approximate Project Boundary

0 2,000 Scale in Feet

N

Santa Cruz County
Department of Public Works
701 Ocean Street
Santa Cruz, CA 95060

Figure 1
Project Location

In: Santa Cruz County
At: Pajaro River Mouth
Application by: Santa Cruz County Department of Public Works

Date: Sept. 96

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

EXHIBIT C

NAME: B. Turpen for Santa Cruz County Department of Public Works
APPLICATION: 02-0608
A.P.N: 052-231-18

NEGATIVE DECLARATION MITIGATIONS

A. In order to ensure that the mitigation measures are communicated to the various parties responsible for breaching the sandbar, prior to any site disturbance Public Works shall convene a pre-construction meeting on the site. The following parties shall attend: Department of Public Works (DPW) Drainage Operations Supervisor, Environmental Planning staff, and during the western snowy plover breeding season (March 1st through September 30th), the biological consultant responsible for surveying snowy plovers. Public Works shall notify the US Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), the California Department of Fish and Game, the Supervising State Parks Ranger for Sunset and Zmudowski State Beach, and the Coastal Commission of the mobilization and the pre-breaching meeting. The results of Plover surveys shall be collected, all parties shall review the biological opinions and reaffirm the conditions and the plan to implement each mitigation measure, the drainage channel shall be identified and staked in the field, and the staging area shall be identified and fenced.

B. All of the following measures contained in the "Biological and Conference Opinion", produced by NMFS, 07/07/99, the "Biological and Conference Opinion", produced by the USFWS, 09/15/99, and the "Detailed Project Description" of the Initial Study, shall be strictly adhered to:

1. The constraints and strategies associated with breaching the sandbar differ between the wet and dry seasons. Wet season (the first significant storm after October 15th until June 15th) breaching is best achieved by breaching at the point closest to the ocean, with a deep breach. Dry season (June 15th until the first significant rainfall) breaching will be done from the side of the lagoon, will traverse the beach at as gentle a grade as possible, and will include the manual re-closing of the sand bar in order to maintain water quality and avoid take of a federally listed species. Dry season breaching will require pre-breaching surveys for snowy plover nests.
    i. Manual breaching of the sandbar shall be delayed as long as safely possible to maintain a stable aquatic environment within the lagoon, and to allow as much opportunity for a natural breaching to occur as possible.
    ii. The County is responsible for accurately measuring input flows into the lagoon from the staff gauge at Watsonville Slough and following the weather forecasts to predict when breaching is absolutely necessary, and to avoid situations where the sandbar reforms shortly after breaching.

2. Mobilization for a breaching of the sand bar will be determined by the season and the lagoon water level.
    i. Mobilization in the rainy season will be initiated when the lagoon water level at Watsonville slough reaches +3.5 feet mean sea level (MSL). Breaching will occur when the level reaches +4.5 MSL **and** river flows are predicted that would cause flooding or when water begins to flood Beach or Shell roads.
    ii. Dry season mobilization will be initiated when the gauge level reaches +4.5 MSL and breaching will occur at +5.5 MSL.

3. Breaching the sand bar will require the use of one hydraulic excavator and one or two County support vehicles.
    i. These vehicles will access the beach from behind the rangers' quarters located at the end of Beach Road, through a grove of Eucalyptus and Cypress trees, through an un-vegetated break in the dunes and onto Sunset State Beach.

ii. The breaching equipment and support vehicles will travel along the beach below the high tide line area where the beach has no vegetation to minimize disturbance to plant and wildlife.
iii. The speed limit for any vehicle during mobilization and evacuation of breaching equipment shall be five miles per hour.
iv. The staging area, approximately 50' x 50', will be set up adjacent to the breaching point on the sand bar.
v. Breaching will occur at as low a tide as is feasible, during daylight hours.

4. The breaching location will be determined by season.
   i. In the dry season, the release of lagoon water shall be monitored, and the breach shall be closed when the water level drops below +3 MSL. Manual breaching that results in the lagoon water level dropping below +2.5 MSL constitutes unauthorized incidental take associated with loss of habitat and will require reinitiation of formal consultation with the NMFS, and the Army Corps of Engineers (ACOE).
   ii. In the rainy season when the river typically breaches the sand bar naturally, the breaching trench will begin just above the swash zone at low tide, directly below the area where the lagoon is the deepest, and the least amount of excavating is required. No attempt to close the breach will be made in the rainy season.

5. The breeding season for the western snowy plover runs from March 1st through September 30th. Prior to any beach disturbance during the breeding season, no more than 24 hours before mobilization, a qualified wildlife biologist, approved by the USFWS, shall conduct a survey for breeding western snowy plovers. Point Reyes Bird Observatory (PRBO) and California Department of Parks and Recreation (CDPR) biologists are qualified to conduct such surveys and do not require further approval from the USFWS.
   i. Prior to mobilization, exclosures, fencing, and signage indicating the presence of endangered species shall be installed around all located nests. The County, in coordination with the qualified biologist, is responsible for installation and removal of all exclosure and fencing materials that are required to be installed as a result of breaching activities. The County shall coordinate with the biologist to determine the timing of the removal of fencing and signs after the breaching has been completed.
   ii. Prior to mobilization, a qualified wildlife biologist, approved by the USFWS, shall conduct a brief training session for all breaching personnel. The training shall include a brief description of the western snowy plover, its' habitat, behavior, sensitivity to human activities, the project measures to be implemented to protect and conserve the protected species, and the general provisions of the federal Endangered Species Act. Personnel shall be informed that they are not authorized to handle or otherwise move western snowy plovers or their eggs and chicks encountered on the project site.
   iii. Prior to mobilization, a training session similar to the one described above (5.ii) shall occur, conducted by a qualified fisheries biologist, that addresses tidewater gobies and steelhead.
   iv. The County is responsible for ensuring that the Supervising State Park Ranger for Sunset State Beach and Zmudowski State Beach has the opportunity to review survey results, oversee exclosure and fencing installations and monitor all breaching activities. The County shall notify and coordinate with the Supervising State Parks Ranger before staging begins for mobilization to monitor all four stages of the breaching process, including evacuation of equipment and workers. The Supervising State Parks Ranger shall not be responsible for any duties. An approved, qualified wildlife biologist must be present to monitor all breaching activities.
   v. If the approved biologist observes western snowy plover adults or chicks in the path of equipment during mobilization or evacuation, the County shall halt project

activities until the birds move out of harms way, or shall proceed on a path at the direction of the approved biologist to avoid injury or mortality to the birds. If a western snowy plover is injured in any way during mobilization or evacuation, the County shall halt project activities, provided the health and safety of both the public and the Santa Cruz County Department of Public Works staff is not at immediate risk, and notify the USFWS to determine if further protective measures are necessary.

vi. The County shall temporarily halt breaching activities if they cause an incubating adult western snowy plover to leave the nest or brood for more than 30 minutes. The County shall temporarily halt breaching activities if such disturbance to incubating adults occurs again within two hours of the first disturbance. The County shall not allow such disturbances to occur more than four times within a 24-hour period. The County will be excused from the provisions of this condition if the health and safety of the public, or Santa Cruz County Department of Public Works staff is at immediate risk.

vii. The biologist surveying for western snowy plovers shall assist County staff in plotting a trench to be excavated that allows for a less steep gradient, and that breaches the sand bar on one side of the lagoon and traverses the beach for some distance before entering the sea. The area of excavation will vary depending on the season and the presence of snowy plovers. A trench will be excavated from the sea to the lagoon, 4 to 6 feet deep, 10 to 15 feet wide. The length of the trench shall be approximately 2 to 3 times the shortest distance from the lagoon to the sea. The sand excavated will be side cast below the high tide line and redistributed by wave action as the tide comes in.

1. This will decrease the rate at which the water leaves the lagoon and will minimize take of steelhead and tidewater gobies that may be present in the lagoon.
2. This will improve the ability of the County to close the breach in the sandbar to maintain a water level of at least +2.5 MSL in the lagoon.

viii. The breaching trench shall be excavated as far as possible from the closest edge of the fenced breeding area for the western snowy plover on the sandbar. The minimum distance shall be 100 feet. If conditions require the trench to be dug within 100 feet of the breeding area, the County shall contact the USFWS for approval before beginning excavation.

ix. The County shall implement excavation methods that allow the lagoon water to be slowly released through the sandbar breach by leaving a sand plug intact at the head of the excavated trench adjacent to the lagoon. Slight scraping off of the top of the plug will create a slow outflow of lagoon waters, which will gradually erode the sand plug, and subsequently the sand bar.

1. Following an artificial breach in the dry season, the County will attempt to reclose the mouth once the water level recedes to +3.5 feet MSL, determined from the staff gage located in the Watsonville Slough, and maintain a water level of at least +2.5 MSL in order to minimize adverse affects on aquatic species. No mechanical closures will be made prior to June 15th to allow for out-migration of steelhead.

x. The County shall be responsible for monitoring the lagoon twice daily after breaching until the water level has stabilized and the sandbar has reformed. Monitoring logs will include date and time of breaching, type of equipment and manpower used, daily water depth measured at the Watsonville Slough staff gage, and a description of wave and tidal action. Monitoring reports shall be submitted to NMFS on a monthly basis.

1. Please refer to the "Biological and Conference Opinion", produced by NMFS, 07/07/99, the "Biological and Conference Opinion", produced by the USFWS, 09/15/99, for contact information and monitoring and reporting requirements.

xi. The County is responsible for ensuring adequate staff are present to monitor and

control access to the breaching site to prevent unauthorized personnel from entering areas where western snowy plovers may be disturbed, and to prevent harm to the public as a result of the breaching activities.

6. Trash shall be stored in covered containers at all times during breaching activities and shall be removed daily. No pets shall be allowed in the work area.

7. All vehicles and equipment to enter the breaching site shall be properly maintained to prevent leaks or spills of hazardous fluids. Refueling and changing of hazardous fluids shall be conducted only in an area where any spills cannot reach breeding or roosting habitat.