CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

Th4a

EXECUTIVE SUMMARY
San Luis Obispo County Local Coastal Program
Periodic Review Final Recommendations

Commission staff has completed the Periodic Review evaluation of the San Luis Obispo County Local Coastal Program (LCP). Under the California Coastal Act of 1976, local government implementation of an LCP is the primary mechanism for achieving the resource protection goals of the Coastal Act. Section 30519.5 of the Coastal Act, though, requires that the Commission periodically review every certified LCP to determine whether they are being implemented effectively in conformity with the Coastal Act. Section 30519.5 gives the Commission an opportunity to identify beneficial changes to an LCP, based on an evaluation of local implementation and in light of changed environmental, social and economic circumstances that may have occurred since an LCP was first certified. Periodic Review allows for the incorporation of new knowledge into an LCP, and the adjustment of existing policies, programs, and implementation practices, informed by lessons learned about what works in the coastal management process. In short, the periodic review of LCPs is critical to the success of coastal management in California.

The San Luis Obispo County Periodic Review

Commission staff began the SLO County Periodic Review in January, 2000. Since then, staff has analyzed nearly 2500 coastal development permits issued by the County, conducted research on current environmental and social conditions in the County, held numerous public meetings, and has also had extensive meetings with County staff, community advisory groups, service providers, and concerned individuals. The Commission has received an unprecedented amount of public participation and feedback in response to the Periodic Review. At the Commission's February meeting in San Luis Obispo, staff presented a *Preliminary Report* for public comment and Commission consideration.

Since February, Commission staff has held additional public meetings, four of which were televised by a local cable television station in San Luis Obispo, and has met with individuals and other concerned groups about the *Preliminary Report*. After evaluating this additional public comment, staff has prepared a set of 165 *Final Recommendations for Corrective Action* that address coastal resource protection in 12 issue areas. Many of the final recommendations reflect extensive discussions with County staff and the public about the most effective ways to amend or change implementation of the LCP to address coastal resource protection in San Luis Obispo County.

Context for Final Recommendations

Significant environmental, social, legal, and economic changes have occurred since certification of the San Luis Obispo County LCP. These include newly discovered endangered species and environmental threats, designation of the Monterey Bay National Marine Sanctuary and the Morro Bay National Estuary Program, adoption of a new California Nonpoint Source Pollution Control Program, increases in tourism and shoreline recreation, improved knowledge and public appreciation of coastal resources, and continued population growth and development pressures.

As discussed at the February meeting, the Periodic Review shows that the County, local citizen groups, and others have done an admirable job responding to these changes through LCP implementation and other resource management efforts. Major accomplishments include property acquisitions such as East-West Ranch and the Estero Bluffs; expansion of agricultural land preserves; County acceptance of multiple public access dedications; and completion of a new specific plan for the redevelopment of Avila Beach. The County has also begun the process of considering substantial LCP changes for the North Coast and Estero areas, including a critical viewshed policy for the North Coast, and a TDC program to protect sensitive habitat in Los Osos.

Final Recommendations (see attached chart for more detail)

In addition to identifying many LCP implementation successes, the Periodic Review has resulted in 144 recommended corrective actions in 11 coastal resource areas and 21 recommendations to improve procedural aspects of LCP implementation.

Chapter 2: Environmentally-Sustainable/Concentrated New Development.

The Review presents 20 recommendations to address the environmental sustainability and concentration of new development. This includes recommended actions to:

- Change LCP implementation to better *preserve urban-rural boundaries*, and amend the LCP to clarify where and under what circumstances the provision of urban services to development outside of existing Urban Service Lines is appropriate.
- *Reduce development potential* on urban edges, create incentives to move development potential to urban cores, and adopt LCP amendments to support a greenbelt in Los Osos.
- Rezone recreational lands on the *Hearst Ranch* to Agriculture, limit future non-agricultural development locations to San Simeon Acres and small-scale infill at San Simeon Village, protect public viewsheds on the Ranch, and require land-use capacity analysis to address limited groundwater, sensitive species protection, highway capacity and other significant coastal resource constraints.
- Strengthen implementation of the LCP's *Resource Management System*, including participation of Commission staff in the RMS Task Force process; and address short-term and long-term development in Los Osos through amendments to the Estero Area Plan that address groundwater limitations and sensitive habitat protection.
- *Limit new residential development in Cambria* to 1% growth until January 1, 2002, due to limited water supplies, after which time no development should be approved absent findings that: instream habitats are protected; water is available for agriculture and visitor-serving uses; a water management plan is implemented; progress has been made on buildout reduction; and there is adequate water for emergency response.

Chapter 3: Enhanced Water Quality Protection.

The Review presents 13 recommendations to address the need for enhanced Water Quality Protection. Recommended actions include:

- Amending the LCP to provide the framework for a *Comprehensive Watershed and Water Quality Protection Component*, including updated discussion of California's adopted Nonpoint Source Pollution Plan, updated goals and policies for water quality protection, and a program to encourage watershed planning in the coastal zone.
- Strengthening the County's grading ordinance to require a *water quality control plan* that (1) identifies the type and size of BMPs necessary to maintain peak runoff rates and volumes and accommodate runoff from the 85th percentile storm; (2) protect and restore natural drainages; (3) minimize pollutant loads; (4) limit impervious surfaces; and (5) require maintenance of BMPs.
- Adopting LCP programs to address water quality *impacts from agriculture*, including: education-based efforts to address sedimentation and other nonpoint source pollutants; and certified implementation programs that support the use of BMPs on agricultural lands while eliminating unnecessary individual permitting requirements.
- Amending the grading ordinance to allow maximum flexibility for existing agricultural activities, while protecting sensitive habitats and significant trees, and minimizing erosion.
- Addressing *Post-construction runoff* by incorporating the Model Urban Runoff Program (MURP) Water Quality Checklist into the planning process.
- Adding policies and programs to require BMPs in Harbors and other boating facilities.

Chapter 4: Sensitive Coastal Habitat Protection.

The Review presents 56 recommendations to address the need for enhanced protection of sensitive coastal habitats. This includes:

- Changes to the County's current map-based implementation of ESHA protection policies to emphasize analysis of up-to-date *site-specific resource information* while also completing comprehensive updates of existing habitat maps.
- Developing *Comprehensive Habitat Conservation and Management Programs* for areas with particular challenges, such as Los Osos (shoulderband snail) and Cambria (Monterey pine).
- Strengthening standards for proposed development in ESHA to emphasize *avoidance* of impacts, alternatives, and the need to protect private property through a takings analysis override, while limiting site disturbance in cases where impacts to ESHA are unavoidable.
- Enhanced *coordination* of project review between the County, California Department of Fish and Game, U.S. Fish and Wildlife, and the National Marine Fisheries Service.

- Strengthening LCP standards for habitat impact mitigation, wetland and stream setbacks, streambed alterations, wetland delineations, and habitat/wetland restoration and monitoring.

Chapter 5: Protecting Agricultural Lands.

The Review presents 9 recommendations to address the need for enhanced protection of rural agricultural lands. This includes:

- Strengthening the use and application of *agricultural viability* reports for lands proposed for redesignation from agriculture to a non-agricultural use.
- Amending the LCP to include new criteria for *lot-line adjustments on agricultural lands*, including: requirements to not increase the number of developable parcels or create parcels where the only future building site would result in significant coastal resource impacts; requirements that lot-line adjustments maintain or enhance agricultural viability; and allowing clustering to minimize the impacts of development on non-conforming parcels.
- Amending the LCP to require noticing of *Certificate of Compliance* applications in rural areas to the Commission, and providing an administrative consultation process to avoid conflict concerning parcels proposed for certification.
- Developing LCP performance standards for residential developments on Agricultural land that protect the maximum amount of agricultural land, limit non-agricultural uses, minimize site disturbance, protect ESHA and viewsheds, and maintain rural character.
- Amending the LCP to better specify principally-permitted, conditional, and supplemental uses on agricultural lands.

Chapter 6: Maximizing Public Access

The Review presents 8 recommendations to address the need for enhanced protection of Public Access, including incorporating comprehensive access components into each Area Plan of the LCP. These components should include a Public Trails Plan to ensure future implementation of the *California Coastal Trail.*

Chapter 7: Avoiding Coastal Hazards

The Review presents 17 recommendations to address the avoidance of coastal hazards. This includes new policies and ordinances to ensure no future armoring of the coastline related to new development and to increase the set back of new development to ensure safety of structures for at least 100 years; adoption of areawide shoreline management plans; requiring consideration of realignment of Highway One along the North Coast to avoid armoring; limiting new development in Cambria's flood hazard zone until implementation of the comprehensive flood management plan; and providing new standards for appropriately balancing the need for fire clearance protections with protection of sensitive habitats and public lands.

Chapter 8: Preserving Scenic Resources

The Review presents 10 recommendations to address the need for enhanced protection of scenic viewsheds. This includes: adopting a *Critical Viewshed Policy* for the North Coast Area of San

Luis Obispo County; creating a Scenic SRA Combining Designation; and strengthening protection of public viewsheds, including views from state waters.

Chapter 9: Protecting Archeological Resources

The Review presents 4 recommendations to address the protection of archeological resources. This includes: updating resource overlay maps; and evaluating subsurface survey requirements, use of conservation easements to protect identified resources, and existing permit exemptions where archeological resource impacts are a possibility.

Chapter 10: Energy and Industrial Development

The Review presents 4 recommendations to address Energy and Industrial development, including: updating the LCP to address onshore fiber optic cable projects; updating Area Plan energy policies to ensure adequate mitigation for impacts from potential energy facilities; and updating the LCP to address the abandonment of energy facilities.

Chapter 11: Commercial Fishing and Recreational Boating

The Review presents 3 recommendations in this chapter including a recommendation to coordinate future boat launch ramp project review with the Commission, Department of Fish and Game, and other interested parties, and update the Port San Luis Master Plan to address new circumstances, including the need to reserve Avila Valley Road capacity for priority Coastal Act uses.

Chapter 12: Improving LCP Implementation Procedures

The Review presents 21 recommendations to address the need for improved LCP implementation procedures, including improved public noticing, intergovernmental coordination, and permit application and appeal processes. The review also recommends clarifying allowable and principally permitted uses to better address the appeal criteria of the Coastal Act.

Next Steps

Under Coastal Act 30519.5, San Luis Obispo County has up to one year to implement (or explain to the Commission the reasons for not taking) any corrective actions adopted by the Commission. As summarized in the attached chart, preliminary indications are that the County agrees with many of the recommended actions, while some may require further staff discussions to identify mutually-agreeable implementation options. Implementation of the Periodic Review, though, will require many different types of actions on the part of the County, including submittal of comprehensive LCP amendments to the Commission, changes in procedures, and securing of funding for the new studies, mapping, programs, etc. As mentioned, the County already has comprehensive Area Plan Updates (Estero and North Coast) underway, which are expected to play a major role in implementing the Periodic Review. In addition, although the Periodic Review has identified many specific changes to enhance the SLO County LCP, further discussion about the details of potential LCP amendments will be needed prior to actual changes to the LCP. Some of the recommendations also will require substantial County resources, which points to the need for the Commission to bolster its various local assistance efforts, including helping the County with securing new funding sources. It will remain important for the Commission to not just continue but increase regular staff coordination with the County if implementation of the Periodic Review is to be successful.

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
NEW DEVELOPMENT				
2.1	Improve Findings for Service Extensions Beyond USL and/or denial of projects	Modify staff reports to make clearer findings as basis for action. Additional studies to support approvals or must recommend denial (clarify in ord)	Agree/More info needed	Modified to address County concern. (p. 54)
2.2	Improve County & Commission Coordination	Early consultation/cooperation with Commission staff in project review. Develop flow-chart to indicate opportunities for coordination. Coordinate conditions of approval.	Agree	Minor text changes. (p. 55)
2.3	Clarify LCP Authority on New Urban Development outside of USL	Clarify purpose and intent of USL/URL boundaries. Possible changes to Coastal Framework for Planning may be necessary.	Modify/More info needed	Modified to address County concern. (p. 56)
2.4	Reduce Development Potential on Urban Edges	Evaluate for possible LCP amendments for specific communities through update process	Modify	Minor text changes. (p. 56)
2.5	Consider Policies/Programs to Support Greenbelt/Open Space	Continue to support in Los Osos, consider for other urban fringe areas as part of updates. Consider mitigation banking.	Agree	Modified to address County concern. (p. 57)
2.6	Encourage Redevelopment options in Urban Areas	This is encouraging urban in-fill development before development outside USL, not recommending a Redevelopment Agency.	Agree	Modified to clarify intent. (p. 57)
2.7	Strengthen standard to address development potential on non-conforming lots	Consider amendments to LLA review criteria to more reasonably comply with all LCP Policies.	Modify/More info needed	Modified to address County concern and to refer to recommendation 5.4. (p. 60)
2.8	Evaluation options for Processing Non-conforming lots	Explore legal options to maximize protection of ag-land. Evaluate ag viability of entire ag holding if multiple lot ownership	Agree to consider	Modified to address County concern. (p. 61)
2.9	Concentrate Development at Limited Existing Nodes	Modify to consider visitor serving uses at the Hearst Castle Visitor Center. Modify to state that zoning designations will be addressed through NCAP update for Hearst Ranch development.	Modify	Modified to specify NCAP process and establish standards requiring a Land Use Capacity Analysis, and standards for locating development. (p. 73)
2.10	Require Resource Capacity Studies prior to major development proposals	Consider "Detailed Resource Assessment", not a Resource Capacity Study. Clarify what is a major development.	Modify	Modified to refer to Recommendation 2.9 (p. 74)
2.11	Update LCP to address large residential development	Modify to relate house size limitations to potential impacts to agriculture, ESHA, and important viewsheds and corridors	Modify	Deleted and integrated into Recommendation 5-8 (pg. 74)
2.12	Strengthen Implementation of RMS and ISCA	Resolve legal issues with ISCA or determine alternatives. Expand RMS task force to include Coastal Commission staff. CCC staff could also be included in the review loop for Resource Capacity Studies	Agree to consider.	Modified to implement Phase 2 of RMS and clarify need to implement ISCA until such time as Estero AP is adopted. (pg. 77)

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
2.13	Address Cambria Short-term Development	Allow 1.0% growth until 1/1/02. Already implemented via Growth Mgmt Ord	Agree	Modified to confirm 1% growth rate and to restrict development that requires water connection in Cambria after 1/1/02 unless specific findings are made. (pp. 86-87)
		County and CSD collaborate on water availability studies; coordinate with Coastal Commission staff. See 2.12 above	Agree	
		Enact development moratorium through the RMS, until water problem is resolved.	Modify. Defer action until completion of Res Cap Study	
2.14	Establish Watershed/ Basin Management Programs	Establish a Coordinated Resource Management Program (CRMP) per NCAP; Could be done as part of the Master Water Plan update	Agree.	Modified to be more specific and to include Estero Area. (pg. 87)
2.15	Consider Additional Options for Water Conservation	Additional LCP policies and standards to require stricter low water-use landscaping and other water conservation requirements could be considered in the update process.	Agree.	No substantive changes; minor edits to text. (pg. 88)
2.16	Cambria Long Term Development Buildout Reduction	Expand the TDC program to include Special Project Area #2, watersheds, scenic corridors, small lot tracts, etc.	Agree to consider	Amended to include establishing taskforce to identify management options and strategies. (pg. 89)
		Create Assessment District to retire lots, create open space, promote forest protection. Subject to active support by CCSD.	Agree to consider, depends on voter approval	
		Use mitigation fees or erosion control fees to address buildout.	Agree to consider	
		Create incentives for the minimum lot size of 7000 sq feet	Agree to consider	
2.17	Prohibit Creation of New Development Potential in Cambria and Los Osos	Prohibit new subdivisions, or allow them only if an equivalent number of lots are retired. Handle through update. A Habitat Conservation Plan is underway	Agree	No substantive changes; minor edits to text. (pg. 89)
2.18	Address Cumulative Impacts to Urban Design in Cambria	Consider development standards based on the capacity of a lot to handle increase in square footage allowed by TDCs. Maximum footprint; minimum landscape area. This is being addressed in the proposed Cambria Res. Design Guidelines.	Agree	No change. (pg. 89)
2.19	Los Osos Short-Term Development	Consider policies and standards prohibiting new development until safe-yield is determined or an alternative water source is identified. Link to ESHA and TDCs	Modify. Safe yield study has recently become available.	Modified to include consideration of basin-wide management of groundwater supplies. (pg. 91)
2.20	Los Osos Long Term	Buildout reduction, or management strategies needed when new sewer is operational that respond to ESHA concerns. Build on proposed TDC program in E.A.P.	Agree to consider	Modified to clarify changes necessary in Estero Area Plan. (pg. 91)
WATER QUALITY				
3.1	Modify and adopt policies and standards related to Basin Plan requirements	Amend LCP and CZLUO to incorporate recommended wording changes and adopt recommended policies and standards in LCP.	Agree	Modified to also include new standards for specialized animal facilities (CZLUO Section 23.08.052). (p. 112)

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
3.2	Modify LCP to incorporate management measures identified in Appendix D	Amend LCP and CZLUO to incorporate mechanisms to implement numerous management measures identified in Appendix D to address nonpoint source pollution. *Staff is working with Public Works, Ag Commissioner and Port San Luis Harbor District to evaluate the management measures.* Section E1- Pesticides should be based on facts not speculation. (See detailed report from Ag Commissioner) Opposes another regulatory layer.	Modify/Need more info. on some of the proposed measures	Replaced with recommendations to include program in LCP to support voluntary efforts to address nonpoint source pollution, require grading permit where grading meets certain criteria, and add program to LCP streamlining permit process. (p. 113)
3.3	Area Plan Updates: Complete North Coast Area Plan Update with recommended water quality protection	Complete North Coast Area Plan Update and include measures that incorporates recommended water quality protection	Agree	No substantive changes; minor edits to text. (p. 118)
3.4	Expand Erosion Control Studies - Lodge Hill	Develop a comprehensive Master Plan for Lodge Hill that incorporates a street drainage network, and identifies critical lots for storm water infrastructure or are at extreme risk in drainage path. Implementation of Plan may require creation of assessment district. *This is an on-going program and decisions on use of Lodge Hill Erosion Control funds will address.*	Agree, dependent upon funding for implementation beyond current funding in LH fund, in cooperation with the CCSD.	No substantive changes; minor edits to text. (p. 118)
3.5	Address Post Construction run-off	Adopt BMPs and NPDES ll type plans and guidelines for coastal areas, as found in Appendix D. *This is a major new responsibility arising from the RWQCB programs to implement non-point source regulations. This will have major implications for project design and review and also require staff, staff training and field evaluation.*	Agree, dependent upon funding for some of the new responsibilities.	No substantive changes; minor edits to text. (p. 118)
3.6	Adopt policies and ordinances to implement Management Measures from the state NPS Plan.	Adopt policies and ordinances to control non-point source pollution as recommended in Appendix D. Some of the measures will be implemented as part of NPDES ll implementation. (See also 3.5 above)	Need more info.-- on-going discussions with CCC and RWQCB staff to clarify responsibilities between agencies and with CSDs.	Replaced with following recommendations: 1) prohibit subdivisions which result in building pads/roads on slopes over 30%; 2) modify proposed criteria defining watercourses; 3) require a water quality control plan for most development projects; 4) delete proposed changes to definition of wet season; 5) update standards in Title 19 for residential septic

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
3.7	Develop watershed plans for each water basin and/or planning area to address cumulative NPS pollution.	Develop and adopt watershed plans for each water basin and/or planning area to address cumulative NPS pollution, similar to the Irish Hills Management Plan and the Morro Bay National Estuary Comprehensive Conservation and Management Plan (CCMP). *Alternative: The recommendations should acknowledge that the responsibilities for watershed planning falls to many agencies beginning with the State and Regional Water Resources Board through their responsibilities under the Federal Clean Water Act. Report should suggest that the county should agree to participate in such programs in cooperation with other agencies (as exemplified by the Morro Bay National Estuary Program which was begun by the county with grant funding and eventually grew to the present status.) Also the HCP/NCCP just beginning for San Simeon/Santa Rosa Creek will serve a similar purpose but should be based upon cooperation of all parties; not merely regulations for agriculture.*	Modify. Need more information. Recognize that CCC jurisdiction ends at CZ. Agree to clarifying that county has role jointly with many other agencies. Also, this type of program is dependent upon major funding programs	Modified to require update of LCP Chapter 9 to provide framework for comprehensive watershed and water quality protection component of LCP, with suggested goals, policies, and standards. Modified watershed planning recommendation to include program encouraging watershed planning, identifies County's role and general components of a watershed plan. (pp. 99 - 102)
3.8	Modify criteria defining "wet season" in LCP.	Current LCP language defines "wet season" as October 15th - April 15th. Recommended change begins "wet season" on October 1st". *Note: agricultural industry has expressed concern for this definition.* Ag should not be considered to be "development" under the Coastal Act definition	Need more information. Request for documentation from CCC staff.	Deleted
3.9	Modify criteria citing watercourses on USGS maps	Current county criteria for requiring an erosion control plan is that land activity is within 100 feet of a watercourse on a 7 1/2 minute USGS map. Recommended to add the following criteria for defining a "watercourse": supports fish; has significant flow 30 days after last significant storm; or has channel, free of soil and debris. *Address through the grading ordinance update; clarify what are "significant flows" and "significant storms".*	Need more info to understand impacts/will continue discussions with CCC.	Modified and incorporated into 3-6: deletes criteria of "has channel, free of silt and debris" to define watercourses. (p. 119)
3.10	Incorporate performance standards in erosion control plans.	Amend CZLUO to require incorporation of performance standards and monitoring requirements as part of erosion control plans. Ability to implement depends on the types of performance standards and monitoring requirements.	Need more info Implement through grading ordinance revisions.	Deleted; incorporated through modified Recommendation 3-7
3.11	Prohibit subdivisions on slopes over 30%.	Amend CZLUO to prohibit new subdivisions on slopes over 30%. *Need to clarify if this is suggesting that no subdivision on land that slopes greater than 30% or that the development that occurs on the lots that are created cannot be on slopes greater than 30%.*	Modify	Clarified and incorporated into 3-6: prohibits subdivisions which result in building pads/roads on slopes over 30%. (p. 119)

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
3.12	Modify Drainage Plan Ordinance	Amend Drainage Plan ordinance to require new developments to implement BMPs into site design or prepare "Drainage and Pollution Control Plan" to mitigate NPS impacts. *Address through the grading ordinance update and requirements under NPS regulations.*	Agree	Modified and incorporated into 3-6: requires water quality plan for most new development, including use of BMPs. (p.120)
3.13	Implement Appendix D requirements for new marinas	Detailed management practices identified in Appendix D would require changes in runoff policies that pertain to harbors and boating projects. Could include education programs incorporating best management practices. *Alternative: This recommendation should be rewritten to reflect that the practices and education programs should be developed through the update of the Port San Luis Master Plan which will be reviewed by county and Coastal Commission.*	Need more info and discussions with Port San Luis Harbor District Agree to alternative.	Modified to delete management measures addressing the siting and location of marinas. Requires use of BMPs to address runoff in new development and establishes program to educate boaters and boating facility operators. (pp. 123-125)
ENVIRONMENTALLY SENSITIVE HABITAT AREAS				
4.1	Revise LCP definition of ESHA	Revise Area Plans and CZLUO to reflect Coastal Act definition of ESHA Also verify ESHA in field (mapped or not), and define all riparian (mapped or not) as ESHA.	Agree Need more info: DFG definition?	Modified to incorporate the County recommended Field Review approach for verifying the presence of ESHA in field. DFG Definition included in final recommendation. (p.131)
4.2	Revise & Update ESHA Combining Designations	Revise ESHA maps periodically using GIS based mapping- input new ESHA locations based on individual project surveys- may relate to RMS.	Agree	Modified to use field surveys and biological reports to update LCP ESHA Maps. (p. 132)
4.3	Update Requirements for Biological Investigations & Reports	Several components: revise 23.07.170, require bio inventories, exclude certain urban areas, develop HCP's, develop GIS bio mapping system, CF&G/USFWS/CCC review of bio reports, etc.	Agree: w bullet #'s 1, 2, 3, 5, & 6 Bullet #4 is high $ Bullet #7:agree in concept; may propose alternative approach; info-hold agency referral-response within 10-14 days	Modified to incorporate the County recommended Field Review approach, and to include Cayucos creeks and watersheds that support Steelhead trout as areas that may warrant the development of comprehensive habitat conservation and management programs. (p. 132)
4.4	Identify, & Implement the Resource Dependent Criteria for Development in ESHA	Three parts: Revise Table O, require takings defense argument from applicants, and allow exceptions in areas w/ HCPs.	Modify: add preamble to Table O stating that anything other than a "P" use in an ESHA is conditional	Revised to address County concerns. (p. 135)
4.5	Prohibit Subdivisions that Create new lots in ESHA	Better implementation & clarification of 23.07.170c, require smaller lots in clusters where ESHA exists, and clarify that min parcel sizes don't apply in ESHA.	Modify: new approach; rewrite 170c to include concepts of ESHA protection	No significant change. (p. 136)
4.6	Develop Comp. Habitat Conservation, Protection & Management Programs	Develop HCP's and Habitat Programs for long term, comprehensive protection of ESHA.	Agree, funding needed or cooperative efforts with other agencies with funding	Expanded to include additional areas that would benefit from comprehensive habitat protection programs. (p. 139)
4.7	Revise Biological Report Requirements	Bio reports should include project alternatives, and an assessment of impacts from fire safety requirements and road improvements.	Modify: Bio reports should include *constraints* , not alternatives	Modified to address County concerns. (p. 140)

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
4.8	Expand Application of Rural Area SRA Standards regarding "Site-Planning-Development Plan Projects in Area Plans	Expand SRA standards to all rural development (including Plot Plans), and require Master Development Plans for all contiguous ownership parcels.	Modify: agree with first & third bullet; Disagree w/ second bullet-propose deletion	Second bullet revised to be stand alone recommendation. (p. 141)
4.9	Thoroughly review & Pursue project alternatives that avoid impacts to ESHA	Explore project alternatives to avoid impacts to ESHA in bio reports; and expand requirements of 23.07.170 to ESHA outside of 100 feet from site.	Modify: modify first bullet such that bio reports include constraints; agree second bullet	Modified to address County concerns. (p. 140)
4.10	Evaluate Economic-Backed expectations before concluding that avoidance is not possible due to "takings" concerns	Require "Takings Reports" for non-resource dependent uses where avoidance is not possible; also, special findings will need to be made regarding "reasonable investment-backed expectations."	Disagree: Propose New Approach: we should ask for an alternatives analysis including a minimum of three alternatives; with at least one alternative showing a design with a reduced footprint	Modified to allow the County to develop its own customized approach for responding to takings concerns. (p. 143)
4.11	Minimize Intensity of Non-Resource Dependent development to maximum extent	Minimize intensity of non-resource dependent development to Maximum Extent Feasible	Modify: delete entire bullet; handle through implementation of *new approach* on 4.10	No significant change. (p. 145)
4.12	Establish Max disturbance limitations	Establish maximum disturbance area limitations *Alternative: perhaps use Ag Rules of Procedure on area of disturbance.*	Modify: delete entire bullet; handle through implementation of *new approach* on 4.10	No significant change. (p. 146)
4.13	Require Conservation easements/Deed restrictions over all ESHA outside development envelope	Require protective easements over all ESHA remaining on parcels. ESHA, as defined by the County, would be determined based on site specific studies, not Agency mapping of *potential* habitat. In addition, easements would only be required when development impacted identified ESHA on site (i.e., avoidance of ESHA is encouraged). Submit easements & deed restrictions to CCC for review per 13574.	Modify Agree	No change.
4.14	Coordinate review with DFG, USFWS, & NMFS of projects that pose impacts on Listed Species	Coordinate review of projects with DFG, USFWS, & NMFS. *Alternative: propose 60 day review period for feds- must be consistent w Permit Streamlining Act time limits.*	Modify: existing regs in place w/ CEQA	Modified to address County concern regarding timing of other agency reviews. (p. 147)
4.15	Specify Mitigation Requirements	Specify Mitigation requirements.	Modify: require mitigation "proportional" to impact; may be on-site, may be off-site, may be both	Modified to address County concern. (p. 147)

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
4.16	Specify mitigation monitoring and evaluation requirements	Specify Mitigation Monitoring and Evaluation requirements. *This is an existing requirement under CEQA Section 21081.6.*	Agree: existing req under CEQA	No change.
4.17	Pursue changes to CZLUO to be consistent w/ 30236 and ESHA #23	Pursue changes to LUO Section 23.07.174b to be consistent with 30236 and ESHA Policy 23-coastal streams	Agree: need clarification of ref to *2l* & *2m* Agree to incorporate #4 into #2 Q: 2nd part of bullet #2	Modified to specify mitigation measures that should be considered when reviewing streambed alterations, and to correct reference to related recommendations. (p. 149)
4.18	Delete exemption for stock pond (of under 10 acre feet) stream diversion that may impact habitat	Delete exemption for stream diversion structures associated with ag stock ponds under 10 acre feet	Agree (in concept) Review w/ Ag Comm/ see Grading Ordinance	No change.
4.19	Analyze streambed alterations for consistency with 23.07.174b	Analyze streambed alterations for conformance with 23.07.174b	Agree: implement existing regs better- explore alignment alternatives away from creek	No change.
4.20	Improve coordination w/ DFG Stream Alteration process	Improve Coordination with DFG	Agree	No change.
4.21	Pursue alternatives to Streambed alterations	Evaluate alternatives to streambed alteration design to avoid impacts	Agree	No change.
4.22	Encourage research regarding Setback effectiveness	Study effectiveness of setbacks to riparian areas.	Agree: implement program-high $- (possible cooperative effort with Cal Poly)	No change.
4.23	Apply 100' setback in Urban Areas	Application of the 100' rural setback in urban areas, where feasible *Alternative: perhaps add language to 23.07.174d (…unless it can be accommodated…)*	Modify: implement maximum reasonable setback based on site constraints	Modified to address County concerns. (p. 152)
4.24	Improve implementation of setback standards & adjustments	Evaluate environmentally friendly alternatives to reduce impacts to streams; (e.g., road alignments). Also, evaluate "after-the-fact" permits for mitigation opportunities	Agree: but need clarification of 2l & 2m again; evaluate all *reasonable* options	Reference to related recommendations corrected. (p. 24)
4.25	Consider limiting pedestrian & equestrian trails within riparian areas to Passive recreation	Determine whether recreation within ESHA can be redesigned to lessen impacts, and require signing for environmental education	Agree	No change.
4.26	Incorporate additional standards for stream diversions & wells	Evaluate impacts to fisheries prior to allowing stream diversion or wells; if impacts may occur-allow during peak winter months; return waters to origin after treatment	Modify: evaluate impacts to fisheries; need clarification on bullet #3; delete 4th bullet-add language to 23.08.178?	Modified to delete option of importing water to supplement stream flows. (p. 154)
4.27	Incorporate standards for development in and adjacent to steelhead streams	Condition projects near streams to not adversely impact stream habitat	Agree: but delete bullet #2	Revised to provide more specific suggestions on how to improve protection of aquatic habitats in coordination with other programs. (p. 156)

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
4.28	Complete follow-up review on Aquaculture facility	Complete condition compliance on Alexander abalone farm-Harmony Coast. *This effort is underway.*	Agree	No change.
4.29	Misc policy clarifications	Clarify/Correct CZLUO sections 23.07.174e(7) & 23.07.174e(2)	Agree: with bullet #1; delete bullet #2	Second bullet revised to address County concern. (p. 157)
4.30	Incorporate standards for wetland delineations	Develop standards for wetland delineations and protection in LCP	Agree: may need two sections of reports- CCC definition & ACOE definition	Revised to reference delineation provisions of the Commission's administrative regulations (Title 14, Division 5.5, Section 13577(b)(1)). (p. 160)
4.31	Evaluate biological significance of manmade wetlands	Determine if man-made wetlands are biologically significant and balance protection of them against protection of other site resources by considering standard wetland setback reductions. Also, only "development" other than agriculture should adhere to new setback standards if the wetland is determined to be biologically significant.	Modify	No change.
4.32	Prohibit variances to wetland & other ESHA protection standards	Do not allow variances on sites containing wetlands & other ESHA on sites to allow for avoidance alternative designs. *Alternative: Add finding "vi: to 23.01.045d regarding ESHA protection.*	Modify: change title of recommendation to include "where it could be avoided".	Modified to address County concern. (p. 160)
4.33	Develop standards for the breaching of coastal lagoons	Require CDP's for lagoon breaching activities; coordination with agencies; incorporate least environmentally damaging alternative	Agree	Modified to recognize that breaching can be used to maintain ecological functioning. (p. 161)
4.34	Provide standards for wetland monitoring and restoration activities	Incorporate specific wetland monitoring and restoration requirements into 23.07.172 & 23.05.034. *This additional level of monitoring and review of restoration activities will have substantial staff implications.*	Agree: has major staffing implications.	Modified to provide specific suggestions for restoration monitoring and maintenance. (p. 161)
4.35	Review mosquito abatement activities	Determine whether mosquito abatement practices are consistent with Policy 12 and SLB SRA-8	Need More Information: discuss with Ag Commissioner for pesticide use and Public Work for flood control.	No change.
4.36	Coordinate Mgt & protection of Open Space Easements to protect wetlands and other ESHA	Obtain more easements near MB Estuary per SRA-23; coordinate with NEP and others to establish partnership for identifying easement potential	Agree; but major staffing implications for monitoring	No change.
4.37	Develop comprehensive forest habitat management & protection program	Incorporate comprehensive long term protection program for Monterey Pine Forest; further identification of potential use of TDC's. *Alternative: should identify the role of the CCSD in the development and implementation of Forest Management Plan.*	Agree:	Modified to encourage coordination with the Cambria Monterey Pine Forest Management Plan. (p. 163)

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
4.38	Pursue alternatives to avoid tree removal	Make design alternatives that avoid tree impacts requirement of application package; implement policies using all reasonable ways to reduce Monterey Pine loss	Agree: need to evaluate w/ Pine Forest Preservation Standard #6c	No change.
4.39	Increase tree replacement requirements where avoidance is not possible	Increase replacement program such that smaller diameter trees are also protected and replaced, if removed; require replacement be disease-free stock	Agree: start "off-site" mitigation bank" for large number of replacement trees	No change.
4.40	Incorporate programs & standards necessary to respond to threats posed by Pitch Canker	Develop and implement comprehensive plan for treatment of pitch-canker control; identify waste treatment site; coordinate with appropriate agencies	Agree	Expanded to address sudden oak death. (p. 163)
4.41	Provide greater incentives for participation in Cambria TDC program and other improvements to the program itself	Reduce size of development in urban areas: eliminate footprint & GSA bonuses available for Lodge Hill: bonuses are mitigated by payment in "banks": & new study identifying biologically significant areas of forest	Agree/Need more Info: allow Design Plan to process to determine feasibility of bullets 1 & 2; let Forest Mgt Plan do #3	Modified to encourage coordination with the Cambria Design Plan and North Coast Update. (p. 164)
4.42	Develop additional methods for lot retirement	Require payment into forest protection "banks": create Open Space District for long term forest protection. *Need to evaluate feasibility of getting OS District in place w/ CCSD.*	Agree Need more Info	Modified to encourage the creation of an open space district to be coordinated with the Cambria Community Services District. (p. 164)
4.43	Reduce buildout potential - Cambria	Prohibit subdivisions within 100' of forest: enlarge minimum parcel size in forest; modify allowable parcel sizes in cluster subdivisions; modify lot line adjustment standards	Agree Need more Info: agree with concepts in one thru three: four needs more study for feasibility	Fourth bullet clarified. (p. 165)
4.44	ESU's - get ESHA protection	Identify ESU within urban areas and protect	Disagree: use $ and time to set-up "bank" or District	No change.
4.45	Urban development allowed w/ participation in off-site mitigation- "bank"	Allow urban parcels to develop as long as they participate in off-site mitigation "bank"	Agree: follow-up to 4.4	No change.
4.46	Coordinate ESHA protection with LOCSD sewer HCP	Coordinate development in urban areas w/ Sewer project & HCP	Agree	No change.
4.47	Utilize TDC's in Los Osos	Incorporate TDC program in Estero	Agree: check w/ CS & MW	No change.
4.48	Coordinate w/ Parks & landowners for better Sand stabilization	Work w/ landowners & State Parks to develop sand stabilization program	Agree	No change.
4.49	Oceano Dunes OHVRA staff report	Use Oceano Dunes staff report for resource on future projects	Agree	No change.
4.50	Prohibit off-road events in Open Space area-dunes	Consider prohibiting off-road vehicles in Open Space area designated by area plan. *Alternative: Should reflect that this can be addressed in the annual review of the State OSVRA permit; placed by CCC as condition. Not a requirement that the County should have to pursue.*	Need more info	Modified to address County concerns. (p. 166)

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
4.51	Re-evaluate zoning in south county dune habitats	Evaluate potential for changing zoning and use in Calendar-Garrett	Need more Info: need to evaluate site and community concerns	Modified to address County concerns. (p. 167)
4.52	Resolve illegal subdivisions in Calendar-Garrett area-protect area as ESHA	Research legality of subdivisions in C-G area; possibly designate and protect as ESHA	Need more Info: research lot history & bio of site- legal issues	Modified to address County concerns. (p. 167)
4.53	Work with agencies to identify habitat of special species	Coordinate w/ agencies to determine potential habitat for plover and tern; then protect as ESHA	Agree: write as program	Modified to identify the Morro Bay sandspit as one of the important nesting areas that should be addressed. (p. 167)
4.54	Identify Elephant Seal beaches as ESHA	Identify beaches where Northern Elephant Seals are present as ESHA	Agree	No significant change.
4.55	Establish standards for visitation of sensitive areas	Develop standards for management of Elephant Seal visitation areas (maybe work with docents/agencies)	Modify: Coastal Policies & 23.07.178d to deal w/ marine resources	Modified to address County concern. (p. 167)
4.56	Prohibit installation of new revetments and outfalls on beaches used by Elephant Seals	Prohibit new revetments & outfalls on beaches used by Elephant Seals (i.e., prohibit all man-made structures which may alter drainage on beaches w/ Elephant Seals)	Agree	No change.
AGRICULTURE				
5.1	Modify Ag Policy 1 to require ag viability report for re-zonings/other proposed dev.	Modify policy document and CZLUO. Issue includes determining whether <u>all</u> types of development should require this? Modify list of uses on "Table O" where appropriate.	Agree for GPA and for list of "Non-Ag uses - Disagree for residential uses	Modified to require viability reports, as detailed in Recs 5-2 and 5-3, for rezoning projects only. (p. 170)
5.2	Modify CZLUO requirements to define ag viability reports	Changes to CZLUO Section 23.04.024(a). Propose modifications to requirements for re-zonings and individual projects.	Modify; differentiate between requirements for ag viability between re-zonings/individual development projects	Modified to pertain to proposed rezonings only. (p. 174)
5.3	Expand contents of Ag Viability Reports	Changes in CZLUO, with minor changes from Ag Commission.	Modify/modifications to requirements for ind. projects.	Modified to pertain to proposed rezonings only. (pp. 170-173)

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
5.4	Develop New LCP policy/ordinance to address development in Ag Areas	Changes policies and ordinances for lot line adjustment/subdivision in ag areas:		Modified recommendation to delete reference and establish new criteria specifically for LLA. Requires assessment of original intent of each lot to prevent increase in number of lots which could support non-agricultural development. Deletes limits on building envelopes. (p. 179)
		- Land division requirements for LLA	Disagree	
		- LLA must enhance ag viability through easements, buffers, etc. or deny	Agree in concept; perhaps differentiate between minor and major LLA; review each project.	
		- LLA, maximize size of ag parcels/minimize size of non-ag parcels	Agree	
		- LLA, prohibit new potential for new division or greater # of developable parcels	Agree on new division; Disagree on "developable" parcels where raises legal issues.	
		Alternative - consider amending CZLUO to increase minimum lot area to be developable.	Agree	
		- LLA, identify access roads/building env.	Modify	
		- Limit building env. (3,500 Sq ft)		
		Alternative - use exemption of area similar to ag preserve rules (1/2 - 1 acre)	Agree	
		- Require ag viability report	Modify to be one criteria for evaluations (some appropriate)	
		- Include contiguous ownership in comprehensive evaluation	Disagree, handle in CZ wide ordinances	
		Incorporate above into area plans		
5.5	Consider standards to govern existing non-conforming lots in agriculture	Pursue policies and programs to provide comprehensive treatment of non-conforming lots in agriculture;	Agree to establish LLA requirements. (See 5.4 above)	Recommendation deleted
		- Obtain count of non-conforming parcels (Major work tasks to review all deeds, may end up with more parcels being recognized; handle through C of C requests)	Disagree	
		- Maximize Ag potential through cluster	Agree in concept	
		- Building envelopes	Modify per 5.4	
		- Minimize road construction	Agree	
5.6	Explore adopting a merger ordinance for non-conforming Ag parcels	Doing a merger procedure per SMA requirements. *Major work tasks with potentially limited outcome since it may lead to many parcels being conveyed to avoid merger.*	Disagree.	Modified to identify non-conforming lots on ag lands and those which meet criteria under SMA for potential merger. (p. 180-181)

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
5.7	Policies and programs to address Certificates of Compliance and Conditional Certificates of Compliance	Prepare a manual of C of C requirements *Alternatives - Have CCC review county's existing approach matrix of determination; identify if they have concerns (already submitted to CCC for review)*	Modify	Modified to require notice to CCC of all Cof C applications and additional information upon request. Provides for administrative consultation process. Training and staff report elements deleted from recommendation. (p. 186)
		Training for CC and county staff *(Both staffs need to have same understanding of the framework for requirements under SMA - only applied to Conditional Certificates of Compliance that are subject to CDP's).*	Modify Need more information	
		Require written staff report to support recommendation for C of C, noticed to CCC to allow for their review. *(Ministerial actions under Subdivision Map Act, this has substantial staff impacts) Alternative: The CCC can propose state legislation to make C of Cs development under Coastal Act then apply everywhere)* Include Cond. Certificates of Compliance as appealable conditional use (not just based on geographic location criteria)	Disagree Disagree	
5.8	Develop standards for residential development on ag lands	Suggest limiting size of RSF to 3,500 square feet and envelopes to 5,000 square feet. *Alternative: support some evaluation. - use exemption of area similar to ag preserve rules (1/2 - 1 acre)*	Disagree (See also Visual- Chapter 8)	Modified to delete specific number and establish performance standards. (p. 189)
5.9	Evaluate Table O to address non-agricultural uses	Revise "Table O" to clarify what are non-agricultural uses/supplemental uses. Supplemental uses: require use of easements. Residential uses: no easement required as this is a Principal Permitted Use on non-prime soils. Need to address what is "bonafide" agricultural uses; particularly on existing smaller parcels that were zoned agriculture even though too small to be for agricultural purposes (like 5-10 acre grazing parcels) *Alternative: change designation to Residential Rural to recognize its size, creates "spot zoning" which would be less supportive of continued ag viability.*	Modify; need more information Modify to clarify different requirements for supplemental uses and residential uses where PP use.	Modified to define specific supplemental uses. Requires easement for supplemental uses, but not for residential development. Specifies criteria for supplemental and other Table O uses on agricultural lands. (p. 193-194)
5.10	Amend Permit Review Process for Agricultural Development	Require coastal permit for intensification of ag land uses where: substantial grading, native vegetation removal or landform alterations that impact resources, within 100' of streams, increased water needs, alteration of environmental habitat or immediately adjacent	Disagree	Deleted -- addressed through Recommendation 3-2 a -- d which defines criteria for when agricultural grading requires grading permit.
		Alternative: Use the Alternative Review Process provided in the proposed grading ordinance; expand as needed.	Agree	
		Alternative: Modify ordinances to clarify that ag exemptions must also meet the requirements for resource protections for streams/wetlands.	Agree	

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
5.11	Enhance LCP standards to avoid/mitigate development impacts	In conjunction with 5.10, would establish standards for when projects are limited: Limit new or expanded crop production to slopes less than 30%, erosion control measures; cover crops in vineyards, maintaining oak trees/protecting ESHA, reduce pesticide use, assuring wildlife travel corridors/limit fencing.	Disagree Tie to alternative review process in proposed grading ordinances; other non-point source "voluntary" programs: Pesticide use is already regulated.	Deleted -- addressed through Recommendation 3-2 a -- d which defines criteria for when agricultural grading requires grading permit. Includes program to support existing voluntary efforts.
5.12	Strengthen Implementation of LCP water management requirements	Enhance management of groundwater, including coordination with urban and agricultural uses, and monitoring of withdrawals should be pursued. *Alternative: agricultural wells could be included in monitoring programs if appropriate.*	Need more info what are we trying to achieve (besides regulating ag water use.) Use Ag/OS policy as guide for policy. Ag riparian rights should also be evaluated.	Deleted
5.13	Protection of Rural Grazing Landscapes	Adopt LCP policies and standards for use changes from grazing to other ag uses. Would require CDP for conversions that intensify water use, landform alterations, or other definitions of development. *Already have the no more than 1/2 acre conversion of native vegetation limitation in the definition of "development" in the Act.*	Disagree	Deleted -- addressed through Recommendation 3-2 a -- d which defines criteria for when agricultural grading requires grading permit.
PUBLIC ACCESS AND RECREATION				
6.1	Incorporate Comprehensive Access Components into Each Area Plan	Amend each of the 4 Coastal Area Plans. The draft North Coast & Estero Area Plans already contain draft provisions. *Note that the BOS agreed to do this in the NCAP 9/8/98*	Agree	Amended slightly to include specific reference to the California Coastal Trail and a policy to ensure that impacts to access from highway realignment are mitigated such that no access is lost and new access opportunities are maximized.
6.2	Amend LCP Lateral Access Requirements to Provide for Blufftop Accessways	Minor CZLUO amendment or re-organization of existing ordinance language.	Disagree, but will review on case by case basis	Amended to note that blufftop accessways should be utilized where they will provide superior access. (p. 208)
6.3	Continue Efforts to Accept and Open Outstanding Access OTDs	No additional action needed	Agree	No change.
6.4	Amend the LCP to Allow Direct Dedications & Evaluate Accessway Performance Standards	Amendment may not be necessary. Direct dedications not precluded today. Performance standards for OTD's are unclear.	Disagree, but more info needed on performance measures.	Modified to clarify performance standards. (p. 209)
6.5	Develop an LCP Program to Document and Pursue Prescriptive Rights	LCP amendment needed, likely a budget item for long-term development and maintenance	Disagree per BOS action on NC Mod 48b, 9/8/98	Modified to reflect County's obligation to protect prescriptive rights and noting the other partners that may be involved, per County's request. (p. 211-212)
6.6	Develop LCP Program to assure Protection of Existing and Potential Public Accessway Rights	Develop county policy in Area Plans and may be implemented by County proposed Access Plan	Agree to review as part of County Access Plan and Area Plan Updates	No change.

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
6.7	Comprehensive Public Recreation Planning	Separate study needed, but we will review further during Area Plan updates	Agree, adequately done already as part of Plan Updates	No change.
6.8	Review New Access Developments for Appropriate Habitat Management Measures	Accessways require discretionary review, CEQA is used to identify constraints & carrying capacity	Agree, we do already	Deleted.
6.9	Habitat Conservation Plan to include Access Review	Change in approach to HCPs; HCPs not under county control and access is required with development.	Disagree since we cannot implement, need more info.	Recommendation modified to include NCCPs; discussion includes more information. (p. 220)
COASTAL HAZARDS				
7.1	Modify CZLUO to define more specifically what existing structures are for purposes of allowing future armoring.	Modify CZLUO 23.05.090 to read " 'existing coastal development' for purposes of this section shall consist of the principle structure and shall not include accessory or ancillary structures such as garages, decks, steps, landscaping, etc. No shoreline protection device shall be allowed for the sole purpose of protecting the accessory structure(s)."	Agree	No change.
7.2	Revise Coastal Policy 6 to base setbacks on a projected 100-year economic life	Revise Coastal Policy 6; incorporate into required geologic reports to base setbacks on 100 years of erosion (rather than 75 years) which will result in larger blufftop setbacks (ex: increase from 25' to 30'). Also need to update Area Plans	Agree in concept, Need more information on options for remodels	No change.
7.3	Revise CZLUO to change methods to determine setbacks	Revise CZLUO 23.04.118 • Eliminate stringline method *(See also Visual Coastal Policy 3) • Base setback on 100-year life Alternative: Base setback on 100-year life Alternative: Base setback on 75 year erosion rate and safety factor of X of feet. • Add safety factor *(Need study to determine safety factor - may be tied to Areawide Study)*	 Agree. Disagree- alternative achieves same result. Need more info on determining safety factor	Recommendation modified to incorporate development of safety factors as part of an Area-Wide Shoreline Management Plan. (p. 222)
7.4	Modify Ordinance to change setbacks where structures are designed to be removed/relocated	Modify CZLUO 23.04.118(c) *Alternative: clarify exceptions and how setback is measured (i.e. edge of principal structure or foundation, not to protruding arch features)* • Eliminate roof and wall projections exceptions • Allow exceptions for only removable fences, earthworks, steps, etc.	Modify - implement through clarification of what is allowed in setback and how setback is measured. Disagree Agree	Recommendation is changed to modify the exceptions; roof and wall projections not excepted from bluff setbacks (p. 222)
7.5	Reexamine regional average annual erosion rates.	Setbacks : - Increase 25 foot minimum setback (based on 75 years of bluff erosion) *Tied to Areawide Study* in 7.4 above.	Need more info - what setback would be necessary?	Deleted and incorporated into Recommendation 7-8

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
7.6	Prohibit new lots in high wave hazard areas	Add new policy standards to prohibit subdivisions, lot splits, lot legalization that create new lots *What is meant by "high wave hazard area"? Is this entire coastline? How can we prevent lot legalization?* *Alternative: Implement Rural Area Standards aimed at ensuring armoring will not occur* • *Subdivisions/lot splits : Subject to special standards (i.e. minimum lot size, ability for building envelope to meet (X) year setback)* • *Lot line adjustments : Subject to special standards (i.e. minimum lot size, ability for building envelope to meet (X) year setback)* • *Legal lot: evaluate legality*	Disagree/Need more info May agree with alternative for subdivisions and lot line adjustment standards, Disagree with prohibiting lot legalization.	Recommendation modified to address subdivisions and lot splits and to exempt infill areas or regions covered by an Areawide Shoreline Management Plan. (p. 223)
7.7	Strengthen measures to allow for no future armoring	Strengthen Measures to ensure no future armoring will occur: • Applicant assumes risk of building in hazardous areas with no assurances that future armoring will be allowed. • Expand GSA to identify where no future armoring will be allowed	Disagree Disagree/Need more info to clarify exactly what they mean	Recommendation modified to more clearly describe mechanisms that the Commission has identified to assure that new development will be implemented in conformity with Coastal Act Section 30253. (p. 225)
7.8	Implement Area-wide Shoreline Erosion and Management Plan for Cayucos/Cambria	Implement management plan for Cayucos/Cambria. *Alternative: Adopt as a program in the LCP and agree to conduct study when appropriate funds are available*	Modify - conduct Areawide Study when appropriate funds are available	Recommendation modified to clarify elements to be included in Areawide Shoreline Mgmt Plans. (p. 225)
7.9	Modify CZLUO to require access easements be mapped	Modify 23.04.420(g) to require easements be mapped in detail in conjunction with recordation to ensure easements are protected against future encroachment *Will also need to require Title Report with every ocean front application and flag parcels with lateral access easements.* Need to resolve issue: Structure the easement to allow for repair/maintenance of seawall and shoreline movement	Agree to require easements to be mapped by a licensed professional with recordation.	No change.
7.10	Modify application requirements to show coastal access	Modify 23.02.033(a8) to require applications to contain mapped locations of any existing public access easements or recorded offers to dedicate public access easements, mapped locations *Effective implementation would require the County to develop an existing condition map and update* - now partially done through updates and Gen Svcs.	Agree to require the mapped location of public access easements on the site plan. Agree to develop/maintain map if appropriate funds are available	No change.
7.11	Revise Conditions of Approval for access requirements	Revise condition language- remove 'if applicable' out of access condition language. *Alternative: Agree to replace 'if applicable' with 'unless verification is provided to the Department of Planning and Building that such recorded easement already exists'*	Modify - agree to revise condition language according to the suggested alternative.	Recommendation modified per County alternative. (p. 227)

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
7.12	Establish Emergency Armoring procedures	Address in shoreline management plans (7.7 above) establish emergency armoring procedures to include field inspection before and after storm season; types of temporary structures, provision for removal if no follow up	Need More Info - need to discuss ways of dealing with emergency armoring	Deleted and incorporated into Recommendation 7-8 (p. 228)
		Need more info - Does this require field inspections for all parcels or just ones with seawalls? What is the intent of field inspections?	Agree to conduct study if appropriate funds are available	
7.13	Amend Coastal Policy 6 and 4 re: Highway 1	Revise Coastal Policy 6 to clarify Hwy 1 must comply with setbacks Expand Policy 4 to clarify that consideration of alternatives should include relocation of structure to be protected (Hwy 1) *Need to check with Caltrans on their program and verify that this is included as alternative.*	Need More information - consult with Caltrans	Minor text changes. (p. 229)
7.14	Amend NCAP to provide realignment of Hwy 1 to avoid shoreline protection	Amendment to NCAP to provide for realignment of Hwy 1 to avoid shoreline protection *Include as Rural Areawide Standard in both North Coast and Estero*	Modify - agree to evaluate as alternative when projects are submitted.	Recommendation modified to suggest that as the NCAP is updated, relocation of Hwy 1 should be considered. (p. 229)
7.15	Modify CZLUO to update required contents of geo reports	Modify 23.04.118 as appropriate *Need to review updated guidelines developed by the State Department of Conservation and other agencies. Also need more expertise in reviewing reports (staff training or geologist)* and request examples of good geo reports from Coastal	Agree to modify 23.04.188 as appropriate	No change.
7.16	Develop guidelines for types of armoring in specific areas to minimize visual impacts.	Through the shoreline retreat and management plan (7.7 above) establish guidelines for types of armoring to address visual impacts. *Visual impacts addressed Visual and Scenic Resources (Policy 1, 11) and in 23.05.090 Shoreline Structures.*	Agree to conduct Areawide Study if appropriate funds are available	Recommendation incorporated into Rec 7-8.
7.17	Modify to update seismic mapping and extend GSA to new faults.	Modify LCP update seismic mapping and extend GSA to new faults. • Restrict new development in Special Studies Zones	Agree to make consistent with newly adopted safety element	No change.
7.18	Expand Flood Hazard Designation	Expand FH designation to Arroyo del Puerto, Oak Knoll, Little Pico, Villa Creek, Ellysly Creek *Need more info: are these shown on FEMA maps as Flood Hazard Zones?*	Need for Information/Agree to make consistent with existing information in safety element	No change.
7.19	Flood Hazard in Cambria - no new development permitted	Cambria FH - no new development except public services until a flood analysis and management plan for the West Village is certified and implemented. *Flood analysis and management plan currently being worked on by the County Public Works Department*	Need more info Major policy decision to impose moratorium	Recommendation modified to provide that no new development is approved in Cambria's FH combining designation until the recommendations of the flood management plan are approved. (p. 231)

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
7.20	Modify CZLUO to clarify that vegetation clearance will not encroach on public lands or sensitive habitat areas or establish in-lieu fee.	Modify CZLUO to clarify standards for vegetation removal for fire hazard will occur on private property and not impact public property. Develop an in-lieu fee program if there will be impacts to public lands or sensitive habitats *Alternative: Modify CZLUO 23.02.035 Additional information to require fire clearance area to be shown on site plan for all projects as part of application contents. Modify staff report to include condition that vegetation clearance will be done fully on private property.* *Need in-lieu fee study/implementation program*	Agree to modify CZLUO and add conditions, Agree to develop in-lieu fee program if appropriate funds are available.	Recommendation modified to clarify intent. (p. 233)
SCENIC & VISUAL RESOURCES				
8.1	Adopt a strong policy to preclude new development visible from public viewing areas in critical viewsheds.	Define and develop criteria for "critical" viewsheds and policies. Implement through updates and use performance standards for a project-level visibility analysis and siting prohibition in visible areas. Amend Coastal Plan Policies and CZLUO with prioritized (ordered) limitations, criteria and findings. Review existing policies and standards for more explicit and consistent interpretation, write implementing policies, findings and conditions of approval. No GPAs needed for this.	Need more info	Recommendation modified to provide further guidance for developing a Critical Viewshed policy. (p. 237)
8.2	Create a Scenic SRA Combining Designation.	Amend Framework (7-3) & CZLUO to add/clarify a scenic SRA classification & standards.	Agree to consider	No substantive changes; minor text changes. (p. 239)
8.3	Strengthen enforcement program and condition compliance monitoring.	Include in permit tracking and obtain staff for condition compliance and mitigation monitoring. Add security bonding.	Agree dependent on additional staff	Minor changes to encourage improved condition compliance. (p. 239)
8.4	Create a funding mechanism for an open space district.	Alternatives: 1. Seek state-legislated funding for an open space acquisition program since coast has state-wide significance. 2. Or, organize for an open space district election w/ other departments, agencies and public groups.	Modify	Minor text changes. (p. 244)
8.5	Pursue National Scenic Byway designation for Highway One in Estero and North Coast P.A.s	Add a program in Estero and North Coast updates, and support Caltrans' current pursuit of the national designation through community support.	Need more info	Minor text changes. (p. 241)
8.6	Strengthen public viewshed protection policy language.	Modify existing policy wording and amend CZLUO to clarify extent of viewsheds. Clarify permit requirements in Estero & NCAP updates.	Need more info	Recommendation modified to suggest further guidance and criteria for developing and implementing a Critical Viewshed policy. (p. 238)

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
8.7	Restore Small Scale Neighborhood SRA designation in Cayucos.	Ask Cayucos Advisory Council, which preferred tiered standards w/o an SRA so that Plot Plans would be possible w/ complying projects. An SRA requires a MUP for all projects by virtue of being appealable.	Disagree	Deleted.
8.8	Complete specific plans rather than design plans.	Clarify in Coastal Plan Policies (CCP) that design plans implement the Special Communities & Small-scale Neighborhood designations, are adopted as LCP amendments w/ standards that have status of planning area standards, and they should include implementation programs & schedules. Specific plans have different purposes, to consider allowed uses and infrastructure planning, than design plans, which address appearance only, and include streetscape improvements on that basis.	Disagree/ Modify	Minor text changes. (p. 244)
		Expand the description & issues of the Cambria small-scale neighborhoods in the CCP.	Disagree	
8.9	Monitor and evaluate current TDC program	Determine if the TDC program created scale issues w/ density bonus, and if the Hausrath-proposed open space district would be more effective. Consider expanding TDC program community-wide to retire lots in other areas & generate more revenue.	Agree	Minor text changes. (p. 244)
8.10	Support continued under-grounding of overhead utilities.	Support continuation & seek other funding methods & sources. Work with Caltrans for an undergrounding project funded by their State Highway Operational Improvement Program - Modernization & Beautification, or: *Propose a North Coast undergrounding project to the county Undergrounding Committee before next meeting in 2004, per Tim Smith, Public Works.*	Agree	No change.
8.11	Evaluate designation of Harmony as a special community of historic importance.	Consider its location as a commercial development, rather than a community. Consider designating Harmony with an Historic combining designation. Consider impacts of NCAP proposal to increase its size.	Modify	Modify to evaluate alternative mechanisms for protecting historic resources.
ARCHAEOLOGICAL RESOURCES				
9.1	Update archaeological overlay maps	Update maps in the urban areas, and modify CZLUO 23.07.104(a) to include criteria for the rural areas (from the proposed Estero Area Plan.)	Agree	Minor text changes. (p. 248)
9.2	Evaluate requirement for Geoarchaeological Surveys	Require geoarchaeology surveys in addition to archaeology studies. *Alternative: Evaluate areas of potentially buried archaeological resources (e.g. due to landslide, alluvial, aeolian factors) during updates and identify need for geoarchaeological surveys in these areas.*	Disagree as a requirement for ALL projects (in ASA). Agree to use as a tool for limited situations (CEQA). *Agree; include evaluation as part of updates.*	Modify to conduct assessment of potential resources and identify requirements for undertaking Geoarchaeology surveys. (p. 248)

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
9.3	Evaluate use of conservation easements	Require conservation easements instead of data recovery. *Alternative - Amend 23.07.104(c) to require avoidance (wherever possible) and develop offsite mitigation program.*	Disagree- ineffective as proposed. Agree; work with land trusts to develop an "off-site" mitigation program	Modified to pertain to larger sites and where feasible. (p. 248)
9.4	Evaluate permit exemptions (permits for modifications of agricultural uses)	Same as AG 5.10 Revise LCP/CZLUO to include new "permitted" activities relating to modification of agricultural uses.	Disagree See also AG 5.10	Modified to delete specific types of exemptions. (p. 248)
ENERGY/INDUSTRIAL DEVELOPMENT				
10.1	Identify consolidated fiber optic cable corridors/landing sites and create overlay zones in area plans.	This would be a highly complex, expensive study to identify offshore corridors which need to correlate with onshore landing sites, located in several jurisdictions.	Modify, unless funding is provided and cooperative participation is agreed to by the CCC, State Lands Commission and industry.	Modified to reflect limitations on County's role. (p. 251)
		A preferable alternative would be to modify policies to encourage establishing consolidated cable corridors/landing sites.	Agree to modify per suggested alternative.	
	Modify area plans and CZLUO to include specific mitigation and monitoring requirements.	Add new policies for telecommunications transmission and facilities, including one to consider the reuse of abandoned gas/oil pipelines for fiber optics. Modify LCP to include fiber optic definitions and mitigation standards.	Agree to include new policies in LCP and amend Title 23	
10.2	Update LCP area plans to provide guidance for locating and mitigating new energy facilities	Review Area plans as part of scheduled update for energy issues and potential sites	Agree to consider energy siting issues and link to criteria in the Energy Element.	No substantive changes. Minor edits to text. (p. 253)
10.3	Consider site specific abandonment and cleanup requirements for EX development	Review Area Plans as part of scheduled update for existing development in the EX categories that do not have adequate abandonment plans.	Agree to add standards for major facilities.	No change.
COMMERCIAL FISHING AND RECREATIONAL BOATING				
11.1	Add a public information program to educate boaters on habitat value of Morro Bay and other sites	Agree to add language to LCP policies to encourage marinas to develop a public information program on habitat values.	Agree	No change.
11.2	Coordinate review of Baywood boat launch	General Services to maximize coordination of the application with State agencies and the public	Agree	No change.
11.3	Update Port San Luis Master Plan	Work with the Port to update the applicable operational sections of the Port San Luis Master Plan and process concurrently with the San Luis Bay Area Plan update.	Agree to coordinate update as part of the comprehensive San Luis Bay Area Plan Update	Modified to address comments regarding capacity of Avila Beach Drive. (p. 255)
IMPLEMENTATION				

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
12.1	Update LCP & Post-Certification Maps	Update mapping and appealability criteria: - coordination and agreement on exact location of CZ boundary/post-certification maps for appeal jurisdiction. *Alternative: CCC can provide the coastal zone boundary maps/appealability maps in an electronic form that the county can transfer into database maps (which will identify any minor discrepancies.)*	Disagree	Modified to address County concerns. (p. 259)
		- define appealability criteria not just based on geographic criteria but rather on what is found in field surveys rather than maps; *Revise/respond to ESHA map issues per comments in ESHA chapter.*	Agree	
12.2	Increase Coordination for Projects that Cross Jurisdictions	Develop a procedure of early CCC involvement for projects near the coast or tidelands (e.g. 1st street boat ramp) *May require revisions to the Coastal Act (see page 354)*	Agree, after legislation	No change.
12.3	Resolve Areas of Deferred Certification	Update LCP to eliminate "white-holes" - through update of Estero Area Plan for Sweet Springs/Otto Property	Agree	No change.
12.4	Revise LCP Permit Exemptions	Compare CZLUO 23.03.040 to 30610-find inconsistencies and revise CZLUO as needed. (See response in ESHA chapter).	Need more information - agree to full evaluation	No change.
12.5	Update LCP regarding Temporary Events	Update Temporary Events requirements against the requirements established in Avila Specific Plan.	Need more info: incorporate general concepts from Avila- not entirety	No change.
12.6	Identify & Review Categorical Exclusions	Review of past categorical exclusions; review impacts of decision on potential impact to coastal resources and possible recission. Likely to impact portions of Los Osos and Cambria. *CCC should that the lead on this task as it is their responsibility, not the county.*	Agree in concept	No change.
12.7	Improve Noticing & Processing Procedures	Notice all "development" to CCC; including grading permits, emergency permits, time extension, etc. *Alternative: The CCC must also commit to improve noticing and processing procedures so that completion of appeal period is clearly available for county and community to understand.* *Alternative-revise CZLUO such that "grading" within 100 feet of any ESHA (mapped or not) triggers a MUP and appealability-then CCC would receive notice.* *Coordinate with ESHA chapter.* *Also, all emergency permits should be coordinated with CCC.*	Modify: Suggest use of electronic transfer of NOFA. (With return receipt notice to county of completion of appeal period)	Expanded to include recommendations for improving Commission noticing procedures. (p. 262)

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
12.8	Clarify Allowable & Principally Permitted Uses	Revise Table O to: - indicate that Combining Designations (mapped or not) further limit allowable use such that certain uses (e.g., SFR's) are not "P" uses, but rather "S" uses and therefore are not "resource dependent" within ESHA's and are "appealable" Add footnote on Table "O". *Alternative: report should indicated that the use is still a "P" use but is appealable based on the resource criteria.*	Agree	No change.
		- differentiate the principally permitted land use for each category from conditionally permitted uses. (All "S" uses will become conditional and thus subject to appeal to CCC)	Disagree	
		- subdivisions, COC's & LLAs as "conditional" uses. *Subdivisions/Lot line adjustments are not "uses" in the context of appealability and the geographic location will determine whether a project is appealable.* Also, Cert of Comp as ministerial acts under the Subdivision Map Act and thus do not constitute development). *Alternative: modify to recognize that uses may be conditional in instances where the resulting lots would be located in or adjacent to ESHA and thus will be evaluated in the CEQA and hearing process and subject to appeal by the CCC.*	Modify/Need More Information	
12.9	Update Permit Application Requirements	Review permit application requirements and methods for implementing to ensure that all information necessary to evaluate project consistency with LCP standards is obtained at application stage rather than as a condition of approval. *Alternative: Require all plans (grading, landscape, drainage, etc.) as part of application where directly related to resource protection or mitigation (ensures they will meet the objective). If not, tie to construction permit. This allows applicant to not proceed with final plans until they know that a project has been approved or what the final site and conditions that are placed on the project.* *Alternative: request CCC review our extensive application info/submittal requirements in Title 21/23 and ask for specific comments on what is really needed.*	Disagree. Need More information. Require specific plans that relate to coastal resources (e.g., landscaping for screening-photosim w/ app) but not for other less critical plans.	No change.
12.10	Provide Legal Documents for Executive Director Review & Approval	Send Easement language to CCC for review prior to approval for open space and public access easements.	Agree	No change.
12.11	Clarify Appealability of Projects Involving Conditional Uses	Update 23.01.043c4 such that any portion of a project triggering appealability makes the entire project "appealable".	Agree	No change.

No.	Preliminary Staff Recommendations	County Response		Final CCC Staff Recommendation
12.12	Improve Methods of Ensuring Compliance w/ Permit Conditions	Develop compliance tracking system available to County and CCC staff. *The new tracking system being developed for the department will assist with this effort and provide "tickler" reminders of need for project review. However, this will involve additional staffing costs for condition compliance.*	Modify - need more information to define CCC needs/expectation vs legal responsibility	Modified to address County concern. (p. 266)
12.13	Increase Coordination of Enforcement Actions	Better coordination with other agencies during enforcement process	Agree	No change.
12.14	Improve Coordination regarding Emergency Actions	Better coordination with CCC during initial review of emergency permits (especially in original jurisdiction areas) *Should develop an Emergency Permit Procedure Manual. In addition, the County should develop a process to identify potential emergency areas up prior to the emergency occurring (e.g., Arroyo Grande Creek flooding of 2001). This process should allow for an Emergency Prevention Implementation Plan for the area. The Plan should focus on methods and agency contacts necessary for avoiding potential emergencies.*	Agree	Modified to address County comments. (p. 257)
12.15	Restrict the Use of Variances in CZ	Develop criteria describing situation where variances will not be supported, particularly in areas involving ESHA's; coordinate with ESHA response. *May create legal liabilities if a variance is not allowed and leaves no remaining use of the property. This could result in a "taking" which would need to be considered in the evaluation on a case-by-case basis.*	Need more info	Modified to address County concerns. (pp. 267-268)
12.16	Clarify Non-conforming Use Provisions	Revise Chapter 9 of CZLUO: - revise uses and structures section. - revise parcel section regarding LLAs *Need clarification that lot line adjustments will not result in adverse effects to coastal resources as a finding for approval*	Agree Disagree	Modified to address County concerns. (p. 269)
12.17	Provide Opportunities to Efficiently Resolve Appeals	After appeal is filed: - write procedures for local approval to be amended to incorporate CCC recommendations. - get file copy to CCC within five days of receiving notice of appeal	Disagree/Need more Information	Modified to address County concerns. (p. 271)

STATE OF CALIFORNIA -- THE RESOURCES AGENCY GRAY DAVIS, *Governor*

CALIFORNIA COASTAL COMMISSION
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

June 29, 2001 **[Pagination differs slightly from the preprinted version of this document.]**

TO: Commissioners and Interested Persons

FROM: Peter Douglas, Executive Director
Tami Grove, Deputy Director
Periodic Review Project Staff

SUBJECT: **Staff Recommendation: Periodic Review of the Implementation of San Luis Obispo County's Local Coastal Program.**

INTRODUCTION

This Report presents the Staff Recommendation on the Periodic Review of the County of San Luis Obispo's certified Local Coastal Program (LCP), pursuant to Section 30519.5 of the Coastal Act. The Coastal Act provisions require review every certified LCP to determine whether the LCP is being effectively implemented in conformity with the policies of the Coastal Act. If the Commission determines that a certified LCP is not being carried out in conformity with any policy of the Act, it is to submit to the local government recommendations of corrective actions that should be taken, including possible suggested amendments to the LCP. Under the law the County has one year to respond to the recommendations that the Commission adopts and if actions are not taken, forward to the commission a report setting forth its reasons for not taking the recommended action.

A *Preliminary Periodic Review Report* was submitted to the County and the Commission in February 2001 (Exhibits A and B). Based on that *Preliminary Report*, the Commission continued the public hearing for additional public comment and instructed the staff to conduct additional outreach to the County and the community on the Preliminary Recommendations.

Since February, the Commission and the County and have undertaken substantial outreach and further investigation. Community workshops were held throughout the county from March 26 through March 30 which were attended by hundreds of citizens. The workshops, which were held in Cambria (for North County) Los Osos (for the Estero Area) and Arroyo Grande (for South County), were also televised by a local cable television station. A fourth workshop was held with the Agricultural Liaison Committee and the agriculture community specific to the issues raised by the preliminary recommendation on Agriculture. An additional informal meeting with organized by the SLO Farm Bureau for staff to meet with agriculturists in a more informal setting to continue the dialogue concerning the effects of the Preliminary Recommendation on agricultural operations. Additional meetings were held with the staff of the Cambria Community Services District and the Los Osos Community Services District and members of the various Citizen Advisory Councils.

The County staff also provided significant feedback, meeting often with Commission staff. In addition, two meetings were held by the County Board of Supervisors to review the *Preliminary Report* and provide detailed comments to the Commission. These comments are discussed in more detail under specific sections of this report and are provided in full in Exhibit C. In addition to the workshops, over 500 pages of written comments have been received by the Commission staff on the *Preliminary Report* and recommendations (Exhibit D).

This staff recommendation reflects modifications in response to this outreach effort. Although staff have reviewed and considered all of the public comments received, in this report, staff summarizes the public comment, and does not address every comment specifically. In many cases, the report addresses the major comments raised on the specific recommendations, and presents additional information and analysis conducted, errata or specific text corrections needed for the final document, and any suggested revisions to the preliminary recommendations and findings as presented in the February 2, 2001 report.

The extent of the public participation illustrates how strongly the citizens care about the protection and management of the county's coastal resources. The County has shown an equally strong commitment to sound coastal management and the goals of the California Coastal Act through its efforts to comprehensively update the LCP Area Plans in order to assure that the LCP will continue to provide effective guidance for coastal regulation and management. In addition, as indicated in this report, the County has in many cases agreed with the recommendations suggested in the *Preliminary Report* provided financial assistance is available to offset the costs of the planning and implementation called for in the recommendations. It is likely that through the next steps of implementation, including completion of the pending and future Area Plan updates, many of the proposed recommendations will be addressed.

The staff therefore recommends that the Commission find that the certified LCP of the County of San Luis Obispo is not being effectively implemented in conformity with the policies and of the Coastal Act and adopt corrective actions as recommended in this report for transmittal to the County for consideration.

In addition to this report, the following Exhibits were distributed to Commission and the County along with this report and are available from the Commission staff upon request:

Exhibit A: Preliminary Report February 2, 2001
Exhibit B: Maps in Preliminary Report, February 2, 2001
Exhibit C: SLO County Response
Exhibit D: Public Comment on Preliminary Report
Exhibit E: Sample of Funding Opportunities

TABLE OF CONTENTS

[Where they differ, use page numbers in brackets for chapter starting pages in this edition.]	Page
Motions and Resolutions	3
Recommendations for Corrective Actions	4
Findings	
New Development and Public Services	52
Water Quality and Marine Resources	92
Environmentally Sensitive Habitat Areas	125 [126]
Agricultural Resources	168 [169]
Public Access	199 [200]
Coastal Hazards	220
Scenic and Visual Resources	234
Archeological Resources	245
Energy and Industry	249 [250]
Commercial Fishing and Recreational Boating	253 [254]
Implementation Procedures	256 [257]

A. STAFF RECOMMENDATION

MOTIONS AND RESOLUTIONS

STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution and accompanying Preliminary Report to the County of San Luis Obispo on the Implementation of Its Local Coastal Program, as modified by the supplemental report dated June 29, 2001. A majority of those present is needed to adopt the resolution.

MOTION

I move that the Commission 1) determine that San Luis Obispo County (County) is not effectively implementing its certified Local Program (LCP) in conformity with the policies of the Coastal Act, and, to ensure that the LCP is implemented in conformity with Coastal Act policies, 2) recommend that the County take the corrective actions set forth in the Preliminary Report dated February 2, 2001, as modified by the supplemental report dated June 29, 2001.

RESOLUTION

The Commission hereby 1) determines that San Luis Obispo County (County) is not effectively implementing its certified Local Program (LCP) in conformity with the policies of the Coastal Act, and, to ensure that the LCP is implemented in conformity with Coastal Act policies, 2) recommends that the County take the corrective actions set forth in the Preliminary Report dated February 2, 2001, as modified by the supplemental report dated June 29, 2001.

B. RECOMMENDATIONS FOR CORRECTIVE ACTION

New Development and Public Services

Recommendation 2.1: Improve Required Coastal Development Permit Findings for Service Extensions Beyond USL. Development proposals that require the extension of urban services across the USL should not be approved unless the required findings of Public Works Policy 1 and corresponding ordinances can be made. Amend Policy 1 by adding reference to CZLUO 23.04.430-432 as appropriate implementing ordinances. Add new implementing ordinance(s) to clarify required information and findings to support Public Works Policy 1.

Recommendation 2.2: Improve County/Commission Coordination. The County and the Commission should take full advantage of coordinated reviews of development proposals outside of the USL, particularly those that may create new urban development potential.

Recommendation 2.3: Clarify LCP Authority with respect to New Urban Development proposed outside USL. Amend LCP (Framework, Policies, Ordinances, Area Plans) as necessary to clarify where and under what circumstances the provision of urban services to new development outside of the USL is appropriate.

Recommendation 2.4: Reduce Development Potential on Urban Edges. Evaluate potential for reduction of development intensities on the perimeter of urban areas, including adjusting land use designations, allowable densities, relocating the USL/URL where appropriate, and evaluating consistency of such with Coastal Act section 30250.

Recommendation 2.5: Consider Policies and Programs to Support Greenbelt Formation and Maintenance. Consider incorporation of programs and policies to establish or support greenbelt and open space areas on the urban fringe of developed areas (e.g. Los Osos). Build on and integrate with open space and habitat protection proposals already put forth by the County in the Estero Update**.** Mitigation banking should be further evaluated as a potential implementation mechanism.

Recommendation 2.6:. **Encourage Concentration of Development in Urban Areas.** Amend the LCP to provide incentives for development, including broad redevelopment strategies, within the USL. For example, the County should consider developing planning and regulatory mechanisms to transfer development potential from outside the USL to inside the USL.

Recommendation 2.7 Strengthen Standards to address development potential on Non-conforming Lots. Amendment of current lot-line adjustments review criteria should be considered that would require adjustments to reasonably comply with all LCP Coastal Plan Policies and Ordinances within the constraints of Constitutional takings jurisprudence. See Agriculture Final Recommendation 5.4.

Recommendation 2.8 Evaluate Options for Processing Non-conforming lots in Single Ownership. The County and Commission should evaluate options available for processing non-conforming parcels in a common ownership, including identification of non-conforming parcels

and options for lot merger, to maximize protection of agricultural lands. As part of this effort, the County and Commission should consider policy, ordinance, and program options, including those that would provide incentives to encourage voluntary merger of non-conforming parcels.

Recommendation 2.9. -Update North Coast Area Plan to Protect Coastal Resources of the Hearst Ranch. Rezone Recreational lands on the Hearst Ranch to Agriculture, update combining designations, and establish LCP standards that require a Land Use Capacity Analysis prior to consideration of any development proposals and LCP amendments for non-agricultural development on the Hearst Ranch. The County should limit the location of such development to concentration in or immediately adjacent to San Simeon Acres if feasible or, if not feasible, to small-scale infill development within the commercial zoning of San Simeon Village. Other than these two locations, no new visitor-serving or other non-agricultural development should be allowed in the public viewshed except for underground utility placement, restoration, public access improvements and intensification, demolitions, resubdivisions, and temporary events.

A Land Use Capacity Analysis should include at least the following: a comprehensive agricultural viability analysis for any areas proposed for non-agricultural development; a visitor-serving development supply and demand analysis; a comprehensive environmental constraints analysis, including evaluation of sensitive habitats, in-stream flow habitat values, water availability, groundwater basins, highway capacity, cultural resources, scenic resources, community character and hazardous areas. Specific performance standards that address the concerns raised by the Coastal Commission's 1998 NCAP Findings, such as required water monitoring and highway capacity limits, should be incorporated into the NCAP. Standards for protection of agricultural lands and mitigation of development impacts should be developed, including provision for agricultural conservation easements.

Recommendation 2.10. Require Resource Capacity Studies prior to Major Development Proposals. See Recommendation 2.9
Recommendation 2.11. **Update LCP to address Large Residential Development.** See Agriculture Recommendation 5.8.

Recommendation 2.12. Strengthen Implementation of the RMS System and ISCA. Implement Phase 2 of RMS contemplated in the Framework for Planning: establish an expanded RMS task force that includes Coastal Commission staff and other resource agencies; include CCC staff in review process for Resource Capacity Studies. The ISCA program currently in the LCP needs to be followed in evaluating new development proposals for Los Osos until such time as the Estero Area Plan is updated to address groundwater management issues and the protection of water supply for Agriculture in the Los Osos groundwater basin.

Recommendation 2.13. Address Cambria Short-term Development Constraints. Continue implementation of the 1% growth rate in Cambria until 1/1/02, after which time coastal development permits for new development that would require a new water connection or that would otherwise create additional water withdrawals from Santa Rosa or San Simeon Creeks should not be approved unless the Board of Supervisors can make findings that (1) water withdrawals are limited to assure protection of instream flows that support sensitive species and

habitats; (2) there is adequate water supply reserved for the Coastal Act priority uses of agricultural production, and increased visitors and new visitor-serving development; (3) a water management implementation plan is incorporated into the LCP, including measures for water conservation, reuse of wastewater, alternative water supplies, etc., that will assure adequate water supply for the planned build-out of Cambria or that will guarantee no net increase in water usage through new water connections (e.g. by actual retrofitting or retirement of existing water use); (4) substantial progress has been made by the County and the CCSD on achieving implementation of buildout reduction plan for Cambria; and (5) there is adequate water supply and distribution capacity to provide emergency response for existing development.

Recommendation 2.14. Establish Watershed/Basin Management Programs. Establish Coordinated Resource Management Programs (CRMP) to promote watershed management, including resource identification and water quality monitoring, and to address competing rural and urban uses in North Coast and Estero Area groundwater basins. See also, Recommendation 3.7b.

Recommendation 2.15. Consider Additional Options for Water Conservation. Additional LCP policies and standards should be considered that would strengthen requirements for minimizing water use, such as xeriscaping and native drought-tolerant landscaping requirements.

Recommendation 2.16. Cambria Long-term development (Buildout Reduction). The LCP needs to be amended to address long-term development potential in Cambria. The County should work to expand the TDC program by identifying other sensitive areas that would benefit from transfer of potential development to more suitable locations. Expansion should include Special Project Area #2, as well as watershed areas, other scenic corridors and other small lot tracts in undeveloped areas that support significant coastal resources, particularly contiguous blocks of sensitive pine forest habitat. More aggressive policy options should be considered as well, including development of an Assessment District to retire lots/create open space and promote forest protection. Other mechanisms should be evaluated such as the ability to use mitigation fees or erosion control fees to address long-term buildout. Further attention could be focused on alternatives for reducing development potential on single and double lots and creating incentives for the minimum lot size of 7000 square feet. As part of this process, the County should establish a task force charged with identifying management options and strategies for reducing buildout in Cambria by a specific deadline.

Recommendation 2.17. Prohibit Creation of New Development Potential in Cambria and Los Osos. The County should consider prohibiting subdivisions that create new development potential in the communities of Cambria and Los Osos. Subdivisions that include no net gain in development potential (e.g. includes lot retirement) might be considered

Recommendation 2.18. Address Cumulative Impacts to Urban Design in Cambria. Through community planning and LCP amendments, cumulative impacts to urban design should be addressed, particularly concerning the potential role of TDC use. Consider standards to better address the amount of TDCs any one site can use based on the capability of the lot (size, slope,

etc.) to handle the increase in square footage. Address minimum area of landscape that must be preserved, regardless of lot size; as well as a maximum footprint area.

Recommendation 2.19. Los Osos Short-term Development. Similar to Cambria, focused attention is needed on pending studies concerning the safe yield of the Los Osos groundwater basin and the role that a future wastewater treatment facility might play in determining this yield. The County should consider policies and standards to assure that new development that relies on the groundwater basin is not allowed until a safe-yield or alternative water source is determined. Policies and mechanisms to ensure basin-wide management of groundwater supplies should be considered.

Recommendation 2.20. Los Osos Long-term development. Amend Estero Area Plan, including changes to support a reduction in buildout, to reflect an updated Buildout analysis, preservation of groundwater basins, and sensitive habitat protection needs identified through the HCP. Options that build on the currently proposed TDC approach for habitat protection should be evaluated and incorporated into the LCP (see Chapter 4 ESHA).

Water Quality and Marine Resources

Recommendation 3-1: Modify and adopt the following polices and standards in the LCP.

Agriculture Policy 8: Proper soil conservation techniques and grazing methods should be encouraged in accordance with Basin Plan receiving water objectives adopted to meet the water quality requirements of the California Regional Water Quality Control Board.

Coastal Watershed Policy 14: Proper soil conservation techniques and grazing methods shall to the maximum extent feasible be employed in accordance with Basin Plan receiving water objectives adopted by the California Water Quality Control Board.

Ordinance 23.08.046 c(2): Application content. Where this section requires land use permit approval for a specific animal raising activity, the permit application shall include the following in addition to all information required by Sections 23.02.030 …

> (i) Site drainage patterns and a statement of measures proposed by the applicant to avoid soil erosion and sedimentation caused by the keeping of animals.
> (ii) The applicant's plans for animal waste disposal, including plans showing measures to confine runoff, adequate capacity to allow for proper wastewater disposal, and measures to prevent seepage to groundwater.
> (iii)…

> e(2): Erosion and Sedimentation control. In no case shall an animal keeping operation be managed or maintained so as to produce sedimentation or polluted runoff on any public road, adjoining property, or in any drainage channel. …

Similar requirements should be incorporated into CZLUO 23.08.052.

Recommendation 3-2: Deleted and replaced with 3-2 a-d.

Recommendation 3-2a*:* Add program to the LCP encouraging the County to continue supporting educational efforts to address resource impacts from agricultural activities. Efforts should include: a) reducing nonpoint source pollution, including sedimentation, from grazing and other agricultural practices; b) using BMPs and other management strategies to protect habitat areas; c) reducing the contamination of surface waters and groundwater from pesticides; d) reducing water quality degradation from nutrients; and e) reducing nonpoint source pollution caused by irrigation, by encouraging irrigation techniques that conserve water and retain water on-site. The County should use monitoring data and information from watershed planning efforts to target priority locations for educational efforts. In addition, the County should assess and document the effectiveness of educational efforts in preventing and/or minimizing nonpoint source pollution.

Recommendation 3-2b*:* Amend Ordinance 23.05.026 (d) to modify the exemptions granted from grading permit requirements for agricultural grading. The following grading activities could be exempt from requiring a grading permit, except when associated with grading for roadwork or pads for structures:

- grading of less than 50 cubic yards if Planning Director determines there are no potential impacts to coastal resources;
- tillage of existing agricultural fields;
- maintenance of existing agricultural roads, provided maintenance activities do not widen the road;
- grading further than 100 ft. from ESHA;
- grading which removes no significant trees;
- grading which removes ¼ acre or less of native vegetation,;
- grading on slopes under 30%, if designed per NRCS standards;
- grading performed under a program developed by NRCS or another appropriate agency, that has been reviewed and permitted as outlined in Recommendation 3-2d.

Recommendation 3-2c*:* Amend Ordinance 23.05.034(c) to allow grading for agricultural cultivation within 100 feet of an ESHA, consistent with the above exemption, if grading is designed to avoid adverse impacts to the ESHA, including preventing polluted runoff into coastal waters and preventing loss of habitat.

Recommendation 3-2d*:* Add program to Chapter 7 of the LCP (Agriculture) encouraging NRCS or other appropriate agencies to develop program(s) to implement BMPs for agricultural grading activities on agricultural lands. The programs must be certified as consistent with all LCP policies through one of the following mechanisms: a) County review and issuance of a master permit, b) through an LCP amendment, or c) through the Commission's federal consistency review process. Once the program is certified, implementation of specific projects under the program will be exempt from individual grading permits.

Recommendation 3-3*:* ***Area Plan Updates***. The proposed update of the North Coast Area Plan (January 2000) includes a variety of policies to improve the protection of water quality. These management strategies should be incorporated into the Area Plans. Proposed policies and strategies include: Policies to prohibit point-source discharges into the marine environment; Rural Area Program to designate Areas of Special Biological Significance (ASBS) for protection from development of impacts of any future wastewater outfall structure(s); Improved controls on land divisions and lot line adjustments to minimize the impact of water extraction from riparian creek areas for non-agricultural uses and policies and programs specific to Lodge Hill. The proposed revisions to the North Coast Area Plan Standards offer the opportunity to strengthen the water quality protection provisions of the LCP if expanded to address the issues raised through this review.

Recommendation 3-4: **Expanding *Erosion Control Studies***. The County has targeted the Lodge Hill area to reduce erosion in the area and proposes to implement recommendations of a 1999 erosion control study. These recommendations generally focus on 1) paving roads, and 2) developing a comprehensive master plan for the community. The master plan should design for buildout of the community and incorporate the street drainage network into the plan. In general, implementing the study's recommendations could reduce erosion and sedimentation, and improve water quality in Lodge Hill. The comprehensive plan, though, should also address drainage issues from road paving, and should encourage infiltration of water and maintenance of the natural flow regime, to the extent feasible, by encouraging dispersal of sheet flow from roads into natural vegetated areas. The County should also incorporate measures to site development to retain forest cover.

Recommendation 3-5: Address *Post-Construction Runoff*. Incorporate into the planning process the following checklist of three questions, developed through the Model Urban Runoff Program, to help coastal planners identify and mitigate water quality impacts of proposed development (see Table 3-2, below).

Table 3-2: Water Quality Checklist

a) 1. Would the proposal result in changes in soil infiltration rates, drainage patterns, or the rate and amount of surface runoff?
b) 2. Would the proposal result in discharge into surface waters or wetlands or other alteration of surface water/wetland quality (e.g., temperature, dissolved oxygen, or turbidity)?
c) 3. Would the proposal result in impacts to groundwater quality?

If the proposed project raises water quality issues based on the above questions, or other review, best management practices (BMPs) should be incorporated into the project design to address post-construction runoff.

Recommendation 3-6: Deleted and Replaced

Recommendation 3-6a and Recommendation 3-11*:*
Add policy or ordinance to prohibit subdivisions on slopes over 30%, where the subdivision would result in building pads, access roads, or driveways to be located on slopes over 30%, or where grading would result on slopes over 30%. For subdivision requests on slopes over 20%,

the applicant should include the location of building pads and access roads, located to minimize erosion and sedimentation, and should require that development maintain pre-development flows by detaining stormwater flows on site.

Recommendation 3-6b and Recommendation 3-9: Modify criteria citing watercourses on USGS maps*:* One requirement for sedimentation and erosion control plans is land disturbance activities that are "within 100 feet of a watercourse shown on current 7 ½ minute USGS quad map. Modify Section 23.05.036 of the CZLUO to include the following criteria for requiring a sedimentation and erosion control plan: where a) a watercourse supports fish, or b) has significant flow 30 days after last significant storm. References to watercourses throughout the LCP should include these criteria and meet the criteria under ESHA Recommendation 4.1.

Recommendation 3-6c and Recommendation 3-12: **Deleted and replaced with the following**: Modify the LCP grading and/or drainage ordinance (Sections 23.05.020 through 23.05.038 and/or 23.05.040 through 23.05.050) to require, as requirement for filing a plot plan, minor use permit, or development plan, a water quality control plan for all projects and activities which require land use permits or grading permits. Single family residences on slopes under 20% shall be exempt from this requirement if BMPs to assure the goals and objectives of the Modified Chapter 9 are included in the development plan and sized appropriately to ensure the protection of water quality and to meet the design goal criteria. The water quality plan shall:

- identify the type and size of BMPs necessary to maintain peak runoff rates and volumes similar to pre-development rates, and accommodate runoff from the 85th percentile storm runoffs;
- protect or restore natural drainage courses and where feasible use vegetated drainage systems to decrease erosion and filter nonpoint source pollution;
- minimize pollutant loads;
- limit impervious surfaces;
- require the long-term maintenance of BMPs to assure that standards are met.

Recommendation 3-6d and Recommendation 3-8*: Deleted.*

Recommendation 3-6e*:* To improve protection of water quality from residential septic systems, update Title 19 to include the following standards and requirements:

- Add as one of the criteria for siting that septic tank and leach field systems shall avoid poorly drained soils (Ordinance 19.20.222)
- Require inspection and maintenance reports to be submitted by the property owner and/or septic operator at least every three years. The first report should be submitted three years from the date of issuance of the building permit. The property owners and/or septic operators shall be responsible for proposing and undertaking all measures necessary to ensure the continuing proper operation and adequate capacity of the septic tank and leach line systems.
- Add the following setbacks to Ordinance 10.20.222 (c) (2):
  Storm drainage pipes: 25 ft.
  Escarpments: 25-50 ft.
  Property Line: 5-10 ft.
  Building foundations: 10-20 ft, or 30 ft when located upslope from a building in slowly permeable soils.

- Require that septic systems shall not adversely impact surface waters or cause the groundwater nitrate concentration to exceed 10.0 mg/l N or any such drinking water quality objectives established by the California Department of Health Services or Regional Water Quality Control Board, at any source of drinking water on the property nor on any off-site potential drinking water source. Where groundwater nitrate concentration may exceed the applicable water quality objective or where surface waters may be adversely affected from the septic systems, install denitrification system(s) to reduce total nitrogen loadings by 50%.

Recommendation 3-7a: Update Chapter 9 (Coastal Watersheds) of LCP to provide the framework for a comprehensive Watershed and Water Quality Protection component of the LCP. The chapter should include the following elements:

- a revised introduction to reflect the new knowledge and concern of nonpoint source pollution since 1988, including the recently adopted statewide nonpoint source pollution plan, which forms the basis for protection of water quality from nonpoint source pollution;
- a discussion of the need for watershed based policies and programs, including non-regulatory programs, to fully address water quality issues;
- updated goals and objectives for water quality protection (see following list of goals for guidance);
- modifications to existing policies and ordinances, as discussed in modified Recommendations 3-1 through 3-13;
- a program to encourage watershed planning (see discussion below);
- a program that requires the County to participate in water quality sampling and/or monitoring to measure water quality conditions and the effectiveness of management measures taken to reduce nonpoint source pollution.

As guidance for developing the LCP Watershed and Water Quality Component, the Commission suggests the following:

The chapter should include development of findings of fact, for the basis for specific policies, ordinances, and programs. These findings could be developed to include such provisions as the following:

The County finds that uncontrolled drainage and development of land has a significant adverse impact upon the health, safety and welfare of the community. More specifically,

a) Nonpoint source runoff can carry pollutants into receiving water bodies, degrading water quality;
b) The increase in nutrients such as phosphorus and nitrogen accelerates eutrophication of receiving waters, adversely affecting flora and fauna;
c) Improperly channeling water may increase erosion or lead to excess sedimentation;
d) Construction requiring the alteration of natural topography and removal of vegetation may increase erosion or lead to excess sedimentation;
e) Excess sedimentation (siltation) of water bodies resulting from increased erosion decreases their capacity to hold and transport water, interferes with navigation, and harms flora and fauna;
f) Impervious surfaces increase the volume and rate of stormwater runoff and allow less water to percolate into the soil, thereby decreasing groundwater recharge;
g) Improperly managed stormwater runoff can increase the incidence and extent of flooding, damaging habitat, as well as endangering property and human life;
h) Improperly managed stormwater runoff can interfere with the maintenance of optimum salinity in estuarine areas, thereby disrupting biological productivity;
i) Substantial economic losses result from these adverse impacts on community waters;

j) Many future problems can be avoided if land is developed in accordance with sound stormwater runoff management practices.

The chapter should include suggested goals and objectives. These goals and objectives could include such provisions as the following:

a) To protect, restore, and maintain the chemical, physical and biological integrity of coastal waters;
b) To prevent individuals, business organizations and governments from causing harm to the community by activities that adversely affect water resources;
c) To encourage the construction of drainage systems which aesthetically and functionally approximate natural systems;
d) To encourage the protection of natural systems and the use of them in ways that do not impair their beneficial functioning;
e) To encourage the use of drainage systems that minimize the consumption of electrical energy or petroleum fuels to move water, remove pollutants, or maintain the systems;
f) To minimize the transport of pollutants to coastal waters;
g) To maintain or restore groundwater levels;
h) To protect, maintain or restore natural salinity levels in estuarine areas;
i) To minimize excess erosion and sedimentation;
j) To prevent damage to wetlands;
k) To prevent damage from flooding, while recognizing that natural fluctuations in water levels are beneficial; and
l) To protect, restore, and maintain the habitat of fish and wildlife;

Included in the chapter should be policies such as the following:

a) New development shall be designed to maintain predevelopment hydrological conditions to the maximum extent practicable.
b) New development shall protect the absorptive, purifying, and retentive functions of natural systems that exist on a site, and shall, where possible, restore natural drainage systems.
c) New development shall minimize pollutant loads.
d) New development shall minimize impervious surfaces.

The chapter should also include standards and ordinance provisions to implement the policies. These standards could include such provisions as follows:

a) New development shall implement Best Management Practices (BMPs) necessary to accommodate runoff from the 85th percentile storm runoffs as defined by the BMP Design Goal, and assure that development maintains peak runoff rates and volumes similar to pre-development rates.[1]
b) Development shall minimize site disturbance by clustering building site locations and placing roads along contours.
c) To reduce impervious surfaces, permeable materials shall be used where possible for driveways and walkways. Walkways and driveways shall be limited to the smallest functional size.
d) A water quality control plan shall be required for projects and activities that require land use permits or a grading permit. (See Recommendation 3-6c, Urban and Rural Development section.)

Recommendation 3-7b:

[1] The BMP Design Goals is the size of a storm event that is used (along with other information) to determine the size of a structural BMP. Considering the long-run records of local storm events, the 85th percentile event would be larger than or equal to 85% of the storms. The 85th percentile storm can be determined by reviewing local precipitation data or relying on estimates by regulatory agencies. For example, the Los Angeles Regional Water Quality Control Board has determined that 0.75 inch is an adequate estimate of the 85th percentile, 24-hour storm event for typical municipal land uses within its jurisdiction.

The LCP should be updated to include a program to encourage watershed planning, including a finding that watershed planning is necessary to fully address water quality impacts inside the coastal zone. Watershed planning may require the participation and coordination of various agencies. Through this program, the County should facilitate watershed-planning efforts by:

- identifying priority watersheds or subwatersheds for watershed planning, consistent with criteria established for determining critical coastal areas. Priority areas should focus initially on watersheds with known water quality problems, or where development pressures are such that nonpoint source pollution can be anticipated to be a major concern;
- ensuring full public participation in the development of the plan;
- assessing land uses in the priority areas that degrade coastal water quality;
- pursuing funds to support the development of watershed plans; and
- participating in intergovernmental efforts for watershed planning.

General Components of a watershed plan (to guide implementation by many agencies) should include:

- Purpose and Objectives of the Plan;
- Description of approval process, including identification of participating stakeholders, and any required agreements or MOUs;
- Description of the Watershed, including description and data on such items as physical, hydrologic, climatic and natural resource features, land uses, types of land cover, water body use and classification, water body standards, natural and cultural resources, economic base, population demographics, farm demographics, governmental units;
- Resources Inventory
- Problem Identification, describing the specific water resource management problems including the sources and causes of impairment of point sources, nonpoint sources, physical and chemical pollutants, and problem or impediments;
- Problem Analysis, including an assessment of the cumulative impacts of development on water quality and hydrology in order to designate areas to further emphasize on site management of runoff;
- Alternative Management Strategies, including identifying specific measures to minimize the cumulative impact of new development on the watershed and avoiding the alteration of natural drainage patterns; using BMPs, proposed land use changes, structural solutions, and financial incentives; identifying which areas of the watershed which, if restored, could improve water quality; integrating agriculture management measures including developing watershed specific nutrient and pesticide management programs;
- Preparation of Draft Water Resources Management Plan;
- Monitoring and Evaluation Component to evaluate the effectiveness of BMPs used to control polluted runoff;
- Implementation Funding Strategy and Budget;
- Public Participation and Educational Strategy.

Recommendations 3-8 through 3-12: Deleted and/or incorporated into above modified recommendations.

Recommendation 3-13 deleted

Recommendation 3-13a*:*
For updated Harbor Plans, require an operation and maintenance component that addresses water quality protection. Update the LCP by adding policies and standards to implement effective

runoff control strategies and pollution prevention activities, by requiring, where appropriate, the following best management measures:

- providing buildings and/or enclosed areas where possible for maintenance activities;
- constructing new or restore former wetlands where feasible and practical;
- requiring use of porous pavement where feasible;
- requiring installation of oil/grit separators to capture petroleum spills and coarse settlement;
- requiring use of catch basins where storm water flows to the marina basin in large pulses;
- requiring filters to storm drains that are located near work areas and placement of absorbents into drain inlets.

Where fuel stations are added or redesigned, require them to reduce pollution from discharges through measures:

- writing and implementing a fuel spill recovery plan;
- using automatic shutoffs on fuel lines and at hose nozzles to reduce fuel loss;
- installing personal watercraft floats at fuel docks to help drivers refuel without spilling;

To reduce contamination of surface waters, require, as appropriate:

- sewage pumpout, dump station, and restroom facilities, and require maintenance of facilities;
- establish no discharge zones to prevent sewage from entering waters.
- filter additions to storm drains that are located near work areas;
- removal of old style fuel nozzle triggers that are used to hold the nozzle open without being held;
- install fish-cleaning stations with appropriate sewer hookups at marinas and boat launch sites;
- require a management plan and appropriate facilities to store, transfer, and dispose of liquid materials;
- build curbs, berms, or other barriers around areas used for liquid material storage to contain spills;
- prepare a hazardous materials spill recovery plan and update it as needed.

Recommendation 3-13b*:* Add the following program to Chapter 5 of the LCP (Commercial and Recreational Boating): In partnership with Harbor Districts and other agencies, the County shall participate in, and encourage, efforts to educate boaters and boating facility operators to implement management measures to reduce water pollution from boating activities. To support public education programs, the County should encourage the development of programs that support the installation of infrastructure that will enable the public to implement appropriate BMPs.

Educational information could include the following:

- Management practices for maintenance activities which minimize in-water work, and encourage maintenance activities in enclosed buildings, within spray booths, or under tarp enclosures.
- The use of vacuum sanders to remove paint from boats and collect paint dust.
- The benefits of absorbents in drain inlets.
- The need to use chemical and filtration treatment systems only where necessary.
- The importance of using low-toxicity or non-toxic hull paints, antifreeze, and coolants, and recycling products when possible.

Infrastructure and facility modifications could include:

- Install easy-to-read signs on the fuel dock that explain proper fueling, spill prevention, and spill reporting procedures. Locate and design boat fueling stations so that spills can be contained, such as with a floating boom, and cleaned up easily.
- Place trash receptacles and recycling containers in convenient locations for marina patrons.
- Provide boaters with trash bags.
- Provide facilities that extract used oil from absorption pads if possible, or for the disposal of it in accordance with petroleum disposal guidelines.

Fueling Facilities and Operations could include:

- Have spill containment equipment storage, such as a locker attached to the fuel dock, easily accessible and clearly marked.
- Promote the installation and use of fuel/air separators on air vents or tank stems of inboard fuel tanks to reduce the amount of fuel spilled into surface waters during fueling.
- Prohibit the use of detergents and emulsifiers on fuel spills.

Sewage Management modification could include:

- Provide sewage pumpout service at convenient times and at a reasonable cost.
- Provide portable toilet dump stations near small slips and launch ramps.
- Provide restrooms at all marinas and boat ramps.
- Establish practices and post signs to control pet waste problems.
- Establish no discharge zones to prevent sewage from entering waters.

Environmentally Sensitive Habitat Areas

Recommendation 4.1: Revise the LCP's Definition of ESHA

- Revise definitions of SRA and ESHA contained in Section 23.11.030 so that they conform to the Coastal Act definition. Clarify that ESHA, and the application of ESHA protection standards, is not limited to the areas mapped as Combining Designations. As proposed on page 7-10 of the Estero Update, use the definition of "habitat for rare and endangered species" provided by the CEQA guidelines as an additional tool to define ESHA.

- Determine the presence of ESHA based on the best available information, including current field observation, biological reports, the National Diversity Database, and US Fish and Wildlife Critical Habitat Designations and Recovery Programs. Where the available information indicates that an area may contain ESHA, but that area is not mapped as ESHA by the LCP, a Field Review Team comprised of County staff, project biologist(s), and representatives from involved wildlife agencies and organizations, shall conduct a Site Specific Constraints Analysis.

- As proposed by both the North Coast and Estero Updates, recognize all riparian habitats as ESHA regardless of whether they are mapped by USGS quadrangles.

- Replace the LCP's definition of streams, currently limited to streams shown by USGS maps, with an alternative definition, such as used by the Department of Fish and Game:

  A stream is a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation.

Recommendation 4.2: Revise and Update ESHA Combining Designations

- Recognize maps as a tool for identifying potential locations of ESHA, but that the actual presence and extent of ESHA must be determined in the field. Establish Field Review Teams, comprised of County staff, the project biologist(s) and representatives from involved wildlife agencies and organizations, to evaluate sites where the Combing Designation Maps do not effectively address the potential presence of ESHA.

- Incorporate other rare and valuable habitat types into the ESHA Combining Designation Programs. These should include, but not be limited to, the additional sensitive habitats identified by the North Coast and Estero Updates.

- Maintain the Combining Designation maps as a dynamic geographic database that can be routinely updated as new information becomes available. To facilitate such efforts, the County should establish–standard formatting requirements for field surveys and biological reports that could be directly incorporated into such a system. Coordination with other resource management entities involved with mapping sensitive habitats (e.g., the Morro Bay National Estuary Project) should also be pursued along with other grant programs and cooperative mapping efforts.

Recommendation 4.3: Update Requirements for Biological Investigations and Reports

- Revise CZLUO Section 23.07.170 so that biological reports are prepared for all development within or adjacent to ESHA, not just those sites that have been mapped as ESHA. Use the Field Review process recommended above to determine the need for biological reports when development is located on a site that has the potential to support ESHA, but is not mapped as ESHA by LCP Combining Designations. Where the Site Specific Constraints Analysis identifies the presence, or potential presence, of any sensitive habitat type, natural community, and/or particular plant or animal species that meets the revised definition of ESHA, a biological report should be required.

- Evaluate particular areas, particularly urban areas, where it may be appropriate to exclude new development from Site Specific Constraints Analyses. Incorporate such exclusions into the LCP based on scientific evidence demonstrating the absence of ESHA in such areas.

- Develop comprehensive habitat conservation and management programs for areas with particular habitat protection needs (e.g., Los Osos dune scrub and maritime chaparral habitats, Cambria Pine Forest, coastal watersheds that support Steelhead trout, and Cayucos Creeks; please see recommendation 4.6). Upon incorporation of such programs into the LCP, development within particular habitat areas may be excluded from the need

to provide site-specific biological investigations and reports. Instead, the biological information required at the application stage would be related to implementation of the area wide habitat protection program (e.g., contribution to area wide program that retires development potential in ESHA).

- Update the minimum requirements for biological reports specified by CZLUO Section 23.07.170 in coordination with state and federal resource management agencies.

- The location and extent of ESHA on and adjacent to a development site should be described and mapped by the Biology Report, in a format that allows it to be incorporated into a GIS based Combining Designation map system (see Preliminary Recommendation 1b above). The delineation should not be limited to the particular locations where rare plants or animals are observed at one point in time. Rather, it should consider the full range of the sites physical characteristics (e.g., soil type, vegetation, topographical features) represent potential habitat for such rare plant and animal species. In addition, where previously disturbed but restorable habitat for rare and sensitive plant and animal species exist on a site that is surrounded by other valuable habitat areas, these areas should be delineated and protected as ESHA as well. Implementation of this recommendation will also require the incorporation of additional standards for Biological Reports within CZLUO Section 23.07.170.

- Biological reports and their accompanying ESHA delineations should be submitted for the review and comment of the California Department of Fish and Game, the US Fish and Wildlife Service, and to the National Marine Fisheries Service (as applicable), as well as to the California Coastal Commission, before applications for development in or adjacent to ESHA are filed as complete. The incorporation of such a requirement into the LCP (e.g., within Section 23.07.170 of the CZLUO) should be accompanied by a specific time frame for such reviews (e.g., 14 days) to ensure that they would not result in undue delays in the development review process.

Recommendation 4.4: Identify, and Implement Where Feasible, the Resource Dependent Criteria for Development in ESHA

- Revise "Table O", such as through the addition of a new preamble, to clarify that Resource Dependent Uses are the only principally permitted use within an ESHA or their required setbacks. All other uses that may be permitted to accommodate an economic use should be considered a conditionally permitted use.

- Where non-resource dependent uses are proposed in or adjacent to ESHA, and may be necessary to accommodate to avoid a "taking" (i.e., there are no feasible alternatives that avoid impacts to ESHA), analyze whether there is a reasonable economic backed expectation for the non-resource dependent use (see Recommendation 4.10, below).

- Provide exceptions to the above standards in areas that are addressed by a comprehensive habitat conservation program that has been incorporated into the LCP (see Recommendation 4.6, below).

Recommendation 4.5: Prohibit Subdivisions that Create new Lots in ESHA

- Implement the provisions of 23.07.170c.

- Revise Cluster Division Ordinance to require much smaller ~~lots~~ building sites, that they be located entirely outside ESHA and its setback, and that all of the ESHA area be retained and protected as Open Space. Make clustered division mandatory, rather than optional, for all divisions on parcels containing ESHA.

- Clarify that the parcel sizes established by CZLUO Sections 23.04.020 – 033 do not apply to sites that support ESHA, within which land divisions are prohibited.

Recommendation 4.6: Develop Comprehensive Habitat Conservation, Protection and Management Programs for Areas with Particular Habitat Protection Needs and Challenges

- In urban areas that contain numerous existing lots within ESHA that has been fragmented or degraded by surrounding development, develop programs allowing for non-resource dependent uses that contribute to the protection of surrounding viable habitat areas threatened by development. The current effort to develop a Habitat Conservation Plan as part of the Los Osos Wastewater Treatment project and Estero Area Update should continue to be pursued, with ongoing coordination between the Los Osos CSD, involved regulatory agencies, and interested parties. As proposed by Preliminary Recommendation 4.36 later in this Chapter, a similar approach, involving a comprehensive forest management plan for Cambria would go a long way towards managing cumulative buildout in a manner that will protect the long-term health and survival of sensitive Monterey Pine Forest habitats.

- The constraints and opportunities associated with the protection of the coastal creeks and lagoons within the Cayucos urban area also warrants the incorporation of comprehensive creek protection plans (i.e., within the Estero Area Plan). Such plans could be used to perfect setback standards, and prescribe specific mitigation measures, that enhance the riparian environment and clarify development requirements.

- Comprehensive habitat protection plans may prove to be equally useful for the protection of sensitive habitats in rural areas. The North Coast creeks and arroyos are examples of sensitive rural habitat areas that could benefit from such plans. HCP Planning efforts being initiated by State Parks, Community Services Districts, and others, should be closely coordinated with the County and Commission staff to ensure that they will effectively carry our Coastal Act and LCP requirements.

Recommendation 4.7: Revise Biological Report Requirements

- In addition to the information that is currently required to be included in biology reports pursuant to CZLUO Section 23.07.l70, the reports should identify the biological constraints that need to be addressed in designing development that would first avoid, then minimize impacts to ESHA. Biological Reports should identify where revisions to the project are available to avoid and minimize impacts on ESHA, which should be considered by the County in the evaluation of project alternatives.

- County analysis of development in or adjacent to ESHA should include an assessment of the impacts posed by fire safety requirements, such as vegetation clearance and roadway improvements. Where fire safety measures required to accommodate new development

may impact ESHA beyond what was anticipated by the project's Biological Report, a supplemental report may be required. In any instances where fire clearance requirements would impact ESHA, project alternatives that avoid these impacts should be identified and pursued. Where impacts to ESHA associated with fire safety precautions can not be avoided, these impacts should be minimized and mitigated in accordance with Recommendations 4.11 – 4.16.

Recommendation 4.8a: Expand Application of Rural Area SRA Standards regarding "Site Planning – Development Plan Projects" Contained in Area Plans

- As proposed in both the North Coast and Estero Area Plan Updates, require *all* development (not just those located in rural areas that trigger Development Plan review) to concentrate proposed uses in the least sensitive portions of properties and retain native vegetation as much as possible. Apply this standard throughout the coastal zone.

- Provide flexibility in non-habitat related setback requirements where necessary to avoid and minimize ESHA impacts.

Recommendation 4.8b: Evaluate all Available Alternative Locations that Avoid and Minimize Impacts to ESHA

Require all applications for development within an ESHA or its setback to include an overall development plan for all properties that are geographically contiguous and in common ownership[2] at the time of the application.

Recommendation 4.9: Thoroughly Review and Aggressively Pursue Project Alternatives that Avoid Impacts to ESHA

- The full range of project alternatives that would avoid impacts to ESHA, from alternative sites to different designs (including reductions in project sizes) should be pursued and required. This should include a critical analysis of the habitat constraints identified in the biological report and the options available to respond to these constraints (see Recommendation 4.7).

- In accordance with Policy 1 for ESHA, the requirements of CZLUO Section 23.07.170 should apply to development that is further than 100 feet from the ESHA where such development poses adverse impacts to the habitat.

Recommendation 4.10: Incorporate New Standards and Review Procedures to Implement ESHA and Viewshed Protection Consistent with Coastal Act Section 30010.

To effectively resolve takings concerns where it is not feasible to avoid impacts to ESHA or development in scenic coastal areas (see Recommendations 8.1 and 8.6), incorporate additional standards and review procedures within the LCP that will protect coastal resources to the maximum extent possible consistent with Coastal Act Section 30010.

For example, the County should consider developing of a process for evaluating the following when a non resource dependent use is proposed in or adjacent to ESHA, or when structural development is proposed in significant coastal viewsheds, and no alternatives to avoid such development is available:

a) whether limiting uses within ESHA to those that are resource dependent consistent with Coastal Plan Policy 1 for ESHA would deprive the landowner of all economically beneficial use of the property; and,

b) whether there is a reasonable investment-backed expectation of approval of such a non-resource dependent use.

Some of the information that should be evaluated as part of such an analysis includes:

1. Date the applicant purchased or otherwise acquired the property, and from whom.

2. The purchase price paid by the applicant for the property.

3. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at the time.

4. The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.

5. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in 4 above, that applied to the property at the time the applicant acquired it, or which may have been imposed after acquisition.

6. Any changes to the size or use of the property since the time the applicant purchased it, including a discussion of the nature of the changes, the circumstances and the relevant dates.

7. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.

8. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.

9. Any offers to buy all or a portion of the property which the applicant solicited or received since the time of purchase, including the approximate date of the offer and the offered price.

10. The applicant's cost associated with ownership of the property, annualized for each of the last five calendar years, including property taxes, property

assessments, debt services costs (such as mortgage and interest costs), and operation and management costs.

11. Apart from any rent received from leasing all or a portion of the property, any income generated by the use of all or a portion of the property over the last five calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.

In order to approve a non-resource dependent development within ESHA or its setbacks, or any development that conflicts with the scenic resource protection provisions proposed in Recommendations 8.1 and 8.6, the following findings should be made and accompanied by supporting evidence:

1. Based on the economic information provided by the applicant, as well as other relevant evidence, a resource dependent use would not provide an economically viable use of the applicant's property.

2. Restricting development on the applicant's property to a resource dependent use would interfere with the applicant's reasonable investment-backed expectations.

3. The amount of development represents the minimum necessary to provide the applicant with an economically viable use of his or her property.

Provide exceptions to the above requirements for development on lots where ESHA issues are addressed by a comprehensive habitat conservation program that has been incorporated into the LCP (see Recommendation 4.6, above).

Recommendation 4.11: Minimize the Intensity of Non-Resource Dependent Development to the Maximum Degree Feasible

- In instances where the County concludes that, in order to avoid a taking of private property, a non-resource dependent use must be accommodated in ESHA, or that development must be accommodated within a scenic coastal area contrary to Recommendations 8.1 and 8.6, the County should require that such development be limited to the minimum required to avoid a taking.

- Prohibit access roads that disturb ESHA or encroach within scenic coastal areas unless the road is necessary to provide an economically viable use of the overall development plan area.

Recommendation 4.12: Establish Maximum Disturbance Limitations

Incorporate new standards into the Area Plans that establish maximum disturbance envelopes for unavoidable non-resource dependent development in ESHA. Such standards should be customized to the particular circumstances of the area, considering factors such as the size and configuration of lots, biological sensitivity and resource management principles, agricultural viability, and other coastal resources constraints (e.g., visual).

Recommendation 4.13: Require Conservation Easements/Deed Restrictions Over All ESHA Outside Development Envelope

- Where non-resource development must be accommodated within or adjacent to ESHA, minimize the long-term impacts of such development by requiring all ESHA on the project site outside of the development envelope to be restricted to natural resource management, restoration and enhancement.
- Submit such easements and deed restrictions for the review and approval of the California Coastal Commission Executive Director pursuant to Section 13574 of the California Code of Regulations.

Recommendation 4.14: Coordinate Review of Projects that Pose Impacts on Listed Species with DFG, USFWS, and NMFS

Information that should be provided to justify the Findings required by Section 23.07.170b (i.e., that significant adverse impacts to the habitat will be avoided), when not otherwise provided though the CEQA process, includes: concurrence of the Department of Fish and Game and/or U.S Fish and Wildlife Service if species listed under state or federal Endangered Species Act are involved; and, concurrence from the National Marine Fisheries Service if marine habitats are involved. The timing of this review should be coordinated between the County and wildlife agencies to ensure compliance with the Permit Streamlining Act.

Recommendation 4.15: Specify Mitigation Requirements[3]

- Require on-site mitigation for development *adjacent* to ESHA. Where the impacts to ESHA posed by adjacent development have been avoided and minimized, but still pose adverse affects, mitigate by requiring implementation of an on-site habitat management, restoration, and enhancement program proportional to the potential impacts of the development.

- Require on-site and off-site mitigation for development *within* ESHA. Where development directly in an ESHA can not be avoided, and has been minimized to the greatest degree feasible, protect all ESHA outside the development envelope by implementing an on-site habitat management, restoration, and enhancement program that will reduce the adverse impacts of the development to the greatest extent feasible. In addition, require off-site mitigation to offset the reductions in habitat quantity and quality attributable to the development. In most cases, this should be in the form of acquiring and permanently protecting the same type of habitat, in an area otherwise threatened by development. The size and habitat quality of the off-site mitigation area should be proportional to the biological productivity of the area of impact. Incorporation of in-lieu fee programs into the LCP to implement such off-site mitigation is an option.

Recommendation 4.16: Specify Mitigation Monitoring and Evaluation Requirements

- To ensure mitigation effectiveness, established minimum requirements for monitoring and implementation. In general, this should include: preparation of a 5 year implementation and monitoring plan, for the review and approval of the Planning Director, that identifies the specific mitigation objectives and the performance standards that will be used to evaluate success; and, the submission of a report at the conclusion of

[3] E.g, CZLUO Sections 23.07.170a(1) and 23.07.174d(2)(ii)

the 5 year period, again for the review and approval of the Planning Director, that either documents the successful implementation of the mitigation or proposes corrective actions and additional monitoring and reporting that will be implemented until the mitigation objectives have been achieved to the satisfaction of the Planning Director.

Recommendation 4.17: Pursue changes to Section 23.07.174b of the CZLUO to achieve conformance with Coastal Act Section 30236, as well as with ESHA Policy 23.

- This ordinance should specifically require that all permitted streambed alterations employ the best mitigation measures feasible, including but not limited to:

  1) avoiding the construction of hard bottoms
  2) using box culverts with closed beds rather than closed culverts
  3) providing for wildlife movement
  4) pursuing directional drilling for pipes and cables to avoid stream bed disturbance

  A reference to the updated section of the LCP addressing mitigation requirements, as proposed by Recommendations 4.15 and 4.16, should also be provided.

- Part (1) should state that streambed alterations are limited to necessary water supply projects. The incorporation of specific criteria to define what constitutes a "necessary" water supply project should be considered. A preliminary suggestion is to define such projects as those essential to protecting and maintaining public drinking water supplies, or accommodating a principally permitted use where there are no feasible alternatives.

- Part (4), allowing streambed alterations for the maintenance of flood control channels, should be considered for deletion. Necessary maintenance activities can be accommodated under part (2) of this ordinance, which includes the Coastal Act criteria for such activities (part (4) does not include these important criteria).

Recommendation 4.18: Delete the exemption for stream diversion structures associated with agricultural stock ponds of under 10 acre feet that may impact stream habitat.

Recommendation 4.19: Analyze streambed alterations for conformance with CZLUO Section 23.07.174b.

Recommendation 4.20: Improve coordination with the Department of Fish and Game's Streambed Alteration process. Where possible, streambed alteration agreements should be obtained prior to or concurrent with the County's review of the permit application, rather than as a condition of approval. This will provide greater opportunity to make adjustments to the project that would better protect the stream habitat**.**

Recommendation 4.21: Pursue Alternatives to Streambed Alterations.

Evaluate alternative access routes to avoid development in a stream. Where alternative routes outside of riparian habitats are not available, pursue designs that avoid fill, culverts, and minimize in-stream bridge supports and disruption of natural creek flows and vegetation.

Recommendation 4.22: Encourage Additional Research Regarding the Effectiveness of Setback Distances.

- Such studies appears to be warranted given the apparent decline in the health of riparian resources such as the Steelhead trout, southwestern pond turtle, red-legged frog, and other rare and endangered species. Incorporation of a program that would encourage such studies, potentially in coordination with local universities and/or resource management agencies and organizations, should therefore be considered.
- Pursue individual watershed management programs for coastal streams. Such program could address appropriate setback distances as well as other important riparian and water quality issues.

Recommendation 4.23:Apply a Minimum Standard Setback of 100 feet in Urban Areas Where Feasible.

Consider applying a 100' standard setback, rather than 50' or less, in urban area where a 100' setback is feasible and would achieve better protection of stream resources. In all cases, development should be setback the maximum feasible distance from riparian vegetation, as determined through a site specific constraints analysis.

Recommendation 4.24: Improve Implementation of Setback Standards and Adjustments.

- Explore and require, unless more environmentally damaging, alternative alignments for new or improved roads and other uses allowed in setback areas that conform to standard setback requirements. For example, consider new alignments to existing non-conforming roads where there may be impacts associated with intensified use or fire safety improvements. If realignment is appropriate, abandonment and revegetation of the pre-existing road should also be required.
- In instances where alternative alignments are not feasible or more environmentally damaging, provide more specific guidance on what is required to mitigate adverse effects to the greatest degree feasible (CZLUO Section 23.07.172d(1)(ii), as referenced by 23.07.174d(1)). Please see Recommendations 4.15, 4.16, 4.17, and 4.27a.
- Critically evaluate "after-the-fact" permit applications where development has illegally encroached into setback areas. Before off-site mitigation is considered, evaluate all options of restoring and enhancing the pre-existing on-site habitat values. Off-site mitigation should be an additional requirement where necessary to offset the temporary impacts of the violation and address the potential for restoration efforts to fail.

Recommendation 4.25: Consider Limiting Pedestrian and Equestrian Trails within Riparian Setback Areas to Passive Recreation.

- Where intensive recreational activities may adversely impact ESHA, they should be directed to areas outside of riparian setbacks.
- Where trails are allowed within or adjacent to riparian areas or other ESHA, require the provision of interpretive signing.

Recommendation 4.26: Incorporate Additional Standards for Stream Diversions and Water Wells

- Prohibit diversion or extraction of surface and subsurface streamflows where adverse impacts to steelhead or other important riparian resources would result.
- Prohibit in-stream barriers to fish migration unless such structure comply with streambed alteration standards and provide effective fish ladders or by-pass systems.

- Where water supply projects have the potential to impact fish habitat or other stream resources, limit diversions to peak winter flows that exceed the amount the needed to sustain the resources, and require off-stream storage where year-round water supplies are needed.
- To the degree feasible, water diverted from coastal streams should be treated after use and returned to the watershed of origin in like quality and quantity.

4.27: Incorporate Additional Standards for Development In and Adjacent to Streams and other Aquatic Habitats

All permitted development in or adjacent to streams wetlands, and other aquatic habitats should be designed and conditioned to prevent loss or disruption of the habitat (e.g., smothering of Steelhead spawning gravel and rearing habitats); protect water quality; and maintain and enhance biological productivity. To achieve this objective, CZLUO Section 23.07.174 should be updated in conjunction with updates to Coastal Watersheds Policies and the grading ordinance. These updates should incorporate standards that:

- necessitate flood control and other necessary instream work be implemented in a manner that minimizes disturbance of natural drainage courses and vegetation (e.g., limit the number of access routes to and from the construction area, locate stockpile and staging areas away from drainage courses and sensitive vegetation);

- require that all allowable instream development be designed to mimic natural habitat conditions wherever feasible (e.g., consider bridges that minimize disruption of natural drainage courses as an alternative to culverts, incorporate natural materials such as root wads, gravel, and native vegetation);

- prescribe methods to control drainage in a manner that prevents erosion, sedimentation, and the discharge of harmful substances into aquatic habitats during and after construction (e.g., identify and evaluate location and capacity of silt fences/hay bails, drainage inlets, detention basins; encourage vegetated drainage features, such vegetated drainage swales created wetland detention areas to facilitate filtration and habitat enhancement; and

- establish standards for the breaching of beach berms that support coastal lagoons (see Recommendation 4.33)

4.27(b) Develop and Implement Water Quality and Habitat Protection Standards for New Agricultural Development and Habitat Enhancement Projects in Coordination with Voluntary Assistance and Education Programs.

Improve water quality and habitat protection standards applicable to habitat enhancement projects and new agricultural development within 100 feet of ESHA by updating CZLUO Section 23.07.174e(6) in accordance with the agriculture and water quality recommendations of this report. New water quality and habitat protection standards applicable to such development should be developed and implemented in coordination with voluntary assistance and education programs. To minimize the need for permit review and ensure that habitat restoration activities

and agricultural development in and near ESHA complies with Coastal Act Sections 30230, 30231, 30236, and 30240, the new LCP Water Quality Component should encourage:

- The certification of volunteer, education, and assistance programs that ensure habitat enhancement projects and agricultural development within setback areas effectively protect sensitive habitats, water quality, and other coastal resources. Such certification could be accomplished through the issuance of a "master" coastal development permit for program implementation; incorporating a categorical exclusion into the LCP for the implementation of such programs; or through Coastal Commission concurrence with a Federal Consistency Determination submitted by the federal agency responsible for program funding and/or implementation.

- Coastal development permit exemptions for individual projects that are implemented pursuant to certified programs.

4.28: Complete the Follow-Up Review on D870182 for the Aquaculture Facility North of Cayucos

4.29: Miscellaneous Policy Clarifications

- Identify the correct reference for CZLUO Section 23.07.174e(7)

- Delete CZLUO Section 23.07.174e(2)

Recommendation 4.30: Incorporate Standards for Wetland Delineations

In addition to pursuing an alternative to the LCP's current map based system for protecting wetlands and other environmentally sensitive habitats, new standards that facilitate a complete and accurate delineation of all wetlands during the local review process should be incorporated into the LCP. The provisions of Section 13577(b)(1) of the California Code of Regulations, Title 14, should be used as guidance in formulating these delineation standards. A potential location for these standards would be within the updated biological report requirements (see Recommendation 4.7).

Recommendation 4.31: Evaluate Biological Significance of Manmade Wetlands

Where necessary to address competing resource protection interests, consider the biological significance of man made wetlands. Allow adjustments to standard wetland setbacks from biologically insignificant manmade wetlands where the lesser setback will not disrupt sensitive habitats and is needed to achieve a more important resource protection objective.

Recommendation 4.32: Prohibit Variances to Wetland and Other ESHA Protection Standards Variances Can be Avoided

Consider changes to the variance provisions that would prohibit exceptions to wetlands and other ESHA setback and protection standards where those impacts could otherwise be avoided, unless the variance is needed to achieve consistency with Coastal Act Section 30010.

Recommendation 4.33: Develop Standards for the Breaching of Coastal Lagoons

- Require a CDP for lagoon breaching activities, and limit such development to situations where it represents the least environmentally damaging feasible alternative for relieving a flood hazard, public health hazard, or water pollution problem. Lagoon breaching should also be allowed and encouraged where man made alterations have interrupted the natural breaching cycle. The decision to breach should be based on a comprehensive assessment of environmental conditions and alternatives available to address the hazard or resource concern.

- The LCP should_incorporate standards to ensure that where allowed, lagoon breaching mimics natural breaching to the extent feasible, and is carried out in a manner that is the most protective of wetland resources and other environmental resources particular to each site. Such standards should include:

- Coordination with all applicable regulatory agencies, including the California Coastal Commission, California Department of Fish and Game, the US Army Corps of Engineers, the Monterey Bay National Marine Sanctuary, and the Regional Water Quality Control Board.

- Development of a breaching plan based on a scientific assessment of the lagoon environment_that addresses the need for breaching and available alternatives; impacts on endangered species and habitats; public health and safety; and public access and recreation.

- Requiring the breaching activity to be conducted in a controlled manner that reduces lagoon water levels the minimum necessary to abate the hazard.

- Breaching plans and permits should also include short term and long term monitoring provisions that evaluate the health of the lagoon and the impacts of breaching.

Recommendation 4.34: Provide Standards for Wetland Monitoring and Restoration Activities

Incorporate specific requirements (e.g., within Sections 23.07.172 and 23.05.034 of the CZLUO) for the monitoring and restoration of wetland resources to enhance effectiveness and ensure that such activities are carried out in a manner that will not harm wetland resources.

For example, the LCP should be updated to require clear performance criteria that relate logically to restoration goals. Where there is sufficient information to provide a strong scientific rationale, the performance criteria shall be absolute (e.g., specified abundance of particular species). Where absolute performance criteria cannot reasonably be formulated, relative performance criteria should be specified. Relative criteria are those that require a comparison of the restoration site with reference sites. The rationale for the selection of reference sites, the comparison procedure, and the basis for judging differences to be significant should also be specified. If any comparison requires a statistical test, the test should be described, including the desired magnitude of difference to be detected, the desired statistical power of the test, and the alpha level at which the test will be conducted. The design of the sampling program should relate logically to the performance criteria and chosen methods of comparison. The sampling program should be described in sufficient detail to enable an independent scientist to duplicate it. Frequency of

monitoring and sampling shall be specified for each variable to be monitored. Sample sizes shall be specified and their rationale explained.

The use of independent consultants to evaluate the success of restoration projects and report their findings to the County should also be considered.

Recommendation 4.35: Review Mosquito Abatement Activities

Investigate whether mosquito abatement practices are being reviewed and permitted in conformance with ESHA Policy 12 and San Luis Bay SRA Program 8.

Recommendation 4.36: Coordinate the Management and Protection of Open Space Easements Obtained to Protect Wetlands and other ESHA

Evaluate ways to better obtain and protect open space easements over sensitive portions of bayfront property per Morro Bay SRA Program 23. This could include partnering with the Morro Bay National Estuary Program, and other qualified agencies and organizations. Similar efforts should be made to ensure that other open space easements obtained to protect ESHA are being effectively managed.

Recommendation 4.37: Develop a Comprehensive Forest Habitat Management and Protection Program

As part of the North Coast Update, consider incorporating the Cambria Monterey Pine Forest Management Plan currently being developed by the Cambria Forest Committee to guide and regulate buildout and forest management so that the long-term conservation of the Cambria pine forest ecosystem can be ensured and enhanced. In coordination with this effort, the North Coast Area Plan should be updated to include standards regarding the location and extent of off-site and on-site mitigation (e.g., tree replacement, contributions towards the acquisition of significant forest habitats); identification of additional TDC sending sites and appropriate receiver sites; and, provisions for the on-going management and preservation of protected forest areas.

Recommendation 4.38: Aggressively Pursue Project Alternatives That Avoid Tree Removal

- Require development to be sited and designed in a manner that that first avoids, then minimizes, removal of Monterey Pine. Make full use of flexible setbacks, and allow such flexibility in all areas of the pine forest, not just Lodge Hill.
- Apply an updated version of Pine Forest Preservation Standard 6c for the Cambria Urban Area to all areas with pine forest habitat.

Recommendation 4.39: Increase Tree Replacement Requirements Where Avoidance is not Possible

- Protect all native Monterey Pines, not just mature trees, by requiring replacement of all trees required to be removed, including saplings. Where feasible, replant saplings.
- Analyze the location and biological viability of locations and densities of replacement trees during development review.
- For situations where on-site replacement is not possible, develop and implement a framework for off-site replacement that maximizes long-term habitat protection and enhancement.
- Require that all replacement trees be from disease-free local Cambria stock only, and that invasive exotic species be avoided in landscaping.

Recommendation 4.40: Incorporate Programs and Standards Necessary to Respond to the Threats Posed by Pitch Canker and Sudden Oak Death

- Prohibit the removal of pine trees that clearly display a resistance to pitch canker (e.g., a healthy tree surrounded by diseased trees).
- Establish standard protocols for handling dead and diseased wood. These should include standard conditions that require: cleaning of cutting and pruning tools with a disinfectant prior to use on each individual tree; covering of all wood material being transported offsite to avoid dispersal of contaminated bark beetles; identification of the location to which the material will transported (prohibit transfer to areas free of the disease). These conditions should also specify that in situations where wood material cannot be properly disposed of directly after cutting, it shall be cut into small logs and stored on-site under a clear plastic tarp until necessary preparations have been made for their removal. Other tree parts (i.e., branches, small limbs) should be chipped and left as a thin layer on-site.
- Designate location for green waste management and recycling facility.
- Coordinate with CDF and the US Forest Service regarding methods for preserving genetic resources (e.g., seeds and saplings). Potentially combine with green waste facility recommended above.
- Develop and require Forest Management Plan(s), backed by Forest Management District(s), to provide for long term management of the forest.

Recommendation 4.41: Provide Greater Incentives for Participation in the Cambria TDC Program and other Updates to the Program

- Reduce maximum size of development in urban areas to provide greater incentive to participate in TDC program and reduce the impact that density bonuses may be having on the forest. Eliminate footprint and GSA bonus available for Lodge Hill. To the degree feasible, implement this recommendation as a component of the Cambria Design Plan currently being developed.
- As part of the Cambria Design Plan or North Coast Update, formulate a more specific structure for allocating density bonuses to ensure that such bonuses provide an adequate contribution towards the protection of forest habitats otherwise threatened by development.
- Identify new "Special Project Areas" (i.e., sender sites) that contain the most biologically significant areas of pine forest habitat in conjunction with the CCSD's Cambria Forest Management Plan and other forest protection efforts.

Recommendation 4.42: Develop Additional Methods for Lot Retirement

- Recognizing that new development within the forest has both direct and cumulative impacts on forest resources, and that the Monterey Pine Forest is increasingly threatened, a mitigation fee could be required for all new development within forested areas and applied to the acquisition and protection of the most sensitive forest areas.
- Creating an Open Space District could raise funds for the additional acquisitions. Efforts to establish an Open Space District should be coordinated with the Cambria Community Services District.

Recommendation 4.43: Reduce Buildout Potential

- Prohibit subdivisions that create new building sites in or within 100 feet of pine forest habitat.

- Establish very large minimum lot sizes within rural areas comprised of pine forest habitat (e.g., 160 acres).
- Expand clustering standards and revise Cluster Division Ordinance to achieve much more consolidated development envelopes. This should include, but not be limited to: applying Monterey Pine Forest SRA Standard 4 to all development (not just subdivisions and large scale projects); and, reducing the maximum clustered parcel size of 10 acres in the Rural Lands Category.
- Prohibit any lot line adjustment that would result in greater development intensity within forest habitat as compared to the development that would be possible under the existing configuration.

Recommendation 4.44: Identify all habitat areas within the urban area that represent Ecologically Significant Units and vigorously apply ESHA protection standards to such areas.

Recommendation 4.45: For those urban areas that do not represent long-term viable habitat due to fragmentation, small size, surrounding uses, etc., but still maintain sensitive species habitat, allow development to occur in exchange for participation in a comprehensive area wide off-site mitigation program to be incorporated in the LCP**.**

Recommendation 4.46: To the degree feasible, coordinate the above with the Los Osos Sewer Project and an area wide HCP.

Recommendation 4.47: Continue to pursue incorporation of a TDC program as part of the Estero Area Plan Update, with the changes recently proposed in response to comments of Commission staff and further coordination.

Recommendation 4.48: Continue to work with beachfront homeowners and State Parks towards the development of a stand stabilization program that will address concerns regarding blowing sand and provide habitat restoration/enhancement.

Recommendation 4.49: Refer to the findings recently adopted by the Commission on Oceano Dunes OHVRA regarding vehicles in dunes.

Recommendation 4.50: Update LCP provisions related to new and on-going development activities within the Oceano Dunes State Off-Highway Vehicle Recreation Area in conjunction with Coastal Commission actions related to Coastal Development Permit 4-82-300 as well as with the Habitat Conservation Plan currently being developed. Consider prohibiting special off-road events in the Open Space area designated by the area plan intended to be maintained in its natural state and provide a buffer from the OHV area.

Recommendation 4.51: Re-evaluate exiting and proposed land use designations and development standards in South County dune habitats to ensure protection, and where feasible, enhancement of all ESHA (e.g., RS and Industrial designations over the undeveloped land of the Callendar-Garret Village area south and west of Hwy 1; proposed redesignation of RL land use category to Recreation after termination of oil extraction activities). The evaluation of existing designations, as well as any updates intended to address habitat protection needs, should be coordinated with the community and other involved wildlife management entities.

Recommendation 4.52: Resolve lot history and any potentially illegal subdivisions in the Callendar-Garret area that may facilitate non-resource dependent development in areas known to support rare and endangered plant species. Designate and protect such areas as ESHA in coordination with an area wide program that implements ESHA protection consistent with Coastal Act Section 30010 (protecting constitutional private property rights).

Recommendation 4.53: Work with the US Fish and Wildlife Service, the California Department of Fish and Game, the California Department of Parks and Recreation, the Point Reyes Bird Observatory and other interested parties to identify all shoreline areas that provide habitat, or potential habitat, for the Western snowy plover and Least tern. Designate and protect these areas as ESHA. Re-evaluate land use designations in and around these habitats, and craft standards for future development to ensure effective protection. Work with land owners/managers to make certain that current and future use of these habitat areas are designed and managed in accordance with habitat continuance and enhancement. Particular emphasis should be placed on the protection of important nesting areas, including but not limited to the Morro Bay Sandspit.

Recommendation 4.54: Identify beaches used by Northern Elephant Seals and classify as ESHA.

Recommendation 4.55: Establish standards and programs to manage human visitation and observation of beaches used by elephant seals, such as by updating the marine resource provisions of the Coastal Plan Policies and Section 23.07.178d of the Coastal Zone Land Use Ordinance.

Recommendation 4.56: Prohibit the installation of new revetments and outfalls on beaches used by Elephant Seals wherever it can be avoided.

Agricultural Resources

Recommendation 5-1*: Amend* Agriculture Policy 1 by adding the following language: For any proposed rezoning of agricultural lands to another designation, an agricultural viability report shall be prepared.

Recommendation 5-2*:* Modify the CZLUO to expand the factors that should considered as part of the required viability studies for proposed rezoning of agriculturally designated lands to include the following:

Incorporate an Agricultural Viability Report **definition,** for example:

> *A report that assesses the viability of parcels as agricultural or grazing units, given existing conditions and proposed development. Viability is considered in terms of many factors, including product marketability, soils, parcel size, economic factors and any other factors relevant to the particular parcel. The report shall describe the role that each factor plays as a variable influencing the site and surrounding area's viability for agricultural production. The feasibility analysis should analyze both the site and the larger area's current and past productivity as an agricultural unit for at least the preceding five years, but including sufficient time to include cycles of weather.*

Recommendation 5-3*: Modify* the CZLUO to expand and specify the contents of the Agriculture Viability Reports for proposed rezoning of agriculturally designated lands. Expand and specify the contents of the Agriculture Viability Report. For example, CZLUO

23.04.024(a)(1), Existing land uses and (3) Site characteristics…including topography, soils, climate water availability and adjacent land uses, could be expanded to include more specific information, where appropriate, such as:

1. *Soils*
    a. *The identification of all soil types that are found in the area (As stated in the most recentSoil Survey published by the United States Department of Agriculture).*
    b. *Storie index and Capability Classification ratings of all identified soil types (As stated in the most recent Soil Survey published by the United States Department of Agriculture.*
    c. *The expected animal unit month (AUM) yield for each identified soil type (As stated in the most recent Soil Survey published by the United States Department of Agriculture).*
    d. *The expected net dollar return per acre for crops that are currently cultivated on each soil type.*
    e. *An identification of crop types that could be potentially grown on each identified soil type, and also the expected net dollar return for such crops.*
    f. *An identification of soil types used exclusively for grazing.*
    g. *An identification of agricultural uses in the area that are not dependent upon the soil (e.g., greenhouses), and where identified, a description of their location and nature of operation(s).*
2. *Geographic*
    a. *The description of factors such as slope, temperature, adequate sunlight, length of growing season, precipitation, soil quality (depth, drainage, capability classification rating, storie index rating, texture, development, unique qualities) affecting agricultural operations in the area.*
    b. *The description of management techniques that are currently used, or could be used, in order to improve soil quality for agricultural operations.*
    c. *An identification of agricultural operations that use more than one parcel for production in the area, and where identified, a description of their current practice and average acreage for each individual operation.*
    d. *A description of the relationship or proximity of agricultural and urban land uses.*
3. *Water*
    a. *The availability of water in the area (condition of basin e.g.).*
    b. *An identification of the water source (riparian, appropriative, etc.).*
    c. *An identification of any water quality problems affecting agricultural operations in the area.*
    d. *The current cost of water.*
4. *Access*
    a. *Description of whether adequate access to agricultural support facilities (cold storage, equipment repair/sales, markets) in the area currently exist.*
    b. *Where access is problematic, an identification of the nature of the conflict; and how the conflict impacts agricultural operation(s).*

CZLUO 23.04.024(a)(2) Present annual income derived from agricultural operations…. and (4) the potential of the site to support future food-producing agricultural uses…could be expanded to include consideration of such factors as, where appropriate:

1. *History*
    a. *An identification of the types of agricultural operations that have taken place in the area in the past and where have they occurred.*
    b. *An identification of how long agricultural operations have been conducted in the area.*
    c. *An identification of those parcels that have been used for agricultural operations in the area consistently in past, and where applicable an identification of such time periods.*
    d. *An identification of significant past management practices that have been used in the area in order to increase agricultural yields.*
2. *Risk Factors*
    a. *A discussion of the effect of drought years on agricultural operations in the area and, if so, what the cost of water is during these periods.*

b. *An analysis of whether the costs of production and labor are predictable for agricultural operations in the area.*
c. *A discussion of whether commodity prices are consistent or inconsistent from year to year for crops grown in the area.*
d. *A discussion of whether salt-water intrusion into well water supply is an issue, and if so, how it affects agricultural operations in the are.*
e. *An identification of whether there is a problem with crop quality in the area.*
f. *An identification of whether the agricultural market is volatile for crops grown in the area.*

3. *Economics*
   a. *An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of the application for coastal development; and,*
   b. *An analysis of the operational expenses excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of the application for coastal development.*
   c. *Cost shall be determined by, and consist of, the following variables:*
      1. *Fixed Costs for any given crop are assumed to be constant, regardless of the annual yield. Fixed costs shall include only current costs and shall not speculate on potential future circumstances.*
         a. *Land cost (i.e. rent, lease, property tax, etc.) shall NOT be included into the cost analysis (See Coastal Act Section 30241.5)*
         b. *Capital costs including: 1) land improvements (i.e., fences, roads, clearing, leveling, wells and pumps, etc.); 2) equipment (i.e., trucks, tractors, buildings, special equipment (e.g. irrigation), etc.); 3) herd expenses (i.e., payment for bulls and heifers); and 4) miscellaneous expenses. Cost determination must also include depreciation and interest expenses.*
         c. *Cultivating cost including operating costs for: 1) labor (i.e., the amount of hours necessary for planting and the rate of pay per hour including benefits); 2) materials (i.e., water, seed, feed supplements, salt, fertilizer, and pesticides); 3) machinery; 4) fuel and repair; and 5) outside consultants (i.e., veterinary and management).*
      2. *Variable Costs are the harvest costs and are based on the amount of yield only. Depending on the crop yield, variable costs fluctuate for any given year. In most cases, this is expressed as the cost per unit of yield (tons, 100 weight, or pounds).*
   d. *Gross Revenue shall be determined by and consists of the following variables:*
      1. *Gross returns for each crop type.*
      2. *Past return figures should factor in the appropriate Producer Price Index (PPI) figure in order to account to inflation over time.*
   e. *Evaluative methods to incorporate the above cost and revenue figures shall include, where relevant:*
      1. *Determination of the net economic impact on private and public sectors and, second, a test for agricultural viability. Net economic impact refers to change in dollar flow within the community brought about by a given change in land use. "Net economic impact" equals total public revenues minus total public costs, plus private sector income. This should be computed according to the existing land use, the proposed development, and any viable project alternatives. This may be accomplished through the following process:*
         a. *Cost/Revenue analysis that determines public costs associated with conversion of agricultural land and also revenues generated by increases in property tax within the project site. Public service marginal costs should compute the new and/or incremental costs of adding development to the public service system, which includes the cost of capital improvements necessary to accommodate such development. This should also state, and if possible quantify, those costs or externalities not easily accounted for in cost computations. One externality could include the probable change in assessed value of parcels adjacent to the development. Public service revenues are generated by increases in property tax within the project site.*
         b. *Input/Output analysis that looks at the private sector of the areas economy in terms of its purchases and sales to other sector both locally and from outside the area. From this information, multipliers for each sector should be developed. Determination of the input figures will reveal the affect of removing the subject number of acres, for the subject crop, from agricultural production. This will reveal the effect to the private sector economy.*

2. *Determination of the minimum acreage for a viable agricultural operation (farm family approach). In order to determine net income, production costs by crop should be computed on a per acre basis and subtracted from gross market receipts expected from that crop. The resulting figure represents the farmer's income per acre of productive land. The per acre income figure should then be divided into the County's Median Income figure to compute the number of acres required to support a farm family.*
3. *Determination of net return per acre, per crop type, for the area only. By crop type, determine gross revenue per acre for subject crop types then subtract from gross revenue figures the cost per acre associated with each crop type.*

The report shall include maps and photos (aerial and site photos) of the area being evaluated that, at a minimum, identify the following on all such figures: parcel lines, parcel numbers, farm boundaries, owners and/or leassees of each parcel and/or farm, wells and/or any o ther water supply lines, storie ratings, capability classifications, slopes, and roads.

For purposes of this determination, "area" means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the County's certified local coastal program.

Recommendation 5-4*:* Modify CZLUO to add the following criteria for lotline adjustments on agriculturally zoned lands:

- lotline adjustments shall not create new subdivision potential and shall not increase the number of developable parcels over those existing prior to the lotline adjustment proposal;
- lotline adjustments shall not create new parcels where the only building site would be on prime agricultural soils; within ESHA, critical viewsheds, or in a defined hazardous area; or would require significant landform alteration to accommodate future development;
- applications for lotline adjustments shall identify the purpose of the adjustment and the proposed uses for each adjusted parcel;
- lotline adjustments shall not be approved unless the adjustment will maintain or enhance the agricultural viability of the site. To assure the protection of long-term viability, applications for lotline adjustments which support, in part, non-agricultural development must include an economic analysis of agricultural potential, consistent with that required under Ordinance 23.04.024 for land divisions.
- lotline adjustments or subdivisions which support, in part, non-agricultural development, the lotline adjustment or subdivision shall maximize the protection of agricultural lands by clustering and minimizing the area of lots intended for non-agricultural uses, including reducing the parcel size to be less than the 20 acre minimum parcel size required for agricultural lands. Lots for non-agricultural uses shall be clustered where there is less agricultural potential due to the soil types, topography or other site constraints and shall maximize the extent of *undivided* agricultural lands.
- lotline adjustments or subdivisions which support, in part, non-agricultural development, shall identify the location of all access roads and building envelopes, assuring adequate buffers between future residences and associated access uses so as to minimize conflicts

with the adjacent agricultural operations, and minimize roadway lengths and site disturbance. Where possible, non-agricultural development shall be sited close to existing roads, while minimizing impacts from access roads or driveways on agricultural operations;

- lotline adjustments or subdivisions which support, in part, non-agricultural development, shall require an agricultural easement over the agricultural parcel(s) which prohibits future subdivision of the parcel(s). In addition, for parcels intended to support non-agricultural uses, a deed restriction should be required prohibiting future subdivision of the parcel(s);
- ensure that all geographically contiguous parcels in common ownership are addressed through a comprehensive evaluation.

Recommendation 5-5: deleted

Recommendation 5-6*:* Undertake a study to identify: 1) existing non-conforming lots on agriculturally zoned lands adjacent to conforming lots, and 2) non-conforming lots which meet the standards under the Subdivision Map Act for potential lot mergers.

Recommendation 5-7: Processing of Certificates of Compliance.
In the interest of good public policy and avoidance of unnecessary judicial review, amend the LCP with standards such as the following:

- Amend CZLUO 21.02.020(a) to require that within three calendar days of receipt, the County provide to the Coastal Commission [notice/a copy] of all certificate of compliance applications submitted to the County for any property lying wholly or in part outside of an urban area (as defined by the USL for each area).

- Amend CZLUO 21.02.020(c) to

  1. require that upon request, the complete application content for a certificate of compliance be provided to the Coastal Commission. Such requests shall be made by the Commission within 7 calendar days of receipt of the [notice/application] submitted pursuant to CZLUO 21.02.020(a).

  2. provide an administrative consultation process, through which the Executive Director of the Coastal Commission may consult with the County Planning Director about individual applications for certificates of compliance for which the application content has been requested. The Executive Director shall request consultation within 7 calendar days of receiving a complete certificate of compliance application. No certificates of compliance shall be issued by the Planning Director until such time as a requested consultation has taken place. Any staff reports prepared pursuant to CZLUO 21.02.020(c)(1) shall be provided to the Executive Director.

3. provide an administrative conflict resolution process for cases in which the Executive Director and County Planning Director do not agree on the issuance of a certificate of compliance. For example, provide for review by the Board of Supervisors as currently provided for subdividers pursuant to CZLUO 21.04.020.

Recommendation 5-8*:* Develop LCP standards for residential developments on Agricultural Land. Update the CZLUO to establish performance standards for residential development on agriculturally zoned lands which protect the maximum amount of agricultural lands. Such standards could include the following:

- non-agricultural uses on agricultural lands should be subordinate and accessory to agricultural operations;
- single family residences and associated accessory development should minimize site disturbance;
- roads and driveways shall be the minimum width and length necessary , and shall be designed to avoid unnecessary cut and fill, particularly by conforming to natural landforms;
- residential structures and residential accessory structures shall be sited to retain the maximum amount of agriculturally designated lands available for agricultural production, consistent with all other LCP policies;
- residential structures and residential accessory structures shall be sited and designed to protect ESHA, avoid impacts to critical viewsheds to the maximum extent feasible, and maintain the rural character of the area.

Recommendation 5-9 Deleted and replaced.

Recommendation 5-9a*: Amend* Table O to define the following land uses as supplemental uses for agriculturally zoned land:

Bed and Breakfast facilities;
Eating and Drinking places;
Outdoor Retail sales;
Paving Materials;
Petroleum Extraction;
Rural Recreation and Camping;
Stone and Cut Stone Products;
Warehousing;
Waste Disposal sites;
Wholesaling and Distribution;
Temporary Events which are for profit and non-agriculturally related.

Recommendation 5-9b*:* Modify Agriculture Policy 3 (b) to specify that an economic analysis is required for supplemental uses only. To implement Agriculture Policy 3 (b), modify Ordinance 23.04.050(5) to require the following information as a condition of filing for all supplemental uses:

- existing land uses on the site;
- present annual income derived from agricultural operations
- income generated from other, non-agricultural operations on the site;
- site characteristics affecting agricultural land use and production, including topography, soils, climate, water availability, and adjacent land uses;
- the potential of the site to support future food-producing agricultural uses and estimated annual income from such uses;
- estimated income from proposed supplemental development;
- potential effects of the proposed development on agricultural food production, both short-term and long-term;
- recommendations and conclusions of the development's effects on agricultural production.

Recommendation 5-9c: Deleted

Recommendation 5-9d*: Modify* Agriculture Policy 3 and Ordinance 23.04.050(b) (3) through (6) to clarify that *all* uses identified as special uses under Table O ("S" or "S-P" uses) in agriculturally designated areas, whether also defined as supplemental uses or not, must comply with the existing criteria to: a) obtain permits for development, b) meet the required findings to locate development off prime soils and avoid conflicts with surrounding agricultural lands, c) provide the information currently specified for a permit application, d) comply with the siting and design standards for development, with the following exceptions:

- non-supplemental uses are exempt from economic analysis, as required under Recommendation 5-9b;
- residential and residential accessory structures are exempt from Ordinance 23.04.050 (6) (ii), requiring that non-agricultural uses be limited to a maximum of 2% of the gross site area.

Recommendation 5-9e*:* Modify Table O to exclude as electric generating plants and mining as allowable uses on agriculturally zoned lands.

Recommendations 5-10 – 5-12: Deleted; addressed through Recommendation 3-2 a—d.

<u>Public Access</u>

Recommendation 6.1: Incorporate Comprehensive Access Components into Each Area Plan

- All of the Area Plans in the LCP should be amended to include a specific access component, consistent with Section 30500 of the Coastal Act. This component should include at a

minimum, the following information: (1) Statements of the public access goals, objectives, policies, ordinances, standards, programs, and other management objectives relevant to each planning area; (2) a comprehensive inventory of existing and potential public shoreline access, including a map or maps indicating the specific locations of such access resources.

- The Access Component should include a Public Trails Plan to ensure future implementation of the California Coastal Trail. Development of the Trails Plan should consider guidance outlined in the Periodic Review for development of:
    - Planning objectives
    - Siting and Design policies and standards
    - Acquisition and management policies and standards

- The Comprehensive Public Access Component should consider realignment alternatives as recommended by Recommendation 7.14 and should include a policy that will ensure that any impacts to access from highway realignment are mitigated such that no public access is lost and new access opportunities are maximized.

Recommendation 6.2: Amend LCP Lateral Access Requirements to Provide for Blufftop Accessways, where superior access would be provided.

Where the area between the MHTL and the toe of the bluff is constrained by rocky shoreline, evaluate whether alternative siting of accessways along the blufftop would maximize public access consistent with the Coastal Act.

Recommendation 6.3: Continue Efforts to Accept and Open Outstanding Access OTDs

The County should continue efforts to ensure all outstanding OTDs are accepted and opened.

Recommendation 6.4: Amend LCP to Provide for Direct Dedications of Accessways and Evaluate Performance Standards for these Accessways

As discussed in the Commission's Public Access Action Plan, the County should amend the LCP to allow for direct dedication of public access to the County where appropriate. Performance standards for these dedications and other access OTDs should be evaluated to address such issues as coastal erosion and long-term trail maintenance.

Recommendation 6.5: Develop an LCP Program to Document and Pursue Prescriptive Rights as part of the Access Component

As part of protecting historic use areas, the County shall develop a program to document informal use and potential prescriptive rights as part of the Access Component. Information developed under this documentation effort shall be used to protect prescriptive rights in future County planning and development reviews. Such a program could be coordinated with the efforts of the Commission's Public Access Program to document prescriptive rights, and could include the participation of other agencies and interested groups.

Recommendation 6.6: Develop LCP Program to Assure Protection of Existing and Potential Public Rights

The County should develop a program to assure comprehensive review of quiet title actions and other changes in intensity of land use, including potential abandonments of public rights-of-way,

that may adversely impact public access. A more expanded review of potential loss of historic offers to the public should be pursued. The County has recognized this concern in the proposed Estero Area Plan Update Circulation Chapter regarding Los Osos: "Preservation of all rights-of-way and offers of dedication for roads, ways, vertical and other accessways." The County could further protect public access opportunities by accepting all dedicated street ends within Los Osos. The County and Commission should discuss options for coordinating and pooling resources to evaluate quiet title actions, to maximize protection of public access opportunities.

Recommendation 6.7: Comprehensive Public Recreation Planning

Through a comprehensive Public Access planning process, long-term supply and demand and opportunities for low-cost visitor-serving coastal recreation should be analyzed. The LCP should be evaluated for potential amendments to provide for such uses. In addition, the LCP should be further evaluated to ensure that an adequate level of limited public services is being reserved for priority visitor-serving uses, including that which may be needed in the future.

Recommendation 6.8 (deleted)

Recommendation 6.9: Habitat Conservation Plan Access Review

Ensure that public access management and enhancement consistent with LCP policies is considered as a component of all habitat management and natural community conservation plans within the coastal zone.

Coastal Hazards

Recommendation 7.1: Modify CZLUO 23.05.090(a) to define more specifically what existing structures are for purpose of allowing future armoring. For example, as follows: "*existing coastal development" for purposes of this section shall consist only of the principle structure and shall not include accessory or ancillary structures such as garages, decks, steps, eaves, landscaping, etc. No shoreline protection device shall* be *allowed for the sole purpose of protecting the accessory structure(s).*

Recommendation 7.2: Revise Coastal Policy 6 to change setbacks to require that they be based on a projected 100-year economic life.

Recommendation 7.3: Revise CZLUO 23.04.118: Eliminate the stringline method for determining setbacks, section (a). Modify section (b) to base setback on a projected 100 year economic life of structure. Add requirement to incorporate a safety factor either as a multiplier or as a set distance, as developed through an Areawide Shoreline Management Plan.

Recommendation 7.4: Modify CZLUO 23.04.118 "Exceptions to Bluff Setbacks Requirements" section (c) to eliminate subpart (3) roof and wall projections.

Recommendation 7.5: Deleted and incorporated into 7. 8.

Recommendation 7.6: Modify Hazard Policy 1 to ensure that in shoreline areas subject to erosion, subdivisions and lot splits shall not be permitted unless they are within (1) an urban infill area and (2) a region covered by an Areawide Shoreline Management Plan that has been certified into the LCP.

Recommendation 7.7: Strengthen Measures to ensure no future armoring.
Modify standards in shorefront areas subject to beach or cliff erosion, inundation, wave uprush, etc., to avoid future shoreline protective devices as a result of new development. For new development on vacant shorefront lots, or for demolition and rebuilding of structures, where geologic evaluations conclude that the development can be sited and designed to avoid the need for a future shoreline protective device, require recordation of a deed restriction that ensures that no shoreline protective device(s) shall be constructed to protect the development approved and ensures waiver of any rights to construct such devices that may exist under Public Resources Code Section 30235.

Recommendation 7.8: **Adopt Areawide Shoreline Management Plans as a program in the LCP**: Pursue funding to develop and implement Area-Wide Shoreline Erosion and Bluff Retreat Management Plans for Cayucos and Cambria, and, if appropriate, for other shoreline hazard areas. The Area-wide Plans should assess specific sections of these coastline areas based on factors including, but not be limited to, geology, wave conditions, and sand budget. The management plans should include:

- A re-examination of regional average annual erosion rates in order to reflect current shoreline changes.

- Standard engineering plans defining the specific types of armoring that would be acceptable for specific areas, and where appropriate, identification of the types of armoring that should never be considered for certain areas in order to minimize risks and minimize impacts from armoring to public access and scenic resources from the shoreline and water recreation areas.

- Standard alternatives feasibility analysis worksheet that would be a required element of all hazard response projects and that would require applicants to go through a series of steps to assure that hard protective devices were only created as a last resort. The analysis may require, but not be limited to, the use of technical evaluations of the site (geotechnical reports, engineering geology reports, etc.), an examination of all other options (removal, relocation, “do nothing”, sand replenishment, etc.), and a conclusion that a shoreline protective device would be the “best option” (most protective of the public trust, best long term solution, etc.) for the subject site.

- Standard conditions and monitoring requirements that may include discussion of mechanisms to ensure shoreline protection effectiveness and public safety with

provisions for the removal of ineffective or hazardous protective structures as well as programs to address beach replenishment and sand supply.

- Procedures to address emergency armoring, such as: coordination with property owners and for field inspections before and after storm seasons; guidance for types of temporary structures preferred and a provision for removal of temporary structures if no follow up permit is filed within 30 days.

Preliminary Recommendation 7.9: Modify CZLUO 23.04.420 (g) to ensure that the easements are protected against further encroachment by requiring that the easements be mapped in detail in conjunction with recordation.

Preliminary Recommendation 7.10: Modify CZLUO 23.02.033 ((a)(8) Public Access Locations. Applications for projects between the ocean and the nearest public road shall include the locations of nearest public access points to the project and the mapped locations of any existing public access easements or recorded offers to dedicate public access easements.

Recommendation 7.11: Revise condition language for requiring access easements to provide that access is required unless verification is provided to the Department of Planning and Building that such recorded easement already exists on the property.

Recommendation 7.12: Deleted and Incorporated into 7.8

Recommendation 7.13: Policy 6 should clarify that Highway 1 must comply with setback standards similar to other existing structures. Establish setbacks based on assuring that the highway will be safe from erosion without need for armoring for 100 years. Policy 4 should be expanded to clarify that consideration of alternatives should include possible relocation of the structure to be protected, including Highway 1.

Recommendation 7.14: Amend the NCAP to consider alternatives for the Realignment of Highway One to avoid further placement of shoreline protection while protecting the public access and scenic and visual resources of Highway 1.

Recommendation 7.15: Modify CZLUO section 23.04.118 to update required contents of geologic evaluation reports within the GSA combining designation.

Recommendation 7.16: Delete and incorporate into 7.8

Recommendation 7.17: Modify LCP to update seismic mapping and identification and extend GSA CD to new faults identified and traces of faults in order to require complete geologic investigation pending new development. New development should be restricted in the Special Studies Zones resulting from updated mapping.

Recommendation 7.18: Expand FH Designation to Arroyo del Puerto, Oak Knoll, Little Pico, Villa Creek and Ellysly Creek.

Recommendation 7.19: For areas subject to FH combining designation in Cambria, no new development except public services shall be approved until the County has approved the recommendations of the flood analysis and management plan for the West Village that is currently being developed.

Recommendation 7.20: Modify the Coastal Policies or the CZLUO to provide standards that require:

1) that any fire clearance area is shown on the site plan for new development proposals as part of the application content;
2) that any proposed new development of structures adjacent to public parklands or lands designated as Open Space be sited and designed such that any required fuel modification for the proposed development is confined to the private property in order to avoid impacts to habitat and recreational resources on public lands;
3) where structures cannot feasibly be sited to avoid fuel modification on adjacent public lands, that alternative mitigation is provided which can include measures such as off-site restoration or provision of in-lieu fees for restoration;
4) that where feasible, proposed structures are sited so that a natural vegetation buffer of sufficient size is maintained between the necessary fuel modification areas and the public parkland. Development, vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation should not be permitted in the buffer areas, except that habitat restoration and invasive plant eradication may be permitted if designed to protect and enhance habitat values.
5) These standards should not apply to ongoing fire suppression and management activities conducted on public parklands necessary to minimize fire hazards to adjacent property.

<u>Scenic and Visual Resources</u>

Recommendation 8.1: Enact a Critical Viewshed Protection Policy for the North Coast Area that applies to any new development within "critical viewsheds" to be designated north of Cayucos (except any location within the Urban Reserve Lines at Cambria or San Simeon Acres, or in San Simeon Village, or the existing community of Harmony) and for the Estero Area that applies to portions of the Morro corridor. The following actions should taken to develop this policy:

Designate "critical viewsheds" in these areas by taking into account all public vantage points from:

- State Highway Route One,
- public beaches, shoreline recreation areas and offshore state coastal waters,
- bluff overlooks, turnouts, and designated future public use areas (particularly, between the first public road and the sea outside of the designated Urban Services Lines).

Develop standards for new development within designated Critical Viewsheds that provide:

- no new development will be allowed that can be seen or that could potentially degrade public views (e.g., construction and grading that can been seen by normal, unaided vision from any public vantage points*)*
- mechanisms to resolve private property takings concerns where it is not feasible to comply with the critical viewshed protection policy and standards (alternatives include incorporating review procedures within the LCP as outlined in Recommendation 4.10 of this report as well as development of a Transfer of Development Rights program.
- all new parcels must contain building sites outside the critical viewshed (i.e., at least one location per parcel that will accommodate a reasonable residential development that will be entirely hidden from public view). Residential development includes any grading needed to provide a driveway or other improvement.

- underground utility placement, restoration, public access improvements and intensification, demolitions, resubdivisions, and temporary events can be allowed within the Critical Viewshed;

- Provide strict design, density and mitigation standards that allow improvements and enhancements of recreational support facilities within existing, isolated commercial visitor serving nodes (Harmony, San Simeon, Piedras Blancas, Ragged Point).

Additional standards should be considered to guide review of development in Critical Viewsheds. For example:

- Provide for project specific visual analysis with story poles or comparable demonstration techniques, including consideration of views from state waters.
- Avoid viewshed impacts through application of sensitive design measures and siting that uses existing topography. Allow landscape screening with planting, earthen berms or other measures only where no building site can be concealed from view and where such measures would be in keeping with the character of the surrounding area and also be consistent with all other resource and protection policies.
- Provide guidelines for preferential use of non-reflective, earth tone building materials for mitigating public view impacts;
- Provide that all exterior lighting (except traffic signals, navigational aids and similar safety devices with no reasonable alternative) shall be concealed or shielded so that no light source is directly visible from public viewing areas, and that no artificial lighting of the shoreline or sea results.
- Require utility extensions to be installed underground or otherwise concealed from public view (e.g., suspended under bridges); pursue all opportunities to remediate existing visually intrusive utility lines (e.g., undergrounding, conversion to shared poles, etc.).
- Where fencing is required, standard range fencing that does not impair public views, nor the passage of light, air, or common native wildlife is preferred. Fencing that interferes with public views should be avoided.
- Address maintenance of landscaping where landscaping could either block important public views or is specifically required to mitigate impacts to public views by screening development.

- Provide exceptions for development that requires a location in the viewshed in order to properly function and no other location is feasible for such things as necessary public facilities (including public access improvements), agricultural improvements needed to support grazing operations and crop production, and necessary resource protection and restoration projects.

In developing the Critical Viewshed Policy and standards, approaches of the Coast Highway Management Plan being developed for the Big Sur Coast in Monterey County under the National Scenic Byways program may provide possible guidance.

Recommendation 8.2: Create a Scenic SRA Combining Designation

All highly scenic areas in the Coastal Zone should be mapped and designated as Sensitive Coastal Resource Areas. Creation of a coastal visual SRA could incorporate and expand upon inland standards that require assessing visibility of the project, requiring a site visit as part of the application process and other standards on ridgetop development, slopes, rock outcroppings, building feature and landscaping.

Preliminary Recommendation 8.3: Strengthen Enforcement Program and Condition Compliance Monitoring

Develop a project tracking system to facilitate monitoring and enforcement of mitigation measures, and coordination with other affected departments, as funding allows.

Preliminary Recommendation 8.4: Create a Funding Mechanism For An Open Space District

The County should consider creating a permanent source of funding for open space acquisitions. A 1/2 cent sales tax, bond initiative or creation of a countywide or coastal zone open space district could provide millions of dollars annually for the purchase of property and retirement of development rights. The County should also strategically pursue grants and other outside funding supplies to augment such a funding mechanism.

Recommendation 8.5: Pursue National Scenic Byway Designation for Highway One in the Estero and North Coast Planning Areas. Consider including Highway One north of Cayucos and the scenic Morro corridor (already designated by the County as a State Scenic Highway) for inclusion in the National Scenic Byways program. This will allow implementation funding to be sought under the Federal Highway Administration's scenic byway program.

Preliminary Recommendation 8.6: Strengthen Public Viewshed Protection Policy Language

The LCP should be amended to clarify that scenic viewsheds need to be protected from all public viewing areas, including state coastal waters. This could be accomplished through additional language in existing LCP visual policies and ordinances. For example, Policy 2 could be amended as follows:

> Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to

emphasize locations not visible from all major public-viewing areas, including state waters. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion.

To effectively resolve takings concerns where it is not feasible to comply with the scenic resource protection policies and standards, incorporate additional standards and review procedures within the LCP (as outlined in Recommendation 4.10 of this report) that will maximize protection of coastal resources and conform to Coastal Act Section 30010. Alternatives such as Transfer of Development Rights should also be considered.

Ordinance 23.04.021 (c)(6) could be modified as follows:

New land divisions where the only feasible building site would be on a slope or ridgetop where a building would be silhouetted against the skyline as viewed from any public viewing area, including state lands shall be prohibited.

Recommendation 8.7: Deleted.

Recommendation 8.8: Complete Specific Plans, Rather Than Design Plans to further define and describe area plan standards.

Recommendation 8.9: Monitor and Evaluate Current TDC Program to assess the effect of the current TDC program implementation on community character and its overall performance in reducing buildout and preserving forest resources.

Recommendation 8.10: Support Continued Undergrounding of Overhead Utilities
The County Undergrounding Committee should continue to receive strong support for their work, and the Coastal Commission should work with the PUC to ensure that this important program is retained. The committee should consider including the overhead utilities across and along Highway One through the Hearst Ranch on the next priority list submitted to the Board of Supervisors.

Recommendation 8.11: Evaluate implementation techniques to protect the community character of Harmony including designation as a Special Community of Historic Importance or by applying the Historic Combining Designation.

Archaeological Resources

Recommendation 9.1: Update Archeological Resources Overlay Maps

Updating the LUE maps to reflect a more accurate location of archaeologically sensitive areas will assist with site identification. The proposed Estero Area Plan Update from February, 1999 offers a possible option to update maps:

Protection of Resources Not Within the AS Combining Designation. *All land use permit applications that propose development within 100 feet of the bank of a coastal stream (as defined in the Coastal Zone Land Use Ordinance), or within 300 feet of such stream where the slope of the site is less than 10 percent, shall*

be subject to the standards for the Archaeologically Sensitive (AS) combining designation in the Coastal Zone Land Use Ordinance and in this plan.

Recommendation 9.2: Evaluate Requirement for Geoarchaeology Surveys.
Through Area Plan Updates, conduct an assessment of potentially buried archaeological resources and identify requirements for undertaking more specific Geoarchaeology Surveys.

Recommendation 9.3: Evaluate Use of Conservation Easements.
Disturbance to archaeological data could also be avoided on larger sites by requiring a conservation easement over the area containing archaeological resources. Avoiding impacts through such easements where feasible may be more protective of the resources than reliance on data recovery. The LCP should be modified to consider such conservation easements instead of data recovery on larger sites, where possible.

Recommendation 9.4: Evaluate Permit Exemptions.

The County should consider including standards in permit requirements (CZLUO23.03.040) that development that requires a coastal development permit should not be exempt from permit requirements if archaeological resources may be impacted. Rural lands may contain archaeological resources and exempt development may be destructive to these resources.

Energy and Industrial Development

Recommendation 10.1 Update LCP to Address Onshore Fiber Optic Cable Projects
In updating its LCP Area Plans, Land Use designations and/or siting criteria standards should be revised to encourage consolidated cable corridors. Evaluate potential reuse of abandoned oil/gas facilities pipelines for possible alternative use for communication cables. Additional mitigation measures should be developed to address potential impacts from drilling such as requirements for Drilling Fluid Monitoring Plans. Monitoring requirements should be included that provide for qualified monitors onsite with ability to stop drilling should fractures occur which could releases bentonite. The CZLUO should be revised to include more specific mitigation for access/recreation impacts, avoidance or minimization of sensitive resources during construction, as well as mitigation measures such as erosion control, revegetation, and other measures necessary to protect scenic resources and habitat values.

Recommendation 10.2. Update Energy Policies of LCP Area Plans. As part of the-update of LCP Area Plans, the County should update information on current energy demand and ensure that existing policies and standards provide adequate guidance for mitigating the impacts of any potential energy facilities consistent with other LCP and Coastal Act policies.

Recommendation 10.3 Update LCP to Address Abandonment of Energy Facilities
As part of the Area Plan Updates the County should update and revise standards and requirements governing abandonment and clean up of sites in the EX Combining Designation. Updating of standards could include revised requirements that operators submit an Abandonment and Restoration Plan within 60 days of permanently ceasing operations and require bonding or

other financial securities to ensure that abandonment and clean up procedures are carried out in an appropriate and timely manner.

Commercial Fishing and Recreational Boating

Recommendation 11.1: Develop a Program to Educate Boaters on the Sensitive Habitat Values of Morro Bay and Other Aquatic Habitats.

Recommendation 11.2: Coordinate the Review of the Proposed Boat Launch Ramp in Baywood Park with Commission Staff, the Department of Fish and Game, and other involved regulatory Agencies and Interested Individuals

As the design and environmental analysis of the proposed boat launch ramp progresses, continued coordination with Commission staff, as well as with biological experts and other regulatory agencies and interested parties, should be pursued.

Recommendation 11.3: Update the Port San Luis Master Plan and Associated Sections of the San Luis Bay Area Plan

Recognizing that circumstances regarding the operation, maintenance, and financing of Port San Luis Harbor facilities have changed since the relevant sections of the LCP were certified, a comprehensive update of the Port San Luis Master Plan and associated LCP provisions is in order. Given the wide range of coastal resource issues raised by future development of uplands owned by the Port San Luis Harbor District, this update should be closely coordinated with Commission and County staff.

The San Luis Bay Area Plan and the Port San Luis Master Plan shall be updated to include a standard to ensure adequate capacity on Avila Beach Road for priority uses under the Coastal Act and LCP. As well, a program should be developed to encourage analysis of the effects of development in Avila Valley on capacity of Avila Beach Road inside the coastal zone. The program should encourage revisions as needed to the General Plan standards for the amount and intensity of development to ensure that adequate road capacity to serve priority uses within the coastal zone will be provided.

Procedures

Recommendation 12.1: Update LCP and Post-Certification Maps

- The County and the Commission staff should coordinate a review of LCP Maps for accurate delineations of coastal zone boundary and sensitive resource areas and update as necessary.
- The Coastal Commission staff, in coordination with the County, should update the Post-Certification maps to accurately reflect permit and appeal jurisdictions. Once updated, the Commission should provide electronic versions of these maps for use in updating LCP maps.
- Recognize that the appealability of development based on geographic criteria (e.g., the presence of an SRA, a location between the first public road and the sea) should be determined according to what is on the ground as opposed to what is shown on the LCP and Post-Certification Maps.

An exception to this is that roads constructed without the proper permits should not be considered as the first public road.

Recommendation 12.2: Increase Coordination for Projects that Cross Jurisdictional Boundaries

- Coordinate permit jurisdiction determinations when projects may involve development within the Commission's original jurisdiction.
- Develop a coordinated permit review procedure for development that straddles permit jurisdictions to avoid, where feasible, the need for separate coastal development permits from the County and the Commission.

Recommendation 12.3: Resolve Areas of Deferred Certification

Update the LCP to eliminate Areas of Deferred Certification (e.g., Sweet Springs Marsh and the Otto property) and establish local permit jurisdiction over future development in such areas.

Recommendation 12.4: Revise LCP Permit Exemptions

LCP permit exemptions (Section 23.03.040 of the CZLUO) should be revised so they conform to Coastal Act Section 30610 and associated sections of the California Code of Regulations.

Recommendation 12.5: Update LCP Provisions Regarding Temporary Events

LCP provisions regarding temporary events, should be updated consistent with the Commission's guidelines, and as recently incorporated into the San Luis Bay Area Plan, so they apply countywide.

Recommendation 12.6: Identify and Review Categorical Exclusions

Clarify where Categorical Exclusions may have been previously approved and how they are being implemented. The Commission staff, in coordination with the County, should evaluate whether these exclusions may be impacting coastal resources and therefore may warrant recision.

Recommendation 12.7: Improve Noticing and Processing Procedures

The Commission staff should coordinate with the County to resolve noticing and processing issues related to CDPs, CDP amendments and extensions, grading permits, emergency permits, and appeals. In some cases, changes to the LCP may be needed to bring LCP noticing and processing requirements in conformance with the Coastal Act and the California Code of Regulations. The Commission too should improve its noticing procedures. In particular, Commission staff should provide the following notice to the County:

- The date on which Notices of Final Action are received. This will inform the County of the Coastal Commission appeal period for those projects that are appealable, and the effective date of the local permit for unappealable development;
- Whether any appeals have been received at the conclusion of the Coastal Commission appeal period. If no appeals have been filed, this notice will confirm the County's ability to release local building permits. If an appeal has been filed, this notice will allow the County to send the Commission a copy of the local file in a more timely manner.

Recommendation 12.8: Clarify Allowable and Principally Permitted Uses

- Revise Table O to identify that allowable uses are further limited by Combining Designations (e.g., resource dependent development is the only principally permitted use in ESHA).
- Update Table O to differentiate the principally permitted land use within each land use designation from conditionally permitted uses. All uses currently subject to special standards and criteria should be identified as a conditional use (i.e., all uses currently listed as "S-#-P").
- Table O should also list Land Divisions, Certificates of Compliance, and Lot Line Adjustments as conditionally permitted development within the particular land use designation ~~that~~ where they may be allowed.

Recommendation 12.9: Update Permit Application Requirements

Review permit application requirements and current methods for implementing these requirements to ensure that all information necessary to evaluate project consistency with LCP standards is being obtained at the application stage rather than as a condition of approval.

Recommendation 12.10: Provide Legal Documents for Executive Director Review and Approval

Enhance coordination regarding the format and content of legal documents related to open space and public access easements and consider changes to permit procedures that would facilitate such coordination.

Recommendation 12.11: Clarify Appealability of Projects Involving Conditional Uses

Section 23.01.043c4 should identify that if any component of a proposed development constitutes a conditional use, the entire project shall be appealable to the Coastal Commission.

Recommendation 12.12: Improve Methods for Ensuring Compliance with Permit Conditions

Among other means available to achieve effective compliance with permit conditions, the County could develop a tracking system that would be available to all relevant County departments and Commission staff.

Recommendation 12.13: Increase Coordination of Enforcement Actions

Coordinate responses to violations with Commission staff and other involved regulatory agencies.

Recommendation 12.14: Improve Coordination Regarding Emergency Actions

When time allows, consult with the Commission regarding alleged emergencies. This is critically important when a proposed emergency action may result in development on lands that are within the permit jurisdiction of the Coastal Commission.

To facilitate improved coordination and emergency permit processing, the County should prepare an Emergency Permit Procedure Manual. In addition, the County should initiate a process to identify areas that are susceptible to emergency situations (e.g., the flood plain along Arroyo Grande Creek), and to prepare Emergency Prevention Implementation Plans for these areas focusing on methods for avoiding emergencies.

Recommendation 12.15: Expand Standards for Approval of Variances

Incorporate additional standards regarding the use of variances into the LCP. For instance, where a variance is needed to prevent the strict application of ESHA protection standards from resulting in a taking, approval of the variance should be accompanied by information and analyses needed to establish that the variance is warranted under Coastal Act Section 30010.

Recommendation 12.16: Clarify LCP Provisions Regarding Nonconforming Uses

Clarify LCP provisions regarding nonconforming uses and structures, and consider incorporating new standards for the development/adjustment/certification of non-conforming parcels as addressed in Chapter 5 of this report. With respect to the adjustment of non-conforming parcels, Section 21.02.030(c) of the County's Real Property Division Ordinance should be revised to require lot line adjustments to conform to all elements of the LCP (not just the zoning and building ordinances). These new standards should be crafted in a way that conforms to all applicable local, state, and federal laws.

Recommendation 12.17: Provide Additional Opportunities to Efficiently Resolve Appeals

- Incorporate new procedures into the LCP that would provide additional opportunities to resolve appeals at the local level and use existing LCP provisions that allows the County to modify its approval of a project in order to resolve an appeal filed by two Commissioners.
- Improve procedures for providing Commission staff with all information relevant to appealed projects. The information transmitted must include all documents and materials used by the local government in its consideration of the coastal development permit application. Where the County has a question regarding the need or relevance of particular documents or materials, such questions shall be referred to the Commission staff.
- Provide Commission staff with copies of County staff reports prior to the local hearing.

Recommendation 12.18: Institute Appeal Provisions for Variances

Amend the LCP to identify that any development approved by variance is a conditionally permitted use appealable to the Coastal Commission. An appropriate location for this change would be within Section 23.01.045 of the CZLUO.

Recommendation 12.19: Improve Coordination with Grant Programs

Commission and County staff should work with local state and federal grant sources, as well as the recipient of grants, in a way that will facilitate the coastal resource protection and planning improvements called for by this report.

Recommendation 12.20: Seek Additional Funding and Staffing Resources

Both the Coastal Commission and the County should attempt to secure the funding necessary to further develop and implement the recommendations of the Periodic Review. In particular, the Commission should continue to offer LCP Grants that will facilitate the County's ability to commit staff resources to this effort, and the County should take full advantage of these and other grant opportunities. In addition, the Commission should seek funding to staff the Central Coast District Office at a level that will enhance its ability to assist and coordinate with San Luis Obispo County.

Recommendation 12.21: Develop an LCP "Quick Reference Guide"

Compile the portions of the LCP that contain the policies, ordinances and standards applicable to new coastal development in a single document that would provide applicants and administrators with a quick reference guide to applicable regulatory standards.

C. RECOMMENDED FINDINGS

1. MAPS. The Preliminary Report included several maps illustrating findings of the report (Exhibit B). Public comments from the Cambria Community Services District noted that there were inaccuracies on Map 2-B showing the boundaries of East-West Ranch and depicting the proposed school site on East-West Ranch as a subdivision. In fact, Map 2-B did not depict any boundaries for East-West Ranch; however, on the revised version included in Exhibit B of this report a boundary has been added. Also, the proposed school site is no longer depicted as an approved subdivision.

2. NEW DEVELOPMENT AND PUBLIC SERVICES

New Development

Coastal Act section 30250(a) requires that new development be concentrated in and around existing developed areas that have sufficient public services to support such development. Where such areas are not available, development must be located where adequate public services exist, and where the development will not have significant adverse effects, either individually or cumulatively, on coastal resources. The Preliminary Report evaluated three major LCP implementation issues related to this policy: (1) maintaining stable urban-rural boundaries; (2) preventing cumulative impacts to rural lands; and (3) assuring environmentally-sustainable urban development.

A. Concentration of Urban Development: Stable Urban-Rural Boundaries
(Recommendations 2.1 – 2.6)

1. Summary of *Preliminary Periodic Review* Findings (Exhibit A, pp.17-28)

In terms of the physical location of new development, the *Preliminary Report* concluded that San Luis Obispo County LCP has, in a general sense, met the Coastal Act objective of concentrating development. Over 90% of new single family homes approved in the San Luis Obispo coastal zone between 1988 and 1998 have been located in or around the urban core areas of Cambria, Los Osos, Cayucos, and Oceano. Likewise, 88% of the reported CDPs for commercial development were located in these communities and the town of Avila Beach. To the extent that a significant amount of new development has been located within urbanized areas, the distinction between urban and rural areas of the coastal zone has been maintained, consistent with Coastal Act section 30250.

The *Preliminary Report*, though, also evaluated development patterns on the urban edges of Cambria and Los Osos that did not strictly meet the Coastal Act and LCP requirements to concentrate development. In particular, numerous subdivisions and other residential projects <u>outside</u> of the USL were either approved or considered by the County. In some cases these approvals did not observe the existing LCP requirement to not allow development beyond the USL absent findings of sufficient infrastructure for development within the USL. In other

cases, urban services were provided beyond the USL, contrary to the LCP requirement to concentrate development and prioritize urban infill.

Despite these implementation problems, the *Preliminary Report* also acknowledges that the potential for urban sprawl in the Cambria area is now much diminished, due to surrounding public lands, the public purchase of the East/West Ranch, and a recently acquired conservation easement north of Cambria. Still, pressures for urban edge residential development will continue, particularly in Los Osos, and other types of development, such as the proposed new school facility outside of the USL of Cambria, will continue to raise challenges with respect to the Coastal Act and LCP requirements to concentrate urban development. Overall, the report concludes that the LCP has not been carried out in full conformance with Coastal Act section 30250 (Findings incorporated herein by reference; see Exhibit A).

To address the identified implementation issues, the *Preliminary Report* discussed six recommendations addressing the need for: (1) improved analysis and findings of urban service line issues; (2) better coordination between the Commission and the County on projects outside of the urban services line; (3) clarification of LCP legal authority with respect to development outside of the USL and the role of Service Districts; (4) reduction of development potential on the urban edges of Cambria and Los Osos; (5) policies and programs to support Greenbelt formation and maintenance; and (6) encouraging redevelopment options inside the USL (see Preliminary Recommendations 2.1 – 2.6 on pp. 27-28 of Exhibit A).

2. Comments Raised

SLO County Response (Exhibit C)
The County is in general agreement with Preliminary Recommendations 2.1-2.6, with the understanding that (1) additional analysis will be needed to appropriately specify LCP amendments concerning the implementation of the Urban Service Line requirements of the LCP; and (2) the area plan updates provide an appropriate process to evaluate possible LCP amendments that would reduce development potential on the urban edges of Cambria and Los Osos.

Public Comments (see Exhibit D)
Public comments on the issue of concentrating urban development were generally supportive of the preliminary recommendations, but included such concerns as: that Cambria growth and private property should not be further restricted; that the recommendations were overly broad and vague; that the development potential of land should be determined on a parcel-by-parcel basis; that changes in the USLs of both Cambria and Cayucos should be allowed to support needed school facilities; that the USL should be expanded to include certain parcels on the southwest edge of Los Osos; and alternatively that the USL in Los Osos should be further constricted and that development should be clustered, to support habitat protection, buildout reduction, and preservation of limited groundwater.

Specific Clarifications/Errata (to be incorporated into Final Report)

Comments from the Walter H. Leimert Co. raise questions about the discussion of the Leimert Tract 1804 subdivision (3-SLO-97-130) on pages 22-24 of the Preliminary Recommendations (see Exhibit D pp. D-424). These comments correctly observe that Commission staff commented on the proposed project density in a June 17, 1992 letter stating that "[t]he proposed density [minimum 1 unit per 20 acres] appears to be consistent with the County's LCP and CZLUO." The Leimert comments also correctly observe that Cambria Pines Road was approved as part of a previous subdivision – Tract 543 – approved without conditions by the Coastal Commission in CDP 4-85-297. In response to the Leimert comments concerning the provision of urban water services to Tract 1804, the *Preliminary Report* observed that while the approval of this subdivision "appear[ed]" to conflict with the LCP policies prohibiting extension of urban services, it raised more complicated issues concerning the appropriate interpretation of existing LCP policies in situations where prior agreements for water service between property owners and a CSD might exist, leading to recommendations to clarify the LCP standards for such situations. Finally, concerning the clustering of new development, it may be the case that the County and others considered the design of Tract 1804 to be a "cluster" subdivision. The *Preliminary Report* intended to observe that the design of Tract 1804 was not clustered in such a way as to minimize coastal resource impacts (e.g. by reducing the minimum lot size to 1 acre, pursuant to CZLUO 23.04.36, and clustering building sites immediately adjacent to existing development in the Cambria urban area).

3. Analysis

Based on further review, discussions with County staff, and analysis of the public comments received on the *Preliminary Report*, minor changes to preliminary recommendations 2.1-2.6 are proposed as follows:

Recommendation 2.1.
The prospect for required coastal development permit findings for service extensions beyond the USL will be improved by adding, to Public Works Policy 1, a reference to existing LCP ordinances 23.04.430-432 as the appropriate implementing ordinances for Policy 1. These certified ordinances prohibit development that would require the extension of urban services across the USL and, in communities with limited water and service capacities, do not allow development with urban services outside the USL unless there are sufficient services for all existing development and vacant lots eligible for development within the USL. As suggested by the County, additional LCP ordinance amendments should be developed to clarify the necessary studies and permit findings to support the extension of urban services across the USL. Changes to Preliminary Recommendation 2.1 are as follows:

> ~~**Preliminary**~~ **Recommendation 2.1: Improve Required Coastal Development Permit Findings for Service Extensions Beyond USL**. Development proposals that require the extension of urban services across the USL should not be approved unless the required findings of ~~established by~~ Public Works Policy 1 and corresponding ordinances can be made. Amend Policy 1 by adding reference to CZLUO 23.04.430-432 as appropriate implementing

ordinances. Add new implementing ordinance(s) to clarify required information and findings to support Public Works Policy 1. ~~While the existing certified LCP provides a strong framework for evaluating new development proposals, County implementation over the last decade suggests that greater emphasis on the requirements of these policies and ordinances is needed in the staff analysis and legal findings of individual coastal development permits.~~

Recommendation 2.2

The County agrees with the recommendation to improve County/Commission coordination on development proposals outside of the USL. County and Commission staff will need to work together to identify opportunities for new coordination mechanisms or improved coordination in existing processes. Increased staff resources for the County and the Commission certainly would be an important component of providing for improved coordination. The only change to Preliminary Recommendation 2.2 is to delete unnecessary text:

> ~~**Preliminary**~~ **Recommendation 2.2: Improve County/Commission Coordination.** The County and the Commission should take full advantage of coordinated reviews of development proposals outside of the USL, particularly those that may create new urban development potential. ~~Although Commission and County staff resources are limited, experience has shown that enhanced coordination increases the likelihood that the LCP requirements will be reinforced and applied in difficult cases~~.

Recommendation 2.3

This recommendation is intended to address situations like the Leimert subdivision development, and other cases in Los Osos, where the location of the certified USL did not coincide with the boundaries of various service providers, which then led to conflicts between approved developments and the LCP's prohibition against providing urban services outside the USL. Based on discussion with the County and the public concerning the preliminary recommendation, it is clear that amendments to the LCP, including amendments to the various Area Plans, clarifying where and under what circumstances the provision of urban services might be appropriate, would improve implementation consistency with Coastal Act 30250. The content of these amendments, though, should be based on more specific assessment of existing service district boundaries, the location of existing services (e.g. mapping of trunk-lines), evaluation of other development location and intensity issues (e.g. habitat protection), etc. In addition, both the North Coast Area Plan Project Description and the draft Estero Area Update include proposed standards that would allow the extension of services to new development beyond the USL in special circumstances.[1] The proposed standards may not be appropriate in light the 30250 requirement to concentrate urban development and they will need further evaluation through the Area Plan updates. Also, the County has commented that amendments to the LCP's *Framework for Planning*, which provides general discussion of how the LCP works, may be needed to clarify the function of the USL. In addition to deleting unnecessary text, Preliminary Recommendation 2.3 is therefore amended as follows:

[1] Currently, the LCP only allows such extension between the USL and the URL, and then only to existing parcels adjacent to the USL, for development of a single family home that would not require a trunk line extension (i.e. lateral connections only). See CZLUO 23.04.430(b).

~~**Preliminary**~~ **Recommendation 2.3: Clarify LCP Authority with respect to New Urban Development proposed outside USL.** ~~Conflicting development incentives may be created by non-coterminous certified USLs of the LCP and the boundaries of service providers. LCP amendments should be considered that clarify the controlling authority of the LCP with respect to whether new urban development is appropriate outside of the USL in urban areas. The current NCAP project description includes a standard that would allow provision of urban services beyond the USL in certain limited circumstances, similar to a proposed standard recommended by the Commission in its 1998 review of the NCAP. The implications of this standard in relation to USL/URL should be evaluated~~. Amend LCP (Framework, Policies, Ordinances, Area Plans) as necessary to clarify where and under what circumstances the provision of urban services to new development outside of the USL is appropriate.

Recommendation 2.4

This recommendation complements Recommendation 2.3 and focuses more specifically on the need to reduce development on the urban edges of Cambria and Los Osos. The County does not disagree with this recommendation and has commented that potential amendments to reduce development potential should be evaluated through the Area Plan update process. As noted above, public comment has focused on including specific parcels in Los Osos within the USL; on further limiting general development potential in Los Osos, and on the need to provide for needed school sites through the planning process. The Area Plan Update process is an appropriate mechanism for evaluating and implementing specific changes in the USL. In addition, the County likely will be submitting an LCP amendment to the Commission to adjust the USL in Cambria to accommodate a proposed school, which will require further review, particularly a thorough alternative site analysis, for consistency with the Coastal Act policies to maintain urban-rural boundaries and protect agricultural lands. As suggested in the Public Comments, the Area Plan updates should specifically evaluate the need for future schools or other public facilities and provide for these in the Area Plan. Thus, additional school site planning may be needed for both Cambria and Cayucos. The Estero Update also proposes numerous changes to the USL which will need specific evaluation, particularly in light of on-going evaluation and development of the Habitat Conservation Plan for Los Osos (see below). Finally, as discussed in the *Preliminary Report*, land use designations outside of the USL should be reevaluated for consistency with the Section 30250 requirement that subdivisions not be allowed if 50% of the usable parcels in the area have not been developed. At one time this policy was directly incorporated in Public Works Policy 1 and perhaps should be revisited as an appropriate policy to maintain urban-rural boundaries and concentrate development. Preliminary Recommendation 2.4 is amended slightly, including deletion of unnecessary text:

~~**Preliminary**~~ **Recommendation 2.4: Reduce Development Potential on Urban Edges.** Evaluate potential for reduction of development intensities on the perimeter of urban areas, including adjusting land use designations, allowable densities, ~~and~~ relocating the USL/URL where appropriate, and evaluating consistency of such with Coastal Act section 30250. ~~The County has already proposed some adjustments that would be beneficial in this regard, such as the tightening of the USL on southern edge of Cambria. Other proposals would be logical in light of current events. (For example, removing from the USL the recently acquired Morro Palisades property in Los Osos being set aside for conservation purposes and other areas on~~

~~the urban fringe designated for residential development but highly constrained by significant habitat values; also, adjusting the USL to reflect the community's greenbelt goals.~~

Recommendation 2.5

The County agrees with this recommendation, and has suggested that mitigation banking be considered as an implementation mechanism to protect habitat. Commission staff are currently working with the Los Osos CSD, the County, U.S. Fish and Wildlife, the Department of Fish and Game, the Greenbelt Alliance, and others to develop a multi-species HCP that includes planning and implementation mechanisms for incorporation into the LCP. Preliminary Recommendation 2.5 is amended to incorporate the County's suggestions.

> ~~**Preliminary**~~ **Recommendation 2.5: Consider Policies and Programs to Support Greenbelt Formation and Maintenance.** Consider incorporation of programs and policies to establish or support greenbelt and open space areas on the urban fringe of developed areas (e.g. Los Osos). Build on and integrate with open space and habitat protection proposals already put forth by the County in the Estero Update**.** Mitigation banking should be further evaluated as a potential implementation mechanism .

Recommendation 2.6

The County agrees with this recommendation with the understanding that the Commission was not recommending that a Redevelopment Agency be established but rather, that policies, programs, changes in land use designation and zonings, and implementing mechanisms be considered that would encourage redevelopment in the urban core rather than development outside the USL. Other strategies to promote concentration of development in urban areas might include transportation management, evaluating the jobs-housing balance, etc. More detailed evaluation of possible mechanisms will be necessary, particularly in light of on-going HCP planning in Los Osos. Changes to Preliminary Recommendation 2.6 clarify the intent of the recommendation.

> ~~**Preliminary**~~ **Recommendation 2.6:** ~~**Encourage Redevelopment Options in Urban Areas.** Greater attention should be placed on redevelopment options inside the USL prior to concentrating any proposals for urban levels of development outside the USL.~~ **Encourage Concentration of Development in Urban Areas.** Amend the LCP to provide incentives for development, including broad redevelopment strategies, within the USL. For example, the County should consider developing planning and regulatory mechanisms to transfer development potential from outside the USL to inside the USL,

4. Conclusion

The *Preliminary Report* presented evidence and analysis showing that the San Luis Obispo County LCP has not been effectively implemented in conformance with the Coastal Act section 30250 requirement to concentrate urban development by maintaining stable urban-rural boundaries (see Exhibit A, Findings incorporated herein by reference). After further evaluation and consideration of public comments, pursuant to Coastal Act section 30519.5, the Commission adopts Final Recommendations 2.1- 2.6 as appropriate corrective actions for submission to the County.

B. Concentration of Development: Preventing Cumulative Impacts to Rural Lands *(Recommendations 2.7 – 2.11)*

1. Summary of *Preliminary Periodic Review* Findings (Exhibit A, pp. 29-39)

In addition to evaluating urban-rural boundary issues, the *Preliminary Report* evaluated cumulative development patterns in the non-urban areas of the County, LCP implementation since 1988, and the existing policies, ordinances, and land use designations of the LCP, in order to assess conformance with the Coastal Act 30250 policies that require concentration of development in existing developed areas and that assure that development will not have significant adverse effects, either individually or cumulatively, on coastal resources. The report observed that while coastal development in rural areas accounted for only about 10% of the total development approved since LCP certification, that this development was nonetheless significant in raising concerns about protection of coastal resources in rural areas, such as scenic landscapes, sensitive habitats, and agricultural lands. In particular, approximately 260 permits for coastal development in rural areas were approved since certification, including 54 residential projects, a variety of commercial developments, visitor-serving development, and lot-line adjustments or subdivisions.

More detailed analysis in the *Preliminary Report* focused on the issue of concentration of development in the North Coast Planning Area, and cumulative impacts in rural areas generally. The report discussed the increasing significance of the relatively undeveloped North Coast coastal environment, particularly the need to continue to focus on planning for and concentrating new development only in appropriate existing development nodes. Acknowledging newly identified sensitive species, improved knowledge about limited resources such as riparian habitat and groundwater supplies, and growing public appreciation of the relatively undeveloped scenic landscapes of the North Coast, the report highlighted the County's current Project Description alternative for the North Coast Area Plan update that would rezone Hearst Ranch lands currently zoned for recreation, back to Agriculture, and establish a specific plan and environmental review process to better evaluate appropriate types, locations, and intensities on non-agricultural development on the Hearst Ranch. The report also touched on continuing pressures on coastal resources exerted by visitor-serving activities associated with Hearst Castle, other State parks, and coastal recreation generally. This included concern for the traffic capacity of Highway One which, under Coastal Act section 30254, must remain a two-lane rural highway.

The *Preliminary Report* also analyzed cumulative development patterns along the Harmony Coast of the North Coast planning area. The report discussed an emerging trend of development of non-agricultural estates that, over the long run, may drive out agricultural and farm activities in rural coastal areas, contrary to the Coastal Act policy to protect agriculture. Because of their generally larger scale and character, these developments also present distinct challenges with respect to potential impacts to scenic views, sensitive habitats, and other coastal resources. This trend was also analyzed in the Agriculture chapter of the *Preliminary Report*, particularly the role that Certificates of Compliance and subsequent lot-line adjustments can play in facilitating the incremental conversion of

agricultural lands to rural residential areas that may no longer be conducive to on-going agricultural activities.

Overall, the *Preliminary Report* concludes that the LCP does not contain sufficient programs, policies, and standards to address the requirements of Coastal Act section 30250 and 30254, particularly in light of continuing development trends approved under the certified LCP (Findings incorporated herein by reference). In response, the *Preliminary Report* discussed five recommendations addressing the need for: (1) strengthened standards to address development potential on non-conforming lots; (2) evaluation of options for processing non-conforming lots in single ownerships; (3) further concentrating development at limited existing nodes; (4) requiring resource capacity studies prior to considering major development proposals; and (5) updating the LCP to address large residential developments. (see Preliminary Recommendations 2.7 – 2.11 on pp. 38-39 of Exhibit A).

2. Comments Raised

SLO County Response (Exhibit C)
Overall, the County does not disagree with Preliminary Recommendations 2.7-2.11, but has suggested various modifications to language and implementation approaches, discussed in more detail below. Particular comments include modifying Preliminary Recommendation 2.9 to consider potential visitor-serving uses at the Hearst Castle Visitor Center, and to address house size limitations to protect coastal resources through performance standards rather than specific size limits on disturbance or square footage.

Summary of Public Comment (Exhibit D)
As in 1998, when the Commission considered amendments to the North Coast Area Plan of the SLO LCP, general comments have been received from the public concerning potential visitor-serving development on the Hearst Ranch. Concerns include potential impacts to sensitive habitats and viewsheds, and whether there are sufficient resources, particularly water supply, to support new visitor-serving development. Comments also raised the issue of the agricultural easement requirement that was included in the originally certified North Coast Area Plan and subsequently removed through an LCP amendment (see below for detail). The Hearst Corporation has provided a comprehensive response to the Preliminary Report which, among things, includes a general request that the Periodic Review not recommend any changes to the zoning on the Hearst Ranch at this time, as opposed to evaluating such changes through the North Coast Area Plan update process (see Exhibit D, D-357). More specific comments from the Corporation are addressed below.

3. Analysis

Based on further review, discussions with County staff, and analysis of the public comments received on the *Preliminary Report*, changes to preliminary recommendations 2.7-2.11 are proposed as follows:

Recommendation 2.7

This recommendation overlaps with Agricultural recommendation 5.4 which provides more comprehensive and specific discussion of recommended changes to address cumulative impacts in rural and agricultural areas. The County does not disagree with this recommendation but does propose modifications that would limit the recommendation to consideration of amendments to lot-line adjustment criteria to assure conformance of lot-line adjustments with the coastal resource protection standards of the LCP. The Preliminary Recommendation is modified to delete unnecessary text and to refer to Agricultural Recommendation 5-4.

> ~~**Preliminary**~~ **Recommendation 2.7 Strengthen Standards to address development potential on Non-conforming Lots.** ~~Lot-line adjustments can increase development potential if not strictly evaluated under the standards of the LCP. Currently unbuildable lots should not be adjusted so as to become buildable. In addition, resource protection policies should be the controlling principle when adjusting nonconforming lots on agricultural lands to provide maximum disincentives for nonconforming development. As discussed, in Morro Bay Limited, parcel sizes were set at 20 acres because of the agricultural zoning, when the reality of the development proposal was to promote nonconforming residential development. A small lot residential cluster might have better maximized the agricultural values of the land as well as protected other resources such as ESHA and scenic views.~~ Amendment of current lot-line adjustments review criteria should be considered that would require adjustments to reasonably comply with all LCP Coastal Plan Policies and Ordinances within the constraints of Constitutional takings jurisprudence~~.~~ See Agriculture Final Recommendation 5.4.~~ More detailed discussion of policy options is discussed in the Agriculture chapter.~~

Recommendation 2.8

The County has agreed to consider this recommendation, including exploring legal options for maximizing the protection of Agricultural land. Some members of the public have commented that the question of lot merger is the province of the Subdivision Map Act. Further discussion with County staff also has focused on providing incentives for voluntary merger of non-conforming parcels rather than developing an ordinance pursuant to the California Subdivision Map Act that would require merger of substandard parcels in a common ownership.[2] In light of the Map Act's primary role in circumscribing local merger processes, the problem of non-conforming lots in rural areas of the coastal zone may be effectively addressed through amendments to the Subdivision Map Act, similar to the exemption provided for Napa County.[3] With

---

[2] PR 2.8 is amended to replace single ownership with "common ownership," which is a more precise term for purposes of this issue. It should be noted that there are several cases that have held that two or more contiguous, commonly owned parcels can, under certain circumstances (i.e. when the owner has treated them as a single unit for purposes of purchase, development, or financing) be treated by regulatory bodies as comprising a single parcel. See *District Intown Properties LP v. Dist. of Columbia* (D.C. Cir. 1999) 198 F.3d 874, cert. den. 121 S.Ct. 34; *Forest Properties, Inc. v. U.S.* (Fed. Cir. 1999) 177 F.3d 1360, cert. den. 120 S.Ct. 373*; K&K Construction Co. v. Dept. of Natural* Resources (Mich. 1998) 575 N.W.2d 531, cert. den. 525 U.S. 819, 1034*;* and *Ciampitti v. U.S*. (1991) 23 Cl.Ct. 310.

[3] The Subdivision Map Act currently provides, in part:

> 66451.22. (a) The Legislature hereby finds and declares that: (1) The agricultural area of Napa County has become extremely important over the last 25 years as a premier wine grape growing region of worldwide importance and should thereby be protected from parcelization.
>
> . . . .
>
> (b) Notwithstanding any other provision of law, the County of Napa may adopt ordinances to require, as a condition of the issuance of any permit or the grant of any approval necessary to develop any real property which includes in whole or in part an undeveloped substandard parcel, that the undeveloped substandard

respect to the LCP, though, the County could begin a process of assessment, to at least identify those non-conforming parcels that might qualify for merger under the SMA (see Agriculture discussion for more detail). Finally, the last part of PR 2.8 is struck, as the issue of lot-line adjustments is addressed through Agricultural Recommendation 5.4.

> ~~**Preliminary**~~ **Recommendation 2.8 Evaluate Options for Processing Non-conforming lots in Single Ownership.** The County and Commission should evaluate options available for processing non-conforming parcels in a ~~single~~ common ownership, including identification of non-conforming parcels and ~~legal~~ options for lot merger, to maximize protection of agricultural lands. As part of this effort, the County and Commission should consider policy, ordinance, and program options, including those that would provide incentives to encourage voluntary merger of non-conforming parcels. ~~Proposals to adjust or development single parcels of larger agricultural holdings should not be allowed without comprehensive evaluation of the entire agricultural holding~~.

Recommendations 2.9/2.10

These recommendations address appropriate land use designations and resource planning for the North Coast rural areas, primarily the Hearst Ranch. The County has indicated that recommendation 2.9 should be modified to consider potential visitor-serving uses at the Hearst Castle Visitor Center, and to state that zoning changes will be addressed through the North Coast Area Plan Update process. For recommendation 2.10, the County suggested requiring a detailed resource assessment not a capacity study (which is a term associated with the RMS program), prior to major developments, as well as clarifying what constitutes a "major development."

As mentioned in the overview above, the Hearst Corporation has requested that no recommendations concerning land use zoning on the Hearst Ranch be made through the Periodic Review. In addition, the Corporation has commented that "[n]o showing has been made in the Staff Report that reducing zoning for visitor-serving uses on Hearst Ranch is necessary to make the existing certified LCP consistent with the Coastal Act." Other comments include observations that the existing NCAP zoning is located consistent with Coastal Act section 30250. Overall, the Hearst Corporation recommends that this recommendation be removed and concludes:

> Locating visitor-serving uses on the Hearst Ranch is best accomplished with community and property owner participation in the NCAP update process. This is a local government decision that requires community input. *(Exhibit D, pp.* D-357*)*

The Commission has also received general public comment raising concerns about future visitor-serving development and potential impacts to coastal resources on the Hearst Ranch. This includes concern for inadequate water supply and impacts to habitats and viewsheds. In addition, some comments have raised the issue of the originally certified LCP standard that would have required an agricultural easement on the Ranch in conjunction with any approved visitor-serving development (amended out of the LCP in 1988). The Cambria CSD has

---

parcel be merged into any other parcel or parcels that are contiguous to it and were held in common ownership on or after the effective date of this act, whether or not the contiguous parcels are a part of the development application, except as otherwise provided in subdivisions (d) and (e).

specifically requested that the scale and local service and housing impacts of potential Hearst Resort development be addressed in the Periodic Review.

In addition to the public comments received on this issue, the Hearst Corporation has been involved in discussions with different organizations about various conservation options for the Ranch that would also maintain the potential for compatible visitor-serving facilities. The Corporation has also submitted an application to the County of San Luis Obispo for 274 certificates of compliance on the Ranch, and has also provided the Commission with copies of these applications. Commission staff have been in close communication with the County to facilitate a coordinated review of the materials. As of this writing, the County has not completed its review, and has expressed an interest in working with Commission staff to more closely coordinate on development applications in the coastal zone.[4] To this end, Commission staff will continue to pursue full consultation with the County on the Hearst COC application prior to any final decisions concerning issuance of any certificates of compliance. As discussed in the Preliminary Report, Certificates of Compliance are often the precursor to development proposals, or to lot-line adjustment proposals to facilitate development, that may ultimately conflict with existing land uses, particularly in agriculturally-zoned areas.

As with other recommendations in the Preliminary Report, Preliminary Recommendations 2.9 and 2.10 were developed to address the Coastal Act 30519.5 Periodic Review task of proposing corrective actions to the County that will assure that its LCP is adequate to implement the Coastal Act in light of current circumstances and knowledge about coastal resources on the Hearst Ranch. The recommendations also are consistent with, and build on the LCP modifications and policy direction adopted by the Coastal Commission in its 1998 approval with modifications of the North Coast Area Plan Update, which included a lengthy discussion of the question of agricultural resource protection on the Ranch. Finally, the recommendation reflects more recent comments of Commission staff on land use on the Hearst Ranch that refine 1998 policy direction, and that highlight the importance of scenic resource protection along the North Coast (see Exhibit A, Appendix E).

To better understand the context of Preliminary Recommendations 2.9 and 2.10, it is important to understand the history of coastal land use zoning and agricultural issues on the Hearst Ranch. In particular, as discussed in the Commission's 1998 Adopted Findings for the North Coast Update, it is important to understand the policy gap that currently exists concerning the question of an agricultural easement. This discussion is quoted in full on the following pages.

[4] Letter from Vic Holanda, County Planning Director, to Tami Grove, Central Coast Deputy Director, June 15, 2001.

1998 Adopted Commission Findings on North Coast Area Plan Update:

1. Hearst Ranch Non-Agricultural Development

Non-agricultural development on the Hearst Ranch has been a controversial issue since the early 1960s. Prior to the Coastal Act, a proposal was made to develop 20,000 homes on the Hearst Ranch that would have housed approximately 60,000 people. This proposal remained a real possibility until 1975, when the County of San Luis Obispo voted to rescind the so-called "Piedras Blancas plan".[i] *After the passage of the Coastal Act in 1976, attention turned to the designation of recreational lands in and around San Simeon Point.*

The next significant action occurred after the passage of the Coastal Act. The Land Use Plan portion of the San Luis Obispo County LCP was initially submitted for Commission review in 1982. At that time the Plan provided for the designation of five Commercial/Visitor Serving sites on the Hearst Ranch (900 hotel units, two golf courses, and a variety of commercial uses). During the Plan hearings at both the County and Coastal Commission levels, there was substantial local opposition to the level of non-agricultural development proposed on the Hearst Ranch. The Commission determined that a reduced amount of Commercial/Visitor Serving Uses could be accommodated on the ranch, but only if such non-agricultural development was adequately mitigated by an agricultural/open space easement over the remainder of the ranch lands in the coastal zone. The easement, which was included in the original certified NCAP in 1983 as a development standard for the Hearst Ranch, required the following:

> Hearst Ranch - Agricultural/Open Space Easement. Concurrent with the development of the Staging Area, the applicant shall grant an easement to the county over all land designated Agricultural on the Land Use Element maps. This easement shall remain in effect for the life of the visitor-serving developments approved on the ranch unless modified by an amendment to the LUP and shall limit the use of the land covered by the easement to agriculture, non-residential use customarily considered accessory to agriculture, farm labor housing and a single family home accessory to agricultural use. All lands unsuitable for agriculture because of habitat and resource protection or soils characteristic reasons shall be limited to non-structural, non-agricultural, open spaces uses. The county shall consult with the Department of Fish and Game and the Hearst Corporation to establish standards which shall be incorporated into the easement to protect environmentally sensitive habitats of the Arroyo de la Cruz and San Carpoforo Creek watersheds.

This easement standard provided for the dedication of Agricultural and Open Space Easements over all ranch land designated for agricultural use at the time of development of the visitor serving facilities at the "Staging Area" located on the east side of Highway 1 near the State Park entrance facilities. The purpose of the easement was to protect agriculture and habitat values on the Hearst Ranch outside of the four areas designated for visitor serving uses in the LCP. The easement requirement would have applied to the roughly 50,000 acres of the Hearst Ranch within the coastal zone. More important, the standard was developed and adopted by the Commission as an essential adjunct to the designation of more than 300 acres of viable ranch land for visitor serving uses (650 hotel units, commercial uses, employee units, golf course and equestrian center).

However, both the County and representatives for the Hearst Corporation opposed the easement requirement and the 1983 Commission approval of the LUP with modifications was not accepted.

The San Luis Obispo County LUP was resubmitted in 1984. Again controversy surrounded the issue of development on the Hearst Ranch and the easement requirement. Once again the Commission approved the LUP with a reduced level of Commercial/Visitor Serving development if modified to

include the easement requirement. This time, the County accepted the Commission's approval as modified but indicated that an amendment to delete the Agricultural/Open Space Easement would be sought at a later date.

An amendment requesting deletion of the Easement requirement was submitted by the County in late 1984. In February of 1985, the Commission again found that the easement requirement was necessary to mitigate the impacts of the Commercial/Visitor Serving uses on identified Coastal Resources. The Amendment request was denied. The Commission directed staff to continue discussions with the County in order to determine whether a mutually acceptable alternative method of protecting coastal resources on the ranch could be found.

Another request to delete the easement provision was submitted later in 1985. In November of 1985, the Commission found that the easement was required, but that it could be phased as the individual nodes of non-agricultural development were built-out. The easement language was thus modified to reflect the Commission's decision. The Hearst Corporation Representatives indicated the suggested modification was unacceptable. The County declined to accept the modifying language with the effect that the original policy language providing for the entire easement at the time of development of the first project at the Staging Area remained.

Finally, in 1987, the Planning staff at San Luis Obispo County offered alternatives to the Board of Supervisors including the use of Agriculture Preserve contracts and a combination of agriculture/open space easements adjacent to proposed development nodes plus Agriculture Preserve contracts. County staff recommended the combination easement/ag contract alternative. A single hearing was held on this item at the Board of Supervisors meeting of December 15, 1987. A review of the complete transcript of the hearing, indicates that the controversy continued. Several members of the public spoke both in favor and against deletion of the easement requirement. Representatives of the Hearst Corporation argued against both the existing easement requirement and the alternative proposed by staff. Hearst contended that the easement was excessive, not required and would likely expose the County to lawsuits as a result of the recent Nollan decision concerning the question of appropriate land use exactions and nexus. The Board voted 4-1 to delete the easement.

The deleted easement came before the Commission in LCP major amendment #2-88. Commission staff again recommended that the easement requirement be retained, but also that it be reduced in size to make it more consistent with County standards in the certified LCP. These standards require that when any non-agricultural uses are proposed for agricultural lands, that agricultural and open space easements be granted for all remaining agricultural lands shown on site plans and that non-agricultural development be limited to 2% of the entire site (see Policy 3; CZLUO 23.04.050). Using a similar logic, staff recommended that the easement cover only 15,000 acres of the ranch, which was proportional to the 300 acres of non-agricultural development being allowed. The Commission ultimately went against the staff recommendation and voted 7-5 to delete the easement, on the grounds that the remainder of agricultural lands on the Hearst Ranch would be adequately protected by existing LCP policies concerning the conversion of agricultural lands.[ii] This finding, though, did not address or make a finding concerning the initial conversion agricultural lands to non-agricultural use but merely considered the protection of agriculture beyond the Hearst resort conversion (see below for more detail)

With the deletion of the agricultural easement standard, potential non-agricultural development on the remainder of the Hearst Ranch is governed by two standards in the NCAP and the more general agricultural conversion policies and ordinances of the LCP. The existing NCAP requires that any land divisions of the Hearst Ranch agricultural lands must result in parcels that constitute individually viable agricultural units. In the alternative, agricultural land divisions may be acceptable if they improve the viability of adjacent holdings (see 7-12 of NCAP update).

The general agricultural policies and ordinances of the LCP also govern proposed land divisions and non-agricultural uses. Policy 1, for example, requires the maintenance of prime agricultural lands, similar to section 30241 of the Coastal Act. It also requires that other agricultural lands be maintained as such unless this is not feasible; or unless conversions would preserve prime agricultural land or concentrate urban development within or contiguous to existing urban areas that have adequate public services.

Coastal Plan Policy 2 governs the division of agricultural land. In effect, land divisions for prime soils are prohibited unless certain findings of continued agricultural viability are made. Divisions of non-prime lands are prohibited "unless it can be demonstrated that existing or potential agricultural productivity of any resulting parcel determined to be feasible for agriculture would not be diminished." This policy is implemented as a standard, not through a specific ordinance. As such, the Coastal Plan Policy document notes that Policy 2 may lead to "substantially larger minimum parcel size for non-prime lands than identified in the Coastal Zone Land Use Ordinance."

Policy 3 sets forth specific standards for allowable supplemental non-agricultural uses. The most important part of this policy, is the requirement that non-agricultural development may not exceed 2% of the gross area of the parcel(s) at issue; and that an agricultural/open space easement must be placed over the remaining 98% lands. Other Agricultural policies govern the siting of structures, the urban-rural boundary, lot consolidation, water supplies, agricultural practices, and other miscellaneous agricultural requirements (Policies 4 through 12).

Finally, certain Coastal Zone Land Use Ordinances regulate agricultural lands as well. Minimum parcel s izes for land divisions are regulated by ordinance 23.04.024, which defines two separate methods for determining parcel size. One method is based on the existing use of a parcel. For example, land used for grazing has a minimum parcel size 320 acres, as opposed to 20 acres for irrigated row crops, nurseries, orchards, and vineyards. The other method for determining minimum parcel size uses land capability based on the Soil Conservation Service classification system. For example, Class I lands have an allowable minimum of 20 acres, whereas Class VII-VIII have a minimum of 320 acres. Proposed minimum parcel sizes must meet both tests to be approved. Ordinance 23.04.050 governs supplemental non-agricultural uses to implement Policy 3. Finally, ordinance 23.04.432 prohibits the extension of services beyond the urban services line, to minimize conflicts between agricultural and urban land uses.

The County has made several limited changes to NCAP agricultural policies that affect the Hearst Ranch agricultural lands. The County has added a provision that requires an "Ag-viability report" to be submitted with any applications for land divisions and lot line adjustments to the Agriculture and Rural Lands categories (7-8). In addition, standards have been added that (1) require parcel configuration to maintain and enhance agricultural viability; and (2) require findings to be made that resulting parcels will maintain and enhance agriculture and that potential non-agricultural uses will not have an adverse impact on surrounding agricultural uses (7-9).

The County has also updated the specific Agriculture category standards (7-12). First, the standards are revised to apply to all agricultural lands, not simply the Hearst Ranch. Second, the County has exempted land divisions necessary for public works or services from the agricultural criteria. Finally, the County has repeated the requirement for an Agriculture viability report that evaluates the effects of proposed land divisions.

Conformance with Coastal Act

The Coastal Act establishes a clear mandate for the preservation of agricultural lands, including non-prime soil lands suitable for grazing and other non-crop agricultural activities. Except for lands where agricultural viability is already "severely limited" by conflicts with existing urban uses (e.g. "in-

holdings" and on the urban periphery), the standard for conversion of agricultural lands under Sections 30241 and 30242 is extremely high. The conversion of prime agricultural lands is effectively prohibited; the conversion of all other agricultural lands is prohibited unless it is shown that: "continued or renewed agricultural use is not feasible, or . . . [that] such conversion would preserve prime agricultural land or concentrate development consistent with section 30250."

As discussed in the Development findings, a limited amount of visitor-serving development (100 units) is allowable within the existing development node at Old San Simeon under the visitor-serving exception of Section 30250(c). However, any development beyond this limited envelope would require the conversion of agricultural lands currently used or available for grazing. Each of the other proposed areas for visitor-serving development -- the Staging Area, the lands around Old San Simeon, the proposed golf course lands, as well as the site for the proposed Pine Forest facility -- either are or have been used for cattle grazing recently. A recent evaluation of agricultural viability on the Hearst Ranch, as well as recent staff visits to the vicinity, have documented cattle grazing uses on Phase One, Three, and Four lands.[iii] A 1988 review of Agricultural uses on the Ranch documented the following uses in the areas proposed for non-agricultural visitor-serving development:[iv]

The Staging Area:	*Seasonal Holding Field for Cattle Being Shipped*
Between Old San Simeon and Highway One:	*Small Pasture for 6 cows and calves*
San Simeon Point and Proposed Golf Course:	*Used for 120 cows and calves*
Pine Forest Resort Envelope:	*Part of larger cow and calf pasture*

In this comprehensive planning update of the NCAP, the Commission is obliged to consider anew whether the non-agricultural development proposed by the Hearst Corporation and incorporated into the updated NCAP is consistent with Coastal Act Section 30242. Indeed, such an analysis is particularly warranted considering the history of proposed non-agricultural uses on the Ranch and the agricultural easement standard originally adopted by the Commission. Technically speaking, a finding that agriculture (namely grazing) was not feasible on the Hearst Ranch has never been made. As discussed briefly above, the original conversion of 300 acres or more of the Hearst Ranch to non-agricultural lands was allowed only because the Commission consolidated and limited the scale of non-agricultural development, and, because of the guarantee provided by the agricultural easement that no further non-agricultural development would occur on the ranch. The easement requirement effectively retired the remaining non-agricultural development potential on the Ranch. The Commission, therefore, was able to find that on balance, the Hearst resort proposal was consistent with sections 30241 and 30242.v

However, because the agricultural easement standard is no longer part of the NCAP, the question of the conversion of agricultural lands on the Ranch must be revisited. In particular, when the Commission approved the deletion of the easement requirement in 1988, the question of the initial conversion of the agricultural lands required for the Hearst Corporation's non-agricultural visitor-serving uses was not reevaluated. Rather, the adopted findings focused on the remaining agricultural grazing lands and whether existing County policies were sufficient to protect these lands from future non-agricultural development.[vi] This oversight in the 1988 amendment to the NCAP effectively leaves a policy gap that must be considered in this comprehensive update of the NCAP. As discussed in more detail below, the lack of a finding on the initial conversion of agricultural land on the Hearst Ranch leaves a significant inconsistency with Coastal Act section 30242, and effectively gives the Hearst Ranch agricultural lands special treatment relative to other agricultural lands in the North Coast. Overall, sound public policy requires a comprehensive reevaluation of the proposed conversion of agricultural lands on the Hearst Ranch.

After these findings, the Commission went on to find in its 1998 action that the Hearst Ranch was a viable agricultural operation, based in part on an agricultural feasibility study submitted by the Corporation.[5] This included findings that areas targeted for visitor-serving development were viable grazing lands. The Commission concluded:

> Overall, it is clear that the conversion of grazing lands by the proposed visitor-serving development is not allowable under the first test of Section 30242. The Ranch is a viable, in fact, increasingly viable agricultural operation[6].

Based in part of these findings of viability, and the policy inconsistency with the Agricultural conversion policies of the Coastal Act, the Commission adopted, in 1998, modifications to the North Coast Area Plan that would limit non-agricultural development on the Hearst Ranch to a 100 acre development envelope in and around San Simeon Village, buffered with a more limited 1000 foot agricultural easement; all other land on the Ranch would be zoned back to Agriculture with the exception of San Simeon Point, which would be placed in Open Space zoning. The Commission also specified that 375 visitor-serving units, as opposed to the contemplated 650, was the absolute maximum number of visitor-serving rooms that could be accommodated. This development location and intensity was derived by concentrating the estimated development potential of the Ranch within the identified development node. In addition, the Commission found that no golf course could be allowed. These modifications were necessary to achieve consistency with the 30250 and 30242 requirement to concentrate development in order to convert agricultural lands to non-agricultural land uses.[7] Finally, future land uses on the remainder agriculturally-zoned lands would be strictly limited to agricultural uses only, to protect against future non-agriculture development outside of the one visitor-serving node at San Simeon Village.

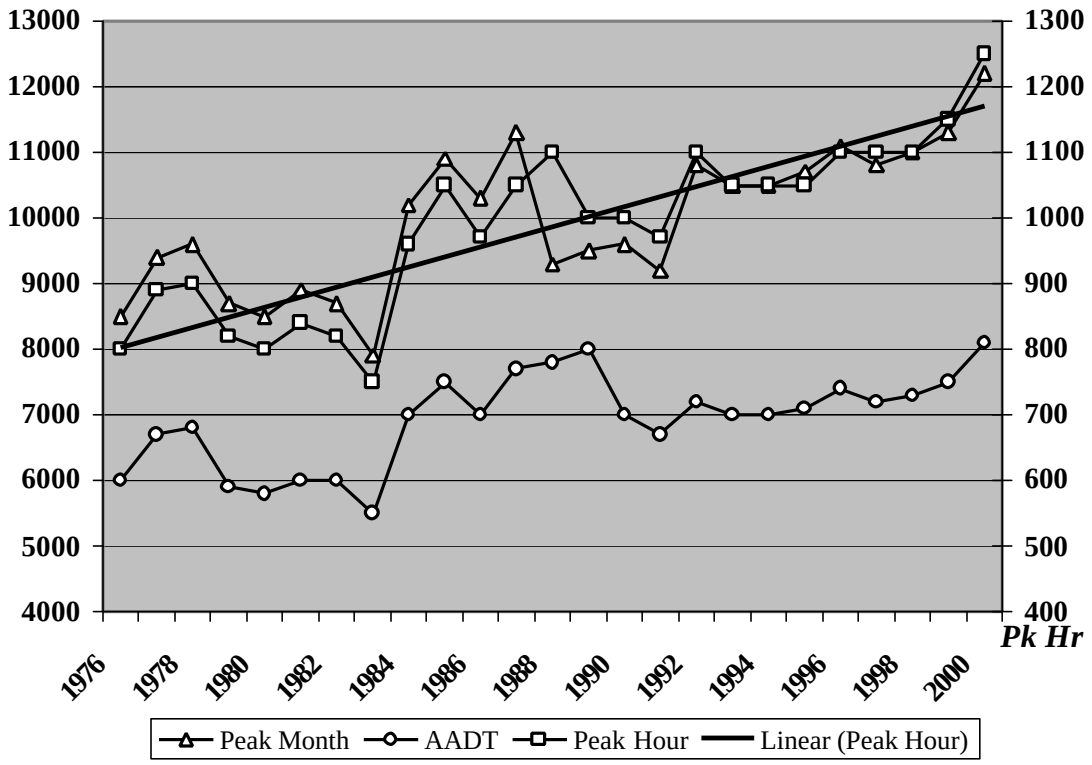
Because San Luis Obispo County did not accept the Commission's modifications to the LCP, the policy gap concerning consistency with the Agricultural protection policies of Coastal Act section 30242 remains in the North Coast Area Plan. In addition, since 1998 and the County's preparation of a new Project Description for the North Coast Update, debate has continued about the appropriate zoning and planning processes to put into place in order to address both potential coastal resource constraints (such as lack of water), and future intensive visitor-serving development on the Ranch. The Hearst Corporation has indicated in its comments that studies will be necessary to ensure that any development would be self-sustaining, but has also stated that there are numerous water sources on the Hearst property.[8] In the 1998 NCAP findings, the Commission adopted modifications to the LCP that emphasized the need for adequate resource studies <u>prior</u> to considering development proposals, including improved water monitoring and application of in-stream study methods to protect steelhead. These modifications were found to be necessary in part because of the lack of good monitoring data, and significant uncertainty about the safe-yield of the Arroyo de la Cruz and San Carpoforo groundwater basins.

---

[5] Sage Associates, *The Hearst Ranch Agricultural Compatibility Study Visitor Serving Facilities*, July 1988.
[6] *North Coast Area Plan Update Adopted Findings*, California Coastal Commission (1998).
[7] The total maximum number of units under the Commission's modifications would have been 535, including 375 visitor rooms, a 60 bed hostel or 50 unit campground, and 100 units of employee housing.
[8] The Corporation cites the County's Water Master Plan but it is not clear what water sources are being referenced.

As discussed in the *Preliminary Report*, the capacity of Highway One also is a serious continuing concern related to the environmental constraints on future development on the Hearst Ranch. The currently certified NCAP contains a planning standard that states that inadequate road capacity shall be grounds for denial of future development projects on the Hearst Ranch, unless mitigation measures are incorporated to provide adequate capacity without increasing traffic lanes or using traffic signals.[9] As discussed, Highway One in the vicinity of the Hearst Castle Visitor Center is currently at Level of Service (LOS) D. Figure 2.1 illustrates the steady increase in traffic counts at the Visitor Center since 1976 when the Coastal Act was adopted (56% peak hour; 35% Average Annual Daily Traffic). Since certification of the current LCP road capacity policy, peak hour traffic counts at the Visitor Center have increased more than 40%. In 1998, the Commission found that LOS D, while "marginally acceptable," should be the very worst service that Highway One should be allowed to reach here, in order to protect and provide maximum public access and recreation along the North Coast. North of the Visitor Center, on the way to Big Sur, the Commission adopted a proposed standard of LOS C. Maintaining Highway One capacity for visitors to Big Sur has been an on-going concern since adoption of the Coastal Act.

Figure 2.1 Highway 1 Traffic Counts at Hearst Castle



[9] North Coast Area Plan, 8-11, Std. 10.

Also, in August of 2000, Commission staff provided comments to the County on the Project Description for the new NCAP (See Exhibit A, Appendix E). These comments highlighted the significant changed circumstances even since 1998, including the designation of Highway One between San Luis Obispo and the County line as a State Scenic Highway, and increased visitors to the rural North Coast. The comments also observe:

> There is growing recognition in California that highly scenic, unbuilt, natural landscapes are vanishing at an alarming rate and there is no geographic region of the State where this threat is more acute than on the coast. Further,. . . there is perhaps no other reach of coast in California that is more deserving of the strongest possible protections than the southern gateway to Big Sur, . . . The North Coast is at once a powerful landscape of incomparable and stunning beauty and yet is extremely vulnerable to degradation by development. This precarious situation demands bold and timely action by the county for the benefit of current and future generations.

The comments go on to recommend that the County amend the North Coast Area Plan to include:

> . . . progressive measures to prevent new development outside of existing urban areas that would be visible from public areas, including public roads, parks, trails, and state ocean waters. The two minor exceptions to this standard that might be considered are small-scale infill development within Old San Simeon Village that will enhance coastal recreation opportunities and be consistent with the scale, character and tradition of existing structures; and minor structures ancillary to, and necessary for, the continuation of a viable agricultural use [emphasis added].

Preliminary Recommendations 2.9 and 2.10 also partly reflect the County's current Project Description for the North Coast Area Plan Update that would rezone Recreational lands on the Ranch to Agriculture, and then establish a specific planning process for consideration of future visitor-serving development in a particular area (see Exhibit A, pp. 33-34). This area includes the 100-acre development envelope identified by the Commission in 1998, as well as additional surrounding lands. This type of amendment to the North Coast Area Plan would at once acknowledge the possibility of some future visitor-serving development in a general area, while bracketing the specific questions of the appropriate locations and intensity of development depending on future environmental resource studies.

Finally, comments have been received from the both the SLO Visitor's Conference Bureau and the Hearst Corporation questioning the *Preliminary Report's* discussion of visitor-serving demand for overnight accommodations such as those contemplated in the certified NCAP. In 1998, the Commission's NCAP findings for the Hearst Ranch included an analysis of the need for such accommodations and, based on evidence of a 55% occupancy rate in the North Coast Area, concluded that it was "by no means clear that certain types of middle range visitor-serving development [were] needed along the North Coast."[10] The Commission ultimately concluded that limiting visitor-serving development to the San Simeon Village area, eliminating any golf course development, and requiring a low-cost component was "more in keeping with the preferences of the Coastal Act for public visitor-serving experiences."[11]

---

[10] North Coast Area Plan Adopted Findings, p. 93.
[11] *Id*., p. 94.

3. Analysis

Under the Coastal Act, new development must be concentrated in existing developed areas or selected points of visitor attraction that are able to accommodate it, and where it will not have adverse individual or cumulative impacts to coastal resources (30250). In addition, the maximum amount of prime agricultural lands (in this case mostly grazing lands) must be maintained, and non-prime lands must not be converted unless such lands are no longer feasibly used for agriculture, or such conversion would preserve prime land or concentrate development (30241; 30242). Also, Highway One must remain a two-lane scenic road in rural areas such as the North Coast (30254); the scenic and visual qualities of coastal areas shall be protected and new development must be compatible with the scenic character of an area (30251); and environmentally sensitive habitats and coastal water quality must be protected (30240; 30230; 30231). Other Coastal Act policies include the need to maximize public access, avoid coastal hazards, protect cultural resources, and enhance public coastal recreation (30210; 30253; 30244; 30222). Finally, oceanfront land should be reserved for recreational uses unless the demand for such activities is already being met (30221).

In light of the various issues, public comment, current environmental circumstances, and the Corporation's recent activities concerning potential non-agricultural development on the Hearst Ranch, Preliminary Recommendations 2.9 and 2.10 should be revised to be more specific about the appropriate LCP land use designations and planning processes that are necessary corrective actions for the San Luis Obispo County LCP to conform with the above Coastal Act requirements. Lacking such changes, the County's LCP is not being carried out in conformance with the Act.

First, overall the recommendations are reframed to be clear that the current LCP zoning and standards for potential large-scale visitor-serving development (up to 650 units) on the Hearst Ranch are not appropriate. More specifically, any recreational zoning on the Hearst Ranch should be changed to agricultural zoning, except for San Simeon Point, where open space/resource conservation zoning is more appropriate in order to protect scenic resources and the other sensitive resources currently identified in the LCP's SRA combining designation for the Point.[12] This zone change is required in part to maximize protection of lands that are currently used for, and part of, a viable agricultural operation. This zone change will also address the Coastal Act requirement to not convert agricultural land to other land uses absent the required findings of sections 30241 and 30242 to assure that only non-viable agricultural lands or lands threatened or surrounded by urban development are converted, that development is concentrated, that the conversion would preserve prime lands, and that surrounding agricultural lands are

[12] As discussed in the ESHA chapter, combining designation overlays for other areas of the Ranch should be identified and updated where necessary, including areas such as the Pine Forest, which currently has a terrestrial habitat ESHA overlay. Other sensitive resource overlays may be needed as well, such as the scenic resource protection discussed in the Scenic Resources chapter, and hazardous areas.

protected. The LCP has failed to meet these tests, and lacked the supporting findings for the recreational zoning at least since 1988, when the agricultural easement standard was removed from the LCP by the County and the Commission.

Rezoning recreational lands would reestablish the requirement to assure that conversions of agricultural land to facilitate non-agricultural development are in fact consistent with the Coastal Act, rather than presuppose, through recreational zoning, that such development is appropriate. Future planning analyses will then need to be focused first on protection of the agricultural capacity and of the Hearst Ranch, by carefully examining the feasibility of continued agricultural use -- a fundamental Coastal Act policy. In light of previous Commission actions and staff analysis, the County also should not identify a study area for future non-agricultural development but rather, limit such development to the existing developed node of San Simeon Acres and the commercial zoning of San Simeon Village. Such locations are likely consistent with Coastal Act policy 30250, as well as 30242 (protection of agriculture). They would also better address the Coastal Act 30251, which requires that new development be sited and designed to protect views to and along the ocean and scenic coastal areas. In particular, large-scale visitor-serving development in public view outside of these areas would not be visually compatible with the character of the area. Consistent with the Commission's 1998 NCAP findings, a golf course in the public view, anywhere along the North Coast, would not be consistent with 30251.

In terms of planning process, the Coastal Act, and a comprehensive approach to coastal resource protection, require that resource constraints be fully analyzed before identifying options for potential development. The County has acknowledged this in the Project Description for the North Coast Area Plan (January, 2000) by presenting an approach that would require that a Specific Plan be prepared, subject to full environmental analysis under CEQA prior to considering LCP amendments to allow visitor-serving development on the Hearst Ranch. Given the considerable uncertainty about the capability of the rural North Coast lands to sustain future non-agricultural development, this planning approach should be strengthened to be clear that what is necessary for the North Coast of San Luis Obispo is a full analysis of resource constraints, not only a CEQA analysis of environmental impacts. Thus, prior to defining any project alternatives for non-agricultural development, including proposed locations, types, and intensity, a land use capacity analysis should be completed. This analysis should include at least the following:

- a comprehensive agricultural viability analysis for any agricultural areas proposed for non-agricultural development;
- a visitor-serving development supply and demand analysis to identify what types and intensities of visitor-serving development, might be appropriate and might best meet the Coastal Act's preferences for public, low-cost coastal recreation;
- a comprehensive environmental constraints analysis, including evaluation of sensitive habitats, in-stream flow habitat values, water availability,

groundwater basins, highway capacity, cultural resources, scenic resources, hazardous areas, community character, and so forth.

In addition, specific performance standards that address the concerns raised by the Coastal Commission's 1998 NCAP Findings, such as required water monitoring, and highway capacity limits, should be incorporated into the NCAP, consistent with current knowledge and circumstances about coastal resources on the Ranch.[13] Following a comprehensive evaluation of coastal resource constraints, and an assessment of whether the Coastal Act agricultural conversion tests can be met, it then may be appropriate to identify potentially compatible non-agricultural development scenarios for environmental review under CEQA, and to identify possible LCP amendments to facilitate such development. This would include required mitigations such as agricultural easements (see following), provision of public access and low-cost visitor-serving amenities, habitat protection, preservation of community character, etc.

In terms of future agricultural conservation easements, both the currently certified LCP for San Luis Obispo County and the Coastal Act would support the placement of protective easements over remaining agricultural lands in the unlikely event that a significant conversion of agricultural lands was found to be consistent with the LCP or Coastal Act. As disused in the Commission's 1998 NCAP Update findings, and in the Agriculture section of this report, the certified LCP currently allows non-agricultural visitor-serving uses in Agriculturally-zoned areas only if needed as a supplemental use to support an on-going operation (Ag Policy 3, CZLUO 23.04.050). If found to be necessary, the use must be limited to a maximum of 2% of the property in question, and the remainder must be placed under an agricultural or open space conservation easement. Of course, Table O of the certified LCP does not currently allow for hotels, motels, or golf courses in agricultural zoning (which would require an LCP amendment), but does allow Bed and Breakfasts and "Rural Recreation and Camping – a category that includes "dude and guest ranches" incidental to a working ranch and "health resorts" dependent on an on-site natural resource such as a lake or hot springs. As discussed in the Agriculture Chapter, the Commission is recommending that Table O be updated both to further limit appropriate land uses in the Agriculture category and to clarify that certain uses are only allowed as supplemental when proposed on Agricultural land, subject to the agricultural easement standard. The Commission also notes that in the event that easements over the Hearst Ranch were not found to be appropriate, Table O limitations, if amended by the County, could provide some protections against future non-agricultural development on the remainder of the Ranch.

Under the proposed approach of Recommendation 2.9/10, an LCP amendment (as opposed to a proposed supplemental use) would be the most likely avenue for pursuing non-agricultural development on the Hearst Ranch. Under the Coastal Act, if a conversion of agricultural land was somehow found to be consistent with the sections 30241 and 30242, the conversion would need to maintain the maximum amount of agricultural land in production to assure the protection of the area's agricultural economy, not impair agricultural viability or diminish the productivity of adjacent prime lands, concentrate development, and be compatible with

[13] *North Coast Area Plan Update*, California Coastal Commission, Modifications 77-98 (1998).

continued agricultural use on surrounding lands. Thus, the logic of the previous Hearst Ranch easement standard of the County's LCP is clear inasmuch as an agricultural conservation easement over the remaining lands not converted would help to assure that these statewide policies are met. It may also be the appropriate mitigation for the impacts to surrounding agricultural uses, depending on the scale and intensity of any approved visitor-serving development.

Finally, in response to comments about whether to address the questions discussed above in this Periodic Review, it should be emphasized that revised Recommendations 2.9 and 2.10 explicitly acknowledge that the North Coast Area Plan is the relevant planning document for implementing changes to the land use designations and planning for the Hearst Ranch. Thus, any changes to the NCAP will need to be evaluated through the local LCP amendment process, including public hearings, community input, and more specific Coastal Commission review and approval. Moreover, the purpose of a Periodic Review, in part, is to provide Coastal Commission feedback to local governments about how an LCP should be improved and updated to meet the Coastal Act. Such feedback also contributes to the Coastal Act's goal of assuring maximum public participation and understanding of the complex coastal resource issues of the North Coast.[14] Overall, although there are many factors to consider in evaluating potential land uses on the Hearst Ranch, any future development in the coastal zone must ultimately be consistent with the Local Coastal Program, which itself must conform to the policies of the California Coastal Act, which is the controlling state law for protection of resources in California's coastal zone. To address the preceding analysis, Preliminary Recommendations 2.9 and 2.10 are revised as follows:

> **~~Preliminary~~ Recommendation 2.9. ~~Concentrate Development at Limited Existing Nodes.~~** ~~Opportunities for expanding nodes of development on the rural North Coast can be minimized through rezoning of recreational lands to Agriculture. Such land use changes would recognize the agricultural value of these lands as well as the severe resource constraints, particularly water supply. Current Update efforts should consider limiting new visitor-serving development to the existing commercial node at San Simeon Village and in or adjacent to San Simeon Acres.~~ **Update North Coast Area Plan to Protect Coastal Resources of the Hearst Ranch.** Rezone Recreational lands on the Hearst Ranch to Agriculture, update combining designations, and establish LCP standards that require a Land Use Capacity Analysis prior to consideration of any development proposals and LCP amendments for non-agricultural development on the Hearst Ranch. The County should limit the location of such development to concentration in or immediately adjacent to San Simeon Acres if feasible or, if not feasible, to small-scale infill development within the commercial zoning of San Simeon Village. Other than these two locations, no new visitor-serving or other non-agricultural development should be allowed in the public viewshed except for underground utility placement, restoration, public access improvements and intensification, demolitions, resubdivisions, and temporary events.

[14] Coastal Act Section 30006 states: The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation, and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.

A Land Use Capacity Analysis should include at least the following: a comprehensive agricultural viability analysis for any areas proposed for non-agricultural development; a visitor-serving development supply and demand analysis; a comprehensive environmental constraints analysis, including evaluation of sensitive habitats, in-stream flow habitat values, water availability, groundwater basins, highway capacity, cultural resources, scenic resources, community character and hazardous areas. Specific performance standards that address the concerns raised by the Coastal Commission's 1998 NCAP Findings, such as required water monitoring and highway capacity limits, should be incorporated into the NCAP. Standards for protection of agricultural lands and mitigation of development impacts should be developed, including provision for agricultural conservation easements.

~~**Preliminary**~~ **Recommendation 2.10. Require Resource Capacity Studies prior to Major Development Proposals.** See Recommendation 2.9. ~~Resource impacts to rural lands can be avoided by requiring resource capacity studies, consistent the RMS system, prior to pursuing development proposals or plan changes (see NCAP project description e.g.) It should be acknowledged that lacking further resource assessments, the rural North Coast is effectively at or beyond LOS III for increased development.~~

Recommendation 2.11

This recommendation overlaps with recommendations in the Agriculture Chapter and is thus deleted and integrated with Agricultural Recommendation 5-8.

~~**Preliminary**~~ **Recommendation 2.11. Update LCP to address Large Residential Development.** See Ag Recommendation 5-8. ~~Add policies and ordinances to provide better define residential uses in support of agriculture; establish standards that provide rural viewshed protection, limit site disturbance, minimize water resource impacts, protect sensitive habitats and otherwise address the increased impacts from "non-agricultural" residential development.~~

4. Conclusion

The *Preliminary Report* presented evidence and analysis showing that the San Luis Obispo County LCP has not been effectively implemented in conformance with the Coastal Act policies concerning prevention of cumulative impacts to rural lands (see Exhibit A, Findings incorporated herein by reference). In addition, further evaluation and consideration of public comments, including analysis of existing LCP policies and land use designations, changed circumstances and current resource conditions, has identified further necessary corrective actions for the San Luis Obispo County LCP to conform with the Coastal Act requirements of sections 30250, 30254, 30241, 30242, 30251, 30240, 30230, 30231, 30253, 30244, and 30221. Lacking such changes, the County's LCP is not being carried out in conformance with the Act. Pursuant to Coastal Act section 30519.5, the Commission adopts Final Recommendations 2.7- 2.11 as appropriate corrective actions for submission to the County.

C. Environmentally-sustainable urban development *(Recommendations 2.12 – 2.20)*

1. Summary of Preliminary Periodic Review Findings (Exhibit A, pp. 39-71)

The third major issue evaluated in the Development chapter of the *Preliminary Report* was the Coastal Act requirement for environmentally-sustainable urban development. The report presented an overview of water supply and wastewater treatment for the urban areas in the San Luis Obispo County coastal zone, and discussed the LCP policies and procedures designed to assure that new urban development had adequate public infrastructure to support it, including water, wastewater treatment, roads, schools, etc. The report evaluated the Resource Management System (RMS) of the LCP, which is designed to be an early warning system and provide the framework for proactive response by the County to situations where resources may not be adequate to support new development. The report also presented a more detailed review of each urban area in the SLO coastal zone, including an overview of LCP implementation in these communities.

Perhaps the most important general finding of the *Preliminary Report* was the conclusion that the RMS system is not providing the proactive management originally envisioned, in large part due to lack of County management responses to identified resource deficiencies. Cambria, for example, has been at Level of Service (LOS) II or III with respect to water supply and distribution since 1990. Once identified, these LOS findings are supposed to be the precursor to further resource study and management action. In Cambria, although a 1990 RMS report recommended that a development moratorium be considered by the Board of Supervisors, no specific action to curb new development in Cambria has been taken until this last year, when a 1% growth rate was adopted by the Board.

Another important general finding of the *Preliminary Report* is that the County has not followed the existing LCP requirements to allow development only in areas able to accommodate it. The County has approved some significant new subdivisions in Los Osos without proper attention to the LCP requirements concerning sustainability, particularly the Interim Service Capacity Allocation (ISCA) policy certified by the Commission that is designed to protect water supplies for agriculture and urban infill development. One major subdivision was approved as a matter of law, not only without proper consideration of the LOS III for water distribution, but without any explicit Board of Supervisor's decision making concerning consistency with the LCP or the specific requirements of the ISCA.

In terms of specific findings, the *Preliminary Report* discussed the problems of short and long-term growth in Cambria and Los Osos. Both of these communities have serious concerns related to groundwater supply; and Los Osos is still grappling with the need to provide a community wastewater treatment system to protect public health and the resources of the Morro Bay estuary. Sensitive habitat is also a concern in both

communities, since new endangered and threatened species have been listed since certification of the LCP. In Cambria, the need to protect the sensitive Monterey Pine forest habitat continues to be a concern in relation to the potential development of existing legal lots. Although the County has been successful in implementing a lot consolidation policy and a Transfer of Development Credit program in Cambria, both of these efforts have been too limited to deal meaningfully with the need for long-term buildout reduction in Cambria.

Overall, the report concludes that the LCP has not been carried out in full conformance with Coastal Act section 30250 concerning the sustainability of new development, or section 30231 concerning the protection of groundwater supplies. (Findings incorporated herein by reference). To address the identified implementation issues, the *Preliminary Report* discussed nine recommendations addressing the need for: (1) strengthening the RMS and the ISCA programs; (2) responding to short-term growth in Cambria; (3) establishing watershed/groundwater basin management; (4) water conservation; (5) reducing buildout in Cambria; (6) prohibiting new development potential in Cambria and Los Osos; (7) cumulative impacts to urban design in Cambria; (8) responding to short-term growth in Los Osos; and (9) management of long-term growth patterns in Los Osos (see Preliminary Recommendations 2.12 – 2.19 on pp. 69-71 of Exhibit A).

2. Comments Raised

SLO County Response (Exhibit C)
The County is in general agreement with the recommendations of this section, and has proposed modifying only two of the recommendations. The County has raised concerns with the difficulty of implementing the current ISCA program but agrees that the RMS task force should be expanded to include Commission staff. With respect to growth management in Cambria and Los Osos, the County has agreed to consider the preliminary recommendations but has also identified factors that need to be developed further, such as the safe-yield study for Los Osos, and a resource capacity study for Cambria.

Public Comments (see Exhibit D)
Considerable public comment has been received concerning new development issues in both Cambria and Los Osos. The Cambria CSD has provided detailed comments, including specific concerns about the need to more fully incorporate existing information and discussion of recent CCSD actions into the water supply discussion (see below for detailed discussion). Although the Los Osos CSD did not provide written comments, Commission staff met with the representatives of the CSD and the Los Osos Community Advisory Council (LOCAC) to discuss Periodic Review issues. The LOCSD did submit a draft water supply analysis for the Los Osos Valley groundwater basin and has recently completed the final study, although Commission staff have not yet had an opportunity to review it. The LOCAC submitted comments addressing various aspects of the Review,

including the need for improved comprehensive planning and importance of bringing the Estero Update to fruition. Other comments were received on the question of buildout and water supply in Cambria, including a submittal by the United Lot Owners of Cambria (UNLOC) and a specific County response to these UNLOC comments. A detailed memorandum on North Coast Water Supply issues from the Supervisor for this area (Shirley Bianchi) was included in the County's response materials (see Exhibit C).

Specific Clarifications/Errata (to be incorporated into Final Report)

The Cambria CSD has provided a number of helpful comments and corrections that are acknowledged and will be addressed in the Final Periodic Review document where necessary (see Exhibit D, pp. D-542).

3. Analysis

Based on further review, discussions with County staff, and analysis of the public comments received on the *Preliminary Report*, changes to preliminary recommendations 2.12-20 are proposed as follows:

Recommendation 2.12

As mentioned, the County agrees with the recommendation to include the Coastal Commission in the RMS process and has proposed including Commission staff in the review process for Resource Capacity Studies as well. With respect to the Interim Service Capacity Allocation (ISCA) policy currently in the LCP, the County has raised questions about the legalities of implementing the identified priorities through development reviews. The current draft of the Estero Area Plan Update proposes to delete the ISCA policy and replace it with new interim standards (reliance on LCP Public Works Policy 1 and the RMS system e.g.) until a definitive study is completed to assure that the Los Osos groundwater basin can safely support the buildout population of Los Osos and agricultural uses; and to allow extension of urban services to areas beyond the USL in certain circumstances, including new land divisions where the parent parcel is adjacent to the USL. In response to Commission staff comments on this issue, the Los Osos Community Advisory Council has suggested new planning standards for the Estero Area Plan that may provide the basis for resolution of this issue through the next phase of the Estero Area Plan Update process (see Correspondence from LOCAC, Exhibit x, Appendix E). More detail on Los Osos short and long-term development issues is presented below. Preliminary Recommendation 2.12 is amended to reflect the general agreements with the County, clarify the need to implement ISCA until the amended EAP is adopted by the Commission and the County, and to remove unnecessary language.

> ~~**Preliminary**~~ **Recommendation 2.12. Strengthen Implementation of the RMS System and ISCA.** Implement Phase 2 of RMS contemplated in the Framework for

> Planning: establish an expanded RMS task force that includes Coastal Commission staff and other resource agencies; include CCC staff in review process for Resource Capacity Studies. The ISCA program currently in the LCP needs to be followed in evaluating new development proposals for Los Osos until such time as the Estero Area Plan is updated to address groundwater management issues and the protection of water supply for Agriculture in the Los Osos groundwater basin. ~~The RMS monitoring reports have not always been translated into decisions about managing development that meet the requirements of the Coastal Act. The theory of the RMS is to base new development levels on scientific assessment of resource capacities to support such development. Alternative approaches are needed to better ensure that this will happen. One possible approach is to move into the second phase of RMS implementation anticipated in the Framework of the current LCP. This phase would establish an expanded RMS task force, including participation by Coastal Commission staff and other resource agencies, to facilitate technical assessment, coordination, and consideration of resource management options. For example, there is a need for coordinated assessment and action on the part of the County, the Commission, and the Cambria CSD with respect to water supply in Cambria. Without such coordination and responsibility, it is more likely that difficult resource management decisions will not be made, or that they will continue to be debated on an incremental, case-by-case basis, instead of through comprehensive planning and regulatory responses. Enhanced joint decisionmaking and interagency stakeholder problem-solving could advance efforts to address this problem.~~

Recommendation 2.13

The County agrees with portions of this recommendation, including the proposed 1% growth rate in Cambria until January 1, 2002; and the need to coordinate with the Commission and the Cambria CSD to complete necessary studies and to pursue more proactive management of the water supply problem in Cambria. The County, though, proposes to defer RMS action to enact a development moratorium until a resource capacity study is completed. As mentioned, the Cambria CSD has also submitted comments, and with respect to the water supply issue, has emphasized the on-going and prior efforts of the CSD to address this problem (see Exhibit D, pp. D-542). The CSD has also met with Commission staff twice since the February hearing on the *Preliminary Report*, and has provided additional information for Commission consideration. The United Lot Owners of Cambria (UNLOC) have also provided extensive comments, including submitting an independent review of existing water supply information for Cambria. Others have expressed concern about the property rights of lot owners on the CSD water waiting list.

Preliminary Recommendation 2.13 framed out a number of alternative approaches to the Cambria water supply problem to help move the discussion of potential resource management responses forward. As mentioned, Commission staff have met with the County and the CCSD, and considered the current state of information, management actions taken by the County and the CSD, and other matters related to this problem. Although progress is being made, there still remains considerable uncertainty as to when more aggressive action will be taken to curb new development approvals in light of the limited water supply for Cambria. Over three years have past since the Commission's finding in the 1998 NCAP Update that aggressive action was needed to address the

inadequate water supply for urban development in Cambria. In that action, the Commission recommended that the County's LCP be modified to include a requirement that if certain performance standards to address habitat protection, development of a water management strategy, and buildout reduction in Cambria weren't met by January 1, 2001, that no further development that would draw on Santa Rosa and San Simeon Creeks be allowed. These standards have yet to be met.

It should be acknowledged, though, that since 1998 the CCSD has made progress on a number of fronts to address both short and long-term water supply issues in Cambria. First and foremost, a Baseline Water Supply Analysis has been completed that provides a report on the capacities of Santa Rosa and San Simeon Creeks (see below). The CSD is also moving forward with the development of a Water Master Plan, including a build-out reduction analysis, to identify long run strategies for providing a reliable water supply to Cambria. Last year the CSD also adopted two updated ordinances (3-2000; 4-2000) establishing an emergency water conservation program and strengthening prohibitions against water waste. The CSD has also been pursuing a revised desalination plant proposal (the Commission's previous coastal development permit approval for a plant has expired), and the Congress has authorized (but not yet appropriated) $10 million to begin the initial studies and environmental review. In terms of denying new water connections, though, the CCSD has stated that it is constrained under California Water Code sections 350-59 to first declare a water shortage emergency (based on "insufficient water for human consumption, sanitation, and fire protection") before adopting restrictions on water use. Under Water Code 356, such restrictions may include denial of new service connections.[15]

Even a brief review of the current water situation and recent information makes it apparent that serious action must be taken immediately to assure that new development in Cambria is sustainable. As described in the *Preliminary Report*, a recent Baseline Water Supply Analysis conducted for the CCSD has concluded that the District's current water supplies are "marginal to inadequate to provide a 90 percent level of reliability" (in one of ten years there may not be enough water for current customers).[16] When all of the foreseeable water commitments of the CSD are considered, including pending construction permits, intent to serve letters previously issued, and the CSD's water waiting list, the report concludes that the water supply is "inadequate to provide either a 90 or 95 percent level of reliability." This is consistent with the Commission's 1998 NCAP Update findings that the North Coast Area Plan, as proposed for amendment by the County, was inconsistent with the Coastal Act because it provided for continued

[15] Water Code 350 states:

> The governing body of a distributor of a public water supply, whether publicly or privately owned and including a mutual water company, may declare a water shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.

[16] *Baseline Water Supply Analysis*, Cambria Community Services District, December 8, 2000, p. ES-1.

urban development that could not be supported by existing water supplies.[17] Of particular note in that action was the emphasis on the potential for another drought similar to the 1975-77 period when the Santa Rosa Creek groundwater basin was damaged through subsidence.

In terms of this Periodic Review, the new water supply study also supports a finding that the standards of the certified LCP to assure sustainable new development are not being met. Specifically, Public Works Policy 1 requires that:

> prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed . . . .

At face value, the conclusion that the existing water supply for Cambria is inadequate to provide either a 90 or 95 percent level of reliability for foreseeable water commitments does not meet this LCP requirement for sufficiency. Moreover, there is considerable uncertainty, and a variety of assumptions underlying the Baseline Supply study, that cast even more doubt on the sustainability of Cambria's current water supply.

First, the Baseline Water Supply analysis was based on 3,796 existing connections in December of 1999 (3,586 residential and 210 commercial). As of April, 2001, there are now 3891 connections (3,678 residential, 213 commercial), an increase of 2.5%. In addition, according to the CSD, there are an additional 150 outstanding will-serve commitment letters, including 45 with connection permits. Assuming these all result in new water connections, the total number of water connections in Cambria will have increased by 6.5% since the Baseline Water Supply Analysis. This also does not account for the 650 remaining CSD customers on the waiting list for a water connection.

Second, and critical to the County's and Commission's responsibilities to protect sensitive coastal habitats, the Baseline Water Supply Analysis does not address the question of whether there are sufficient in-stream flows to maintain and protect sensitive species and their habitats. The study states:

> The District intends to evaluate the appropriate minimum groundwater levels to avoid adverse environmental impacts to downgradient habitats. Accordingly, it is recommended that the assumed minimum groundwater levels be reviewed when these evaluations have been completed.[18]

In addition, the California Department of Fish and Game has asserted that prior dry season pumping of the Santa Rosa creek wells has had negative impacts on habitats for sensitive species, including tidewater goby, red-legged frog, and steelhead trout.[19] In more recent months, the U.S. Fish and Wildlife has initiated discussions with the CCSD

---

[17] *North Coast Area Plan Update, Adopted Findings*, California Coastal Commission (1998) p. 51.
[18] *Id*., 2-5.
[19] *Id*., A-6.

about preparing a multi-species Habitat Conservation Plan for sensitive habitats of the North Coast, including steelhead and red-legged frog.

One of the NCAP performance standards adopted by the Commission in 1998, but not accepted by the County, was a requirement to conduct in-stream flow studies of both San Simeon and Santa Rosa creeks to assure that continued and future water withdrawals would not adversely impact sensitive riparian habitats. This modification adopted by the Commission mirrors an existing condition of the CCSD permit for water withdrawals from Santa Rosa Creek that required that instream flow study be initiated to determine necessary water levels to protect steelhead.[20] As mentioned above, instream flow studies have not been completed for either Santa Rosa or San Simeon creek.

The CCSD has funded a study that examined steelhead and habitat trends in San Simeon Creek. Nonetheless, this study does not directly address the relationship between the pumping of San Simeon Creek underflows and steelhead and other sensitive species habitats.[21] The study, though, does show correlations between reduced base stream flows and sedimentation on one hand, and reduced relative abundances of juvenile steelhead on the other. The study is also a limited time series (six years), making it difficult to draw firm conclusions about the impact of CSD municipal withdrawals on instream habitats. Even so, the study concludes:

> The persistence of the San Simeon Creek steelhead population has become more tenuous, with the further deterioration of non-streamflow related aspects of habitat from sedimentation . . . , combined with reduced summer baseflow and likely increased streamflow diversion from well pumping by new streamside development in the heretofore perennial reaches.[22]

Again, this conclusion does not speak directly to the question of how Cambria's urban water withdrawals may be impacting in-stream habitats. It also indicates that the habitat values of the coastal creeks in San Luis Obispo are impacted by multiple uses up and downstream. Nonetheless, until more systematic habitat and in-stream flow study is completed, it is difficult to conclude that the County's approval of new development that relies on water withdrawals from San Simon and Santa Rosa creeks are consistent either with Coastal Act (sections 30250, 30240, 30231) or the certified LCP.

Third, the sustainability of the current Cambria water situation with respect to Coastal Act concerns is also drawn into question when one considers that the certified LCP requires that 20% of Cambria's water and sewer capacity be reserved for visitor-serving and commercial uses. In terms of actual water consumption, the CSD appears to be meeting this goal, due to the high level of water consumption per commercial connection compared to residential connections. Thus, of the approximate 800 acre-feet of water produced in 2000, less losses to the system, nearly 25% was delivered to non-residential

---

[20] CSD Water Diversion and Use Permit 20387, Condition 18.
[21] Alley, D. W. and Associates, *Comparison of Juvenile Steelhead Production in 1994-99 for San Simeon Creek, San Luis Obispo County, California, With Habitat Analysis and an Index of Adult Returns* (August, 2000).
[22] *Id*., p. 36.

(primarily visitor-serving) with 75% going to residential uses. However, in order to meet the 20% visitor-serving reservation standard in new development approvals, a finding would need to be made that the actual water available at the time of a residential permit approval is 25% higher than that normally required for a residential use. In other words, the conclusion of the Baseline Water Supply Analysis underestimates the actual water needed for urban sustainability in Cambria if one takes into account Coastal Act priority uses in the approval of new developments.

Fourth, to implement the Coastal Act priority for agriculture, the LCP also requires that water extractions, consistent with habitat protection, give highest priority to preserving available supplies for existing or expanded agricultural uses (Agriculture Policy 7). No systematic monitoring or data is available concerning agricultural production water needs or pumping in the Santa Rosa and San Simeon Creek Basins. Although State Water Resources Control Board water permits require the CSD to deliver water to upstream riparian users if their wells become unusable, it is unclear whether Agriculture will be protected if withdrawals for urban uses continue, particularly during severe drought years. Moreover, the findings of the Baseline Water Supply study are based on an assumption that agricultural water use remains similar to historical volumes and patterns. As discussed in the Agricultural chapter of *the Preliminary Report*, water use for agricultural land uses can vary and change quickly, depending on agricultural markets, weather, etc. When current and potential urban and agricultural water needs are combined, it is by no means clear that groundwater basins are being protected. In fact, as discussed by the Commission in 1998, there is some data that shows that past combined withdrawals have exceeded the supposed safe annual yield of San Simeon Creek.[23]

Fifth, as discussed in the Preliminary Report, the CCSD has also been responding to an MTBE emergency contamination situation near its Santa Rosa Creek wells, which has placed severe stress on its ability to meet Cambria's water needs. The District is currently unable to pump from its Santa Rosa wells due to the proximity of the MTBE plume. Although the CSD has drilled an emergency supply well further upstream, this well is not yet ready for use, and in any event will only provide an emergency water supply. The unavailability of the Santa Rosa Creek wells puts additional stress on San Simeon Creek. The Baseline Water Supply study concludes that without Santa Rosa Creek, the CSD's current water supplies are <u>inadequate</u> to meet current demands.[24]

Sixth, although visitor-serving uses are a priority use under the Coastal Act, the potential for increases in visitor-serving water use through existing connections adds still more uncertainty to the conclusions about available supply. Current water demand in Cambria peaks in the summer months, due to both increased visitors in the commercial sector (restaurants and overnight accommodations), and increased residential landscape irrigation. It is unclear as to how future increases in visitors to Cambria may lead to

[23] *North Coast Area Plan Update Findings*, p. 47.
[24] *Baseline Water Supply Analysis*, p. 3-4.

actual increases in water pumpage from San Simeon and Santa Rosa Creeks, notwithstanding that no new connections may be added. This point has been made by many concerned about the State Park's effort to increase off-season visitation to Hearst Castle, which would no doubt place added demands on Cambria's infrastructure. In addition, many of Cambria's existing residences are not occupied by full-time residents but rather, serve as vacation rentals to weekend or summer visitors. There is some indication, though, that there is a trend away from vacation rentals, as more Cambria homeowners take up full-time residence. This, too, will mean an increase in actual water withdrawals without any real increase in water connections.[25]

Finally, it should be noted that the United Lot Owners of Cambria have submitted an independent analysis of existing water information from Navigant that concludes that water supply in Cambria "can be managed to support an approximate 10 percent increase in use."[26] Although every detailed comment of the Navigant review cannot be analyzed here, a few observations are needed. First, even if the Navigant study is correct its 10 percent estimated buffer, there are currently 3891 connections and 800 outstanding commitments (150 will-serve letters and 650 on the waiting list). Thus, an increase of over 20% in supply would be needed to serve outstanding commitments.

Second, the overall conclusion of this independent analysis relies heavily on a recently published U.S. Geological Survey analysis of Santa Rosa and San Simeon Creek groundwater basins.[27] The USGS report presents a simulated water budget for the two creeks for the period April 1988 through March 1989. This budget shows that the net water flow into each basin is negative (-50 acre feet for Santa Rosa and –10 for San Simeon), meaning that more water is flowing out of the basin through withdrawals and creek seepage than is flowing back into the basin through rainfall, seepage, irrigation return-flows, etc. The USGS. study is careful to point out that the water budget is simulated for a "dry year", and has a certain margin of error, and thus should not be interpreted as necessarily showing a long-term deficit or imbalance in the groundwater basins.

The Navigant review analyzes the USGS water budget analysis, but it does so by aggregating the data for the two creeks, and by substituting a 760 acre-foot municipal pumpage number for the 800 acre-foot number of actual pumpage in 1988. In aggregate, this analysis shows a total deficit of only 10 acre-feet. Factoring in error, the Navigant study asserts that "from a groundwater management standpoint, an increase in municipal pumpage of approximately ten percent is considered reasonable, and should have a minimal impact on the local hydrologic system." The USGS model, though, actually

[25] The County's recent LCP amendment submittal states that there is no reliable survey data as to the exact number of vacation rentals in Cambria, although some data has been presented from the industry suggest at least 150 rentals producing 5000 days per year or approximately 33 days a year per unit.
[26] See Correspondence from Navigant, 11/28/00, Exhibit x, p. x.
[27] *Hydrogeology, Water Quality, Water Budgets, and Simulated Responses to Hydrologic Changes in Santa Rosa and San Simeon Creek Ground-Water Basins, San Luis Obispo County, California*, U.S.G.S., Report 98-4061 (1998).

shows a deficit of 50 acre-feet for Santa Rosa Creek and 10 acre-feet for San Simeon Creek (60 acre-feet if aggregated). Moreover, the USGS model was simulated for a year when the CSD was withdrawing water from both creeks (250 afy from Santa Rosa and 550 afy from San Simeon). In more recent years, the CSD has been pumping mostly from San Simeon Creek, with recent production exceeding 700 afy from San Simeon Creek alone. Although this could be better for Santa Rosa Creek, it raises significant uncertainty for San Simeon Creek, particularly concerning the protection of in-stream habitats. In addition, the CSD again reached 800 afy of pumping in 2000. As discussed in the Preliminary Report, although significant gains in efficiency of use have been made since 1988, aggregate water use has continued to rise with the steady increase in new connections.

The Navigant review cites other findings of the USGS report to support a more optimistic view of Cambria's water supply, including analyses that show the likelihood of consecutive "extremely dry years" to be very low (e.g. one every 430 years in San Simeon Creek basin). These citations, though, are selective and indeed, do not address the various factors discussed above that create additional uncertainty about the available supply. In particular, groundwater basin damage from excessive withdrawals can occur, as they did in 1976, in dry years that do not meet the USGS study definition of an extremely dry year (2 or more consecutive years with incomplete basing recharge).[28] Nor do they directly address the Coastal Act policy requirements of protecting groundwater basins and sensitive habitats. Moreover, the USGS report itself draws overall conclusions that at best are neutral with respect to available supply and at worst, support the finding that there is inadequate water to support new development. These conclusions include the following:

- The most significant long-term trend in water levels has been a gradual increase in the amount of dry-season water-level decline in the San Simeon Basin. This change is the result of increases in municipal and agricultural pumping during the dry season (p. 98). [As shown in the Baseline Water Supply Analysis, since 1988 (the last data year of the USGS study), dry-season water levels in San Simeon Creek have continued to be drawn down to near sea-level. At these levels, damage to the groundwater basin and seawater intrusion become an issue, to say nothing of threats to instream habitats.]

- Municipal pumpage affects water levels throughout the San Simeon Basin (100).

- Simulations indicated that at 1988 agricultural and municipal pumping rates, water levels decline almost to the threshold at which some subsidence could

[28] *Id*., p. 86: "Land subsidence and ground deformation occurred in Cambria in the summer of 1976 and could occur again if the minimum dry-season water is close to or less than the record low level reached that year."

occur in the Santa Rosa Basin even during dry seasons with a recurrence interval of only 5 years (101).

- Incomplete basin recharge was estimated at every 18 years for Santa Rosa and every 25 years for San Simeon. In light of the "considerable uncertainty" with these estimates, though, these recurrence levels are short enough to warrant consideration during water-supply planning (101).

- Simulated effects of a winter without streamflows showed wells in both basins going dry, subsidence in Santa Rosa, and seawater intrusion in San Simeon Creek basin (101).

Overall, the weight of the evidence, including analysis of water use trends and available information about safe-yields of the two creeks, still supports a finding that there is currently insufficient water supply to support new development served by the Cambria CSD, particularly given the uncertainty in weather patterns and critical shortages that may occur in dry years. Indeed, based on interpretation of the 127 year rainfall record for San Luis Obispo County, one local water expert has concluded that the current demand for water would have exceeded the carrying capacity of San Simeon Creek four times (see Exhibit C Attachment from Shirley Bianchi). Although the Navigant review finds that from a "groundwater management standpoint" there is a 10% buffer in available supply, this finding appears to be based not only on aggregate data (as opposed to individual groundwater basin analysis), but also on assumptions about the error inherent in the available data.[29] The Navigant review does not explain what is meant by a "groundwater management standpoint," although presumably it means that additional water to support new development could be squeezed out of the system through better management and conservation. Again, the Navigant study does not address sensitive habitat concerns.

But the uncertainty inherent in the water supply questions for Cambria, coupled with a focus on improving management, underscores the importance of curbing new water extractions until the many questions can be answered, and until meaningful management decisions are made. As previously mentioned, in December of 2000, the Board of Supervisors adopted a 1% growth rate for 2001, and directed that a Resource Capacity Study be completed for review by the Board in the Spring of 2001. The County has suggested that further restrictions on new water connections await the completion of this RMS study. Although the County has initiated the scoping for the study, is unclear when such a study would be completed. More important, the burden of the uncertainty in the water supply must not be placed on coastal resources. Rather, a precautionary approach should be taken until such time as better knowledge is gained about both the capacity of San Simeon and Santa Rosa Creeks, including the needs of instream habitats, and about additional water supplies (e.g. a desalination plant) that might support new

[29] Moreover, if the intent is to simply identify a margin of error in the analyses of available supply, it is just as likely that the error is in the other direction also – i.e. 10% less water than identified.

development. For example, without completion of instream flow studies and the newly-launched HCP to address sensitive species, the capacity of San Simeon Creek to support new development cannot be known. Fundamentally, this approach is necessary to meet the Coastal Act requirement that new development be environmentally-sustainable. It cannot reasonably be concluded at this time that new development in Cambria is currently sustainable.

Nonetheless, in order to provide reasonable notice to property owners in Cambria contemplating beginning the development review process, or that may not yet have received basic land use approvals, it is reasonable to allow the completion of the 1% percent growth rate for the remainder of 2001 (approximately 37 connections for the year). In the meantime, new applications for development should not be accepted for filing until certain water management objectives are met. Developments approved in Cambria after January 1, 2002, that rely on new water withdrawals from the CSD system, may be subject to appeal to the Coastal Commission on the basis of inconsistency with LCP Public Works Policy 1.

In summary, Preliminary Recommendation 2.13 is amended to confirm the application of a 1% growth rate in Cambria until 1/1/02, but to also make clear that no new development that relies on a Cambria CSD water connection should be approved after that date, unless findings can be made that (1) water withdrawals are limited to assure protection of instream flows that support sensitive species and habitats; (2) there is adequate water supply reserved for the Coastal Act priority uses of agricultural production, and increased visitors and new visitor-serving development; (3) a water management implementation plan is incorporated into the LCP, including measures for water conservation (see discussion of Recommendation 2.15 below also), reuse of wastewater, alternative water supplies, etc., that will assure adequate water supply for the planned build-out of Cambria or that will guarantee no net increase in water usage through new water connections (e.g. by actual retrofitting or retirement of existing water use); (4) substantial progress has been made by the County and the CCSD on achieving implementation of buildout reduction plan for Cambria; and (5) there is adequate water supply and distribution capacity to provide emergency response for existing development.[30]

> **~~Preliminary~~ Recommendation 2.13. Address Cambria Short-term Development Constraints**. ~~The short-term problem of water supply in Cambria could be addressed in a number of ways, including limiting short-term growth rates. At a minimum it would seem that the current 1.0% growth should be kept in place, rather than increasing potential new development back to the 2.3% growth rate anticipated by the County's growth management ordinance. However, this would not address the Commission's 1998 findings that would have required a development moratorium by January 2001 unless certain performance standards had been met (which have not). As discussed, the CSD has conducted additional studies, and the County has recently evaluated water~~

[30] Although emergency response capacity is more a function of water distribution capacity, it is an additional uncertainty in the Cambria system. Currently the CSD has approximately 980,000 gallons of storage for fire – fighting – enough water to fight 8-9 houses burning simultaneously for two hours.

~~supply and demand in Cambria in the NCAP project description. There is a need for the County and CSD to work collaboratively to complete critical information needs. To the extent that this recent study may raise uncertainties about how much water is available, coordination discussion with Commission staff over the next several months would be useful. The habitat and in-stream flow studies that the Commission identified as being necessary in 1998 should be conducted as well. One option, therefore, would be to allow 1.0% until 1/1/02, subject to finishing the resource capacity study. Another option that would be the most precautionary in terms of protecting coastal resources, would be to enact a development moratorium through the RMS system, until such time as the water problems for future development is more definitively resolved.~~ Continue implementation of the 1% growth rate in Cambria until 1/1/02, after which time coastal development permits for new development that would require a new water connection or that would otherwise create additional water withdrawals from Santa Rosa or San Simeon Creeks should not be approved unless the Board of Supervisors can make findings that (1) water withdrawals are limited to assure protection of instream flows that support sensitive species and habitats; (2) there is adequate water supply reserved for the Coastal Act priority uses of agricultural production, and increased visitors and new visitor-serving development; (3) a water management implementation plan is incorporated into the LCP, including measures for water conservation, reuse of wastewater, alternative water supplies, etc., that will assure adequate water supply for the planned build-out of Cambria or that will guarantee no net increase in water usage through new water connections (e.g. by actual retrofitting or retirement of existing water use); (4) substantial progress has been made by the County and the CCSD on achieving implementation of buildout reduction plan for Cambria; and (5) there is adequate water supply and distribution capacity to provide emergency response for existing development.

Recommendation 2.14

The County agrees with this recommendation and has suggested that a CRMP could be established as part of the CSD's Master Water Plan update. As discussed in the Watershed chapter, the County should support and pursue watershed management throughout the coastal zone. For watershed management to be successful, though, additional funding will be necessary to support research, monitoring, and staff for implementation. Preliminary Recommendation 2.14 is amended slightly to be more specific and to identify the Estero Area groundwater basins as appropriate locations for such efforts as well.

~~**Preliminary**~~ **Recommendation 2.14. Establish Watershed/Basin Management Programs.** ~~The current NCAP project description discusses establishing~~ Establish ~~a~~ Coordinated Resource Management Programs (CRMP) to promote watershed management, including resource identification and water quality monitoring, and to address competing rural and urban uses in North Coast and Estero Area groundwater basins. See also, Recommendation 3.7b. ~~Such an approach would help to establish consensus as well as promote watershed inventorying and monitoring (NCAP, 3-12).~~

Recommendation 2.15

The County agrees with this recommendation and has suggested that additional policies and standards could be considered in the Area Plan update processes. For Cambria, development of these policies should be coordinated with the Water Master Plan of the CCSD, but also pursued by the County expeditiously. Currently, the LCP includes standards to address landscaping, but they do not directly address the need to reduce summer landscape irrigation demands, do not require water conservation for all new development (residential is mostly excluded), and only "encourage" planting of native species and drought tolerant species (see 23.04.186). There is considerable detail, though, on what should be included in a landscape plan, including an irrigation plan that must meet water flow efficiency standards. In light of the severity of the water supply situation in Cambria, and perhaps in other communities, the County should consider a comprehensive amendment to this ordinance that would require, in communities subject to water supply constraints, xeriscaping and limiting landscape irrigation to that necessary to establish native plantings and drought tolerant plants. Such an amendment should also evaluate other water conservation requirements, such as the use of recycled water for landscaping. No changes are proposed to the recommendation except to delete unnecessary language.

> ~~**Preliminary**~~ **Recommendation 2.15. Consider Additional Options for Water Conservation.** ~~As discussed, the CSD has implemented a variety water conservation programs.~~ Additional LCP policies and standards should be considered that would strengthen requirements for minimizing water use, such as xeriscaping and native drought-tolerant landscaping requirements.

Recommendation 2.16

The County has agreed to consider the various pieces of this recommendation. Considerable public comment has been received on the question of build-out in Cambria, including an extensive set of comments from the United Lot Owners of Cambria (UNLOC), and a subsequent response these comments by the County. As discussed under Recommendation 2.13, buildout reduction in Cambria is one component of a comprehensive strategy to assure that future urban development in Cambria is environmentally-sustainable, particularly with respect to available water supplies. But buildout reduction would also address existing constraints in traffic capacity, schools, forest protection, etc. The debate between the County and UNLOC essentially revolves around what is a realistic estimate of, and/or proper methodology for identifying, the buildout potential in Cambria. The Commission has relied on the County projections in previous discussions. The County projects potential future development through an analysis of existing legal lots that could conceivably be developed to the level allowed under current zoning (the "absorption capacity"). UNLOC has suggested that if more realistic assessment of lot characteristics and ownership patterns is completed, that the actual buildout potential for Cambria is much less (See correspondence in Exhibit D, pp. D-119).

Although there are many details to be considered in understanding the buildout analysis for Cambria, the critical issue is not so much what the projected buildout is, precisely,

but rather, the coastal management measures that will be put in place to assure that the buildout of Cambria is reduced sufficiently to be environmentally-sustainable. Most people concerned with growth in Cambria agree that a reduction in the theoretical capacity for Cambria to grow is necessary if Cambria is to be a sustainable, livable community that protects its coastal environment. Many have cited the population target of 8000-8500 – far less than the population theoretically attained under full buildout of existing legal lots under current zoning (26,327). As discussed in the *Preliminary Report*, economic studies conducted for the NCAP Update have concluded that a 37% reduction in buildout capacity would be the most effective strategy for the community in terms of minimizing infrastructure costs.

Another critical point is that the North Coast Area Plan should contain policies and programs that support an environmentally-sustainable buildout objective for Cambria, regardless of what the theoretical maximum buildout for the community may be. This was the point behind the Commission's 1998 NCAP modification to encourage that a ballot measure to promote buildout reduction through an open space district be supported by the County and the CSD. There are many other possible strategies to reduce the potential development in Cambria as well, some discussed in the *Preliminary Report*. Ultimately, the NCAP and LCP must work in such a way as to assure that the buildout of Cambria is environmentally-sustainable, which includes having adequate infrastructure to support the identified buildout goal. For example, in any future discussions of a new desalination plant for Cambria, it will be important to match up the sizing of the capacity of this potential new water source to the buildout objective for Cambria, assuming other coastal resource policies can be addressed.

As discussed under Recommendation 2.13, the Cambria CSD is developing a GIS system to facilitate more precise buildout analysis. In its comments on the Periodic Review, the CSD has recommended that the Commission encourage a cooperative build-out/service demand reduction strategy with the County. The debate between the County and UNLOC highlights the need to promote more proactive dialogue and identification of management actions for the community. It may be useful for the County to establish a task force, under the auspices of its RMS program, to begin more serious discussion of this question. With this additional suggestion, Preliminary Recommendation 2.16 is amended as follows:

> ~~**Preliminary**~~ **Recommendation 2.16. Cambria Long-term development (Buildout Reduction).** The LCP needs to be amended to address long-term development potential in Cambria. The County should work to expand the TDC program by identifying other sensitive areas that would benefit from transfer of potential development to more suitable locations. Expansion should include Special Project Area #2, as well as watershed areas, other scenic corridors and other small lot tracts in undeveloped areas that support significant coastal resources, particularly contiguous blocks of sensitive pine forest habitat. More aggressive policy options should be considered as well, including development of an Assessment District to retire lots/create open space and promote forest protection. Other mechanisms should be evaluated such as the ability to use mitigation fees or erosion control fees to address long-term buildout. Further attention could be focused on alternatives for reducing development potential on single

> and double lots and creating incentives for the minimum lot size of 7000 square feet. As part of this process, the County should establish a task force charged with identifying management options and strategies for reducing buildout in Cambria by a specific deadline.

Recommendation 2.17 (misnumbered 2.15 in the *Preliminary Report***)**

The County agrees with this recommendation and has suggested handling this change through the NCAP and EAP updates. The County also notes that a Habitat Conservation Plan is underway for Los Osos. As discussed below, determination of the buildout potential of Los Osos, as reflected through land use designations, zoning, the location of the USL, etc. will need to be integrated with the on-going evaluation of groundwater supply, wastewater treatment, and habitat protection. No changes are recommended except to correct the numbering and remove unnecessary text.

> ~~**Preliminary**~~ **Recommendation 2.~~15~~17. Prohibit Creation of New Development Potential in Cambria and Los Osos.** The County should consider prohibiting subdivisions that create new development potential in the communities of Cambria and Los Osos. Subdivisions that include no net gain in development potential (e.g. includes lot retirement) might be considered. ~~In 1998, the Commission recommended a modification that would have required lot reduction in order to subdivide in Cambria.~~

Recommendation 2.18 (misnumbered 2.17 in the *Preliminary Report*)

The County agrees with this recommendation and is addressing this issue in the proposed Cambria Residential Design Guidelines. These should be submitted to the Commission as an LCP amendment later this year. Public comments have been received that underscore the need to address this problem. No changes are proposed to the recommendation except to change the number from 2.17 to 2.18.

> ~~**Preliminary**~~ **Recommendation 2.~~17~~18. Address Cumulative Impacts to Urban Design in Cambria.** Through community planning and LCP amendments, cumulative impacts to urban design should be addressed, particularly concerning the potential role of TDC use. Consider standards to better address the amount of TDCs any one site can use based on the capability of the lot (size, slope, etc.) to handle the increase in square footage. Address minimum area of landscape that must be preserved, regardless of lot size; as well as a maximum footprint area.

Recommendation 2.19 and 2.20 (misnumbered 2.18 and 2.19 in the *Preliminary Report***)**

The County agrees with these recommendations but would modify them to take into account the recently completed safe yield study for Los Osos Valley groundwater basin, and to integrate future planning with respect to the pending wastewater treatment plant and the Habitat Conservation Plan being developed for Los Osos. The new study of the Los Osos Valley groundwater basin (Water Master Plan, June 2001) concludes that the overall safe yield of the basin is 3500 afy, as opposed to the 1800 afy figure acknowledged currently in the LCP or the 2200 afy figure from the 1989 DWR study.

The study also concludes, however, that notwithstanding this higher safe-yield estimate, that the basin has been in overdraft in 8 of the last 15 years. The study also addresses the fact that the groundwater basin appears to be made of different shallow and deep aquifers, and that depending on the withdrawals from particular wells, these distinct aquifers may be vulnerable to overdraft and, in locations closer to the ocean, susceptible to seawater intrusion. The study concludes that the safe yield of the basin may be increased through proper disposal from the anticipated community wastewater treatment plant. The study also projects supply and demand for the basin with a projected buildout population of 19,692, and estimates a 100 afy basin deficit.

Although the Commission has not have an opportunity to fully review the new supply study, preliminary indications are that the study suggests that improved basin-wide water management is needed to assure that new development is environmentally-sustainable and that water capacity will be reserved for agriculture and other priority uses. This is particularly true in the urban area, where there are three separate purveyors (LOCSD, California Cities, and S&T Mutual) that have been self-managing, except for County oversight of development approvals. There is a 1994 water basin agreement that provides a framework for joint management such as the recent supply study, and the CSD is currently negotiating with the other two purveyors to update this agreement to provide more coordinated basin management.[31]

In light of on-going efforts to complete the community wastewater treatment plant, as well the development of the HCP that will necessarily shape buildout scenarios for Los Osos, it remains incumbent on the County, water providers, and the Commission to identify the proper level of future development and water supply alternatives so that groundwater resources are not depleted and so that priority uses are protected. The Commission will continue to participate in the on-going efforts to define the parameters of a community-wide HCP, and to help identify enforceable policies and mechanisms for incorporation into the Estero Area Plan Update. Preliminary Recommendations 2.18 and 2.19 are amended as follows:

> **Preliminary Recommendation 2.~~18~~19. Los Osos Short-term Development.** Similar to Cambria, focused attention is needed on pending studies concerning the safe yield of the Los Osos groundwater basin and the role that a future wastewater treatment facility might play in determining this yield. The County should consider policies and standards to assure that new development that relies on the groundwater basin is not allowed until a safe-yield or alternative water source is determined. Policies and mechanisms to ensure basin-wide management of groundwater supplies should be considered.
>
> ~~**Preliminary**~~ **Recommendation 2.~~19~~20. Los Osos Long-term development.** Amend Estero Area Plan, including changes to support a reduction in buildout, to reflect an updated Buildout analysis, preservation of groundwater basins, and sensitive habitat protection needs identified through the HCP. ~~As discussed in the ESHA chapter, buildout reduction or management strategies are needed for future development that may be facilitated by the construction of a new wastewater treatment plant.~~ Options that

[31] In the FEIR for the wastewater treatment plant, the CSD has committed to participate in the management agreement in order to provide for optimization of groundwater basin yield.

build on the currently proposed TDC approach for habitat protection should be evaluated and incorporated into the LCP (see Chapter 4 ESHA).

Other Recommendations

The Commission received comments from the San Luis Harbor District raising concerns about the reservation of capacity on Avila Valley Road for coastal dependent and related development that might occur in the vicinity of the Harbor. Avila Valley Road can be constrained at peak periods, and the LCP should be updated to reserve capacity for priority Coastal Act uses. Therefore, recommendation 11.3 is amended to address this concern.

4. Conclusion

The *Preliminary Report* presented evidence and analysis showing that the San Luis Obispo County LCP has not been effectively implemented in conformance with the Coastal Act policies concerning environmentally-sustainable urban development, including section 30250 (see Exhibit A, Findings incorporated herein by reference). In addition, further evaluation, and consideration of public comments, has identified further necessary corrective actions for the San Luis Obispo County LCP to conform with the above Coastal Act requirements. Lacking such changes, the County's LCP is not being carried out in conformance with the Act. Pursuant to Coastal Act section 30519.5, the Commission adopts Final Recommendations 2.12-2.20 as appropriate corrective actions for submission to the County.

3. WATER QUALITY

The Coastal Act requires the protection of water quality through several policies. Section 30230 of the Act requires that marine resources be protected, maintained, and, where feasible, restored. The biological productivity of coastal waters, including streams, estuaries, and wetlands, must be maintained. Requirements include controlling runoff and waste discharges to protect water quality, maintaining groundwater supplies and stream flows in order to sustain the biological productivity of coastal waters, and minimizing the alteration of riparian habitats and streams (Sections 30231 and 30240). The San Luis Obispo County LCP incorporates these objectives primarily through controlling erosion and sedimentation, protecting the integrity of groundwater basins, and protecting the hydrological systems and ecosystems of coastal streams.

Since certification of the LCP, the state has adopted a new plan for dealing with nonpoint source pollution (the *Plan for California's Nonpoint Source Pollution Control Program)*. This new plan resulted from amendments to both the Clean Water Act and the federal Coastal Zone Management Act, requiring that states better address nonpoint

source pollution. This plan is discussed in more detail below. For the protection of water quality, the *Preliminary Report* of the San Luis Obispo LCP evaluated the LCP in light of the new nonpoint source plan, and recommended updating the LCP as necessary to bring it into conformance with the adopted State plan. The *Preliminary Report* assessed the management of nonpoint source pollution in three main issue areas: agricultural development and operations, urban and rural development, and marinas and boating areas.[32] Comments on the *Preliminary Report* indicate a need to clarify the objectives of the new nonpoint source plan, and the roles and responsibilities of the various agencies, particularly the County, in implementing the plan. The County also expressed concern with the cost of implementing many of the recommendations in the *Preliminary Report*. The following discussion provides a general overview of the state's nonpoint source plan, the roles of the various agencies involved, and funding issues. A more specific discussion of the comments raised for the three issue areas follows.

California's Nonpoint Source Pollution Control Program:

As noted above, development of this statewide nonpoint source plan resulted from amendments to the Clean Water Act and the Coastal Zone Management Act. Specifically, 1987 amendments to the Clean Water Act require states to develop assessment reports that describe the states' nonpoint source problems and establish management measures to address those problems. Through the 1990 amendments to the Coastal Zone Management Act, Congress identified nonpoint source pollution as a significant factor contributing to coastal water degradation; the amendments require that the state, through a partnership between the coastal and water quality programs, address nonpoint source pollution that affects coastal waters. While there are numerous agencies and regulations in California that play a role in the protection of water quality, the federal Clean Water Act, the state Porter-Cologne Act, the federal Coastal Zone Management Act, and the state Coastal Act are the primary laws guiding California's water quality protection program.

The State Water Resources Control Board (SWRCB), the Regional Water Quality Control Boards (RWQCB), and the California Coastal Commission (CCC) are the lead agencies for implementation of the nonpoint source plan. Accordingly, the CCC and the SWRCB worked jointly with a variety of stakeholder groups to develop the state's nonpoint source pollution plan, which was formally adopted in 2000. The primary underlying goal of the nonpoint source plan is to ensure protection of the State's water quality. The plan details 61 management measures aimed at addressing nonpoint source pollution from a variety of land use activities under six major categories (agriculture, forestry, urban areas, marinas and recreational boating, hydromodification, and wetlands/riparian areas/vegetated treatment systems). The management measures serve

[32] Managing nonpoint source pollution from hydromodification and to wetland areas are addressed through the ESHA and New Development Chapters of the *Preliminary Report*. There are no areas in the San Luis Obispo County's coastal zone where nonpoint source pollution from forestry activities is expected to be a significant issue.

as general goals for the control and prevention of polluted runoff. Site-specific best management practices are then used to achieve the goals of each management measure. The plan recognizes that full realization of all 61 management measure goals throughout California will require the participation of all state, local, and federal agencies, as well as other public and private interests, and will include a mix of regulatory and non-regulatory mechanisms.

A Memorandum of Understanding (MOU) between the SWRCB and the CCC was executed as part of the plan. Although the two agencies have worked side-by-side to complete the nonpoint source pollution plan, they do have different mandates and priorities, so an important benefit of the MOU is that it commits the agencies to continue working together to implement the plan. For example, the SWRCB and CCC have agreed to cooperatively review, update or execute new Management Agency Agreements and MOUs with other agencies as needed to ensure that the plan is followed. This is important because the success of the nonpoint source pollution plan is ultimately dependent on the active participation of a wide spectrum of government agencies with nonpoint source pollution responsibilities and land use authorities. The involvement of private parties whose activities and decisions affect water quality everyday, of course, is also critical.

As discussed further in the nonpoint source plan, implementation will occur through a variety of mechanisms, including:

- a regulatory component to implement many of the management measures;
- a landuse planning and redevelopment component;
- a specific water quality/land use program component;
- a monitoring and evaluation component to track and assess implementation of the management measures and their effectiveness;
- coordination with public and private partners, including local, state, and federal agencies, to implement the nonpoint source plan, including integration of existing water quality protection efforts;
- an education and public participation component; and
- a funding component.

The plan is based upon the use of existing authorities and regulatory processes to achieve implementation. In part, it relies on the implementation of Coastal Act policies and programs within the coastal zone. A primary land use planning authority for implementing these policies is a local coastal program (LCP), which must be certified by the CCC. A corollary regulatory authority for implementing the policies is through the issuance of development permits in the coastal zone, either by the Commission where there is no LCP or by local jurisdictions with certified LCPs. At five-year intervals, the State's plan is to be evaluated to determine if adequate progress is being made in nonpoint source pollution control. If there is no demonstrable progress, additional regulatory actions and authorities for improving implementation of management measures may be considered.

Thus, the State plan anticipates that the CCC will work with its local partners to ensure that appropriate management measures and best management practices (BMPs) are fully considered and incorporated into planning and development proposals in the coastal zone. Local jurisdictions therefore are being asked to employ the various tools that they have available to them to advance this overall effort aimed at protecting and restoring coastal water quality. In part, this includes revising LCP policies and ordinances to reflect the State plan's management measures and to incorporate new scientific information and improved technologies for better control of polluted runoff. The Commission notes that consideration of management measures and implementation of appropriate BMPs may not add significantly to the cost of development, depending on the specific circumstances. Moreover, various sources of supplemental funding to help underwrite the costs of implementing nonpoint source pollution control measures are available, including federal and state grants and low interest loans. While full implementation of the State's plan will take years to complete, it is essential that state, local and federal government agencies begin taking action now toward that end.

Accordingly, the recommendations as modified and outlined below should be incorporated into the San Luis Obispo LCP to provide a framework for building a comprehensive water quality program at the local level, consistent with the State's nonpoint source plan.

LCP Review and Incorporation of Nonpoint Source Plan:

Since the LCP provides the regulatory and planning standards for development in the County's coastal zone, the water quality section of the Periodic Review evaluated the LCP to determine whether it was sufficient to protect coastal water quality consistent with Coastal Act Sections 30230 and 30231 in light of the new nonpoint source plan. The Preliminary Report summarized this review for the issue areas of agriculture, urban, and boating areas in Appendix D (NPS Management Measures – Preliminary Assessment). This appendix detailed the management measures from the nonpoint source plan, preliminarily identified existing language from the LCP which addressed each management measure, and where necessary, suggested modifications to implement the management measures.

Although the *Preliminary Report* did not intend to suggest that all modifications would lead to new regulations, comments received indicate that this was the general perception. The *Preliminary Report* intended to begin the process of establishing the roles that San Luis Obispo can play in support of a broader, regional water quality program. As noted above, implementation of a comprehensive water quality program at the local level will also require a variety of non-regulatory components. To clarify the recommendations in Appendix D, the language of the preliminary recommendations is revised and replaces Appendix D with specific recommendations incorporated into each issue area. The detailed recommendations are discussed for agriculture, urban, and boating areas in the sections below.

A second concern raised by the County in its review of the *Preliminary Report* was the need to clarify the County's roles and responsibilities in implementing the nonpoint source plan. The roles of the major players are discussed below. A significant aspect to implementing the plan at the local level will be ongoing coordination with the state and regional water boards and with the Coastal Commission.

Major Roles in Water Quality Protection:

Generally, the state's nonpoint source plan identifies four main categories of implementing agencies: 1) federal and state land management and regulatory agencies, which have authority to implement management practices statewide; 2) federal and state assistance agencies, which provide technical or financial assistance to support implementation of management practices; 3) local land use agencies with authority to enforce implementation of management practices locally; and 4) local assistance agencies which provide technical or financial assistance to implement management practices.

Under the adopted nonpoint source plan, the State commits to providing assistance though funding when available as well as management practice manuals, training, assistance in developing ordinances and regulations, assessment monitoring, and modeling to predict the effectiveness of source pollution management measures. The nonpoint source pollution program will depend largely on funding received through Section 319 of the Clean Water Act, State appropriations, and the contributions of local governments, non-governmental organizations, private individuals and other entities.

State and Regional Water Boards: The State Water Resource Control Board (SWRCB) and its Regional Board counterparts are responsible for carrying out the mandates of the Clean Water Act, including the adoption of water quality standards for approval by the U.S. EPA. Requirements under the Clean Water Act also include assessing nonpoint source pollution problems and their causes, and adopting management programs to control nonpoint source pollution. Under the Act, states additionally must identify surface waters that do not attain water quality standards (303d impaired list), and establish total maximum daily loads (TMDLs) for these impaired water bodies. The TMDL process establishes allowable levels of pollution for waterbodies, which will achieve water quality standards, and implements methods for achieving those pollution levels.

The state's Porter-Cologne Act, which established the State and Regional Water Boards, also charges these agencies with key responsibilities for protecting water quality in California. Under the Act, the Water Boards implement many of the provisions of the Clean Water Act, regulate discharges, and implement the National Pollution Discharge Elimination System (NPDES) program, which regulates significant point discharges to California's waters. The Water Boards also develop water quality control plans, also known as basin plans, which establish beneficial uses for specific water bodies and

identify water quality objectives to protect beneficial uses. The Water Boards have adopted a "three-tiered" approach to ensure that water quality objectives are achieved, starting with voluntary efforts and culminating with enforcement under the Porter-Cologne Act, if necessary. Tier 1 focuses on self-determined implementation of best management practices (BMPs) to address nonpoint source pollution. The self-determined tier supports landowner choice in the type of BMP integrated into land management and development. Tier 2 focuses on regulatory-based encouragement of BMP implementation, and Tier 3 establishes effluent limitations and enforcement mechanisms. In practice, the Water Boards will determine which, or what combination, of the three options will be used to address any given nonpoint source pollution problem. Sequential movement through the tiers (e.g., Tier 1 to Tier 2 to Tier 3) is not required. Depending on the water quality impacts and severity of the nonpoint source pollution problem, the Water Boards may move directly to the enforcement actions specified in Tier 3.

The SWRCB also implements the Watershed Management Initiative, a non-regulatory program to implement unique solutions to water quality problems for each watershed, and supports community-based watershed plans through financial and technical assistance.

California Coastal Commission: The Coastal Commission is responsible for carrying out mandates of both the federal Coastal Zone Management Act and the California Coastal Act. In 1990 amendments to the Coastal Zone Management Act, Congress identified nonpoint source pollution as a significant factor contributing to coastal water degradation. The resulting amendments require all coastal states, through partnerships between their water quality and coastal programs, to develop comprehensive plans for addressing nonpoint source pollution that affects coastal waters. California's coastal program includes not only the Commission's direct application of Coastal Act policies but also local jurisdictions' implementation of Local Coastal Programs (LCPs) that the Commission has certified as being consistent with the Coastal Act. The Commission's primary roles in protecting water quality are to: a) ensure that Local Coastal Programs adequately protect water quality; b) regulate development in areas without a certified LCP and act on appeals of local decisions to assure, in part, the protection of water quality; and c) provide technical and educational assistance to local governments.

As one of the lead agencies for implementing the nonpoint source plan within the coastal zone, the Coastal Commission also has responsibility to assure nonpoint source pollution protection at the local level. The Coastal Commission has identified numerous actions within the nonpoint source plan that they will complete to assist local governments to develop and implement nonpoint source control programs. For example, under the nonpoint source plan, the Commission has committed to:

- support and expand the Model Urban Runoff Program;
- provide funding for LCP updates through the Local Assistance Program;

- provide guidance to local agencies on methods to incorporate the goals of the nonpoint source plan into LCP updates;
- develop and promote new information regarding BMP effectiveness and selection;
- support watershed planning in priority Critical Coastal Areas
- expand water quality public education programs;
- participate in regional multi-agency program development;
- participate in streamline permitting efforts where appropriate;
- support the Boating Clean and Green Campaign; and
- take a lead role in coordinating the efforts of State agencies to implement the nonpoint source plan.

Many of these efforts have begun but will be expanded and improved as the State proceeds towards full implementation of the nonpoint source plan.

Local Governments: The local land use planning and regulatory functions of each county and city also play an important role in addressing nonpoint source pollution. Each local government's General Plan and zoning ordinances, in addition to its LCP, guide development within its jurisdiction; these plans can help assure that development is located and carried out in a manner that protects water resources. In addition, the permitting processes of each jurisdiction play a key role in preventing or mitigating impacts to resources, and thus are critical mechanisms for implementation of nonpoint source pollution management measures. This is particularly true after a local jurisdiction has had coastal development permit authority delegated to it upon certification of an LCP. In addition, in order to comprehensively avoid or minimize impacts to water quality in the coastal zone, local governments also usually need to explore options for addressing nonpoint source pollution issues within entire watersheds.

Again, as previously noted, some aspects of addressing nonpoint source pollution may include non-regulatory components, may depend on coordination among various agencies and/or private parties, and may extend beyond the coastal zone boundary. Where the local government relies on non-regulatory programs to ensure compliance with the State nonpoint source plan in the coastal zone, the County's role may be to initiate and/or coordinate planning, educational, and assessment efforts. However, the County retains a responsibility under the Coastal Act for assuring the protection of coastal waters.

The County is encouraged in Recommendation 3-7 to begin developing watershed plans for priority watersheds. Priority watersheds should be portions of the County with known water quality problems, or where development pressures are such that nonpoint source pollution can be anticipated to be a major concern. Protecting water quality throughout a watershed, particularly through enforceable plans and zoning ordinances coupled with robust educational programs, can have significant economic and environmental value for the coast in general and local communities in particular. The Commission is presently working to update the Critical Coastal Areas prioritization

process within the State's plan to reflect the importance of multi-agency/ stakeholder watershed planning for protecting water quality and coastal resources.

Many of the management measures adopted in the State's nonpoint source pollution plan rely on public education and participation programs rather than through regulations for implementation. The Commission agrees that such programs play a crucial role in protecting water quality for many land uses and that many of the programs being implemented within San Luis Obispo County reflect the best of these efforts. The Commission supports the inclusion of such programs in the LCP where appropriate to help fulfill the County's role in addressing nonpoint source pollution. The County should, however, demonstrate how such programs will be supported and how success will be documented to ensure that coastal water quality goals and objectives are met. Such targeting and assessment measures should be outlined within the revised Watershed and Water Quality chapter of the LCP as recommended in 3-7 and include guidance on how the County will assure they meet needs throughout the County. Certainly the Coastal Commission and Water Boards should be consulted for assistance in such an effort.

Community-Based Programs: Community-based programs to develop watershed plans can also play an important role in addressing water quality issues. These programs will generally involve the coordination and participation of multiple agencies and private groups. A primary example of a community-based program in San Luis Obispo County is the Morro Bay National Estuary Program's Management Plan for Morro Bay. This plan was developed with the input of numerous parties, and identifies nonpoint source pollution issues and recommended corrective actions for the Morro Bay watershed.

Recommendations for the LCP:

To achieve the goals outlined in the State's nonpoint source plan, and to assure that the LCP is implemented consistent with Sections 30230 and 30231 of the Coastal Act, the Commission recommends a number of changes to the County's LCP. Most of the recommendations in the *Preliminary Report* as modified in this report are designed to update existing policies or ordinances with current standards, and/or to include policies and ordinances to implement many of the management measures identified in the nonpoint source plan. However, the Commission also recommends that the LCP be updated to provide an overall framework for implementing a comprehensive water quality protection program through Recommendation 3-7. This recommendation emphasizes the development of watershed plans for water basins and/or planning areas, but also states "[t]o better facilitate the protection of marine resources and water quality, the existing LCP watershed chapter could be expanded to develop a comprehensive water quality component of the LCP. … The watershed chapter should incorporate the management measures, and mechanisms to implement those management measures, in the *Plan for California's Nonpoint Source Pollution Control Program"*.

As with the statewide nonpoint source plan, a comprehensive plan to address water quality at the local level will necessitate a planning component, a regulatory component, and a funding options component, as well as coordination among existing efforts and various agencies, public participation and education, and ongoing evaluation of the effectiveness of the local program. To provide greater detail for developing a comprehensive water quality component, the Commission deletes Recommendation 3-7 from the *Preliminary Report*, and replaces it with the following recommendation:

Recommendation 3-7a: Update Chapter 9 (Coastal Watersheds) of LCP to provide the framework for a comprehensive Watershed and Water Quality Protection component of the LCP. The chapter should include the following elements:

- a revised introduction to reflect the new knowledge and concern of nonpoint source pollution since 1988, including the recently adopted statewide nonpoint source pollution plan, which forms the basis for protection of water quality from nonpoint source pollution;
- a discussion of the need for watershed based policies and programs, including non-regulatory programs, to fully address water quality issues;
- updated goals and objectives for water quality protection (see following list of goals for guidance);
- modifications to existing policies and ordinances, as discussed in modified Recommendations 3-1 through 3-13;
- a program to encourage watershed planning (see discussion below);
- a program that requires the County to participate in water quality sampling and/or monitoring to measure water quality conditions and the effectiveness of management measures taken to reduce nonpoint source pollution.

As guidance for developing the LCP Watershed and Water Quality Component, the Commission suggests the following:

The chapter should include development of findings of fact, for the basis for specific policies, ordinances, and programs. These findings could be developed to include such provisions as the following:

The County finds that uncontrolled drainage and development of land has a significant adverse impact upon the health, safety and welfare of the community. More specifically,

a) Nonpoint source runoff can carry pollutants into receiving water bodies, degrading water quality;
b) The increase in nutrients such as phosphorus and nitrogen accelerates eutrophication of receiving waters, adversely affecting flora and fauna;
c) Improperly channeling water may increase erosion or lead to excess sedimentation;
d) Construction requiring the alteration of natural topography and removal of vegetation may increase erosion or lead to excess sedimentation;
e) Excess sedimentation (siltation) of water bodies resulting from increased erosion decreases their capacity to hold and transport water, interferes with navigation, and harms flora and fauna;
f) Impervious surfaces increase the volume and rate of stormwater runoff and allow less water to percolate into the soil, thereby decreasing groundwater recharge;
g) Improperly managed stormwater runoff can increase the incidence and extent of flooding, damaging habitat, as well as endangering property and human life;
h) Improperly managed stormwater runoff can interfere with the maintenance of optimum salinity in estuarine areas, thereby disrupting biological productivity;

i) Substantial economic losses result from these adverse impacts on community waters;
j) Many future problems can be avoided if land is developed in accordance with sound stormwater runoff management practices.

The chapter should include suggested goals and objectives. These goals and objectives could include such provisions as the following:

a) To protect, restore and maintain the chemical, physical and biological integrity of coastal waters;
b) To minimize harm to the community by activities that adversely affect water resources;
c) To encourage the construction of drainage systems which aesthetically and functionally approximate natural systems;
d) To encourage the protection of natural systems and the use of them in ways that do not impair their beneficial functioning;
e) To encourage the use of drainage systems that minimize the consumption of electrical energy or petroleum fuels to move water, remove pollutants, or maintain the systems;
f) To minimize the transport of pollutants to coastal waters;
g) To maintain or restore groundwater levels;
h) To protect, maintain or restore natural salinity levels in estuarine areas;
i) To minimize excess erosion and sedimentation;
j) To prevent damage to wetlands;
k) To prevent damage from flooding, while recognizing that natural fluctuations in water levels are beneficial; and
l) To protect, restore and maintain the habitat of fish and wildlife.

Included in the chapter should be policies such as the following:

a) New development shall be designed to maintain predevelopment hydrological conditions to the maximum extent practicable.
b) New development shall protect the absorption, purifying and retentive functions of natural systems that exist on a site and shall, where possible, restore natural drainage systems.
c) New development shall minimize pollutant loads.
d) New development shall minimize impervious surfaces.

The chapter should also include standards and ordinance provisions to implement the policies. These standards could include such provisions as follows:

a) New development shall implement Best management Practices (BMPs) necessary to accommodate runoff from the 85th percentile storm runoffs as defined by the BMP Design Goal and assure that development maintains peak runoff rates and volumes similar to pre-development rates.[33]
b) Development shall minimize site disturbance by clustering building site locations and placing roads along contours.
c) To reduce impervious surfaces, permeable materials shall be used where possible for driveways and walkways. Walkways and driveways shall be limited to the smallest functional size.

[33] The BMP Design Goals is the size of a storm event that is used (along with other information) to determine the size of a structural BMP. Considering the long-run records of local storm events, the 85th percentile event would be larger than or equal to 85% of the storms. The 85th percentile storm can be determined by reviewing local precipitation data or relying on estimates by regulatory agencies. For example, the Los Angeles Regional Water Quality Control Board has determined that .075 inch is an adequate estimate of the 85th percentile, 24-hour storm event for typical municipal land uses within its jurisdiction.

d) A water quality control plan shall be required for projects and activities that require land sue permits or a grading permit. (See Recommendations 3-6c, Urban and Rural Development section).

Watershed Planning

As noted above, watershed planning is a critical element of managing nonpoint source pollution and protecting water quality. Recommendation 3-7 and suggested modifications in Appendix D of the *Preliminary Report* as modified in this report recommend that watershed planning be incorporated into the LCP. The County expressed concerns over the costs associated with such a planning effort and the implications that the County would be solely responsible for developing and implementing watershed plans. In addition, the County and public comments raised a concern that the Commission would extend its jurisdiction beyond the coastal zone boundary through this recommendation.

County role in Watershed Planning and Funding:
The Commission agrees that the development and implementation of successful watershed plans necessarily involves a number of players. The current Morro Bay National Estuary Program Comprehensive Conservation and Management Plan provides one example of a comprehensive watershed management plan, and the coordinated effort necessary to accomplish such a plan. This plan has been a major effort in the County, addressing a variety of land use activities, including urban uses, to address nonpoint source pollution and improve water quality. Clearly, a substantial infusion of federal funding from the U.S. EPA was essential to its completion.

Granted, the County should not be looked to as the sole player in such efforts. Nonetheless, the County must be involved and can play an important role in initiating and coordinating the development of such plans. As found in the Avila Beach Specific Plan, the Commission recommended that the County "coordinate the development and implementation of a comprehensive watershed management program designed to protect the water quality of the entire watershed …". As detailed below, the Commission modifies the language of the *Preliminary Report* recommendation to clarify the County's role in watershed planning.

Again, implementation of many elements of a nonpoint source plan will depend on adequate support and funding. As noted previously, the Commission intends to work with its Water Board partners to support the development and implementation of watershed plans within "Critical Coastal Areas" that will be designated as part of the State's nonpoint source plan. Such support will include the coordination of numerous state agencies and identification of available resources, both technical and financial. Exhibit E identifies a variety of grant programs available to local governments for coastal zone management, including these types of watershed plans.

Jurisdiction:
The Commission recognizes that the LCP governs only those lands within the coastal zone. The State nonpoint source plan does not extend the coastal zone boundary or change the Commission's authority under the California Coastal Management Program. However, the coastal zone boundary does not follow watershed boundaries, and, as a result, activities inland of the coastal zone can lead to polluted runoff and degradation of water quality within the coastal zone. Several public comments also spoke to this concern. Under the Coastal Act, the County has responsibility to protect waters in the coastal zone. To achieve this, sources of degradation both within and outside of the coastal zone boundary must be identified and addressed. Although the Commission cannot require the County to undertake watershed planning outside the coastal zone boundaries, the Commission finds it is appropriate to include a program in the LCP to undertake such planning efforts in order to address *all* sources of water quality degradation to coastal waters.

To address the concerns raised, the Commission deletes Recommendation 3-7 from the *Preliminary Report*, and replaces it with the following Recommendation:

Recommendation 3-7b:

The LCP should be updated to include a program to encourage watershed planning, including a finding that watershed planning is necessary to fully address water quality impacts inside the coastal zone. Watershed planning may require the participation and coordination of various agencies. Through this program, the County should facilitate watershed planning efforts by:

- identifying priority watersheds or subwatersheds for watershed planning, consistent with criteria established for determining critical coastal areas. Priority areas should focus initially on watersheds with known water quality problems, or where development pressures are such that nonpoint source pollution can be anticipated to be a major concern;
- ensuring full public participation in the development of the plan;
- assessing land uses in the priority areas that degrade coastal water quality;
- pursuing funds to support the development of watershed plans; and
- participating in intergovernmental efforts for watershed planning.

General Components of a watershed plan (to guide implementation by many agencies) should include:

- Purpose and Objectives of the Plan;
- Description of approval process, including identification of participating stakeholders, and any required agreements or MOUs;
- Description of the Watershed, including description and data on such items as physical, hydrologic, climatic and natural resource features, land uses, types of land cover, water body use and classification, water body standards, natural and cultural resources, economic base, population demographics, farm demographics, governmental units;
- Resources Inventory
- Problem Identification, describing the specific water resource management problems including the sources and causes of impairment of point sources, nonpoint sources, physical and chemical pollutants, and problems or impediments;
- Problem Analysis, including an assessment of the cumulative impacts of development on water quality and hydrology in order to designate areas to further emphasize on site management of runoff;

- Alternative Management Strategies, including identifying specific measures to minimize the cumulative impact of new development on the watershed and avoiding the alteration of natural drainage patterns; using BMPs, proposed land use changes, structural solutions, and financial incentives; identifying which areas of the watershed which, if restored, could improve water quality; integrating agriculture management measures including developing watershed specific nutrient and pesticide management programs
- Preparation of Draft Water Resources Management Plan;
- Monitoring and Evaluation Component to evaluate the effectiveness of BMPs used to control polluted runoff;
- Implementation Funding Strategy and Budget;
- Public Participation and Educational Strategy

A. Water Quality Impacts from Agriculture

1. Summary of *Preliminary Periodic Review* Findings (Exhibit A, pg. 77-83)

As discussed in more detail in the *Preliminary Report*, agriculture is a major land use throughout the County. Historically, agriculture has also been one of the major sources of nonpoint source pollution and water quality degradation throughout the country, although the impact from agricultural operations can vary significantly, depending on such variables as climate, geography, and on specific agricultural practices. In general, the primary water quality concerns raised with agriculture are erosion and sedimentation, runoff polluted with pesticides, and nutrient loadings.

The San Luis Obispo County LCP currently has several policies regarding water quality and agriculture: generally, the policies encourage proper soil conservation and grazing techniques, and require that erosion be minimized through accepted management practices. However, many of the agricultural activities that occur in the County's coastal zone are not regulated under the LCP. Grading permits are not required for "agricultural cultivation activities including preparation of land for cultivation, other than grading for roadwork or pads for structures" (Ordinance 23.05.026). In addition, permits are not required for crop production and grazing, where defined as an allowable use under the LCP, "except where more than one-half acre of native vegetation is proposed to be mechanically removed" (Ordinance 23.03.040(d)(9)).

As discussed in the section above, the State's *Plan for California's Nonpoint Source Pollution Control Program* details numerous management measures to address nonpoint source pollution concerns, including those raised from agricultural activities. The *Preliminary Report* found that under continued implementation of the LCP, nonpoint source pollution would likely continue to degrade coastal water quality. The *Preliminary Report* found that: 1) the LCP needed to be updated in light of current information and best management practices, and 2) it lacked specific mechanisms to address some of the sources of nonpoint source pollution identified in the State's nonpoint source pollution plan. The preliminary recommendations focused on incorporating mechanisms to implement the State's plan, and included:

- minor language changes to existing policies, reflecting more current review criteria (e.g. change references from 208 standards to more current basin plan standards);
- ordinance language modifications to better address polluted runoff from animal raising facilities;
- modification to the exemption from grading permit requirements;
- programmatic development of mechanisms to address nonpoint source pollution from grazing practices, nutrients, pesticides, and irrigation practices.

2. Comments Raised

San Luis Obispo County Response (Exhibit C):
Comments focused on the need to include a discussion of existing programs throughout the County which address aspects of water quality protection, and the need to target educational efforts to address nonpoint source pollution from agricultural activities. The County also requested clarification on the recommended modifications to address nonpoint source pollution from agricultural activities, referred to through Appendix D. In addition, the County also disagreed with the accuracy of the discussion of pesticide use in the *Preliminary Report*.

Public Comments (Exhibit D):
Most comments raised with regard to this issue focused on 1) statements that agriculture is not a major source of erosion or sedimentation, and 2) that numerous voluntary programs are being implemented throughout the County to address nonpoint source pollution from agricultural activities, negating the need for additional regulatory measures under the LCP. However, comments from South Bay residents indicated a concern with degraded water quality from runoff into Dune Lakes, Oso Flaco Lake, and Black Lake, due, in part, to nearby agricultural activities.

Other comments included: 1) concern over the definition of feedlots and if/when the proposed changes to the ordinance would affect agricultural operations; 2) inappropriate data regarding pesticide use and inadequate discussion of existing regulatory requirements; 3) concern over inadequate monitoring of water quality, particularly for pesticide contamination; and 4) concern over changes to the exemption from grading permits which would result in setbacks from streams and wetland areas, causing a loss of agricultural land. The comments also indicated that many of the suggested recommendations detailed in Appendix D were not sufficiently clear, and were misunderstood to be requirements for new regulations, raising significant concerns about the economic impact of new regulations and the impact to ongoing agricultural operations. These comments are discussed in more detail below.

Specific Clarifications/Errata:

Delete sentence on page 77 "Finally the water in San Bernardo Creek is known to be contaminated with coliform from cattle." Data source is 1986. More current data does not indicate water quality degradation in San Bernardo Creek.

Page 77 of the *Preliminary Report* will be modified to indicate that while agriculture and grazing are suspected sources of siltation in San Carpoforo Creek according to data from the California Rivers Assessment Program, through the University of California, Davis, the agricultural community has stated that the cause of siltation is from landslides on Forest Service property.

3. Analysis

Sources of Nonpoint Source Pollution and Existing Efforts to address Nonpoint Source Pollution

The statewide nonpoint source pollution plan cites that according to the US EPA, "agriculture contributes more than half of the pollution entering the Nation's water bodies".[34] While this figure is not quantified specifically for San Luis Obispo County, existing data and planning efforts also cite that agriculture is *one source* of nonpoint source pollution in the County. These examples include the current watershed planning efforts in the Morro Bay watershed through the National Estuary Program, the U.C. Davis California River's Assessment Project, and EPA's 1998 303(d) list of impaired water bodies.

While not the sole source of nonpoint source pollution, agriculture is an important factor to consider in protecting water quality, particularly since it is one of the primary land uses within the County. The Commission agrees that to adequately address water quality impacts, better information is necessary to document the specific causes of water quality degradation in each watershed or subwatershed. For example, comments were raised that monitoring of coastal waters does not indicate any water quality concerns regarding pesticide runoff. However, other comments raised the concern of inadequate monitoring of coastal waters, both in general, and for pesticides in particular. As discussed in the Preliminary Report, ongoing and complete monitoring has not been undertaken to evaluate the presence of pesticides in the County's streams and estuaries, although the RWQCB has recently begun conducting more ambient water quality monitoring, including some monitoring for pesticides. The watershed planning process discussed under Recommendation 3-7 in the Preliminary Report, and in the previous section, provides an opportunity to update existing information and improve documentation of the critical sources of nonpoint source pollution for each watershed.

Since publication of the Preliminary Report, the Commission has received additional information on a number of voluntary programs and existing regulations that are being

[34] State Water Resources Control Board and California Coastal Commission. *Plan for California's Nonpoint Source Pollution Control Program.* January 2000. pg. 88.

implemented throughout the County to address nonpoint source pollution concerns. The comments received by Commission staff from the agricultural community stated that these programs were already addressing concerns over nonpoint source pollution from agricultural activities, and should continue to be implemented without additional requirements. The following examples illustrate some of the voluntary ongoing efforts to address water quality issues in the County.

Short Courses on Water Quality Protection: Several "short courses" focusing on grazing and farmland management are offered through U.C. Cooperative Extension Services; these courses focus on voluntarily implementing management measures and practices to control nonpoint source pollution from agricultural operations. Classes on rangeland management began in 1995; classes to address issues on farmlands are in the final stages of being developed through a pilot program. The goal of both courses is to complete a management plan with low-cost mechanisms to address nonpoint source pollution. Both courses have five main components: identifying resources on the site (physical and natural); documenting current agricultural practices; a self assessment procedure of nonpoint source pollution issues and goal-setting; identifying future practices and implementing measures to address nonpoint source pollution; and assessing future practices. The evaluation of nonpoint source pollution includes numerous factors, including sedimentation and erosion; impacts to riparian and wetland areas; nutrient loading/location of grazing/feeding/watering areas; reduction of pesticide use/integrated pest management (IPM) practices; and salinity concerns.[35]

U.C. Extension estimates that approximately 20-25% of the ranchers in the County have taken a rangeland management short course, and approximately half of those have completed a draft management plan for their property. The Regional Water Quality Control Board, San Luis Obispo County Farm Bureau, and the Department of Fish and Game also participate in these short courses.

Vineyards: In addition to the above short courses, the Central Coast Vineyard Team encourages sustainable agriculture in Santa Cruz, San Luis Obispo, Santa Barbara Counties. This nonprofit has developed a self-assessment questionnaire for vintners addressing a variety of environmental and water-quality concerns. Evaluation elements include pest management, protection of surface and ground water quality, minimizing soil erosion, and habitat conservation.[36]

The Positive Points System addresses several environmental issues commonly associated with agriculture: protecting surface and ground water quality, minimizing soil erosion, reducing risks associated with pesticides and agricultural chemicals, protecting worker safety, eliminating drift, and conserving habitat within the vineyard. Through the questionnaire, the team has evaluated an estimated 15,000 acres of vineyards for sustainability throughout the Central Coast. Through use of the questionnaires and additional educational efforts, the growers have implemented many changes and improvements to their practices, improving protection of resources and water quality. In addition, the Vineyard

[35] Royce Larson and Mary Bianchi, U.C. Extension. Pers. comm. April, 2001.
[36] Central Coast Vineyard Team. *Positive Points System.* Fall, 2000.

Team will start implementing demonstration projects this year to further educational efforts.[37]

Morro Bay National Estuary Program: Through a joint project involving the Morro Bay National Estuary Program, the Bay Foundation of Morro Bay, the Regional Water Quality Control Board, the U.S. EPA, and local communities, the Comprehensive Conservation and Management Plan for Morro Bay was recently completed; the primary objective of the plan is to develop actions to address water quality degradation. The Morro Bay plan resulted from an extensive, long-term planning process, and includes an action plan to address the priority issues of sedimentation, bacteria, nutrients, loss of freshwater flows, heavy metals and toxic pollutants, habitat, and loss of steelhead. Implementation of the plan will involve a variety of measures, including ongoing educational efforts and collaboration with resource management and regulatory agencies.[38] Although implementation of the action items detailed in the plan will occur over a long timeframe, numerous best management practices to reduce sedimentation levels have already been implemented throughout the watershed through the Morro Bay Watershed Enhancement Project.[39]

NRCS/RCD: The Natural Resource Conservation Service and Resource Conservation Districts both provide a variety of technical and financial assistance to landowners, operators, or tenants to address resource protection and implement BMPs. Measures include cost-sharing programs and/or grants to landowners to undertake conservation practices. Examples of projects in the Morro Bay watershed include the Chorro Flats restoration project and the Maino Ranch grazing management project. Agriculturists may work with NRCS/RCD to get financial assistance to implement management measures identified through a management plan developed during the short courses discussed above. Funding assistance has also been provided to begin implementation of some management practices detailed in the Morro Bay National Estuary Program. Numerous other organizations throughout the County also have programs and projects that relate to the protection of water quality.

The Commission believes that these efforts are an important component of protecting water quality, and should continue to be used and expanded to address nonpoint source pollution from existing agricultural operations. Many of the recommendations suggested in the *Preliminary Report* to implement the management measures in the state's nonpoint source plan were envisioned to focus on non-regulatory, educational programs similar to those discussed above. One important exception is the Commission's recommendation to modify the grading exemptions in the LCP; this recommendation and proposed modifications to the recommendation are discussed below (see *Changes to grading exemption*).

To assure that voluntary efforts are adequate to implement the State's nonpoint source pollution plan, and protect coastal water quality as required under the Coastal Act (and other applicable laws), the Commission finds that the County, in consultation with NRCS/RCDs,

---

[37] Kris O'Connor, Executive Director. Central Coast Vineyard Team. Pers. comm. April, 2001.
[38] Morro Bay National Estuary Program, et al. *Turning the Tide for Morro Bay*. Working Draft Comprehensive Conservation and Management Plan for Morro Bay. April, 2000. pg. 1-16.
[39] Ibid. Pg. 2-35.

should document and track the success of these programs. The Commission modifies Recommendation 3-2 to add a program to the LCP which continues the use of educational efforts to address nonpoint source pollution, and to require the County to assess the effectiveness of those efforts in reducing and preventing nonpoint source prevention. (See Recommendation 3-2a.)

Pesticide Use and Regulation

A number of the voluntary efforts discussed above address impacts to water quality from pesticides. In addition, the California Department of Pesticide Regulation (DPR) regulates pesticide use in California. Prior to a pesticide being sold or used in California, it must be evaluated and registered by DPR. The evaluation process includes an assessment of environmental effects for the proposed chemical. The County Agriculture Commissioner implements the pesticide regulations for San Luis Obispo County.

All pesticide use must be reported to the County Agricultural Commissioner who forwards monthly reports to DPR. Pesticides are classified either as "restricted" or "non-restricted". To use a "restricted" pesticide, a user must obtain a permit from the County Agricultural Commissioner. Through the review and permit process, the Commissioner can encourage the use of alternative products, use of integrated pest management techniques, can condition the use of the product to mitigate potential environmental impacts (e.g., to assure adequate buffers between application areas and streams), or can deny use of the chemical. Such conditions depend on the specific chemical and specifics of the site. Chemicals also have restrictions on labels that must be followed to mitigate environmental impacts.[40] "Non-restricted" chemicals do not require a permit for use, but the application must still be reported to the county agricultural commissioner. The County, however, cannot condition the use of non-restricted chemicals.

DPR is also proposing to modify its regulations to improve protection of groundwater resources. The proposed changes include: declaring additional pesticides to be restricted materials and requiring specific management practices for their use; identifying "groundwater protection areas"[41] and requiring permits for use of pesticides in those areas, whether for agricultural, outdoor industrial, or outdoor institutional uses; requiring training in groundwater protection before a permit for use can be issued; and adopting a wellhead protection program.[42]

A number of comments were raised regarding the accuracy of pesticide data in the *Preliminary Report*. Comments state that the discussion on page 78 of the *Preliminary Report* is speculative and fails to acknowledge that sampling data does not indicate any water

[40] Department of Pesticide Regulation, Pesticide Use Reporting Overview. From www.cdpr.ca.gov. Ouwerkerk, Brenda. Manager, Pesticide Enforcement Program for San Luis Obispo County. Pers comm. March, 2001.
[41] Groundwater protection areas are defined as areas sensitive to the movement of pesticides to groundwater (from DPR's website, Groundwater Protection Program).
[42] Proposed changes to Title 3, Division 6, Chapter 1. From DPR's website, Groundwater Protection Program (www.cdpr.ca.gov/docs/empm/gwp_prog/gwreg.pdf).

degradation through pesticides in coastal waters of the County. This comment was raised in part from the statement in the *Preliminary Report* that "pesticides will be carried into coastal waters through storm water runoff regardless of whether the initial application of the pesticide is within the coastal zone or inland of the coastal zone boundary". The comments requested modifying the paragraph to focus on actual pesticide use in the coastal zone. Comments also question the estimates of pesticide use cited from Californians for Pesticide Reform and data in Table 3-1 (Change in Pesticide Use and Farm Acreage for Selected Crops, San Luis Obispo County, 1993-1998).

As noted previously, and in the *Preliminary Report*, comprehensive water quality monitoring, particularly for pesticide contamination in the coastal zone, has not been done. Therefore, while there is minimal information documenting water quality degradation from pesticides in the coastal zone, information is equally lacking regarding the actual status of water quality. The watershed planning discussed in the previous section could address this information gap. To address comments raised, the text will be modified to clarify the limitations of the data used and the lack of specific data for the coastal zone.

Regarding Table 3-1, this information was compiled using data from the Department of Pesticide Regulation's pesticide use reporting requirements. Under the Department of Pesticide Regulation's requirements, all substances used as pesticides are reported, regardless of the potential for, and degree of, environmental impacts. Comments from agriculturists in the County note that the dramatic increase of pesticide use for avocados was due to the presence of two new pests in 1997 and 1998. In addition, a significant percentage of the total amount of pesticide use may be from substances such as petroleum oil and sugar, and may be substances certified as organic. Table 3-1 will be clarified.

Changes to grading exemption for agricultural operations

One of the management measures under the State's nonpoint source pollution plan is the protection of sensitive areas (such as streambanks, wetlands, and estuaries) on rangelands. To implement this measure, the Preliminary Report recommended, in part, modifying the existing agricultural exemptions for grading permits in the LCP to exclude areas immediately adjacent to coastal steams and wetlands (Management Measure 3, Table D-1, Appendix D). Although the preliminary recommendation does not specify the measure to implement this change, preliminary recommendation 5-10 in the agricultural chapter of the Preliminary Report proposed, in part, review of agricultural grading within 100 feet of coastal streams or waters.

The agricultural community indicated that this change would, in effect, prohibit agricultural activities within 100 feet of streams or other waterbodies, due to LCP policies and ordinances addressing ESHA, and would result in a significant loss of agricultural lands. Agriculturists also stated that a uniform setback is inappropriate and dependent on the specific nature of the site and agricultural operation, that water quality concerns could be addressed through various management measures, and that a number of voluntary programs already address water quality concerns (see above discussion). The proposed modification was also interpreted by the community to require fencing of riparian areas in some cases. The Commission estimates that a

100 foot buffer around all blue-line streams on agriculturally zoned land would encompass approximately 10,700 acres, or approximately 9% of land zoned as agriculture under the LCP.

The preliminary recommendation was not designed to preclude all agricultural use within 100 feet of a coastal stream or other waterbody, but sought to assure that erosion, sedimentation, and loss of riparian habitat were addressed. While the Commission recognizes the voluntary efforts being undertaken by many agriculturists in the County, the Commission finds that for water quality to be adequately protected, review of new agricultural grading which poses a risk to water quality – or other environmental resources – should occur under the LCP. While the LCP – and the Coastal Act – define grading as "development", requiring a permit, the LCP exempts most grading associated with agricultural operations.

The Commission proposes to modify the LCP to require grading permits for new agricultural grading where grading: a) occurs within 100 ft of ESHA, b) removes significant trees or more than ¼ acre of native vegetation, or c) occurs on slopes over 30%. This modification does not, however, necessarily prohibit grading in these cases; it simply requires that a permit be obtained. Tillage of existing agricultural fields is not considered to be development that triggers a grading permit and maintenance of existing agricultural roads will be exempt from requiring a grading permit. Grading on slopes under 30%, if designed per NRCS standards, will also be exempt from permit requirements. These requirements will not be applied retroactively to existing agricultural operations.

To streamline the regulatory process, the Commission recommends adoption in the LCP of a program that encourage NRCS, or other agencies, to prepare general program(s) to address erosion and sedimentation in various regions of the County's coastal zone. The program should consist of the construction and/or installation of BMPs to implement the management measures for agricultural activities in the State's nonpoint source pollution plan. To track implementation of the nonpoint source program, the agency should provide annual reports to the County that identify the measures taken to reduce and/or prevent nonpoint source pollution. Once certified that the program complies with *all* resource protection policies under the Coastal Act and LCP, implementation of specific projects under the certified program would be exempt from permit requirements. Certification of the program could occur through County review and issuance of a master permit; through an LCP amendment, incorporating the program into the LCP; or through the Commission's federal consistency review.

LCP Ordinance 23.05.034 (c), which requires that no development occur within 100 ft. of an ESHA must also be amended to allow future agricultural grading within 100 ft. of an ESHA. The Commission therefore proposes modifying this ordinance to allow grading for agricultural cultivation within 100 feet of an ESHA, where grading is designed to avoid adverse impacts to coastal resources.

These recommendations are similar to actions taken by other local jurisdictions to address environmental impacts and nonpoint source pollution from agricultural grading. For example, as discussed in Chapter 5 of the *Preliminary Report*, both Napa County and Sonoma County have a regulatory review program, and establish certain criteria and limitations, for the development of

vineyards. San Diego County has also recently begun requiring grading permits for agricultural grading. Similarly, the Commission anticipates that these recommendations will improve the County's protection of water quality and other coastal resources, and allow flexibility in the specific design criteria for agricultural grading operations. The specific recommendation language (modified Recommendations 3-2b – 3-2d) is detailed below.

Definition of Feedlots and Effect on Grazing Operations

PR 3-1 includes proposed changes to LCP Ordinance 23.08.046(c)(2) to improve water quality protection from animal raising activities. Management Measure 3 in Table D-1, Appendix D, also recommends modifying ordinance 23.08.046 to address contaminated runoff from "confined animal facilities". Since the LCP does not use the term "confined animal facilities", concerns were raised by agriculturists about the meaning of this term. Agriculturists were concerned that this would result in additional permit requirements that would affect general grazing practices or other livestock operations, particularly where calves are kept in confined areas for a limited period of time as a standard part of grazing operations.

The reference to confined animal facilities in the *Preliminary Report* comes from the management measures in the State's nonpoint source plan, and in that context is intended to address water quality concerns related to situations where animals are kept at a density which could lead to significant degradation to water quality or other coastal resources. However, the LCP does define animal raising and keeping activities (Framework for Planning pg. 6-40 and Ordinance 23.08.046) and specialized animal facilities (Framework for Planning pg. 6-58 and Ordinance 23.08.052). Ordinance 23.08.046 currently requires a permit for animal keeping, including measures to "avoid soil erosion and sedimentation caused by keeping of animals and plans for animal waste disposal. These requirements also apply to activities defined as specialized animal facilities, along with additional standards. The intent of the recommendations in the *Preliminary Report* is to update existing requirements in the LCP and CZLUO to control runoff from animal raising and keeping and specialized animal activities with more current language adequate to implement the nonpoint source plan. The Commission recommends updating the ordinance as proposed under PR 3-1, referencing animal raising and keeping activities as currently defined in the LCP.

The Commission does not propose to add confined animal facilities to the ordinance, and the modification under Appendix D will not be included. The recommendation would modify Ordinance 23.08.046 and, as applicable, Ordinance 23.08.052 to require that *where a permit is already required* for "animal raising and keeping" and "specialized animal facilities", the applicant a) must assure that contaminated runoff be contained at all times and that b) storage facilities are constructed to prevent seepage of runoff into groundwater and are sized for adequate capacity.

To address the concerns raised in the Preliminary Report, the Commission proposes the following recommendations which incorporate changes to the preliminary recommendations, as discussed above:

Recommendation 3-1: Modify and adopt the following polices and standards in the LCP. (***Bold italics*** indicate new language; strikeouts indicate language proposed to be removed.)

Agriculture Policy 8: Proper soil conservation techniques and grazing methods should be encouraged in accordance with ~~208 Water Quality Standards~~ ***Basin Plan receiving water objectives*** adopted to meet the water quality requirements of the California Regional Water Quality Control Board.

Coastal Watershed Policy 14: Proper soil conservation techniques and grazing methods shall to the maximum extent feasible be employed in accordance with ~~208 water quality standards~~ ***Basin Plan receiving water objectives*** adopted by the California Water Quality Control Board.

Ordinance 23.08.046 c(2): Application content. Where this section requires land use permit approval for a specific animal raising activity, the permit application shall include the following in addition to all information required by Sections 23.02.030 …

(i) Site drainage patterns and a statement of measures proposed by the applicant to avoid soil erosion and sedimentation caused by the keeping of animals.

(ii) The applicant's plans for animal waste disposal***, including plans showing measures to confine runoff, adequate capacity to allow for proper wastewater disposal, and measures to prevent seepage to groundwater***.

(iii) …

e(2): Erosion and Sedimentation control. In no case shall an animal keeping operation be managed or maintained so as to produce sedimentation ***or polluted runoff*** on any public road, adjoining property, or in any drainage channel. …

Similar requirements should be incorporated into CZLUO 23.08.052.

Preliminary Recommendation 3-2 will be deleted and replaced with the following:

Recommendation 3-2~~: Modify LCP to incorporate mechanisms to fully implement the management measures identified in Appendix D. Appendix D identifies preliminary policy alternatives to achieve this goal.~~

Recommendation 3-2a*:* Add program to the LCP encouraging the County to continue supporting educational efforts to address resource impacts from agricultural activities. Efforts should include: a) reducing nonpoint source pollution, including sedimentation, from grazing and other agricultural practices; b) using BMPs and other management strategies to protect habitat areas; c) reducing the contamination of surface waters and groundwater from pesticides; d) reducing water quality degradation from nutrients; and e) reducing nonpoint source pollution caused by irrigation, by encouraging irrigation techniques that conserve water and retain water on-site. The County should use monitoring data and information from watershed planning efforts to target priority locations for educational efforts. In addition, the County should assess and document the effectiveness of educational efforts in preventing and/or minimizing nonpoint source pollution.

Recommendation 3-2b: Amend Ordinance 23.05.026 (d) to modify the exemptions granted from grading permit requirements for agricultural grading. The following grading activities could be exempt from requiring a grading permit, except when associated with grading for roadwork or pads for structures:

- grading of less than 50 cubic yards if Planning Director determines there are no potential impacts to coastal resources;

- tillage of existing agricultural fields;
- maintenance of existing agricultural roads, provided maintenance activities do not widen the road;
- grading further than 100 ft. from ESHA;
- grading which removes no significant trees;
- grading which removes ¼ acre or less of native vegetation,;
- grading on slopes under 30%, if designed per NRCS standards;
- grading performed under a program developed by NRCS or another appropriate agency, that has been reviewed and permitted as outlined in Recommendation 3-2d.

Recommendation 3-2c: Amend Ordinance 23.05.034(c) to allow grading for agricultural cultivation within 100 feet of an ESHA, consistent with the above exemption, if grading is designed to avoid adverse impacts to the ESHA, including preventing polluted runoff into coastal waters and preventing loss of habitat.

Recommendation 3-2d: Add program to Chapter 7 of the LCP (Agriculture) encouraging NRCS or other appropriate agencies to develop program(s) to implement BMPs for agricultural grading activities on agricultural lands. The programs must be certified as consistent with all LCP policies through one of the following mechanisms: a) County review and issuance of a master permit, b) through an LCP amendment, or c) through the Commission's federal consistency review process. Once the program is certified, implementation of specific projects under the program will be exempt from individual grading permits.

4. Conclusion

As discussed in the *Preliminary Report*, the protection of coastal water quality is required under the Coastal Act. Given new information since certification of the LCP in 1988, and a better understanding of the sources of polluted runoff, and impacts to water quality, revisions to the LCP are necessary to find that implementation of the LCP can adequately protect water quality in conformance with Coastal Act Sections 30230 and 30231. After further evaluation and consideration of public comments, pursuant to Coastal Act Section 30519.5, the Commission adopts Recommendations 3-1 – 3-2 as appropriate corrective actions for submission to the County.

B. Water Quality Impacts from Urban Development

1. Summary of *Preliminary Periodic Review* Findings (Exhibit A, pg. 83-95)

The *Preliminary Report* found that urban development could affect water quality through a number of factors, including the location and siting of new development, construction activities, and ongoing water runoff after construction of a development. This ongoing, post-construction runoff is a major new concern in water quality protection since certification of the LCP.

The current LCP addresses nonpoint source pollution primarily through the use of erosion and sedimentation plans and/or drainage plans. The LCP details the situations

where such plans are required. A second strategy used by the County is to restrict development on steep slopes. For industrial development, the LCP focuses on ensuring adequate oil spill prevention and cleanup plans.

The *Preliminary Report* found that generally water quality concerns were addressed during the construction phase of project development, although the *Preliminary Report* also noted concerns arising from lack of specific standards to ensure the use of most current best management practices (BMPs). The *Preliminary Report* also found that the LCP policies and standards addressing ongoing runoff after construction of a project were most in need of update. All development, regardless of whether it requires an erosion or grading plan under the LCP, has the potential to affect water quality through post-construction runoff. Most of the preliminary recommendations for urban water quality issues focus on this concern and suggest implementation of the various management measures identified in the state's nonpoint source plan.

The major preliminary recommendations include:

- incorporating measures to address post-construction runoff, including integrating best management practices into project designs;
- adding policies and ordinances to prevent nonpoint source pollution from residential septic systems; and
- incorporating performance standards and monitoring requirements as part of erosion control and sedimentation plans.

The development of watershed plans, also a recommendation under this section, has been discussed previously.

2. Comments Raised

San Luis Obispo County Response (Exhibit C):
The major comments raised regarding this section come from the County, and focus on the need for more information and clarification of the suggested modifications in Appendix D. The County has requested information regarding the proposed modifications to the definition of the wet season and the criteria used for identifying watercourses, as well as clarification of the intent of Preliminary Recommendation 3-11 which prohibits subdivision on slopes over 30%. Additional concerns regarding the roles of the County and various other agencies in water quality protection efforts are discussed in the section above. Finally, although the County does not necessarily disagree with some of the proposed recommendations, they have expressed concerns with the cost of implementation of a number of the proposals. Funding issues and opportunities to implement the State's nonpoint source plan are also discussed in the section above.

Public Comments (Exhibit D):
Public comments raised disagreed with the proposed modifications to the definition of the wet season. Comments stated that the criteria proposed for defining watercourses were undefined

and were too expansive. Comments also disagreed that there is a water quality issue from residential septic systems in the Los Osos area.

3. Analysis

Definition of wet season

Preliminary Recommendation 3-8 and proposed modifications under Appendix D suggested modifying the start of the wet season from October 15, to begin October 1. This modification originated from work done through the Model Urban Runoff Program. The County has questioned the need for this change, and the agricultural community strongly opposes the recommended change. Based on subsequent conversations with the Regional Water Quality Control Board, the Commission proposes to keep the current LCP definition of the wet season (October 15 through April 15). Given weather patterns in San Luis Obispo County, staff at the Regional Water Quality Control Board believes the existing criteria are sufficient. Preliminary Recommendation 3-8 therefore is deleted.

Definition of Streams

The LCP requires sedimentation and erosion control plans when land activities are "within 100 feet of a watercourse shown on current 7 ½ minute USGS quad map". Preliminary Recommendation 3-9 proposed adding additional criteria to define a watercourse, including a natural watercourse or drainage system that supports fish, has significant flow 30 days after the last significant storm, or has a channel, free of soil and debris. Several comments noted that the language "has a channel, free of soil and debris" is problematic, as natural streams generally have soil and natural debris. The Commission agrees, and revises the recommendation to exclude this criterion.

> In addition, comments noted that the criterion of supporting fish is already covered through blue line streams. As discussed in the ESHA section, the Commission proposed adding criteria to ensure that streams *not* mapped as blue-line streams, but which provide important habitat, are adequately protected. At the same time, comments stated that the proposed revisions sought to "include all stock ponds", raising a concern over the impact to agricultural operations. Commission staff's intent was not to include stock ponds in this recommendation, but to address only streams. Therefore, Commission proposes keeping the criteria of "supporting fish" to identify natural watercourses or drainage systems.
>
> Finally, comments requested a definition of "significant flows" and "significant storms". To assure consistency in implementation, the County could adopt a definition of "significant flows" and "significant storms", similar to the above definitions.
>
> *Subdivisions on 30% slope*

Preliminary Recommendation 3-11 and one of the suggested modifications in Appendix D states: "Prohibit subdivisions on slopes over 30%". The County has requested clarification whether this recommended change prohibits all subdivisions on slopes over 30%, or allows subdivisions on slopes over 30%, but prohibits future development from occurring on slopes over 30%.

As discussed in the *Preliminary Report*, Coastal Watershed Policy 8 and Ordinance 23.05.034 establish limits for grading to slopes of less than 20%, but allow exemptions for grading on slopes between 20-30%. As also discussed in the *Preliminary Report*, while subdivisions themselves do not necessarily include grading, the locations approved for new development can have important consequences for future development and for water quality issues. Erosion from steep slopes is a major concern for water quality. Although grading is not permitted on slopes over 30% under the LCP, the County has issued a number of variances, including two subdivision permits which included grading on slopes over 30%.

The Commission finds that to protect water quality, the LCP should prohibit subdivisions which would result in building pads, access roads, or driveways to be located on slopes over 30%, or result in grading on slopes over 30%. In addition, the LCP should require that on slopes over 20%, subdivision applications should include plans locating building pads and access roads so that erosion and sedimentation will be minimized, and should require that future construction maintain pre-development flows by detaining stormwater flows on site or by ensuring that they are no greater than predevelopment flows. Recommendation 3-6a, below, has been modified to reflect these changes.

Residential Septic Systems

The potential water quality impacts from residential septic systems are recognized as an area of concern in the State's plan, and a number of management measures to address polluted runoff from residential septic systems are identified under the plan. The Preliminary Report also identified a number of preliminary recommendations in Appendix D to address those concerns. Problems with water quality degradation from septic systems in the Los Osos area led the RWQCB to impose a septic tank discharge moratorium in January 1988. The RWQCB established a prohibition zone, encompassing most of the urban area of Los Osos, within which most new residential construction or major expansions of existing buildings has been effectively halted until the County provides a solution to the water degradation problem.

Since publication of the Preliminary Report, the Commission staff has undertaken additional research on existing regulations and requirements in San Luis Obispo County which govern residential septic systems. Title 19 of the County code regulates septic systems, and is

incorporated into the certified LCP by reference. Many aspects of the management measures identified in the state's nonpoint source plan, and Appendix D of the preliminary report, are addressed through the existing requirements in Title 19. However, a number of standards identified in Appendix D are not addressed in Title 19, and if added, could better protect water quality. These standards are outlined under modified preliminary recommendation 3-6e.

Clarifications to Modifications in Appendix D

The majority of modifications to the preliminary recommendations for this section result from the need to provide more specific detail to the suggested modifications in Appendix D. To avoid confusion between the preliminary recommendations and Appendix D, the Commission deletes the column of "suggested modifications" in Appendix D and replaces it with specific recommendations. The specific language for each recommendation is identified below. In addition, several of the preliminary recommendations have been consolidated. The Commission deletes Preliminary Recommendation 3-10, requiring performance standards and monitoring as part of erosion and sedimentation control plans. The Commission's concerns are addressed through the recommended policy and ordinance language in the proposed modifications to the water quality chapter of the LCP, discussed above, and through the recommended program for the County to participate in ongoing assessment of implementation of the State's plan (Recommendation 3-7). Preliminary Recommendation 3-12 requires development of drainage and pollution control plans that identify BMPs and management measures to mitigate nonpoint source pollution. The Commission modifies this recommendation to include specific requirements and standards, which would also address concerns in preliminary recommendation 3-10.

To address the comments and modifications discussed above, the Commission modifies the preliminary recommendations as follows. Recommendations 3-3 – 3-5 remain substantively unchanged from the preliminary report; the recommendations have been edited to clarify the recommendations and remove unnecessary language. These changes are shown below.

> **Recommendation 3-3*:*** *Area Plan Updates*. The proposed update of the North Coast Area Plan (January 2000) includes a variety of policies to improve the protection of water quality. These management strategies should be incorporated into the Area Plans. Proposed policies and strategies include~~ing~~: Policies to prohibit point-source discharges into the marine environment; Rural Area Program to designate Areas of Special Biological Significance (ASBS) for protection from development of impacts of any future wastewater outfall structure(s); Improved controls on land divisions and lot line adjustments to minimize the impact of water extraction from riparian creek areas for non-agricultural uses and policies and programs specific to Lodge Hill. The proposed revisions to the North Coast Area Plan Standards offer the opportunity to strengthen the water quality protection provisions of the LCP if expanded to address the issues raised through this review.

> **Recommendation 3-4:** *Expanding Erosion Control Studies*. The County has targeted the Lodge Hill area to reduce erosion in the area ~~problems in the Lodge Hill area~~ and proposes to implement recommendations of ~~the~~ a 1999 erosion control study. These recommendations generally focus on 1) paving roads, and 2) developing a comprehensive master plan for the community. The master plan should design for buildout of the community and incorporate the street drainage network into the plan. ~~The report notes that until such a plan is developed, "critical lots should be~~

~~identified that could provide storm water infrastructure, or are at extreme risk due to their location in a drainage path. The County could target these lots for purchase in order to development a system for storm water management ….”~~ In general, implementing the study’s recommendations could reduce erosion and sedimentation, and improve water quality in Lodge Hill. The comprehensive plan, though, should also address drainage issues from road paving, and should encourage infiltration of water and maintenance of the natural flow regime, to the extent feasible, by encouraging dispersal of sheet flow from roads into natural vegetated areas. The County should also incorporate measures to site development to retain forest cover.

Recommendation 3-5: ***Address Post-Construction Runoff.*** ~~While the County’s pending grading ordinance revision proposes some new and revised measures to improve the management of erosion, sedimentation, and runoff, it does not fully address all the potential sources of nonpoint source pollution from new development as identified through the management measures in Appendix D, including measures to address post-construction runoff. The Model Urban Runoff Program (MURP), a joint program among the Commission, Monterey Bay Sanctuary, the Regional Water Board, and the Cities of Monterey and Santa Cruz, has developed a~~ Incorporate into the planning process the following checklist of three questions, developed through the Model Urban Runoff Program, to help coastal planners identify and mitigate water quality impacts of proposed development (see Table 3-2, below). ~~One alternative for improving management of polluted runoff is to incorporate this tool into the planning process to identify when additional measures must be taken to fully address water quality impacts and to trigger additional measures if review of the checklists identifies potential water degradation from the proposed development. The MURP has also developed cost-effective mechanisms to address many of the management measures identified in Appendix D.~~

Table 3-2: Water Quality Checklist

1. Would the proposal result in changes in soil infiltration rates, drainage patterns, or the rate and amount of surface runoff?
2. Would the proposal result in discharge into surface waters or wetlands or other alteration of surface water/wetland quality (e.g., temperature, dissolved oxygen, or turbidity)?
3. Would the proposal result in impacts to groundwater quality?

If the proposed project raises water quality issues based on the above questions, or other review, best management practices (BMPs) should ~~could~~ be incorporated into the project design to address post-construction runoff. ~~Assuring the appropriate design goals is critical for the successful function of BMPs in removing pollutants in stormwater. The majority of runoff is generated from small storms. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.~~

~~The Commission has previously found that sizing post-construction BMPs to accommodate the runoff from the 85th percentile storm runoff is often appropriate to address runoff concerns. Sizing BMP capacity beyond this standard leads to insignificant increases in pollutants removal, and hence water quality protection, relative to the additional costs. Therefore, one alternative in addressing post-construction runoff is to design post-construction structural BMPs, with case-by-case considerations, to treat, infiltrate or filter stormwater runoff from each storm, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor, for flow based BMPs.~~

~~The “85th percentile, 24-hr” design goal is applicable to volume-based BMPs such as detention and infiltration basins, wet ponds, and constructed wetlands. The “85th percentile, 1-hr” design~~

~~goal (with an appropriate safety factor is applicable to flow-based BMPs that remove pollutants primarily through filtering and limited settling. These include media filters such as filter inserts in catch basins, oil/water separators, and biofilters such as vegetated filter strips and grassy swales. However, if swales are constructed primarily to contain and then induce infiltration, they should be subject to the "85th percentile, 24-hr" design goal.~~

Preliminary Recommendation 3-6 referred to suggested modifications in Appendix D. The following recommendations incorporate those suggested modifications, and provide more detail and clarification of the suggested modifications.

Recommendation 3-6: ~~Adopt *Policies and Ordinances to fully implement Management Measures from the State NPS Plan*: While the existing LCP, and above alternatives, address primarily issues of erosion, sedimentation, and water runoff from new development, the state has recognized additional sources of nonpoint source pollution through the management measures detailed in the State's nonpoint source pollution control plan. For example, mechanisms to address runoff from existing development and water degradation from residential septic systems are detailed in Appendix D. Implementation of these measures, and other preliminary measures identified in Appendix D would further improve the County's protection of water and marine resources.~~

Recommendation 3-6a and Recommendation 3-11*:*
Add policy or ordinance to prohibit subdivisions on slopes over 30%, where the subdivision would result in building pads, access roads, or driveways to be located on slopes over 30%, or where grading would result on slopes over 30%. For subdivision requests on slopes over 20%, the applicant should include the location of building pads and access roads, located to minimize erosion and sedimentation, and should require that development maintain pre-development flows by detaining stormwater flows on site.

Recommendation 3-6b and Recommendation 3-9: Modify criteria citing watercourses on USGS maps*:* One requirement for sedimentation and erosion control plans is land disturbance activities that are "within 100 feet of a watercourse shown on current 7 ½ minute USGS quad map. Modify Section 23.05.036 of the CZLUO to include the following criteria for requiring a sedimentation and erosion control plan: where a) a watercourse supports fish, or b) has significant flow 30 days after last significant storm~~, or c) has a channel, free of soil and debris~~. References to watercourses throughout the LCP should include this criteria and meet the criteria under ESHA Recommendation 4.1.

Recommendation 3-6c and Recommendation 3-12*:* Deleted and replaced with the following:

Modify the LCP grading and/or drainage ordinance (Sections 23.05.020 through 23.05.038 and/or 23.05.040 through 23.05.050) to require, as requirement for filing a plot plan, minor use permit, or development plan, a water quality control plan for all projects and activities which require land use permits or grading permits. Single family residences on slopes under 20% shall be exempt from this requirement if BMPs to assure the goals and objectives of the Modified Chapter 9 are included in the development plan and sized appropriately to ensure the protection of water quality and to meet the design goal criteria. The water quality plan shall:

- identify the type and size of BMPs necessary to maintain peak runoff rates and volumes similar to pre-development rates, and accommodate runoff from the 85th percentile storm runoffs;
- protect or restore natural drainage courses and where feasible use vegetated drainage systems to decrease erosion and filter nonpoint source pollution;
- minimize pollutant loads;

- limit impervious surfaces;
- require the long-term maintenance of BMPs to assure that standards are met.

Recommendation 3-6d and Recommendation 3-8*: ~~Modify criteria defining "wet season" in LCP to reflect new information:~~* ~~The current LCP requires an erosion and sedimentation plan when grading occurs between October 15 and April 15. Based on information from the Commission's Model Urban Runoff Program, the rainy season should begin on October 1. References in the LCP, and proposed new grading ordinance, should be updated to reflect this change.~~

Recommendation 3-6e*:* To improve protection of water quality from residential septic systems, update Title 19 to include the following standards and requirements:

- Add as one of the criteria for siting that septic tank and leach field systems shall avoid poorly drained soils (Ordinance 19.20.222)
- Require inspection and maintenance reports to be submitted by the property owner and/or septic operator at least every three years. The first report should be submitted three years from the date of issuance of the building permit. The property owners and/or septic operators shall be responsible for proposing and undertaking all measures necessary to ensure the continuing proper operation and adequate capacity of the septic tank and leach line systems.
- Add the following setbacks to Ordinance 10.20.222 (c) (2):
  Storm drainage pipes: 25 ft.
  Escarpments: 25-50 ft.
  Property Line: 5-10 ft.
  Building foundations: 10-20 ft, or 30 ft when located upslope from a building in slowly permeable soils.
- Require that septic systems shall not adversely impact surface waters or cause the groundwater nitrate concentration to exceed 10.0 mg/l N or any such drinking water quality objectives established by the California Department of Health Services or Regional Water Quality Control Board, at any source of drinking water on the property nor on any off-site potential drinking water source. Where groundwater nitrate concentration may exceed the applicable water quality objective or where surface waters may be adversely affected from the septic systems, install denitrification system(s) to reduce total nitrogen loadings by 50%.

Recommendation 3-7*:* Discussed and modified in previous section.

Recommendations 3-8 through 3-12: Deleted and/or incorporated into above modified recommendations.

4) Conclusion

As discussed in the preliminary report, the existing LCP policies and standards, certified in the late 1980s, do not reflect the most up-to-date management measures to protect water quality from urban and rural development. The Commission finds that revisions to the LCP are necessary to ensure that the LCP is effectively implemented to protect water quality in conformance with Coastal Act Sections 30230 and 30231. After further evaluation and consideration of public comments, pursuant to Coastal Act Section 30519.5, the Commission adopts Recommendation 3-13 as appropriate corrective actions for submission to the County.

C. Water Quality and Marinas/Boating Areas

1. Summary of *Preliminary Periodic Review* Findings (Exhibit A, pg. 95-99)

There are three boating areas under the jurisdiction of San Luis Obispo County: Port San Luis, San Simeon Harbor, and Leffingwell Landing. The LCP limits San Simeon Harbor to a small-scale recreational boating area, boat-launching ramp, and parking area. Leffingwell Landing provides a boat ramp. Port San Luis supports commercial and recreational boating.

The *Preliminary Report* notes that few permits have been issued related to marinas or boating areas. The LCP requires that all development be sited and designed to mitigate impacts on the marine habitat (LCP Ordinance 23.07.178). The San Luis Bay Area Plan also requires that any development at Port San Luis control erosion and sedimentation. However, as with the LCP standards for agriculture and urban development, the existing LCP standards do not reflect the current knowledge to adequately address nonpoint source pollution from marinas and boating areas.

Addressing nonpoint source pollution from boating areas, and bringing the LCP into conformance with the adopted statewide nonpoint source plan, will require a mix of updated LCP policies and ordinances, as well as non-regulatory programs and educational efforts. Preliminary recommendation 3-13 emphasizes implementation of the management measures adopted in the state's nonpoint source plan, and identified through Appendix D. The recommendation states that new standards could be implemented when facilities are modified or expanded, and programs could be developed to address ongoing operations of harbors and boating areas.

2. Comments Raised

San Luis Obispo County Response (Exhibit C):
The County indicated a need for more information regarding implementation of the management measures for marinas and boating areas, and suggests that the practices and education programs detailed in Appendix D "should be developed through the update of the Port San Luis Master Plan which will be reviewed by [the] county and Coastal Commission".

Public Comments (Exhibit D):
The Port of San Luis Harbor District has stated that many of the management measures are outside the jurisdiction of the County and are enforced by other state agencies. Public comments raised a concern that engines on many small boats are highly polluting.

3. Analysis

Jurisdiction over development in the Port of San Luis Harbor lies with both the state and the County, depending on the location of the development. Generally, the Coastal Commission has authority to review development below the mean high tide line and on areas subject to the public trust. The Commission modifies preliminary recommendation 3-13 to delete those management measures that address the location and siting of marinas, which would remain under the Commission's retained jurisdiction.

However, other development associated with marinas or harbors is governed by the LCP policies. In these cases, the County has an important role in assuring that development adequately protects water quality. A number of management measures identified in Appendix D in the *Preliminary Report*, designed to reduce polluted runoff from boating areas, can be implemented, at least in part, through regulatory standards for new development. These management measures include assuring, where appropriate, that: 1) fuel and oil discharges are minimized, 2) sewage and other waste does not contaminate surface waters, and that 3) polluted runoff from maintenance activities is minimized. In addition, any harbor or marina plan should include an operation and maintenance component that addresses water quality protection.

However, the Commission finds that the language suggested by the County does not provide sufficient detail or direction to assure that these management measures will be incorporated into the LCP. The Commission understands that the Port District intends to incorporate new policies and standards into the Port Master Plan that will be submitted as amendments to the LCP. Therefore, as outlined in detail below through Recommendation 3-13a, the Commission proposes to modify preliminary recommendation 3-13 to identify those management measures that should be incorporated into the LCP (via the Port Master Plan), as well as standards that new development activities in boating areas should comply with.

In addition, the Commission recognizes that implementation of many of the management measures identified in Appendix D of the *Preliminary Report* will involve educational efforts. Much of the nonpoint source pollution will continue to occur through ongoing activities, not just when a development is proposed. The Commission recommends including a program in the Port Master Plan and LCP, encouraging the County to participate in efforts to education and encourage boaters and boating facility operators to use best management practices. The Commission anticipates working with the County to implement this recommendation through assistance from its water quality program. Many of the components that could be incorporated into an education program are outlined in revised recommendation 3-13b, below. The public's concern with engine types on boats could be addressed through such educational efforts.

The Commission deletes preliminary recommendation 3-13, and replaces it with the following recommendations:

Recommendation 3-13: ~~If overall runoff policies are revised, then new standards could be implemented when facilities are modified or expanded. Relevant management measures from Appendix D to update the LCP could be incorporated as tools to manage sources of pollution.~~

~~Also, programs could be developed to address ongoing operations of harbors and boating facilities. Many of the sources of water quality degradation occur from ongoing activities. Education programs incorporating best management practices for waste disposal and maintenance activities can help protect water quality.~~

Recommendation 3-13a*:*

For updated Harbor Plans, require an operation and maintenance component that addresses water quality protection. Update the LCP by adding policies and standards to implement effective runoff control strategies and pollution prevention activities, by requiring, where appropriate, the following best management measures:

- providing buildings and/or enclosed areas where possible for maintenance activities;
- constructing new or restore former wetlands where feasible and practical;
- requiring use of porous pavement where feasible;
- requiring installation of oil/grit separators to capture petroleum spills and coarse settlement;
- requiring use of catch basins where storm water flows to the marina basin in large pulses;
- requiring filters to storm drains that are located near work areas and placement of absorbents into drain inlets.

Where fuel stations are added or redesigned, require them to reduce pollution from discharges through measures such as:

- writing and implementing a fuel spill recovery plan;
- using automatic shutoffs on fuel lines and at hose nozzles to reduce fuel loss;
- installing personal watercraft floats at fuel docks to help drivers refuel without spilling;

To reduce contamination of surface waters, require, as appropriate:

- sewage pumpout, dump station, and restroom facilities, and require maintenance of facilities;
- establish no discharge zones to prevent sewage from entering waters.
- filter additions to storm drains that are located near work areas;
- removal of old style fuel nozzle triggers that are used to hold the nozzle open without being held;
- install fish-cleaning stations with appropriate sewer hookups at marinas and boat launch sites;
- require a management plan and appropriate facilities to store, transfer, and dispose of liquid materials;
- build curbs, berms, or other barriers around areas used for liquid material storage to contain spills;
- prepare a hazardous materials spill recovery plan and update it as needed.

Recommendation 3-13b*:* Add the following program to Chapter 5 of the LCP (Commercial and Recreational Boating): In partnership with Harbor Districts and other agencies, the County shall participate in, and encourage, efforts to educate boaters and boating facility operators to implement management measures to reduce water pollution from boating activities. To support public education programs, the County should encourage the development of programs that support the installation of infrastructure that will enable the public to implement appropriate BMPs.

Educational information could include the following:

- Management practices for maintenance activities which minimize in-water work, and encourage maintenance activities in enclosed buildings, within spray booths, or under tarp enclosures.
- The use of vacuum sanders to remove paint from boats and collect paint dust.
- The benefits of absorbents in drain inlets.
- The need to use chemical and filtration treatment systems only where necessary.
- The importance of using low-toxicity or non-toxic hull paints, antifreeze, and coolants, and recycling products when possible.

Infrastructure and facility modifications could include:

- Install easy-to-read signs on the fuel dock that explain proper fueling, spill prevention, and spill reporting procedures. Locate and design boat fueling stations so that spills can be contained, such as with a floating boom, and cleaned up easily.
- Place trash receptacles and recycling containers in convenient locations for marina patrons.
- Provide boaters with trash bags.
- Provide facilities that extract used oil from absorption pads if possible, or for the disposal of it in accordance with petroleum disposal guidelines.

Fueling Facilities and Operations could include:

- Have spill containment equipment storage, such as a locker attached to the fuel dock, easily accessible and clearly marked.
- Promote the installation and use of fuel/air separators on air vents or tank stems of inboard fuel tanks to reduce the amount of fuel spilled into surface waters during fueling.
- Prohibit the use of detergents and emulsifiers on fuel spills.

Sewage Management modification could include:

- Provide sewage pumpout service at convenient times and at a reasonable cost.
- Provide portable toilet dump stations near small slips and launch ramps.
- Provide restrooms at all marinas and boat ramps.
- Establish practices and post signs to control pet waste problems.
- Establish no discharge zones to prevent sewage from entering waters.

4) Conclusion

As discussed in the preliminary report, the existing LCP policies and standards, certified in the late 1980s, do not reflect the most up-to-date management measures to protect water quality from marinas and boating areas. The Commission finds that revisions to the LCP are necessary to ensure that the LCP is effectively implemented to adequately protect water quality in conformance with Coastal Act Sections 30230 and 30231. After further evaluation and consideration of public comments, pursuant to Coastal Act Section 30519.5, the Commission adopts Recommendations 3-13a and 3-13b as appropriate corrective actions for submission to the County.

4. ENVIRONMENTALLY SENSITIVE HABITATS AND WETLANDS

A. Overview

1. Summary of *Preliminary Periodic Review* Findings (Exhibit A, pg. 101-185)

The Preliminary Report analyzed the effectiveness of the certified LCP, as implemented by the County, at protecting Environmentally Sensitive Habitat Areas (ESHA) consistent with Coastal Act policies. The Report evaluated the process by which an ESHA is identified during the development review, and whether this process successfully avoided, minimized and mitigated adverse impacts. The major implementation issues identified include:

- A reliance on outdated maps to delineate and protect ESHA;
- Lack of sufficient biological reviews, alternative analyses, and mitigation standards;
- Reluctance to stringently implement ESHA protection requirements as a result of takings concerns; and,
- The need for comprehensive regional and sub regional habitat protection plans.

With respect to the protection of streams and riparian vegetation, the Preliminary Report found that implementation of the LCP:

- May be resulting in excessive alterations of riparian habitats;
- Is not always effectively coordinated with the Department of Fish and Game or other involved wildlife agencies; and,
- Does not always provided adequate habitat buffers.

A review of the way in which the County has carried out LCP wetland protection observed the following:

- Wetland habitats are not always identified;
- Wetland setbacks requirements have not been adequately enforced;
- New programs and standards are needed to effectively coordinate wetland monitoring and restoration activities, as well as to regulate the breaching of coastal lagoons; and,
- Mosquito abatement practices should be reviewed and permitted in accordance with LCP requirements

The Preliminary Report found that the County's implementation of the Terrestrial Habitat protection provisions could be improved through the following actions:

- Developing comprehensive habitat protection plans to effectively protect the Monterey Pine Forest in Cambria and the coastal dunes in Los Osos;
- Incorporating additional standards to avoid the removal of Monterey Pine, guide tree replacement, and respond to the threats of pitch canker;
- Reducing buildout potential in sensitive forest areas, among other means by updating the Cambria TDC program, providing greater incentives for participation, prohibiting subdivisions, better clustering development, and developing additional methods for the retirement of lots.
- Establishing a sand stabilization program for the Oceano area;
- Updating land use designations on South County dune habitat areas;
- Identifying Western snowy plover and Elephant seal habitats, and updating the LCP to better designate and protection these areas as ESHA in cooperation with other agencies and organizations.

3. San Luis Obispo County Response

Preliminary Recommendations that the County response indicates general agreement with include:

- Preliminary Recommendation 4.1, recommending that the LCP definition of ESHA be revised to conform to the Coastal Act, among other means by recognizing areas mapped as Combining Designations.
- Preliminary Recommendation 4.2, calling for continuous updates to LCP ESHA maps.

Preliminary Recommendation 4.3, suggesting the expansion of biological investigation and report requirements, provided that the recommended interagency review of the biological reports is completed in a timely fashion.

- Preliminary Recommendation 4.6; encouraging the development of comprehensive habitat protection programs for Cambria and Los Osos.

- Preliminary Recommendation 4.13, recommending the use of easements to protect ESHA and providing such easements for Executive Director review and approval.
- Preliminary Recommendation 4.16, calling for the establishment of specific standards for mitigation monitoring and evaluation.
- Preliminary Recommendations 4,17 - 4.21 regarding streambed alterations.
- Preliminary Recommendations 4.22, 4.4, 4.25, 4.27, and 4.28 regarding the protection of riparian habitats and their setbacks;
- Preliminary Recommendations 4.30, 4.31. 4.33. 4.34, and 4.36 regarding the protection of wetland habitats.
- Preliminary Recommendations 4.37 – 4.43, and 4.45 – 4.49, 4.53, 4.54, and 4.56 regarding the protection of Terrestrial habitats.

Components of the Preliminary Report that the County and other commenters identified disagreement with, or proposed alternatives to, are discussed below.

A. Identifying ESHA

1. Summary of *Preliminary Periodic Review* Findings (Exhibit A, pages 106 – 114)

As noted above, the Preliminary Report identified problems with the LCP's reliance on outdated maps to identify and protect ESHA. To ensure that ESHA is effectively identified during development review the Preliminary Report recommended:

- Revising the LCP's definition of ESHA to conform with the Coastal Act definition;
- Updating LCP habitat (Combining Designation) maps;
- Supplementing the use of LCP maps with field observations, and additional information including the National Diversity Database and U.S. Fish and Wildlife Service Critical Habitat Designations; and
- Obtaining site specific biological information.

The Preliminary Report recognized that a blanket requirement for <u>all</u> development to provide site specific biological evaluations and reports could place unnecessary burdens on the permit application and review process. As a result, it recommended that site specific biological information be obtained in various ways:

- Through environmental reviews conducted pursuant to the California Environmental Quality Act (CEQA).

- Where projects are exempt from CEQA, by requiring a site specific flora and fauna inventory that could be used to determined the need for a full biological report. (Urban areas where no biological resource concerns exist could be exempted from this requirement.)
- By addressing the type and extent of habitat within a region through a comprehensive conservation planning effort.

Finally, to ensure that the full extent of sensitive habitat found present on a development site is accurately delineated, the Preliminary Report recommended that in addition to the current location of sensitive plants and animals, areas of potential and restorable habitat also be considered.

2. Comments Raised

San Luis Obispo County Response (Exhibit C)

With respect to Preliminary Recommendation 4.1, the County has requested citation of the Department of Fish and Game's definition of streams recommended to be incorporated into the LCP.

The County response acknowledges that substantial revisions to the processing of discretionary and ministerial permits are needed to effectively protect ESHA, and underscores the importance of identifying ESHA issues early in the review process. However, the County has also recognized the significant implications this can have on applicants. County staff has therefore outlined a procedural approach that is slightly different than the approach recommended by the Preliminary Report, which would replace the requirement for biological investigations (2nd bullet of Preliminary Recommendation 4.3) with a site inspection by a Field Review Team.

The alternative process recommended by County staff begins with an evaluation of whether a project may be in or adjacent to ESHA using updated LCP ESHA maps. If it is unclear if a project is located in or near ESHA based on the initial map review, a Site Specific Constraints Analysis (SSCA) would be completed by the County and/or qualified professionals in the field. A Field Review Team (FT), consisting of County staff and the project biologist(s), would conduct a site specific review for all ground disturbing development to determine if a full biological report is required. All information and habitat delineations developed by these efforts would be used to update LCP habitat maps on a regular basis.

Public Comments (Exhibit D)

In terms of the approach to identifying ESHA recommended by the Preliminary Report, most commenters agreed that updates to LCP ESHA maps were needed. However, there

are differing opinions about who should be responsible for completing such updates, and how the updated maps should be used.

Members of the public have expressed concern over Preliminary Recommendation 4.1's proposal to use U.S. Fish and Wildlife Critical Habitat Designations to determine the presence of ESHA. This concern appears in large part to be based on the large extent of area designated by the U.S. Fish and Wildlife Service as Critical Habitat for the red-legged frog. Other commenters, such as the Environmental have expressed support for this proposition, noting that designated critical habitat, by definition, must be considered as ESHA.

Comments from the Los Osos Community Advisory Council asserts that the update of habitat maps and protection plans should happen under he direction of the regulatory and planning agencies. Other commenters argue that habitat delineations and biological reviews should occur on a site specific basis.
Comments from the San Luis Obispo County Farm Bureau and agriculturists identify concern with the idea that if agricultural operations, if viewed as development, would need to complete site specific biological inventories.

Various comment letters submitted by the Rogoway Planning Group question the appropriateness of designating particular sites within the Los Osos areas as ESHA.

Comments from the California Native Plant Society (CNPS) express support of the Combining Designation program, provided that the overlays are updated to reflect current scientific knowledge and protective status for species; for example, by expanding the maps to include habitat for plants identified on CNPS List 1B. While CNPS notes that it may be viable to supplemental the use of Combining Designation maps with information developed during CEQA reviews, they would prefer ESHA to be accurately mapped by the LCP to avoid "technical calls" by staff in the field. The CNPS comments also express concern that requiring all development to provide site specific biological information may be costly and inefficient, and notes that the specific criteria for such biological reviews is not identified by the Preliminary Report.

In terms of using the HCP process for habitat delineation, CNPS expressed concern regarding the adequacy of that process species that are not listed by the U.S. Fish and Wildlife Service, and indicated preference for the Department of Fish and Game's Natural Community Conservation Program (NCCP).

Both the County and the CNPS comments identify the potential funding limitations for periodically updating of the Combining Designation Maps, and agree that the environmental information generated through project specific reviews could be used to update the maps on a more continuous basis.

While the necessary updates to ESHA maps and LCP procedures are being developed, the Environmental Defense Center recommends treating the entire coastal zone as ESHA.

3. Analysis

In response to concerns expressed regarding the use of Critical Habitat Designation to determine the presence of ESHA, it is important to note that this is only one of many tools that will be used as part of project specific evaluations and the update of LCP ESHA Maps. Pursuant to Preliminary Recommendation 4.1, a Critical Habitat Designation would not, in and of itself, qualify a particular area as ESHA. Rather, the designation would inform applicants, planners, and decision makers of the need to consider the potential for red-legged frog habitat to be present on the site. Final conclusions regarding the presence and extent of ESHA on a site would be based on actual site conditions. These site specific assessment could then be used to update LCP ESHA maps on a routine basis, a process endorsed by the County response and other commenters including the Port San Luis Harbor District. Changes to Preliminary Recommendation 4.2 shown below support the use of site specific assessments to update LCP ESHA maps.

The methodology used to determine the presence of ESHA in the field is an issue that has been raised by numerous commenters. While many support the use of updated Combining Designation to make such determinations (Preliminary Recommendation 4.2), there is differing opinion on what to do when the updated Combining Designation Maps do not effectively resolve this issue.

The Field Review Team and Site Constraints Analysis approach recommended by the County will help ensure accurate identification of ESHA, consistent with the Recommendation of the Preliminary Report. This process will also reduce the need for applicants to provide biological inventories as part of development applications, which as noted by various commenters, could add significant time and cost to the development review process. Finally, the County proposed process will provide an effective format to resolve whether or not particular sites, such as the ones identified in the comment letters submitted by the Rogoway Planning Group, meet the Coastal Act and LCP definition of ESHA.

An additional benefit of the Field Review approach proposed by the County and incorporated into Recommendations 4.2 and 4.3 is that it can be implemented through changes in administrative procedures and is therefore not dependent upon an LCP amendment. Immediate implementation of this approach is preferable to treating the entire coastal zone as ESHA until the LCP maps are updated (as recommended by the Environmental Defense Center) because it will facilitate accurate delineation of ESHA, and application of LCP habitat protection standards to all ESHA, without adding unnecessary regulatory requirements for development that will not impact ESHA.

However, as noted by the CNPS comments and the Preliminary Report, there is a risk that technical calls made by the Field Review Team may not effectively resolve whether a more detailed analysis of habitat areas is warranted. This risk could be reduced be including representatives form involved wildlife agencies and organizations as part of the Field Review Team.

Submitting subsequent biological reports for the review and comment of the California Department of Fish and Game, the US Fish and Wildlife Service, The California Coastal Commission, and, where applicable, the National Marine Fisheries Service, will also help ensure that ESHA is accurately identified during development review (Preliminary Recommendation 4.3). The County response has appropriately observed that if such reviews are to be used as an application filing requirement, these reviews must be completed in a timely fashion.

In light of the comments received and analyzed above, Preliminary Recommendations 4.1 – 4.3 have been revised as follows:

4.1: Revise the LCP's Definition of ESHA

- Revise definitions of SRA and ESHA contained in Section 23.11.030 so that they conform to the Coastal Act definition. Clarify that ESHA, and the application of ESHA protection standards, is not limited to the areas mapped as Combining Designations. As proposed on page 7-10 of the Estero Update, use the definition of "habitat for rare and endangered species" provided by the CEQA guidelines as an additional tool to define ESHA.

- Determine the presence of ESHA based on the best available information, including current field observation, biological reports, the National Diversity Database, and US Fish and Wildlife Critical Habitat Designations and Recovery Programs. Where the available information indicates that an area may contain ESHA, but that area is not mapped as ESHA by the LCP, a Field Review Team comprised of County staff, project biologist(s), and representatives from involved wildlife agencies and organizations, shall conduct a Site Specific Constraints Analysis.

- As proposed by both the North Coast and Estero Updates, recognize all riparian habitats as ESHA regardless of whether they are mapped by USGS quadrangles.

- Replace the LCP's definition of streams, currently limited to streams shown by USGS maps, with an alternative definition, such as ~~that~~ the following definition used by the Department of Fish and Game:

> *A stream is a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation.*

4.2: Revise and Update ESHA Combining Designations

- Recognize maps as a tool for identifying potential locations of ESHA, but that the actual presence and extent of ESHA must be determined in the field. Establish Field Review Teams, comprised of County staff, the project biologist(s) and representatives from involved wildlife agencies and organizations, to evaluate sites where the Combing Designation Maps do not effectively address the potential presence of ESHA.

- Incorporate other rare and valuable habitat types into the ESHA Combining Designation Programs. These should include, but not be limited to, the additional sensitive habitats identified by the North Coast and Estero Updates.

~~• Periodically update the Combining Designation Maps to identify habitats of rare and endangered species that have become listed since LCP certification, to correct mistakes contained in existing maps, and to incorporate other habitat types determined to be ESHA by the County. Consider implementing annual updates to the Combining Designation Maps as part of the LCP's Resource Management System.~~

• Maintain the Combining Designation maps as a dynamic geographic database that can be routinely updated as new information becomes available. To facilitate such efforts, the County should ~~consider~~ establish~~ing~~ standard formatting requirements for field surveys and biological reports that could be directly incorporated into such a system ~~facilitate such updates~~. Coordination with other resource management entities involved with mapping sensitive habitats (e.g., the Morro Bay National Estuary Project) should also be pursued along with other grant programs and cooperative mapping efforts.

4.3: Update Requirements for Biological Investigations and Reports

• Revise CZLUO Section 23.07.170 so that biological reports are prepared for all development within or adjacent to ESHA, not just those sites that have been mapped as ESHA. Use the Field Review process recommended above to determine the need for biological reports when development is located on a site that has the potential to support ESHA, but is not mapped as ESHA by LCP Combining Designations. Where the Site Specific Constraints Analysis identifies the presence, or potential presence, of any sensitive habitat type, natural community, and/or particular plant or animal species that meets the revised definition of ESHA, a biological report should be required.

• ~~To determine when a biological report may be required for a development site that has not been previously mapped as, or determined to be ESHA, require a habitat and biological inventory prepared by a qualified biologist as part of development permit applications. Where it is clearly evident that a development site has the potential to support sensitive habitats based on the initial inspection of County planning staff, a biological report may be required without a biological inventory.~~

• Evaluate particular areas, particularly urban areas, where it may be appropriate to exclude new development from Site Specific Constraints Analyses ~~the need to provide a biological inventory as part of the application process~~. Incorporate such exclusions into the LCP based on scientific evidence demonstrating the absence of ESHA in such areas.

• Develop comprehensive habitat conservation and management programs for areas with particular habitat protection needs (e.g., Los Osos dune scrub and maritime chaparral habitats, Cambria Pine Forest, coastal watersheds that support Steelhead trout, and Cayucos Creeks; please see recommendation ~~2c~~ 4.6). Upon incorporation of such programs into the LCP, development within particular habitat areas may be excluded from the need to provide site-specific biological investigations and reports. Instead, the biological information required at the application stage would be related to implementation of the area wide habitat protection program (e.g., contribution to area wide program that retires development potential in ESHA).

• ~~Where the required biological inventory identifies the presence or potential presence of any sensitive habitat type, natural community, and/or particular plant or animal species that meets the revised definition of ESHA, a biological report should be required. Minimum requirements for biological inventories and reports should be coordinated with state and federal resource management agencies and specified in CZLUO Section 23.07.170 a.~~

- Update the minimum requirements for biological reports specified by CZLUO Section 23.07.170 in coordination with state and federal resource management agencies.

- The location and extent of ESHA on and adjacent to a development site should be described and mapped by the Biology Report, in a format that allows it to be incorporated into a GIS based Combining Designation map system (see Preliminary Recommendation 1b above). The delineation should not be limited to the particular locations where rare plants or animals are observed at one point in time. Rather, it should consider the full range of the sites physical characteristics (e.g., soil type, vegetation, topographical features) represent potential habitat for such rare plant and animal species. In addition, where previously disturbed but restorable habitat for rare and sensitive plant and animal species exist on a site that is surrounded by other valuable habitat areas, these areas should be delineated and protected as ESHA as well. Implementation of this recommendation will also require the incorporation of additional standards for Biological Reports within CZLUO Section 23.07.170.

- Biological reports and their accompanying ESHA delineations should be submitted for the review and comment of the California Department of Fish and Game, the US Fish and Wildlife Service, and to the National Marine Fisheries Service (as applicable), ~~and~~ as well as to the California Coastal Commission, before applications for development in or adjacent to ESHA are filed as complete. The incorporation of such a requirement into the LCP (e.g., within Section 23.07.170 of the CZLUO) ~~e~~should be accompanied by a specific time frame for such reviews (e.g., 14 days) to ensure that they would not result in undue delays in the development review process.

CNPS preference for the NCCP process, and concern about the HCP process are addressed in a subsequent section of this chapter, as is the Los Osos Community Advisory Council's request for a "top down" approach.
With respect to the Environmental Defense Center's suggestion that the entire San Luis Obispo coastal zone be treated as ESHA until the LCP ESHA maps are updated, it should be noted that the Field Review approach supported by the County and reflected in the above recommendations can be implemented immediately.

4. Conclusion

Recommendations 4.1 – 4.3 call for updates to LCP ESHA definitions and maps, and propose supplementing the use of LCP maps with site specific evaluations to determine the presence of ESHA, in order to ensure that the LCP is implemented consistent with Coastal Act Sections 30107.5, 30230, 30231, and 30240. They incorporate the revised methodology proposed by the County to improve administration of these recommendations, which also responds to concerns regarding the previously recommended requirement for biological inventories.

B. Avoiding and Minimizing Impacts to ESHA

Limiting Development in ESHA to Resource Dependent Uses

1. Summary of *Preliminary Periodic Review* Findings (Exhibit A, pages 125 – 128)

The Preliminary Report identified the need to improve implementation of the resource dependent criteria for development in ESHA established by the Coastal Act and LCP. The report therefore proposed changes to Table O that would make all uses other than resource dependent as conditional, and stressed the importance of better implementing existing standards that prohibit additional subdivisions in ESHA.

2. Comments Received

San Luis Obispo County Response (Exhibit C)
To limit non-resource dependent development in ESHA, the County response proposes to add a preamble to Table O stating that anything other than a "P" use in ESHA as conditional. With respect to subdivisions in ESHA, the County response proposes to revise the current LCP prohibition "to include concepts of ESHA protection".

3. Analysis

The proposed preamble to Table O would not appear to be any different than the current provisions of Table O; as detailed in Chapter 12, anything that is not identified as a P use is already considered to be conditional. More importantly, it would not resolve the fact that the wide range of principally permitted uses established by Table O, irrespective of habitat considerations, is inconsistent with Coastal Act Section 30240(a) and conflicts with LCP ESHA policies and ordinances limiting development in ESHA to resource dependent uses. However, the suggestion that the clarification to Table O proposed by Preliminary Recommendation 4.4 take the form as a preamble to this Table, appears to be an effective way of implementing the recommended changes and has been incorporated into the final recommendation. (See below)

An apparent source of the County's and other commenters' concerns about Preliminary Recommendation 4.4 is the additional processing requirements associated with a conditional use. Indeed, the additional review required for development in and around urban areas determined to be ESHA since the LCP certification would place significant additional demands on applicants and the County planning division.

As detailed in the Preliminary Report, the incorporation of area specific Habitat Conservation Plans into the LCP provides an excellent way to resolve this problem. Where such plans are certified as being consistent with the Coastal Act, it may be appropriate to process the non-resource dependent development sanctioned by the plan as the principally permitted use. Such an approach could be found to be consistent with Coastal Act Section 30240(a) if effective protection of the resource is dependent upon implementation of the plan. The 3rd bullet of Preliminary Recommendation 4.4 therefore included a provision that would allow a non-resource dependent use to be the principally permitted use in ESHA where designated as such by an HCP. However, until such plans are incorporated into the LCP, the processing of non-resource dependent development in ESHA as a conditional use is the precautionary approach necessary to carry out Coastal

Act Section 30240. As a result, Preliminary Recommendation 4.4 has been carried over into the final report without change.

Another source of the concerns expressed about the change to Table O proposed by Preliminary Recommendation 4.4 is that it has been interpreted as limiting development to resource dependent uses, and would therefore result in the taking of private property. This is not the case; Preliminary Recommendation 4.4 states that other uses permitted in the land use designation could be allowed in an ESHA as a conditional use where necessary to accommodate an economic use. This is further clarified by the change shown below. Issues and concerns regarding the procedures for determining the type and extent of the economic use that must be accommodated in ESHA to prevent a takings is addressed later in this chapter.

In light of the above analysis, this report includes the following modifications to Recommendation 4.4:

4.4: Identify, and implement where feasible, the Resource Dependent Criteria for Development in ESHA

- Revise "Table O", such as through the addition of a new preamble, to clarify that Resource Dependent Uses are the only ~~allowed~~ principally permitted use within an ESHA or their required setbacks. All other uses that may be permitted to accommodate an economic use should be considered a conditionally permitted use.

- Where non-resource dependent uses are proposed in or adjacent to ESHA, and may be necessary to accommodate to avoid a "taking" (i.e., there are no feasible alternatives that avoid impacts to ESHA), ~~require applicants to submit specific information to establish that~~ analyze whether there is a reasonable economic backed expectation for the non-resource dependent use (see ~~Preliminary~~ Recommendation 4.10, below).

- Provide exceptions to the above standards in areas that are addressed by a comprehensive habitat conservation program that has been incorporated into the LCP (see ~~Preliminary~~ Recommendation 4.6, below).

With respect to subdivisions in ESHA, it appears that the modification to Preliminary Recommendation 4.5 contained in the County response would weaken the LCP's current prohibition against subdivisions that would create building sites in ESHA. This would, in turn, conflict with Coastal Act Section 30240. Thus, only the following minor clarification to Recommendation 4.5 is proposed by the final report:

4.5: Prohibit Subdivisions that Create new Lots in ESHA

- Implement the provisions of 23.07.170c.

- Revise Cluster Division Ordinance to require much smaller ~~lots~~ building sites, that they be located entirely outside ESHA and its setback, and that all of the ESHA area be retained and protected as Open Space. Make clustered division mandatory, rather than optional, for all divisions on parcels containing ESHA.

- Clarify that the parcel sizes established by CZLUO Sections 23.04.020 – 033 do not apply to sites that support ESHA, within which land divisions are prohibited.

4. Conclusion

Recommendations 4.4 through 4.6 will enhance the ability of the County, through its implementation of the LCP, to avoid non-resource dependent development in ESHA as required by Coastal Act Section 30240(a).

C. Pursuing Alternatives That Avoid Impacts to ESHA

1. Summary of Preliminary Findings and Recommendations (Exhibit A, pages 128 – 131)

The Preliminary Report provided examples of various situations in which the County's implementation of the LCP did not effectively avoid significant disruptions to ESHA. Many of these instances were related to the fact that the existing LCP does not effectively protect habitats that have been identified as being rare or especially valuable since the LCP was originally certified.

To avoid adverse impacts to ESHA, the Preliminary Report encourages the County to update site development standards to better concentrate development outside of ESHA (Preliminary Recommendation 4.8). Continuation and expansion of current efforts to incorporate area wide habitat plans into the LCP is identified as a comprehensive method for achieving this objective (Preliminary Recommendation 4.6). Where such plans are not in place, the Preliminary Report recommends that development proposed in ESHA be accompanied by, among other things:

- biological reports that include an analysis of projects alternatives that first avoid, then minimize impacts to ESHA, including fire clearance impacts (Preliminary Recommendation 4.7); and

- an overall development plan for all properties that are geographically contiguous and in common ownership to ensure that the full range of alternatives available to avoid adverse impacts are considered (Preliminary Recommendation 4.8).

2. Comments Received

San Luis Obispo County Response (Exhibit C):
While the County response supports the incorporation of HCPs into the LCP, it identifies that the high cost of such efforts necessitates additional funding and interagency cooperation. Comments of the Los Osos Community Advisory Council stress the

importance of such a interagency approach towards resolving habitat protection issues in the South Bay Urban Area.

In response to Preliminary Recommendation 4.7, the County suggests that rather than requiring biological reports to include alternative analyses, biological reports should be required to include constraints analyses. This approach is preferred because the determination of the environmentally preferable alternative requires analysis of a range of issues, including but not limited to biological concerns.

Similarly, the County response indicates that the impacts associated with vegetation clearance for fire protection is more appropriately conducted as part of the development review, rather than as part of the biological review. This is due to the fact that understanding vegetation clearance needs requires coordination with fire protection agencies and is beyond the scope of a biological report. So long as the Biology Report provides a complete assessment of the habitat constraints, the Planning Division believes it will be able to conduct an adequate analysis of the impacts of vegetation clearance on ESHA during development review. Other comments regarding Preliminary Recommendation 4.7 expressed concern that limits to fire hazard modification measures would put habitat protection before the health and welfare of people.

Finally, the County response indicates disagreement with the portion of Preliminary Recommendation 4.8 that suggests where development is proposed in ESHA, an overall development plan for all properties that are geographically contiguous and in common ownership be required.

Public Comments (Exhibit D):
As previously noted, the comments from the California Native Plant Society raises concerns that the HCP process does not adequately protect the habitats of species that are not listed by the U.S. Fish and Wildlife Service, but qualify as ESHA under the LCP and Coastal Act. In addition, CNPS identifies that the No Surprises clause of the HCP and NCCP processes may prevent such plans from being updated to respond to new information.

Also in relation to Preliminary Recommendation 4.6, concerns expressed by the County and Cayucos Advisory Council regarding riparian habitat protection/stream setback recommendations suggest that a comprehensive planning effort may provide the most effective means of protecting and enhancing the coastal streams and lagoons in the Cayucos urban area. (Preliminary Recommendation 4.6 identified only Los Osos and Cambria as examples where area wide habitat protection and management programs are warranted.) Other comments suggest a Habitat Conservation Plan be prepared to protect the unique resources of the North Coast, such as the rare flora of Arroyo de la Cruz.

3. Analysis

HCP's and NCCP's

As observed by the CNPS comments, the US Fish and Wildlife Service, the Department of Fish and Game, and the California Coastal Commission have different mandates, standards, and processing procedures related to the protection of sensitive habitats. Thus, Habitat Conservation Plans and Natural Communities Conservation Plans that may satisfy the requirements of state and federal endangered species acts may not always completely satisfy LCP and Coastal Act requirements.

These differences underscore the importance of coordinating such habitat planning efforts with LCP updates. This will enhance the ability of habitat conservation plans to satisfy the requirements of all regulatory agencies, and in turn, streamline the permit process. Moreover, it will allow the efforts of the various agencies and organizations involved to compliment and support one another, in a way that will create the most informed and comprehensive plan for habitat protection possible. As noted by the comments received from the Los Osos Community Advisory Council, such an interagency coordinated approach is, in areas such as Los Osos, a logical way to resolve habitat protection issues.

The recommendations of this report are not intended to imply that Fish and Wildlife HCP's or Department of Fish and Game NCCP's should be used to satisfy Coastal Act and LCP habitat protection standards in and of themselves. Integrating such plans with LCP updates are essential to ensure that the objectives of these recommendations are achieved. Such a process is expected to avoid the potential problems identified by the CNPS comments, and is prescribed in greater detail by the revisions to Preliminary recommendation 4.6, below.
In recognition of the significant staffing and financial resources required to develop and implement habitat conservation plans that can be incorporated into the LCP, Chapter 12 of this report encourages both the County and the Commission to seek additional funding, grants, and opportunities for collaborating with other agencies and organizations (see Exhibit E for a listing of some sample Grant opportunities). Notwithstanding the high cost of the initial investment, the long-term benefits will make such commitments cost-efficient for both the County and applicants.

Finally, as suggested by various commenters, Preliminary Recommendation 4.6 has been revised to maximize opportunities to coordinate the development of Habitat Conservation Plans and LCP Updates beyond the urban areas of Los Osos and Cambria.

4.6: Develop Comprehensive Habitat Conservation, Protection and Management Programs for Areas with Particular Habitat Protection Needs and Challenges

In urban areas that contain numerous existing lots within ESHA that has been fragmented or degraded by surrounding development, develop programs allowing for non-resource dependent uses that contribute to

the protection of surrounding viable habitat areas threatened by development. The current effort to develop a Habitat Conservation Plan as part of the Los Osos Wastewater Treatment project and Estero Area Update should continue to be pursued, with ongoing coordination between the Los Osos CSD, involved regulatory agencies, and interested parties. As proposed by Preliminary Recommendation 4.36 later in this Chapter, a similar approach, involving a comprehensive forest management plan for Cambria would go a long way towards managing cumulative buildout in a manner that will protect the long-term health and survival of sensitive Monterey Pine Forest habitats.

The constraints and opportunities associated with the protection of the coastal creeks and lagoons within the Cayucos urban area also warrants the incorporation of comprehensive creek protection plans (i.e., within the Estero Area Plan). Such plans could be used to perfect setback standards, and prescribe specific mitigation measures, that enhance the riparian environment and clarify development requirements.

Comprehensive habitat protection plans may prove to be equally useful for the protection of sensitive habitats in rural areas. The North Coast creeks and arroyos are examples of sensitive rural habitat areas that could benefit from such plans. HCP Planning efforts being initiated by State Parks, Community Services Districts, and others, should be closely coordinated with the County and Commission staff to ensure that they will effectively carry our Coastal Act and LCP requirements.

Biology Reports

As noted by the County, the protection of ESHA is just one of many coastal resource issues that must be evaluated when determining which project alternative best conforms to LCP and Coastal Act requirements. Nevertheless, because the protection of ESHA is such a significant Coastal Act concern, it is essential for the full range of alternatives available to avoid and minimize the impacts on ESHA be developed and considered early in the review process. This not only necessitates an understanding of the biological constraints, but also requires consideration of all options available to accommodate development within these constraints. An assessment of these alternatives by a professional biologist, as a component of the required Biology Report, will provide information that can be used by applicants, planners, and decision makers to design development in a manner that is most protective of ESHA.

The final recommendations therefore retain the suggestion that biological reports include an assessment of project revisions that would avoid and minimize the impacts of new development on ESHA. As suggested by the County, Preliminary Recommendations 4.7 and 4.9 have been revised to emphasize the identification of habitat constraints as the critical first step in evaluating these options, and to acknowledge that this is one of many issues that will be considered by the County in its evaluation of alternatives. (See below.)

With respect to assessing the biological impacts associated with vegetation clearance, the preferred approach, reflected by Preliminary Recommendation 4.7, is to identify fire clearance requirements prior to completing the biological analysis, thereby allowing these impacts to be fully analyzed by the Biology Report. Recognizing, however, that the full extent of necessary fire protection measures may not be known at the time the initial biology report is prepared, revisions to the second bullet of Preliminary Recommendation 4.7 allow the impact of such measures to be addressed through supplemental biological reviews. The intent of such review is not to put habitat before human safety. Rather, it is intended to ensure that the removal of habitat for fire protection be avoided where feasible. In instances where the removal of habitat is

essential for public health and safety, it should be accompanied by measures to minimize and mitigate the impacts of such activities on ESHA.

4.7: Revise Biological Report Requirements

- In addition to the information that is currently required to be included in biology reports pursuant to CZLUO Section 23.07.l70, the reports should identify ~~project alternatives~~ the biological constraints that need to be addressed in designing development that would first avoid, then minimize impacts to ESHA. Biological Reports should identify where revisions to the project are available to avoid and minimize impacts on ESHA, which should be considered by the County in the evaluation of project alternatives.

- ~~Require Biological Reports to~~ County analysis of development in or adjacent to ESHA should include an assessment of the impacts posed by fire safety requirements, such as vegetation clearance and roadway improvements. Where ~~such~~ fire safety measures required to accommodate new development may impact ESHA beyond what was anticipated by the project's Biological Report, a supplemental report may be required. In any instances where fire clearance requirements would impact ESHA, project alternatives that avoid these impacts should be identified and pursued. Where impacts to ESHA associated with fire safety precautions can not be avoided, these impacts should be minimized and mitigated in accordance with Recommendations 4.11 – 4.16.

4.9: Thoroughly Review and Aggressively Pursue Project Alternatives that Avoid Impacts to ESHA

- The full range of project alternatives that would avoid impacts to ESHA, from alternative sites to different designs (including reductions in project sizes) should be pursued and required. This should include a critical analysis of the ~~alternatives suggested~~ habitat constraints identified in the biological report and the options available to respond to these constraints (see ~~Preliminary~~ Recommendation 4.7).

- In accordance with Policy 1 for ESHA, the requirements of CZLUO Section 23.07.170 should apply to development that is further than 100 feet from the ESHA where such development poses adverse impacts to the habitat.

Comprehensive Site Assessments

In response to the County's objection to the second bullet of 4.8, implementation of this recommendation is essential to ensure that all alternatives available to avoid non-resource dependent development is ESHA. The following changes separate this component of the recommendation from the 1st and 3rd bullets, which the County has indicated agreement with, and clarifies that the intent of the recommendation is to avoid adverse impacts to ESHA:

4.8a: Expand Application of Rural Area SRA Standards regarding "Site Planning – Development Plan Projects" Contained in Area Plans

- As proposed in both the North Coast and Estero Area Plan Updates, require *all* development (not just those located in rural areas that trigger Development Plan review) to concentrate proposed uses in the least sensitive portions of properties and retain native vegetation as much as possible. Apply this standard throughout the coastal zone.

- ~~Require all applications for development within an SRA or its setback include an overall development plan for all properties that are geographically contiguous and in common ownership at the time of the application.~~

- Provide flexibility in non-habitat related setback requirements where necessary to avoid and minimize ESHA impacts.

4.8b: Evaluate all Available Alternative Locations that Avoid and Minimize Impacts to ESHA

Require all applications for development within an ~~SRA~~ ESHA or its setback to include an overall development plan for all properties that are geographically contiguous and in common ownership[43] at the time of the application.

4. Conclusion

ESHA Recommendations 4.6 - 4.9 are intended to ensure that all options available to maximize the protection of ESHA are duly considered through the County's implementation of the LCP. A thorough analysis of such alternatives is essential to carry out Coastal Act ESHA protection objectives (e.g., Sections 30230, 30231, 30240).

E. Analyzing the Takings Issue

1. Summary of Preliminary Periodic Review Findings (Exhibit A, pages 130 – 131)

To achieve the appropriate balance between development and habitat protection where avoidance is not possible, the Preliminary Report recommends an analysis of 1) investment-backed expectations and 2) the economic effect of habitat-protective use restrictions, and restricting development accordingly. The development of LCP Habitat Conservation Plans in specific areas with particular habitat needs is identified by the Preliminary Report as a potentially viable alternative to case specific takings reviews.

2. Comments Received

San Luis Obispo County Response (Exhibit C)
The County response indicates disagreement with the detailed economic analysis required under Preliminary Recommendations 4.10 and 4.11, and suggests requiring a more detailed alternatives analysis that evaluates, among other things, a reduced footprint as alternative. County staff has indicated a preference for providing a wider range of procedures to balance the protection of ESHA with the constitutional rights of property owners rather than adopting the specific approach taken by the Commission.

[43] Parcels that are owned in fee as well as parcels subject to existing purchase options, even if separated by roads, streets, utility easements or railroad rights of way.

While the County response supports the incorporation of Habitat Conservation Plans into the LCP as a means to avoid case specific takings reviews, they have indicated concern regarding the high costs associated with bringing such plans to fruition.

Public Comments (Exhibit D)
Various commenters expressed concern regarding the takings analysis proposed by the Preliminary Report based on the nature of the information that would be required to be provided, additional regulatory complexities, and perceived conflicts with the rights of private property owners.

3. Analysis

As implied by the County response, thorough consideration of alternatives is a crucial step in resolving takings issues. However, when alternative analyses do not yield a viable option for development that avoids ESHA, an established procedure is needed to implement ESHA protection requirements, in a way that does not infringe upon private property rights, on a reasoned and consistent basis.

The methodology used by the Commission to such situations has evolved over many years of experience and legal review. It provides a model that local jurisdictions can employ to customize their approach to resolving these complex issues. In no way should the recommendation to establish policies and procedures to resolve takings issues be construed as an attempt to violate property rights; it is intended to ensure that the LCP is implemented consistent with the Coastal Act's protection of both ESHA <u>and</u> property rights. Established procedures will enable fair and consistent treatment as well as informed decisions, and may help to resolve controversial issues in a more efficient manner.

In recognition that the procedures used by the Commission may not be the only way to effectively resolve takings issues, Preliminary Recommendations 4.10 and 4.11 have been revised to be more advisory in nature. Instead of requesting the County to implement the same exact approach, they encourage the County to develop their own tailored procedures.

While various methods of resolving this issue may be available, they all must lead to the same result to effectively implement the ESHA protection policies of the LCP and of the Coastal Act; ESHA must be protected to the maximum extent feasible consistent with the constitutional rights of private property owners. Thus, the recommended findings for approval contained in Preliminary Recommendation 4.10 have been carried over into the final report without change.

The same approach can be used to resolve situations where the stringent implementation of other coastal resource protection provisions (e.g., viewshed preservation) would preclude a reasonable economic use of land because alternatives that would comply with

resource protection standards are not feasible. Preliminary Recommendation 4.10 and 4.11 have therefore been expanded to address the wider range of circumstances where an established methodology of balancing coastal resource protection with the constitutional rights of private property owners is anticipated to be needed.

In sum, the revisions to Recommendations 4.10 – 4.11 are as follows:

4.10: ~~Evaluate Economic Backed Expectations before Concluding that Avoidance is not Possible due to "Takings" Concerns~~ Incorporate New Standards and Review Procedures to Implement ESHA and Viewshed Protection Consistent with Coastal Act Section 30010.

To effectively resolve takings concerns where it is not feasible to avoid impacts to ESHA or development in scenic coastal areas (see Recommendations 8.1 and 8.6), incorporate additional standards and review procedures within the LCP that will protect coastal resources to the maximum extent possible consistent with Coastal Act Section 30010. For example, the County should consider developing of a process for evaluating the following when a non resource dependent use is proposed in or adjacent to ESHA, or when structural development is proposed in significant coastal viewsheds, and no alternatives to avoid such development is available:

a) whether limiting uses within ESHA to those that are resource dependent consistent with Coastal Plan Policy 1 for ESHA would deprive the landowner of all economically beneficial use of the property; and,

b) whether there is a reasonable investment-backed expectation of approval of such a non-resource dependent use.

~~Where a non-resource dependent use is proposed in or adjacent to ESHA, and no alternative to avoid ESHA impacts is available, require applicant to provide the following information for all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application:~~ Some of the information that should be evaluated as part of such an analysis includes:

1. Date the applicant purchased or otherwise acquired the property, and from whom.

2. The purchase price paid by the applicant for the property.

3. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at the time.

4. The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.

5. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in 4 above, that applied to the property at the time the applicant acquired it, or which may have been imposed after acquisition.

6. Any changes to the size or use of the property since the time the applicant purchased it, including a discussion of the nature of the changes, the circumstances and the relevant dates.

7. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.

8. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.

9. Any offers to buy all or a portion of the property which the applicant solicited or received since the time of purchase, including the approximate date of the offer and the offered price.

10. The applicant's cost associated with ownership of the property, annualized for each of the last five calendar years, including property taxes, property assessments, debt services costs (such as mortgage and interest costs), and operation and management costs.

11. Apart from any rent received from leasing all or a portion of the property, any income generated by the use of all or a portion of the property over the last five calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.

- In order to approve a non-resource dependent development within ESHA or its setbacks, or any development that conflicts with the scenic resource protection provisions proposed in Recommendations 8.1 and 8.6, the following findings should be made and accompanied by supporting evidence:

1. Based on the economic information provided by the applicant, as well as other relevant evidence, a resource dependent use would not provide an economically viable use of the applicant's property.

2. Restricting development on the applicant's property to a resource dependent use would interfere with the applicant's reasonable investment-backed expectations.

3. The amount of development represents the minimum necessary to provide the applicant with an economically viable use of his or her property.

- Provide exceptions to the above requirements for development on lots where ESHA issues are addressed by a comprehensive habitat conservation program that has been incorporated into the LCP (see ~~Preliminary~~ Recommendation ~~2c~~ 4.6, above).

4.11: Minimize the Intensity of Non-Resource Dependent Development to the Maximum Degree Feasible

- ~~Where an analysis of the information required under Preliminary Recommendation 4.10 yields a conclusion~~ In instances where the County concludes that, in order to avoid a

taking of private property, a non-resource dependent use must be accommodated in ESHA, or that development must be accommodated within a scenic coastal area contrary to Recommendations 8.1 and 8.6, the County should require that such development be limited to the minimum required to avoid a taking. ~~In most cases, this will be one modestly sized residential dwelling per existing lot, even if the maximum intensity of development otherwise allowed by the underlying land use designation is greater.~~

- Prohibit access roads that disturb ESHA or encroach within scenic coastal areas unless the road is necessary to provide an economically viable use of the overall development plan area.

In light of the costs associated with developing and administering Habitat Conservation Plans as part of the LCP (another way to resolve takings concerns), Chapter 12 of this report recommends the commitment of additional funding, as well as the pursuit of grants and interagency collaboration towards developing these plans.

4. Conclusion

Development and implementation of standards that can be used to effectively balance the ESHA protection with private property rights, as proposed by Recommendations 4.10 and 4.11, is needed ensure that the LCP is carried out consistent with Coastal Act Section 30240 and 30010.

F. Minimizing Unavoidable Impacts

1. Summary of Preliminary Periodic Review Findings (Exhibit A, pages 125 – 137)

Where impacts to ESHA can not be avoided, the Report observed the need to restrict the amount of disturbance and effectively mitigate project impacts through more specific mitigation and monitoring requirements. The Preliminary Report recommended that the methods for minimizing and mitigating unavoidable impacts be developed and reviewed in coordination with other habitat protection agencies and organizations.

2. Comments Received

San Luis Obispo County Response (Exhibit C)

The County response suggests deleting Preliminary Recommendation 4.12, calling for new standards that establish maximum disturbance area limitations in ESHA. Instead, the County favors addressing disturbance limitations through a more detailed alternatives review procedure, and perhaps through the use of “Ag Rules of Procedure”.

With respect to interagency coordination (Preliminary Recommendation 4.14), the County response contends that this is already taking place pursuant to the California

Environmental Quality Act. The County response also notes that such reviews must be completed in a timely manner to avoid conflicts with the Permit Streamlining Act Regarding Preliminary Recommendation 4.15, the County response identifies that the specific mitigation requirements must be proportional to the impact of the development.

Summary of Public Comments (Exhibit D)

In response to Preliminary Recommendation 4.13, the Hearst Corporation objects to the requirement that a conservation easement or deed restriction be placed over all remaining ESHA when non-resource dependent development must be accommodated within ESHA or its setbacks to avoid a taking. This opposition is based on their opinion that such a requirement would force an exaction of private property without showing the required nexus between the dedication and the proposed development.

3. Analysis

The use of alternatives analyses to minimize impacts of development on ESHA is certainly an important tool recognized by this report. Such analyses do not, however, obviate the need for specific performance standards; without such standards decision makers lack a basis for determining which project alternative is most consistent with habitat protection requirements.

The establishment of maximum disturbance limitations is an extremely useful way in which unavoidable impacts to ESHA can be minimized in a fair and consistent manner; they provide objective standards that inform applicants and decision makers of the minimum requirements.

Perhaps part of the County's disagreement with Preliminary Recommendation 4.12 is the example provided. Although just an example, it may have caused concern that the Commission's expectations were too high in terms of what a reasonable disturbance limitation would be. In fact, as recognized by the Preliminary Report, such standards should be customized to the particular circumstances of the area. Nevertheless, to eliminate any such concern, the example has been deleted from the recommendation as follows:

> **4.12: Establish Maximum Disturbance Limitations**
>
> Incorporate new standards into the Area Plans that establish maximum disturbance envelopes for unavoidable non-resource dependent development in ESHA. ~~For example, in rural areas, a maximum disturbance envelope of 0.25 acres or ¼ the lot area, whichever is less, should be considered.~~ Such standards should be customized to the particular circumstances of the area, considering factors such as the size and configuration of lots, biological sensitivity and resource management principles, agricultural viability, and other coastal resources constraints (e.g., visual).

The potential application of the "Ag Rules on Procedures" to establish acceptable areas of disturbance, as suggested by the County's comments, will be evaluated through further coordination between County and Commission staffs.

Regarding the Hearst Corporation's opposition to Preliminary Recommendation 4.13, it is important that this Recommendation be read in conjunction with Recommendation 4.10 and 4.11. Pursuant to those recommendations, the approval of new development within an ESHA must be accompanied by an analysis that accommodates the constitutional rights of property owners in accordance with Coastal Act Section 30010, while at the same time maximizing the protection of ESHA consistent with Coastal Act Section 30240. Once an economic use has been accommodated in accordance with the constitution, the permanent protection of the remaining ESHA is warranted under Coastal Act Section 30240. Thus, no changes to Preliminary recommendation 4.13 have been included in this final report.

With respect to the County response suggesting that Preliminary Recommendation 4.14 be modified to recognize that interagency coordination is occurring through the CEQA process, and that timely reviews are essential, the following clarification is offered:

4.14: Coordinate Review of Projects that Pose Impacts on Listed Species with DFG, USFWS, and NMFS

- Information that should be provided to justify the Findings required by Section 23.07.170b (i.e., that significant adverse impacts to the habitat will be avoided), when not otherwise provided through the CEQA process, includes: concurrence of the Department of Fish and Game and/or U.S Fish and Wildlife Service if species listed under state or federal Endangered Species Act are involved; and, concurrence from the National Marine Fisheries Service if marine habitats are involved. The timing of this review should be coordinated between the County and wildlife agencies to ensure compliance with the Permit Streamlining Act.

As suggested by the County, Preliminary Recommendation 4.15 has been revised to reflect that mitigation required of new development must be proportion to the impacts attributable to the development:

4.15: Specify Mitigation Requirements[44]

- Require on-site mitigation for development *adjacent* to ESHA. Where the impacts to ESHA posed by adjacent development have been avoided and minimized, but still pose adverse affects, mitigate by requiring implementation of an on-site habitat management, restoration, and enhancement program proportional to the potential impacts of the development.

- Require on-site and off-site mitigation for development *within* ESHA. Where development directly in an ESHA can not be avoided, and has been minimized to the greatest degree feasible, protect all ESHA outside the development envelope by implementing an on-site habitat management, restoration, and enhancement program that will reduce the adverse impacts of the development to

[44] E.g, CZLUO Sections 23.07.170a(1) and 23.07.174d(2)(ii)

the greatest extent feasible. In addition, require off-site mitigation to offset the reductions in habitat quantity and quality attributable to the development. In most cases, this should be in the form of acquiring and permanently protecting the same type of habitat, in an area otherwise threatened by development. The size and habitat quality of the off-site mitigation area should be ~~of equal or greater~~ proportional to the biological productivity ~~as~~ of the area of impact. Incorporation of in-lieu fee programs into the LCP to implement such off-site mitigation is an option.

4. Conclusion

Providing more explicit standards for minimizing and mitigating unavoidable impacts on ESHA, as called for by Recommendations 4.12 through 4.16, will enable LCP implementation to better achieve the objectives of Coastal Act Section 30231, 30236, and 30240.

G. Streams and Riparian Habitats

Streambed Alteration

1. Summary of Preliminary Periodic Review Findings (Exhibit A, pages 147 – 150)

The Preliminary Report identified various issues related to the County's implementation of LCP standards regulating the alteration of coastal streams. For example, the Preliminary Report identified that the types of locally approved projects involving stream alterations have not always been within the limitations established by Section 30236 of the Coastal Act and LCP ESHA Policy 23. To achieve conformance with the Coastal Act and the LCP's Coastal Plan Policies, the Preliminary Report recommended, among other things, updating Section 23.07.174 of the CZLUO (Preliminary Recommendation 4.17 and 4.18).

2. Comments Received

San Luis Obispo County Response (Exhibit C)
The County response to the Preliminary Report indicates general agreement with respect to the Preliminary Recommendations related to stream alterations (Preliminary Recommendation 4.17 – 4.21).

Summary of Public Comments (Exhibit D)
Comments submitted by Clyde Warren of Rancho San Simeon raise issue with the discussion on page 148 of the Preliminary Report regarding the potential adverse impacts of stream alterations on habitat values. Mr. Warren asserts that there is no habitat values along eroded streambanks where streambank protection devices (e.g. rip rap) are needed. Mr. Warren also objects to the Preliminary Report's finding that the alteration of natural processes of erosion and deposition associated with streambank protection can adversely affect habitat values. Rather, Mr. Warren believes that

maintenance activities that minimize natural erosion and sedimentation can enhance habitat values and should be encouraged, among other means, by limiting the review of such activities to one agency – the Department of Fish and Game. Mr. Warren also emphasizes the importance of preventing obstructions from being established within creekbeds to protect stream habitats.

Comments submitted by the Hearst Corporation oppose Preliminary Recommendation 4.18. The Hearst Corporation contends that this recommendation, which requires *all* stream diversion structures (i.e., including agricultural stock ponds of 10 acre feet or less) to be designed and located to avoid impacts to in-stream habitats, may harm agricultural operations and intrude upon the jurisdiction of the Department of Agriculture.

3. Analysis

As noted in the comments submitted by Mr. Warren, streambank areas experiencing erosion may have limited habitat value. However, this is only a temporary situation; riparian vegetation and habitat values will be quickly reestablished in such areas once natural processes of erosion and deposition have reached equilibrium. The installation of rip rap or other man made structures in these areas can are detrimental to long term habitat values because they preclude and/or reduce the extent to which natural riparian vegetation can re-establish itself along the streambank. Moreover, as discussed in the Preliminary Report, the establishment of hard edges precludes the natural migration of dynamic stream channels, which in turn can limit the width and biological productivity of the riparian habitat within the vicinity of the revetment. Thus, it is appropriate to update the LCP, and the County's method of implementation, to limit stream alterations in accordance with Coastal Act Section 30236 and LCP ESHA Policy 23. Preliminary Recommendation 4.17, intended to achieve this objective, has been clarified and expanded as follows:

4.17: Pursue changes to Section 23.07.174b of the CZLUO to achieve conformance with Coastal Act Section 30236, as well as with ESHA Policy 23.

- ~~The introduction of~~ ~~t~~ This ordinance should specifically require that all permitted streambed alterations employ the best mitigation measures feasible, including but not limited to:

  1) avoiding the construction of hard bottoms
  2) using box culverts with closed beds rather than closed culverts
  3) providing for wildlife movement
  4) pursuing directional drilling for pipes and cables to avoid stream bed disturbance

  A reference to the updated section of the LCP addressing mitigation requirements, as proposed by ~~Preliminary~~ Recommendations ~~2l and 2m~~ 4.15 and 4.16, should also be provided.

- Part (1) should state that streambed alterations are limited to necessary water supply projects. The incorporation of specific criteria to define what constitutes a "necessary"

water supply project should be considered. A preliminary suggestion is to define such projects as those essential to protecting and maintaining public drinking water supplies, or accommodating a principally permitted use where there are no feasible alternatives.

- Part (4), allowing streambed alterations for the maintenance of flood control channels, should be considered for deletion. Necessary maintenance activities can be accommodated under part (2) of this ordinance, which includes the Coastal Act criteria for such activities (part (4) does not include these important criteria).

Mr. Warren correctly notes that preventing obstructions within creek channels is an important way in which stream habitats can be protected. His experience in responding to the impacts created by the San Simeon Road culvert exemplifies the fact that stream alterations associated with roadway development can adversely affect riparian habitats and lead to ongoing maintenance problems. Modified Recommendation 4.27 (below) responds to this issue among other ways by requiring instream development to mimic natural habitat conditions wherever feasible. For example, bridges are recommended as an alternative to culverts in order to minimize disruption of natural drainage courses. Recommendation 4.21 also requires a full evaluation of alternative means of providing access to a development site on order to avoid obstruction of stream channels.

Mr. Warren is also correct in observing that streambank protection and stream management can benefit riparian habitats. To facilitate such environmentally beneficial projects, modified recommendation 4.27b (below) encourages coordination with volunteer, education, and assistance programs intended to protect and restore riparian habitats (including streambank protection). Certification of such programs through the coastal development permit and/or LCP amendment process could encourage beneficial projects by allowing those that are implemented pursuant to approved programs to proceed without individual coastal development permits.

In response to Mr. Warren's suggestion that the Department of Fish and Game should be the only agency that regulates development within coastal streams, the County and the Commission have the distinct responsibility of ensuring that development within coastal streams complies with all applicable LCP and Coastal Act requirements. Although this responsibility can not be delegated to the Department of Fish and Game, the interrelationship of these regulatory programs should be coordinated to complement and support each other. This is the focus of Preliminary Recommendation 4.20, which has been carried over into the final report without change.

As described above, the Hearst Corporation's opposition to Preliminary Recommendation 4.18 is based on a concern that requiring agricultural stock ponds to be designed and constructed to protect aquatic habitats will harm agricultural operations. First, it should be acknowledged that this recommendation does not apply retroactively to existing stock ponds; existing stock ponds that support agricultural operations will not be affected by this recommendation. Thus, no impact to existing agricultural operations is expected to result from implementation of this recommendation. Second, this recommendation is needed to ensure that the development of new agricultural stock ponds that divert stream flow comply with Section 30231 of the Coastal Act. As

detailed in the Preliminary Report, changed circumstances related to the listing of the Steelhead trout and other riparian species within the San Luis Obispo County coastal zone necessitate this and other updates to the LCP. Ensuring that stream diversions, including those related to agricultural development, conform to LCP and Coastal Act standards is the responsibility of the County and the Coastal Commission. The alleged but unspecified conflict between these requirements and the jurisdiction of the Department of Agriculture noted in comments submitted by the Hearst Corporation does not warrant revision to Preliminary Recommendation 4.18. Thus, it has been carried over into the final report without change.

4. Conclusion

Updates to LCP standards and County implementation procedures regarding the regulation of stream alterations, as proposed by Recommendation 4.17 – 4.21, are necessary to carry out Coastal Act Sections 30231, 30236, and 30240.

H. Riparian Setbacks

1. Summary of *Preliminary Periodic Review* Findings (Exhibit A, pages 150 – 155)

Setting new development back from riparian habitats to protect their biological productivity is an important LCP requirement, the implementation of which was noted by the Preliminary Report as lacking consistency and effectiveness. Considering a 100 foot setback from the edge of riparian in urban areas as well as rural areas (current requirements are 100 feet in rural areas, 50 feet or less in urban areas) was one of many recommendation intended to respond to this problem.

2. Comments Received

San Luis Obispo County Response (Exhibit C)
The County response suggests requiring "maximum reasonable setbacks based on site constraints" rather than specifying 100 feet.

Public Comments (Exhibit D)
Various commenters observed that increased setback distances would raise significant problems for the infill and redevelopment of private property along urban creeks, such as along the coastal streams that run through the town of Cayucos.

The Preliminary Report's analysis of riparian setback issues also garnered significant comments from agriculturists who were concerned that such setbacks, combined with new permit requirements, would significantly impact their ability to maintain a viable operation. Similar concerns were raised regarding setbacks from wetlands (e.g., County response to Preliminary Recommendation 4.31). Large portions of existing agricultural operations are within 100 feet of a coastal stream or wetland, and eliminating such areas

form production could have drastic effects of the viability of such operations. Moreover, agriculturists expressed concern that limiting new or expanded production within setback areas would diminish their ability to survive the highly competitive market. Finally, they questioned whether agricultural activities within 100 feet of a creek had adverse impacts, particularly when implemented with care and in coordination with local, state and national education and volunteer programs.

3. Analysis

Achieving 100 foot setbacks from the edge of riparian vegetation in many urban areas will be difficult to achieve. As recommended by Preliminary Recommendation 4.23, such setbacks would only be required where it was feasible and would achieve better protection of coastal resources. The alternative suggested by the County, requiring maximum feasible setbacks based on site constraints, has been incorporated into Recommendation 4.23 as follows:

Recommendation 4.23:Apply a Minimum Standard Setback of 100 feet in Urban Areas Where Feasible Consider applying a 100' standard setback, rather than 50' or less, in urban area where a 100' setback is feasible and would achieve better protection of stream resources. In all cases, development should be setback the maximum feasible distance from riparian vegetation, as determined through a site specific constraints analysis.

As previously noted, the Preliminary Recommendations have also been revised to better respond to this issue as it relates to the town of Cayucos. Recommendation 4.6 encourages the use of watershed plans to perfect setback standards and prescribe specific mitigation measures that will both enhance the riparian environment and clarify development requirements.

With respect to the concerns expressed about the application of setback standards to agricultural activities, it should be noted that these standards do not apply retroactively to existing development, and is not intended to place new requirements on existing agricultural activities.

Preliminary Recommendation 4.27 has also been revised (below) to clarify that agricultural activities are not prohibited within ESHA setbacks, but are encouraged to incorporate provisions that will avoid disruption of sensitive habitats and protect coastal water quality. As detailed in Chapter 5, it is anticipated that most new agricultural activities will be exempt from permit requirements under the pending amendments to the grading ordinance. The use of existing education and assistance programs are recognized as the optimum way in which the LCP could integrate water quality, sensitive habitat, and agricultural resource protection. For example, coastal development permits could be issued for programs that effectively carry out LCP and Coastal Act standards, and the individual project implemented pursuant to these programs would be exempt from permit review.

4. Conclusion

The Preliminary Report documented that, since LCP certification, San Luis Obispo County has occasionally approved development within and adjacent to riparian habitat inconsistent with LCP ESHA protection standards. In addition, the Report's review of existing LCP policies, ordinances and standards identified the need to update riparian habitat provisions to better respond to new information and changed circumstances. The LCP implementation improvements proposed by Recommendation 4.22 – 4.25 will enable better protection riparian habitats, consistent with Coastal Act Sections 30231, 30236, and 30240.

I. Protection of Creek Flows and Instream Habitat

1. Summary of Preliminary Periodic Review Findings (Exhibit A, pages 147 – 150)

Among the potential sources of adverse impacts to creek habitats, the Preliminary Report identifies water supply projects such as wells and stream diversions as ones that are not adequately addressed by the LCP. Preliminary Recommendation 4.26 therefore calls for new standards that would prohibit such projects where adverse impacts could not be avoided. Preliminary Recommendation 4.27 was proposed to ensure that LCP implementation effectively protects stream habitats that support the Steelhead trout.

2. Comments Received

San Luis Obispo County Response (Exhibit C)
The County response recommends deleting the portion of Preliminary Recommendation 4.26 encouraging water extracted from coastal streams to be treated after use and returned to the stream in similar quantity and quality. The County response suggests that the focus of Preliminary Recommendation 4.26 should be on evaluating impacts to fisheries, as opposed to prohibiting projects that may have an adverse impact. The County response also requests clarification to the 3rd bullet of this Preliminary Recommendation, which recommends that water diversions be limited to peak winter flows where necessary to protect stream resources.

With respect to Preliminary Recommendation 4.27, the County response suggests deleting the second bullet that calls for the development of standards for the breaching of beach berms that create coastal lagoons.

Requests by the County for clarification of how the recommended water quality protection standards should be implemented by the County, through the LCP, particularly with respect to agricultural development are also applicable to Preliminary Recommendation 4.27, intended to protect the instream habitat of Steelhead trout.

Summary of Public Comments (Exhibit D)
The advisory board to the Cambria Community Services District also noted concern with the portion of the fourth bullet in Preliminary Recommendation 4.26, which calls for stream flows to be supplemented with imported water where it is not feasible to otherwise recharge the stream with water used on-site.

Comments from the Hearst Corporation regarding Preliminary Recommendation 4.26 raises concern that the recommended standards for stream diversions and water wells may intrude upon the jurisdiction of the State Water Resources Control Board (SWRCB), and potentially harm users that are currently operating under existing SWRCB permits.

3. Analysis

In response to concerns expressed regarding the portion of Preliminary Recommendation 4.26 that calls for the supplementing in-stream flows with imported water, this was intended to be used as mitigation for development that could not return water taken from the stream in like quantity and quality. Commenters correctly observe that the preferred approach is to prohibit development that can not provide a safe and environmentally sustainable on-site water system. Thus, in response to the concern that the option of importing water would lead to development that exceeds local water supplies, this language has been deleted from Preliminary Recommendation 4.26. However, the important principal that water diverted from coastal streams should be returned to the watershed of origin in like quantity and quality is retained in Recommendation 4.26:

4.26: Incorporate Additional Standards for Stream Diversions and Water Wells

- Prohibit diversion or extraction of surface and subsurface streamflows where adverse impacts to steelhead or other important riparian resources would result.
- Prohibit in-stream barriers to fish migration unless such structure comply with streambed alteration standards and provide effective fish ladders or by-pass systems.
- Where water supply projects have the potential to impact fish habitat or other stream resources, limit diversions to peak winter flows that exceed ~~to~~ the amount needed to sustain the resources, and require off-stream storage where year-round water supplies are needed.

To the degree feasible, water diverted from coastal streams should be treated after use and returned to the watershed of origin in like quality and quantity. Where this is not feasible, supplementation of stream flows with water imported from sources that do not impacts sensitive habitats should be pursued.

As noted by the County response, an appropriate place for the new standards proposed by Recommendation 4.26 may be Section 23.08.178. This and other options will be further evaluated as the specific amendment necessary to implement this recommendation is developed.

The County's suggestion that Preliminary Recommendation 4.26 focus on impacts to fisheries is already implied by the recommendation. By prohibiting stream diversion and

water well projects that adversely affect fish habitats, these standards would necessitate a full evaluation of the potential impacts. It is essential that the LCP not just require environmental evaluations, but include specific performance standards that identify minimum requirements which ensure LCP and Coastal Act compliance. In this case, a prohibition of development that would adversely impact rare and sensitive riparian habitats is needed to achieve such consistency. As a result, no change to Preliminary Recommendation 4.26 has been made in this regard.

In response to the County's request for clarification of the 3rd bullet of Preliminary Recommendation 4.26, this recommended is intended to ensure that water extractions and/or diversions do not reduce stream flows below the levels necessary to support fish and other riparian resources. Thus, the recommendation requires new development dependent upon such water to provide determination of the water flows necessary to sustain riparian resources, and to limit extractions and diversions to times when water flows exceed this amount (i.e., during the rainy season). In recognition of the fact that most development will require a year-round supply of water, the recommendation requires that seasonal limitations to water withdrawals be accompanied by off-stream storage facilities. Such storage facilities will obviate the need to withdraw water beyond the safe yield of the creek.

With final regard to Preliminary Recommendation 4.26, the County and the Coastal Commission's regulation of stream diversions and water wells to protect coastal resources is mandated by the Coastal Act (e.g., Sections 30231, 30236, and 30240). Thus, the Hearst Corporation's assertion that this recommendation should be deleted based on a perceived but unspecified contradiction with the SWRCB does not warrant any additional modifications to Preliminary Recommendation 4.26.

Contrary to the suggested deletion of the 2nd bullet of Preliminary Recommendation 4.27, the County response indicates agreement with Preliminary Recommendation 4.33, providing the details of what such standards should include. Because the development and implementation of such standards is critical to the protection of instream habitats, it has been maintained in modified Recommendation 4.27.

Finally, in complement to updates in the Water Quality and Agriculture Chapters, the changes to Preliminary Recommendation 4.27 shown below are intended to:

- Provide specific suggestions on how the LCP could be improved to better protect aquatic habitats, including but not limited to those that support the Steelhead trout;
- Clarify that agricultural cultivation and production activities within habitat setback areas are not all prohibited, but are encouraged to incorporate design and management measures that avoid adverse impacts; and
- Suggest implementation of agricultural management measures in conjunction with voluntary education and assistance programs.

4.27: Incorporate Additional Standards for Development In and Adjacent to Streams and other Aquatic Habitats ~~that Provide Habitat for Steelhead Trout~~

All permitted development in or adjacent to streams wetlands, and other aquatic habitats ~~that support steelhead~~ should be designed and conditioned to prevent loss or disruption of the habitat (e.g., smothering of Steelhead spawning gravel and rearing habitats) ~~through, among other means, controlling erosion, avoiding alteration of natural drainage patterns, eliminating sources of pollution, and maintaining streamside vegetation and stream water temperatures.~~; protect water quality; and maintain and enhance biological productivity. To achieve this objective, CZLUO Section 23.07.174 should be updated in conjunction with updates to Coastal Watersheds Policies and the grading ordinance. These updates should incorporate standards that:

- necessitate flood control and other necessary instream work be implemented in a manner that minimizes disturbance of natural drainage courses and vegetation (e.g., limit the number of access routes to and from the construction area, locate stockpile and staging areas away from drainage courses and sensitive vegetation);

- require that all allowable instream development be designed to mimic natural habitat conditions wherever feasible (e.g., consider bridges that minimize disruption of natural drainage courses as an alternative to culverts, incorporate natural materials such as root wads, gravel, and native vegetation); .

- prescribe methods to control drainage in a manner that prevents erosion, sedimentation, and the discharge of harmful substances into aquatic habitats during and after construction (e.g., identify and evaluate location and capacity of silt fences/hay bails, drainage inlets, detention basins; encourage vegetated drainage features, such vegetated drainage swales created wetland detention areas to facilitate filtration and habitat enhancement.

- ~~Develop~~ establish standards for the breaching of beach berms that ~~create~~ support coastal lagoons (see ~~Preliminary~~ Recommendation ~~4d~~ 4.33)

4.27(b) Develop and Implement Water Quality and Habitat Protection Standards for New Agricultural Development and Habitat Enhancement Projects in Coordination with Voluntary Assistance and Education Programs.

Improve water quality and habitat protection standards applicable to habitat enhancement projects and new agricultural development within 100 feet of ESHA by updating CZLUO Section 23.07.174e(6) in accordance with the agriculture and water quality recommendations of this report. New water quality and habitat protection standards applicable to such development should be developed and implemented in coordination with voluntary assistance and education programs. To minimize the need for permit review and ensure that habitat restoration activities and agricultural development in and near ESHA complies with Coastal Act Sections 30230, 30231, 30236, and 30240, the new LCP Water Quality Component should encourage:

- The certification of volunteer, education, and assistance programs that ensure habitat enhancement projects and agricultural development within setback areas effectively protect sensitive habitats, water quality, and other coastal resources. Such certification could be accomplished through the issuance of a "master" coastal development permit for program implementation; incorporating a categorical exclusion into the LCP for the implementation of such programs; or through Coastal Commission concurrence with a Federal Consistency

Determination submitted by the federal agency responsible for program funding and/or implementation.

- Coastal development permit exemptions for individual projects that are implemented pursuant to certified programs.

4. Conclusions

Recommendations 4.26 – 4.27 calling for updates to and expansion of LCP requirements for development in and along streams and other aquatic habitats are needed to ensure that its implementation will effectively protect environmentally sensitive habitat areas and coastal water quality consistent with Coastal Act Sections 30231, 30236 and 30240.

J. Other Recommendations and Miscellaneous Policy Clarifications

No objections were received regarding Preliminary Recommendation 4.28, calling for completion of the permit review for the Cayucos Abalone facility required by the original County approval, or with respect to the first bullet of Preliminary Recommendation 4.29, clarifying the reference contained in CZLUO Section 23.07.174e(7).

The County response does, however, suggest deleting the second bullet of Preliminary Recommendation 23.07.174e(2), requesting that the intent of CZLUO Section 23.07.174e(2) be clarified. This section currently prohibits the cutting or alteration of natural vegetation except "where no feasible alternative exists". Clarification was requested in recognition of the fact that only specific types of development could qualify for this exemption. Upon further review, it appears that the other sections of this ordinance provide adequate flexibility to accommodate essential development activities that may necessitate the alteration or removal of riparian vegetation. Thus, Preliminary Recommendation 4.29 has been revised as follows:

4.29: Miscellaneous Policy Clarifications

- Identify the correct reference for CZLUO Section 23.07.174e(7)
- ~~Clarify the intent of~~ Delete CZLUO Section 23.07.174e(2)

K. Wetlands

Among the various components of the Preliminary Report analyzing the County's implementation of wetland protection standards and recommending improvements, two issues raised significant comments and concerns: the use of variances; and assessing the biological value of manmade wetlands. In addition, additional review of the findings and recommendations regarding wetland delineation, lagoon breaching, and wetland

monitoring and restoration activities identified the need to revise Preliminary Recommendations 4.30, 4.33, and 4.34.

Manmade Wetlands

1. Summary of Preliminary Periodic Review Findings (Exhibit A, pages 164 – 165)

The Preliminary Report observed that it may be appropriate for the LCP to differentiate between different types of wetlands based on their habitat values, and establish protection standards accordingly. Currently. the LCP provides a single set of standards for all wetlands, without respect to their biological significance. Greater flexibility in applying wetland setback and protection standards to man-made wetlands that do not provide significant habitat value could allow a wider range of project alternatives to be considered when competing resource issues may be at stake.

2. Comments Received

San Luis Obispo County Response (Exhibit C)
The County response recommends that Preliminary Recommendation 4.31 be modified, but does not identify the way in which it should be changed.

Summary of Public Comments (Exhibit D)
The San Luis Obispo County Farm Bureau and the Hearst Corporation have interpreted Preliminary Recommendation 4.31 as giving the County and the Coastal Commission new regulatory authority over manmade wetlands. The Farm Bureau comments that this creates a disincentive for agriculturists to create and enhance habitat values. The Hearst Corporation states that this could have an adverse effect on cattle operations that are dependent upon stock ponds for ranching, and does not recognize existing conditions that have evolved from long term on-going agricultural practices.

3. Analysis

The LCP currently provides a single set of standards for the protection of wetlands, which apply regardless of how and for what purpose the wetland became established. As documented on pages 161 – 165 of the Preliminary Report, these standards have been applied by the County to natural wetlands as well as wetlands that were originally created to serve an agricultural purpose (e.g., stock ponds).

Implementation of Preliminary Recommendation 4.31 would not provide new regulatory oversight regarding man-made wetlands. Rather, it would provide an opportunity to perfect the way in which current LCP wetland protection provisions are administered. In particular, it is intended to provide greater flexibility in applying setback requirements to man made wetlands, when exceptions to such standards would not impact significant

biological resources and would achieve other coastal resource protection objectives (e.g., viewshed protection).

4. Conclusion

Preliminary Recommendation 4.31, which has been carried over into the final report without change, encourages the County to update LCP wetland standards to ensure that their implementation with respect to manmade wetlands that do not support significant biological resources does not result in impacts to other coastal resources, particularly scenic resources.

L. Use of Variances

1. Summary of *Preliminary Periodic Review* Findings (Exhibit A, page 165)

Partly in response to the County's approval of a variance that permitted residential development to take place within a wetland area, Preliminary Recommendation 4.32 proposed to prohibit the approval of exceptions to wetlands and other ESHA setbacks where impacts to these areas could be avoided.

2. Comments Received

San Luis Obispo County Response (Exhibit C)
The County response suggests modifying the title of Preliminary Recommendation 4.32 ("Prohibit Variances to Wetland and Other ESHA Protection Standards") to include the statement "where it could be avoided". The County response also identifies an alternative approach for addressing this issue: requiring that the approval of the variance be accompanied by a finding that there are no available alternatives to avoid development from encroaching into ESHA or its setback.

3. Analysis

As discussed in Chapter 12 of this report, the County is concerned that the proposed restrictions on the use of variances will result in conflicts with property rights protected under the constitution. As explained in that Chapter's analysis of this concern, the intent is not to preclude the County from granting variances where necessary to prevent a taking, but to avoid their misuse. The proposed limits on variances must be read in conjunction with Preliminary Recommendations 4.10 and 4.11, which provide specific suggestions for balancing the rights of private property owners with the need to protect ESHA.

Taken together, these recommendations call for a more detailed analysis of the particular facts necessary to balance the application of Coastal Act and LCP ESHA protection requirements with private property rights. To clarify this intent, Preliminary Recommendation 12.15 has been revised to state that where approval of a variance may impact ESHA, it should be accompanied by information and analyses needed to establish that the variance is warranted under Coastal Act Section 30010.

As suggested by the County response, another appropriate requirement for the approval of a variance that would impact wetlands or other ESHA is that no alternative is available to avoid such impacts.

Preliminary Recommendation 4.32 has been revised to address these concerns and suggestions as follows:

> **4.32: Prohibit Variances to Wetland and Other ESHA Protection Standards Where Variances Can be Avoided**
>
> Consider changes to the variance provisions that would prohibit ~~the approval of~~ exceptions to wetlands and other ESHA setback and protection standards where those impacts could otherwise be avoided, unless the variance is needed to achieve consistency with Coastal Act Section 30010.

4. Conclusion

Recommendations 4.30 - 4.36 will enhance LCP implementation to better protect wetlands and other sensitive habitats consistent with the requirements of Coastal Act Sections 30231and 30240. Revisions to Preliminary Recommendation 4.32 ensure that these improvements will be carried out consistent with Coastal Act Section 30010.

M. Wetland Delineation

Other than the discussion of manmade wetlands presented above, none of the comments specifically discussed the discussion of wetland delineation contained on pages 162 and 163 of the Preliminary Report (Exhibit A), or the provisions of Preliminary Recommendation 4.30 regarding this issue. Nevertheless, subsequent review of this recommendation has resulted in the following revisions, intended to ensure that LCP implementation conforms to Coastal Act Sections 30231 and 30240:

> **Recommendation 4.30: Incorporate Standards for Wetland Delineations**
>
> In addition to pursuing an alternative to the LCP's current map based system for protecting wetlands and other environmentally sensitive habitats ~~(see section C1 of this Chapter)~~, new standards that facilitate a complete and accurate delineation of all wetlands during the local review process should be incorporated into the LCP. The provisions of Section 13577(b)(1) of the California Code of Regulations, Title 14, should be used as guidance in formulating these delineation standards. A potential location for these standards would be within the updated biological report requirements (see ~~Preliminary~~ Recommendation ~~1c~~ 4.7).

N. Lagoon Breaching

While no substantive comments were received in relation to the Preliminary Reports analysis of lagoon breaching issues (Exhibit A, pages 166 – 168), subsequent review of Preliminary Recommendation 4.33 identified the need to clarify that, in some instances, lagoon breaching can be used to maintain ecological functioning. Thus, Recommendation 4.33 has been revised to better carry out Coastal Act Sections 30231 and 30240 as follows:

4.33: Develop Standards for the Breaching of Coastal Lagoons

Require a CDP for lagoon breaching activities, and limit such development to situations where it represents the least environmentally damaging feasible alternative for relieving a flood hazard, public health hazard, or water pollution problem. Lagoon breaching should also be allowed and encouraged where man made alterations have interrupted the natural breaching cycle. The decision to breach should be based on a comprehensive assessment of environmental conditions and alternatives available to address the hazard or resource concern.

The LCP should incorporate standards to ensure that where allowed, lagoon breaching mimics natural breaching to the extent feasible, and is carried out in a manner that is the most protective of wetland resources and other environmental resources particular to each site. Such standards should include:

Coordination with all applicable regulatory agencies, including the California Coastal Commission, California Department of Fish and Game, the US Army Corps of Engineers, the Monterey Bay National Marine Sanctuary, and the Regional Water Quality Control Board.

Development of a breaching plan based on a scientific assessment of the lagoon environment that addresses the need for breaching and available alternatives; impacts on endangered species and habitats; public health and safety; and public access and recreation.

Requiring the breaching activity to be conducted in a controlled manner that reduces lagoon water levels the minimum necessary to abate the hazard.

Breaching plans and permits should also include short term and long term monitoring provisions that evaluate the health of the lagoon and the impacts of breaching.

O. Wetland Monitoring and Restoration

Similarly, although no substantive comments were received regarding the Preliminary Findings regarding wetland monitoring and restoration (Exhibit A, pages 166 – 167), the following changes to Preliminary Recommendation 4.34 have been developed to better carry out Coastal Act Sections 30231 and 30240:

4.34: Provide Standards for Wetland Monitoring and Restoration Activities

Incorporate specific requirements (e.g., within Sections 23.07.172 and 23.05.034 of the CZLUO) for the monitoring and restoration of wetland resources to enhance

effectiveness and ensure that such activities are carried out in a manner that will not harm wetland resources.

For example, the LCP should be updated to require clear performance criteria that relate logically to restoration goals. Where there is sufficient information to provide a strong scientific rationale, the performance criteria shall be absolute (e.g., specified abundance of particular species). Where absolute performance criteria cannot reasonably be formulated, relative performance criteria should be specified. Relative criteria are those that require a comparison of the restoration site with reference sites. The rationale for the selection of reference sites, the comparison procedure, and the basis for judging differences to be significant should also be specified. If any comparison requires a statistical test, the test should be described, including the desired magnitude of difference to be detected, the desired statistical power of the test, and the alpha level at which the test will be conducted. The design of the sampling program should relate logically to the performance criteria and chosen methods of comparison. The sampling program should be described in sufficient detail to enable an independent scientist to duplicate it. Frequency of monitoring and sampling shall be specified for each variable to be monitored. Sample sizes shall be specified and their rationale explained.

The use of independent consultants to evaluate the success of restoration projects and report their findings to the County should also be considered.

P. Terrestrial Habitats

1. Summary of Preliminary Periodic Review Findings (Exhibit A, pages 169 – 185)

The preliminary Report addressed the County implementation of LCP terrestrial habitat protection standards, particularly with respect to the Monterey Pine Forest, Coastal Dunes, Coastal Scrub, and Maritime Chaparral Habitats.

With respect to the protection of pine forest habitat, the report noted opportunities to better avoid tree removal and better mitigate impacts associated with unavoidable tree removal, particularly through the development of a comprehensive Forest Habitat Management and Protection Program. The Preliminary Report also provided recommendations to better respond to the threats of pine pitch canker, and to preserve important forest habitats through updates to the TDC program, new methods of lot retirement, and reductions in buildout potential.

With regard to dunes, coastal scrub, and maritime chaparral habitats, the Preliminary Report included various recommendation intended to enhance protection of such habitats within Los Osos, Oceano, and South County. Specific recommendations were also provided for western plover and least tern habitat, as well as for beaches used by the Northern Elephant Seal.

2. Comments Received

San Luis Obispo County Response (Exhibit C)
The County response indicates agreement with all of the Preliminary Recommendations intended to protect the Monterey Pine Forest, but notes that additional information is needed regarding Preliminary Recommendations 4.41 and 4.43.

With respect to the Preliminary Recommendations regarding other terrestrial habitat, the County response indicates disagreement with Preliminary Recommendation 4.44; requests more information regarding Preliminary Recommendations 4.50, 4.51, 4.52; and suggests modifications to 4.55.

Summary of Public Comments (Exhibit D)
The California Native Plant Society suggests expanding Preliminary Recommendation 4.40 to anticipate the arrival of Sudden Oak Death, another type of disease that has decimated various species of oak trees elsewhere in the state.
More generally, public testimony received at the Commission's February 2001 hearing on the Preliminary Report advocated for a more in-depth review of opportunities to maximize the protection of South County habitat areas.

3. Analysis

Monterey Pine Forest

To better link Preliminary Recommendation 4.37 with the Forest Management Plant currently being developed by the Cambria Forest Committee/Community Services District, it has been modified as follows:

4.37: Develop a Comprehensive Forest Habitat Management and Protection Program

As part of the North Coast Update, consider the development and incorporation of a comprehensive forest habitat management and protection program that will better incorporating the Cambria Monterey Pine Forest Management Plan currently being developed by the Cambria Forest Committee to guide and regulate buildout and forest management so that the long-term conservation of the Cambria pine forest ecosystem can be ensured and enhanced. Elements of this program should In coordination with this effort, the North Coast Area Plan should be updated to include standards regarding the location and extent of off-site and on-site mitigation (e.g., tree replacement, contributions towards the acquisition of significant forest habitats); identification of additional TDC sending sites and appropriate receiver sites; and, provisions for the on-going management and preservation of protected forest areas.

As suggested by CNPS, Preliminary Recommendation 4.40 has been expanded to identify Sudden Oak Death as a significant threat to terrestrial habitats, which necessitates the incorporation of new programs and standards in the LCP:

4.40: Incorporate Programs and Standards Necessary to Respond to the Threats Posed by Pitch Canker and Sudden Oak Death

Prohibit the removal of pine trees that clearly display a resistance to pitch canker (e.g., a healthy tree surrounded by diseased trees).
Establish standard protocols for handling dead and diseased wood. These should include standard conditions that require: cleaning of cutting and pruning tools with a disinfectant prior to use on each

individual tree; covering of all wood material being transported offsite to avoid dispersal of contaminated bark beetles; identification of the location to which the material will transported (prohibit transfer to areas free of the disease). These conditions should also specify that in situations where wood material cannot be properly disposed of directly after cutting, it shall be cut into small logs and stored on-site under a clear plastic tarp until necessary preparations have been made for their removal. Other tree parts (i.e., branches, small limbs) should be chipped and left as a thin layer on-site.
Designate location for green waste management and recycling facility.
Coordinate with CDF and the US Forest Service regarding methods for preserving genetic resources (e.g., seeds and saplings). Potentially combine with green waste facility recommended above.
Develop and require Forest Management Plan(s), backed by Forest Management District(s), to provide for long term management of the forest.

Preliminary Recommendation 4.41 suggests that the County update the LCP's TDC program for Cambria to improve its effectiveness at forest protection and provide greater incentive for participation. While in general agreement with this recommendation, the County response suggests that the Cambria Design Plan currently under development address the feasibility of two components of Preliminary Recommendation 4.41: the recommended reduction in size limitations for development in the forest; and, the proposal to formulate a specific system for allocating density bonuses. In addition, the County response suggests that the development of the Cambria Forest Management Plan being developed by the Cambria Community Services District could be used to satisfy the third component of Preliminary recommendation 4.41: the identification of new special project areas best suited as TDC sender sites. These recommendations have been incorporated into modified recommendation 4.41 as follows:

4.41: Provide Greater Incentives for Participation in the Cambria TDC Program and other Updates to the Program

Reduce maximum size of development in urban areas to provide greater incentive to participate in TDC program and reduce the impact that density bonuses may be having on the forest. Eliminate footprint and GSA bonus available for Lodge Hill. To the degree feasible, implement this recommendation as a component of the Cambria Design Plan currently being developed.
As part of the Cambria Design Plan or North Coast Update, Fformulate a more specific structure for allocating density bonuses to ensure that such bonuses provide an adequate contribution towards the protection of forest habitats otherwise threatened by development.
Identify new "Special Project Areas" (i.e., sender sites) that contain the most biologically significant areas of pine forest habitat in conjunction with the CCSD's Cambria Forest Management Plan and other forest protection efforts.

Preliminary Recommendation 4.42, proposes the creation of an Open Space District as one method retire development potential from lots containing important pine forest habitat. The County response indicates that the feasibility of such a district should be evaluated in coordination with the CCSD (see also, Development Chapter discussion). Modified recommendation 4.42 addresses this comment as follows:

4.42: Develop Additional Methods for Lot Retirement

Recognizing that new development within the forest has both direct and cumulative impacts on forest resources, and that the Monterey Pine Forest is increasingly threatened, a mitigation fee could be required for all new development within forested areas and applied to the acquisition and protection of the most sensitive forest areas.

- Creating an Open Space District could raise funds for the additional acquisitions. <u>Efforts to establish an Open Space District should be coordinated with the Cambria Community Services District.</u>

Preliminary Recommendation 4.43 suggests reducing buildout potential within forest habitats among other means by considering lot consolidation requirements when reviewing lot line adjustments and prohibiting adjustments that would increase development potential. The County's conceptual agreement with this recommendation is conditioned on an evaluation of the feasibility of implementing this recommendation. Preliminary Recommendation 4.43 has been clarified as follows:

4.43: Reduce Buildout Potential

Prohibit subdivisions that create new building sites in or within 100 feet of pine forest habitat. Establish very large minimum lot sizes within rural areas comprised of pine forest habitat (e.g., 160 acres). Expand clustering standards and revise Cluster Division Ordinance to achieve much more consolidated development envelopes. This should include, but not be limited to: applying Monterey Pine Forest SRA Standard 4 to all development (not just subdivisions and large scale projects); and, reducing the maximum clustered parcel size of 10 acres in the Rural Lands Category.

- ~~Consider lot consolidation requirements when reviewing lot line adjustments, and p~~Prohibit any lot line adjustment~~s~~ that would result in greater development intensity within forest habitat as compared to the development that would be possible under the existing configuration.

Los Osos Habitats

Preliminary Recommendations 4.44 – 4.46 were intended to establish a process for resolving the challenges of protecting ESHA in the South Bay Urban Area, and to coordinate this effort with the on-going development of an area wide HCP. An important first step in the process, reflected by Preliminary Recommendation 4.44, is to identify the ecologically significant units of sensitive habitats within the urban area (i.e., those habitat areas that may play a significant long-term role in the protection of rare biological resources). This information would be used to delineate habitat areas that would be afforded greater protection by the comprehensive habitat management plan, as compared to the fragmented and degraded habitat scattered elsewhere in the planning area.

In response to Preliminary Recommendation 4.44, the County response indicates disagreement, stating that the cost of undertaking this research would be better applied towards the establishment of a "bank" or district. It is assumed that the purpose of the bank or district encouraged by this comment would be to provide a centralized fund and administrative organization to implement the various functions of the habitat plan. While the need to establish such funds and administrative protocols are acknowledged as a critical component to the area wide habitat protection plan, their creation will not eliminate the need to evaluate, from a biological resource standpoint, the way in which the plan can most effectively protect ESHA. Such information will be essential to determine the plans conformance with Coastal Act requirements, and is currently being developed as part of the Los Osos HCP effort. Due to the importance of such biological analyses, no change to Preliminary Recommendation 4.44 is proposed by this report. The need to establish the financing and administrative functions necessary to implement

the area wide habitat plan, will be a key component of the off-site mitigation program and HCP coordination effort proposed by Recommendation 4.45 and 4.46.

South County Habitats

The County response to Preliminary Recommendation 4.50 indicates that the Coastal Commission, as opposed to the County, is in a better position to consider prohibiting off-road events in the Open Space area designated by the South County Area Plan, through its on-going condition compliance review of Coastal Development Permit 4-82-300. Notwithstanding that the Commission will play a lead role in addressing issues related to recreational vehicle use of the Oceano dunes, the County's LCP has significant influence on the Commission's deliberations. The certified LCP is advisory to the Commission in the areas that are in the Commission's permit jurisdiction, and is the standards of review for projects located in the Commission's appeal jurisdiction. In addition to the fact that the LCP can impact the Commission's review of 4-82-300, a new development project that is distinct from this permit will be subject to County review and application of LCP standards.

In recognition that the Commission's review of 4-82-300 will provide a framework for any LCP updates that relate to the Oceano Dunes Off-Highway Vehicle Recreation Area, and in light of current Habitat Conservation Planning efforts for this area, Preliminary Recommendation 4.50 has been revised as follows:

Recommendation 4.50:Update LCP provisions related to new and on-going development activities within the Oceano Dunes State Off-Highway Vehicle Recreation Area in conjunction with Coastal Commission actions related to Coastal Development Permit 4-82-300 as well as with the Habitat Conservation Plan currently being developed. Consider prohibiting special off-road events in the Open Space area designated by the area plan intended to be maintained in its natural state and provide a buffer from the OHV area.

With regard to Preliminary Recommendation 4.51, the County response states that the recommended review and update of land use designations in South County habitat areas should be proceeded by an evaluation of site and community concerns. Similarly, the County response to Preliminary Recommendation 4.52 indicates the need to research the biological values and lot history of the Calendar-Garrett area in order to address the legal issues that would be raised by designating and protecting portions of this area as ESHA.

As previously noted, testimony received at the Commission's February 2001 hearing on the Preliminary Report requested that more attention be given to South County habitats. These comments appear to indicate that there is community support not only for the review proposed by Preliminary Recommendation 4.51 and 4.52, but for larger efforts to better protect the sensitive habitats such as the dune lakes.

In response to County and public comments, Preliminary Recommendations 4.51 and 4.52 have been updated as follows:

Recommendation 4.51: Re-evaluate exiting and proposed land use designations and development standards in South County dune habitats to ensure protection, and

where feasible, enhancement of all ESHA (~~i.e.~~e.g., RS and Industrial designations over the undeveloped land of the Callendar-Garrett Village area south and west of ~~H~~wy 1; proposed redesignation of RL land use category to Recreation after termination of oil extraction activities). The evaluation of existing designations, as well as any updates intended to address habitat protection needs, should be coordinated with the community and other involved wildlife management entities.

Recommendation 4.52: Resolve lot history and any potentially illegal subdivisions in the Callendar-Garret area ~~if threatened by~~ that may facilitate non-resource dependent development~~, particularly~~ in areas known to support rare and endangered plant species. Designate and protect such areas as ESHA in coordination with an area wide program that implements ESHA protection consistent with Coastal Act Section 30010 (protecting constitutional private property rights).

Western Snowy Plover and Least Tern Habitat

The Morro Coast Audubon Society has pointed out that the Morro Bay Sandspit is one of the most important nesting areas for the threatened Western snowy plover. Accordingly, Preliminary Recommendation 4.53 has been revised as follows:

Recommendation 4.53: Work with the US Fish and Wildlife Service, the California Department of Fish and Game, the California Department of Parks and Recreation, the Point Reyes Bird Observatory and other interested parties to identify all shoreline areas that provide habitat, or potential habitat, for the Western snowy plover and Least tern. Designate and protect these areas as ESHA. Re-evaluate land use designations in and around these habitats, and craft standards for future development to ensure effective protection. Work with land owners/managers to make certain that current and future use of these habitat areas are designed and managed in accordance with habitat continuance and enhancement. Particular emphasis should be placed on the protection of important nesting areas, including but not limited to the Morro Bay Sandspit.

Elephant Seal Habitats

Preliminary Recommendations 4.54 – 4.56 are intended to protect beach habitats used by the Northern elephant seal. The County response suggests incorporating the proposed standards and programs to manage human observation and visitation of these habitats within the Coastal Plan Policies and Section 23.07.178d of the Coastal Zone Land Use Ordinance. This has been included in the final recommendations as follows:

Recommendation 4.55: Establish standards and programs to manage human visitation and observation of ~~such areas~~ beaches used by elephant seals, such as by updating the marine resource provisions of the Coastal Plan Policies and Section 23.07.178d of the Coastal Zone Land Use Ordinance.

4. Conclusions

Recommendations 4.37 – 4.56 will enable San Luis Obispo County, through its implementation of the LCP, to better protect environmentally sensitive terrestrial and marine habitats consistent with Coastal Act Sections 30210, 30230, 30231, and 30240.

Errata

The incomplete sentence found at the end of the second paragraph on page 121 is corrected as follows:

These standards should be reviewed by, and incorporate the recommendations of, other resource management agencies, including the California Department of Fish and Game, U.S. Fish and Wildlife Service, and National Marine Fisheries Service.

5. AGRICULTURAL RESOURCES

Agriculture is a vital resource in San Luis Obispo County. Coastal Act Sections 30240 through 30242 recognize the importance of agricultural lands and require that the maximum amount of land be maintained in agricultural production. Land use planning can play a significant role in protecting agricultural lands, or in encouraging the conversion of lands to other, non-agricultural uses. The *Preliminary Report* focused on four aspects of land use planning: direct conversion of agricultural lands; effects from subdivisions, lot-line adjustments, and development on non-conforming lots; effects of non-agricultural uses on agricultural lands; and addressing impacts from agricultural development. The preliminary findings discussed LCP implementation and the protections of the long-term viability of agriculture.

Since publication of the *Preliminary Report*, Commission staff has met with County staff and the agricultural community to discuss the preliminary recommendations for agriculture. These comments and responses are discussed below.

A. Direct Conversion of Agricultural Lands

1. Summary of *Preliminary Periodic Review* Findings (Exhibit A, pg. 191-203)

The LCP policies generally require that the maximum amount of agricultural land be maintained. LCP policies establish limited criteria for when land can be converted to other uses, including, in part, when there are severe conflicts with urban uses which limit agricultural use and when agricultural use of the land is no longer feasible. The conversion must not adversely affect surrounding agricultural uses.

Since certification of the LCP, the County has proposed redesignation of approximately 1,430 acres of land from other uses to agricultural zoning; much of this land has not yet been rezoned. In addition, since Commission certification of the LUP in 1983, the County submitted three amendments, proposing the redesignation of approximately 305 acres of agricultural lands to other uses. The Commission concurred with the redesignation of approximately 50 acres. As discussed in the *Preliminary Report*, Commission review of the County's proposals generally found an inadequate assessment of whether continued agricultural uses were feasible.

As a tool to assess the feasibility of agricultural use of land, Recommendation 5-1 proposed requiring viability reports for proposed rezoning of agricultural lands, and for non-agricultural uses on agriculturally-zoned lands. Recommendation 5-3 also provided an example of the information to be included in a viability report, based on more Commission experience with the issue.

2. Comments Raised

San Luis Obispo County Response (Exhibit C):
The County comments focus on when a viability report should be required and the scope of information necessary in such a report. Although the County generally supports requiring an agricultural viability report for proposed rezoning of agricultural lands, the County states that the criteria proposed is too extensive and suggests that not all the information proposed is relevant for all projects, and is too burdensome for many types of projects. The County suggests that Recommendation 5-3 be revised to reflect different requirements for projects involving the redesignation of agricultural lands to other zoning and for site specific projects (supplemental uses). In addition, the County opposes requiring a viability report for some supplemental uses. (Supplemental uses are discussed later in this section.). Finally, the County proposes some modifications to the definition of an agriculture viability report (PR 5-2).

Public Comments (Exhibit D):
Public comments echo the County concern that requirements for agricultural viability reports as proposed are too burdensome for agriculturists.

3. Analysis

The *Preliminary Report* identifies a need to evaluate the long-term viability of agricultural lands in several contexts: in proposed amendments to the LCP to rezone agriculturally designated lands, in assuring long-term viability for agriculture through lotline adjustments and subdivisions, and in allowing non-agricultural uses on agricultural lands only when those supplemental uses are necessary to help support agriculture. The Commission agrees that a different level of information and detail is appropriate to evaluate the long-term viability of agriculture for different situations. The Commission finds that the criteria detailed in Recommendation 5-2 is appropriate for

LCP amendments proposing to rezone land to non-agricultural designations. For these proposals, the Commission believes that the criteria outlined in Recommendation 5-3 is appropriate, although the Commission supports adding language "where relevant" for each issue topic.

Ordinance 23.04.024 of the LCP currently requires an agricultural viability report for land divisions on agriculturally zoned lands; the existing criteria for these viability reports differ significantly from that proposed under Recommendation 5-3. Through its action on Recommendations 5-1 through 5-3, the Commission does not change any of the current requirements under Ordinance 23.04.024 for land divisions. Additional recommendations to protect the long-term viability of agricultural lands through lot line adjustments are discussed in Section B of this Chapter. Proposed criteria to evaluate non-agricultural, supplemental uses on agricultural lands are discussed in Section C of this Chapter.

Therefore, the Commission modifies Recommendation 5-1 to clarify that viability reports, as detailed through Recommendations 5-2 and 5-3, should be required for proposals to rezone agriculturally designated lands, but are not necessarily needed for analyzing proposed non-agricultural uses on agricultural lands. The Commission modifies Recommendations 5-1 and 5-3, as follows:

Recommendation 5-1: Amend Agriculture Policy 1 by adding the following language: For any proposed rezoning of agricultural lands to another designation, ~~or for any other proposed development that would commit agricultural lands to other non-agricultural use~~, an agricultural viability report shall be prepared~~, as specified under Ordinance 23.04.024(a~~).

Recommendation 5-3: Modify the CZLUO to expand and specify the contents of the Agriculture Viability Reports for proposed rezoning of agriculturally designated lands.

Expand and specify the contents of the Agriculture Viability Report. For example, CZLUO 23.04.024(a)(1), Existing land uses and (3) Site characteristics…including topography, soils, climate, water availability and adjacent land uses, could be expanded to include more specific information, where appropriate, such as:

1. *Soils*
   a. The identification of all soil types that are found in the area (As stated in the most recent Soil Survey published by the United States Department of Agriculture).
   b. Storie index and Capability Classification ratings of all identified soil types (As stated in the most recent Soil Survey published by the United States Department of Agriculture.
   c. The expected animal unit month (AUM) yield for each identified soil type (As stated in the most recent Soil Survey published by the United States Department of Agriculture).
   d. The expected net dollar return per acre for crops that are currently cultivated on each soil type.
   e. An identification of crop types that could be potentially grown on each identified soil type, and also the expected net dollar return for such crops.
   f. An identification of soil types used exclusively for grazing.
   g. An identification of agricultural uses in the area that are not dependent upon the soil (e.g., greenhouses), and where identified, a description of their location and nature of operation(s).

2. *Geographic*
   a. The description of factors such as slope, temperature, adequate sunlight, length of growing season, precipitation, soil quality (depth, drainage, capability classification rating, storie index rating, texture, development, unique qualities) affecting agricultural operations in the area.
   b. The description of management techniques that are currently used, or could be used, in order to improve soil quality for agricultural operations.
   c. An identification of agricultural operations that use more than one parcel for production in the area, and where identified, a description of their current practice and average acreage for each individual operation.
   d. A description of the relationship or proximity of agricultural and urban land uses.
3. *Water*
   a. The availability of water in the area (condition of basin e.g.).
   b. An identification of the water source (riparian, appropriative, etc.).
   c. An identification of any water quality problems affecting agricultural operations in the area.
   d. The current cost of water.
4. *Access*
   a. Description of whether adequate access to agricultural support facilities (cold storage, equipment repair/sales, markets) in the area currently exist.
   b. Where access is problematic, an identification of the nature of the conflict; and how the conflict impacts agricultural operation(s).

CZLUO 23.04.024(a)(2) Present annual income derived from agricultural operations….and (4) the potential of the site to support future food-producing agricultural uses…could be expanded to include consideration of such factors as, <u>where appropriate</u>:

1. *History*
   a. An identification of the types of agricultural operations that have taken place in the area in the past and where have they occurred.
   b. An identification of how long agricultural operations have been conducted in the area.
   c. An identification of those parcels that have been used for agricultural operations in the area consistently in past, and where applicable an identification of such time periods.
   d. An identification of significant past management practices that have been used in the area in order to increase agricultural yields.
2. *Risk Factors*
   a. A discussion of the effect of drought years on agricultural operations in the area and, if so, what the cost of water is during these periods.
   b. An analysis of whether the costs of production and labor are predictable for agricultural operations in the area.
   c. A discussion of whether commodity prices are consistent or inconsistent from year to year for crops grown in the area.
   d. A discussion of whether saltwater intrusion into well water supply is an issue, and if so, how it affects agricultural operations in the area.
   e. An identification of whether there is a problem with crop quality in the area.
   f. An identification of whether the agricultural market is volatile for crops grown in the area.
3. *Economics*
   a. An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of the application for coastal development; and,
   b. An analysis of the operational expenses excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years

immediately preceding the date of the filing of the application for coastal development.

c. Cost shall be determined by, and consist of, the following variables:

1. Fixed Costs for any given crop are assumed to be constant, regardless of the annual yield. Fixed costs shall include only current costs and shall not speculate on potential future circumstances.

a. Land cost (i.e. rent, lease, property tax, etc.) shall NOT be included into the cost analysis (See Coastal Act Section 30241.5)

b. Capital costs including: 1) land improvements (i.e., fences, roads, clearing, leveling, wells and pumps, etc.); 2) equipment (i.e., trucks, tractors, buildings, special equipment (e.g. irrigation), etc.); 3) herd expenses (i.e., payment for bulls and heifers); and 4) miscellaneous expenses. Cost determination must also include depreciation and interest expenses.

c. Cultivating cost including operating costs for: 1) labor (i.e., the amount of hours necessary for planting and the rate of pay per hour including benefits); 2) materials (i.e., water, seed, feed supplements, salt, fertilizer, and pesticides); 3) machinery; 4) fuel and repair; and 5) outside consultants (i.e., veterinary and management).

2. Variable Costs are the harvest costs and are based on the amount of yield only. Depending on the crop yield, variable costs fluctuate for any given year. In most cases, this is expressed as the cost per unit of yield (tons, 100 weight, or pounds).

d. Gross Revenue shall be determined by and consists of the following variables:

1. Gross returns for each crop type.

2. Past return figures should factor in the appropriate Producer Price Index (PPI) figure in order to account to inflation over time.

e. Evaluative methods to incorporate the above cost and revenue figures shall include, where relevant:

1. Determination of the net economic impact on private and public sectors and, second, a test for agricultural viability. Net economic impact refers to change in dollar flow within the community brought about by a given change in land use. "Net economic impact" equals total public revenues minus total public costs, plus private sector income. This should be computed according to the existing land use, the proposed development, and any viable project alternatives. This may be accomplished through the following process:

a. Cost/Revenue analysis that determines public costs associated with conversion of agricultural land and also revenues generated by increases in property tax within the project site. Public service marginal costs should compute the new and/or incremental costs of adding development to the public service system, which includes the cost of capital improvements necessary to accommodate such development. This should also state, and if possible quantify, those costs or externalities not easily accounted for in cost computations. One externality could include the probable change in assessed value of parcels adjacent to the development. Public service revenues are generated by increases in property tax within the project site.

b. Input/Output analysis that looks at the private sector of the areas economy in terms of its purchases and sales to other sector both locally and from outside the area. From this information, multipliers for each sector should be developed. Determination of the input figures will reveal the affect of removing the subject number of acres, for the subject crop, from agricultural production. This will reveal the effect to the private sector economy.

2. Determination of the minimum acreage for a viable agricultural operation (farm family approach). In order to determine net income, production costs by crop should be computed on a per acre basis and subtracted from gross market receipts expected from that crop. The resulting figure represents the farmer's income per

> *acre of productive land. The per acre income figure should then be divided into the County's Median Income figure to compute the number of acres required to support a farm family.*
> *3. Determination of net return per acre, per crop type, for the area only. By crop type, determine gross revenue per acre for subject crop types then subtract from gross revenue figures the cost per acre associated with each crop type.*
>
> *The report shall include maps and photos (aerial and site photos) of the area being evaluated that, at a minimum, identify the following on all such figures: parcel lines, parcel numbers, farm boundaries, owners and/or lessees of each parcel and/or farm, wells and/or any other water supply lines, storie ratings, capability classifications, slopes, and roads.*
>
> *For purposes of this determination, "area" means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the County's certified local coastal program.*

Recommendation 5-2 suggests a definition of an agriculture viability report. The County proposes to modify the definition by deleting the proposed reference to grazing units, by limiting the analysis to the individual site, rather than including the "surrounding" area, and by deleting specific phrases such as "In terms of scope" and "establish a baseline". In addition, the County proposes to add economic factors to the proposed definition as one variable in assessing viability. Finally, the County disagrees with assessing the productivity of a site for a specific timeframe, and proposes to analyze viability related to weather and the production/growing patterns of a crop.

The Commission finds that specifically including grazing units in the definition is important, as much of the agricultural land in the County's coastal zone is grazing land. While the Commission recognizes that agricultural viability depends on the specifics of a given site, knowing the agricultural production and history of an adjacent parcel can provide important insight into the viability of the subject parcel. The Coastal Act requires that a viability analysis include an analysis of revenue from agricultural products "grown *in the area* for the *five years* immediately preceding the date of the filing of a proposed … amendment to any local coastal program and an analysis of operations expenses associated with agricultural production "*in the area* for the *five years* immediately preceding the date of the filing of a proposed … amendment …" (Section 30241.5, emphasis added). Section 30241.5 of the Coastal Act defines "area", for the purpose of viability reports, to be "a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the local coastal program or in the proposed amendment to a certified local coastal program". Therefore, the Commission retains the reference to "in the area" in Recommendation 5-3.

However, the Commission agrees that this level of information is not necessary for supplemental uses on a particular parcel; while supplemental uses raise concerns about the protection of agricultural lands, they do not necessarily remove an entire parcel from agricultural production. In addition, the LCP has existing standards and criteria to minimize impacts on agricultural resources from supplemental uses. Recommendations

to strengthen these standards are discussed through Recommendations 5-8 and 5-9. As modified, Recommendation 5-1 through 5-3 pertain only to proposed rezoning of land.

Further, to adequately assess agricultural viability, the Commission finds that an assessment should not be limited to growing or production patterns of a specific crop, as proposed by the County. While an assessment may indicate one crop is not viable on a specific parcel, other crops may be well suited to the site. The Commission agrees, however, that assessing viability based, *in part*, on cycles of weather, is appropriate. Therefore, the Commission proposes to retain the definition as proposed in the *Preliminary Report*, with the minor non-substantive changes to the text proposed by the County, as follows:

> **Recommendation 5-2:** Modify ~~Ordinance 23.04.024(a)~~ the CZLUO to expand the factors that should be considered as part of the required viability studies for proposed rezoning of agriculturally designated lands to include the following:
>
> Incorporate an Agricultural Viability Report **definition,** for example:
>
> > *A report that assesses the viability of parcels as agricultural or grazing units, given existing conditions and proposed development. Viability is considered in terms of many factors, including product marketability, soils, parcel size, economic factors, and any other factors relevant to the particular parcel. The report shall ~~establish a baseline of information to be used to~~ describe the role that each factor plays as a variable influencing the site and surrounding area's viability for agricultural production. ~~In terms of scope, t~~The feasibility analysis should analyze both the site and the larger area's current and past productivity as an agricultural unit for at least the preceding five years, but including sufficient time to include cycles of weather.*

4. Conclusion

The *Preliminary Report* presented evidence and analysis showing that the San Luis Obispo County LCP has not always been effectively implemented to adequately protect agricultural lands, in conformance with Coastal Act Sections 30241 and 30242 (see Exhibit A, findings incorporated by reference). After further evaluation and consideration of public comments, pursuant to Coastal Act Section 30519.5, the Commission adopts Recommendations 5-1 – 5-3 as appropriate corrective actions for submission to the County.

B. Incremental Impacts to Agricultural Lands through Land Divisions, Lot-line Adjustments, and Development on Nonconforming Parcels

1) Summary of Preliminary Findings (Exhibit A, page 203-226)

The County has approved a number of subdivision and lot-line adjustment requests on agriculturally zoned land, and has granted numerous certificates of compliance under the LCP. As discussed in the preliminary findings, subdivisions, lot-line adjustments, and

legalization of lots through certificates of compliance can also affect the long-term viability of agriculture. While these actions do not rezone land, they can significantly affect the ongoing preservation and viability of agricultural uses by affecting parcel sizes and configurations, and thereby allowing for incremental changes of the primary land use from agriculture to other uses.

Although the LCP requires that land divisions in agricultural areas "shall not limit existing or potential agricultural capability" (Agriculture Policy 2), the County generally has not addressed the long-term viability of agriculture as a result of approved subdivisions, lot-line adjustments, or certificates of compliance. (Under Title 21, incorporated into the LCP by reference, subdivision development is defined as including lot-line adjustments (Ordinance 21.08.020).) As discussed in the *Preliminary Report*, the approved changes in lot configuration in several cases supported residential development, rather than the protection of agricultural lands. The size and configuration of parcels in agriculture areas can affect the continued viability of agriculture. If parcels do not meet minimum parcel size they can more easily be developed with other uses because they are not large enough to support a viable agriculture use. How parcels are configured also matters to long term viability. Parcels can be configured such that resulting parcels will not conform to minimum size or will result in the location of development that will impact resources. Lot-line adjustments are one mechanism that alters the size and configuration of legal parcels. In implementing the LCP the county has not adequately addressed the impact of lot-line adjustments on agriculture viability.

In implementing the LCP the County has also not addressed the impacts of the issuance of certificates of compliance on the size and configuration of parcels and therefore the long-term protection of agricultural resources. The issuance of certificates of compliance records the existence of a legal lot that may or may not be of a size and configuration that supports the long-term viability of continued agricultural use. Because the number and location of future C of Cs is not known, there may be cumulative effects from the development of these parcels that contribute to undermining long-term agriculture viability.

The *Preliminary Report* concluded that the County's implementation of the LCP did not comply with Agriculture Policies 1 and 2 in protecting agriculturally designated lands. The report recommended improvements to address the impacts from lot-line adjustments and maximize the amount of agricultural land protected (PR 5-4). It recommended adding standards to govern existing non-conforming lots, and to address problems associated with issuance of certificates of compliance, including exploring a merger ordinance (PR 5-5 – 5-7). Recommendation 5-4 would also clarify that lot-line adjustments must meet the same standards as subdivisions.

2) Comments Raised

San Luis Obispo County Response (Exhibit C)*:*

The County has raised a number of concerns regarding Recommendations 5-4 – 5-7. While the County has indicated general agreement with the objectives of recommendations to improve standards to address lotline adjustments, they oppose defining limits for building envelopes and single family residences (PR 5-4, 5-5; also 5-8). In addition, the County proposes limiting the criteria identified under Recommendation 5-4 to "major" lotline adjustments, and has also indicated a disagreement over the language in Recommendation 5-4 to "clarify[] that land division requirements apply to lotline adjustments". The County has identified "minor" lotline adjustments as those involving minor adjustments between property lines to correct past survey errors, or to align properties with fence lines, drainage areas, and access roads, and believe that many of the additional requirements proposed under Recommendation 5-4 are not necessary for these minor adjustments. The County also disagrees with the language in Recommendation 5-4 prohibiting lotline adjustments from "increasing the number of developable parcels".

The County is also concerned that recommendations for a lot merger ordinance and proposals to identify all existing non-conforming lots (PR 5-6 and PR 5-5) may lead to unintended, negative consequences for long-term agricultural protection.

Finally, the County disagrees with the direction of recommendations regarding certificates of compliance (Recommendation 5-7). Due to constraints on staff resources, the County does not support the recommendation to undertake written staff reports for certificates of compliance and does not support providing notice to the Commission when certificates of compliance are requested. Overall, the County comments indicate that they believe the discussion of lotline adjustments and certificates of compliance is biased and implies that the County has made errors or acted illegally. The County has stated that the proposed recommendations extend beyond what the County can legally do, and many of the Commission concerns are more appropriately addressed through revisions to the Subdivision Map Act.

Public Comments (Exhibit D)*:*
Public comments also strongly oppose restrictions on sizes for building envelopes and single family residences. However, comments indicate that it is critical to address the issues raised with lotline adjustments and protecting viable parcel sizes. Comments indicated that issues over certificates of compliance were governed by other state laws, and are beyond the jurisdiction of the Coastal Commission.

3) Analysis

Lot-Line Adjustment Policies (Recommendation 5-4)

As discussed in the preliminary findings, the LCP currently establishes criteria for "land divisions" that occur on agriculturally zoned lands. Title 21 of the LCP includes "lot line adjustments" in the definition of subdivision development. The recommendation to include lotline adjustments under the criteria for land divisions was intended only to further clarify that the existing requirements under Agriculture Policy 2 and Ordinance

23.04.024 applied to lotline adjustments. Although County staff have indicated that they find that Ordinance 23.04.024 does not apply to lotline adjustments, the Commission disagrees with this interpretation and, under the terms of the certified LCP itself, lotline adjustments are development that must comply with the policies and ordinances of the LCP. The *Preliminary Report* also recommended strengthened standards for lotline adjustments in the Agriculture category, because Agriculture Policy 1 requires that agricultural lands be maintained in, or available for, agricultural production, with limited exceptions. To assure that this goal is achieved for lotline adjustments, Recommendation 5-4 in the *Preliminary Report* proposed a new LCP policy/ordinance to address lotline adjustments on agriculturally zoned lands.

Although the County agrees with the general concept of Recommendation 5-4, the County proposed alternative language, stating that the criteria are applicable only for "major" lotline adjustments, which significantly change parcel sizes and/or lot configurations. This proposed language was previously considered, but not adopted, for the Agriculture and Open Space Element of the General Plan:

- *cluster the adjusted lots to protect the long-term agricultural capability of the site;*
- *minimize locating development on the most productive soils wherever possible;*
- *designate building site that will provide adequate buffers between future residences and associated accessory uses so as to minimize conflicts with the adjacent agricultural operations;*
- *position the resulting parcels to minimize impact from access roads or driveways on the agricultural operations;*
- *define parcel size standards that will allow clustering of the adjusted parcels in areas of the site where there is less agricultural potential due to the soil types, topography or other site constraints, even if the resulting parcels are smaller than the minimum parcel size that would otherwise be allowed by the land use category;*
- *the parcels resulting from the adjustment that are intended to increase the long term agricultural viability should qualify for an agricultural preserve contract, as well as be covered by a conservation easement, where feasible.*

Ordinance 23.04.050 (a) and (b) already requires that single family residences and agricultural accessory buildings "shall, where feasible, be located on other than prime soils", and requires that supplemental, non-agricultural uses be permitted on prime soils only if "it has been demonstrated that no alternative project site exists exempt on prime soils" and "the least amount of prime soils possible will be converted". The Commission finds the revision as proposed by the County to "minimize locating development on them most productive soils" is not necessary, given the existing requirements in the CZLUO.

The Commission finds that to adequately protect the maximum amount of agricultural lands, as required under Coastal Act Section 30241, specific standards and criteria are necessary to guide the clustering of lots, and the placement of access roads, driveways, and residential development on agriculturally zoned lands, resulting from proposed lotline adjustments. These standards, as outlined in Recommendation 5-4, below, include the need to prevent new subdivision potential from lotline adjustments, requiring

the maximum amount of agriculturally zoned land remain for agricultural production, and minimizing roadway lengths and site disturbance.

The Commission finds that an increase in non-agricultural uses, including residential development, can change land use patterns and increase development in a manner which negatively affects the long-term viability of agriculture. As discussed in the *Preliminary Report*, lotline adjustments can be used to increase the potential for non-agricultural development, particularly residential development, on agricultural lands. However, the LCP allows for a single primary residence on each legal lot (Ordinance 23.08.167 in the Agriculture land use category. (Additional dwellings for farm support are allowed under Ordinance 23.08.167). The CZLUO defines a legal lot or parcel as:

a. A parcel of real property shown on a subdivision or plat map, required by the Subdivision Map Act (or local ordinance adopted pursuant thereto) to be recorded before sale of parcels shown on the map or plat, at the time the map was recorded;
b. A parcel of real property that has been issued a certificate of compliance …
c. A parcel of real property not described in a or b above, provided the parcel resulted from a separate conveyance or from a decree of a court of competent jurisdiction which was recorded before the requirement of the filing of the subdivision map by the Subdivision Map Act or local ordinance adopted pursuant thereto (pg. 11-28 CZLUO).

Recommendation 5-4 proposes modifications to the current LCP standards for lotline adjustments to encourage clustering of non-agricultural, including residential, development on agriculturally designated lands. The objective of this modification is to maximize agricultural land and minimize the potential of conversion of agricultural lands to non-agricultural uses.

However, the Commission finds that in evaluating lotline adjustments, it is necessary to determine whether existing lots are in fact appropriate for development. In a number of cases, lots may have been created for purposes other than residential (or commercial) development. For example, lots may have been developed solely for purposes of a water well or for road or utility rights-of-ways. In these cases, where the original intent and expectation for the lot being created was not for future development, the lots should not be considered "developable" when evaluating the potential allowable residential development for the lot. In addition, as discussed in the *Preliminary Report*, the LCP should further circumscribe what is considered to be a developable lot, so that lot-line adjustments, particularly of non-conforming parcels, do not inappropriately increase the development potential that would undermine agricultural uses and operations. Criteria could include such things as whether a parcel has legal access to a public road or right-of-way; can support on-site septic, etc. (see Exhibit A, pp. 223-224 for discussion of Sonoma County ordinance). Therefore, the Commission finds that when evaluating lotline adjustment proposals on agricultural lands, the County should evaluate the original purpose for each lot, and the potential for residential development on each lot.

The County should assure that lotline adjustments do not increase the potential for development that would conflict with the protection of agricultural resources.

Recommendation 5-4 also proposed limits on building envelopes. Through modifications to Recommendation 5-4, the Commission has deleted this aspect of the recommendation and addresses this issue through Recommendation 5-8.

The Commission also finds that many of the criteria proposed under Recommendation 5-4, and in the County's proposed language, are appropriate for all lotline adjustments. The modifications under Recommendation 5-4 detail the requirements for lotline adjustments.

The Commission proposes to delete preliminary recommendation 5-4, and replace it with the following modified recommendation:

Recommendation 5-4: Modify CZLUO to add the following criteria for lotline adjustments on agriculturally zoned lands:

- applications for lotline adjustments shall identify the purpose of the adjustment and the proposed uses for each adjusted parcel;
- lotline adjustments shall not create new subdivision potential and shall not increase the number of lots which can support non-agricultural development. To assess the total potential for non-agricultural development, including residential development, the County should consider the original intent of each lot, whether the lot was created to support future development, and whether the lot would otherwise be developable pursuant to identified criteria to protect the public welfare. Lotline adjustments should not allow future development for those lots which were not originally created to support development.
- lotline adjustments shall not create new parcels where the only building site would be on prime agricultural soils; within ESHA, critical viewsheds, or in a defined hazardous area; or would require significant landform alteration to accommodate future development;
- lotline adjustments shall not be approved unless the adjustment will maintain or enhance the agricultural viability of the site. To assure the protection of long-term viability, applications for lotline adjustments which support, in part, non-agricultural development must include an economic analysis of agricultural potential, consistent with that required under Ordinance 23.04.024 for land divisions.
- lotline adjustments or subdivisions which support, in part, non-agricultural development, the lotline adjustment or subdivision shall maximize the protection of agricultural lands by clustering and minimizing the area of lots intended for non-agricultural uses, including reducing the parcel size to be less than the 20 acre minimum parcel size required for agricultural lands. Lots for non-agricultural uses shall be clustered where there is less agricultural potential due to the soil types, topography or other site constraints and shall maximize the extent of *undivided* agricultural lands.
- lotline adjustments or subdivisions which support, in part, non-agricultural development, shall identify the location of all access roads and building envelopes, assuring adequate buffers between future residences and associated access uses so as to minimize conflicts with the adjacent agricultural operations, and minimize roadway lengths and

site disturbance. Where possible, non-agricultural development shall be sited close to existing roads, while minimizing impacts from access roads or driveways on agricultural operations;

- lotline adjustments or subdivisions which support, in part, non-agricultural development, shall require an agricultural easement over the agricultural parcel(s) which prohibits future subdivision of the parcel(s). In addition, for parcels intended to support non-agricultural uses, a deed restriction should be required prohibiting future subdivision of the parcel(s);
- ensure that all geographically contiguous parcels in common ownership are addressed through a comprehensive evaluation.

Development and Building Size Limitations (Recommendations 5-4, 5-5)

The *Preliminary Report* concludes that many of the residences on agriculturally zoned lands may be used principally as rural ranchettes, some of which are larger, "statement" homes. Cumulatively, residences not in direct support of agriculture can contribute to changing the character of rural agricultural lands to more rural residential development, and contribute to the loss of long-term agriculture. To ensure protection of agricultural lands, Recommendations 5-4 and 5-5 recommend defining maximum building and landscaping envelopes for residences on agriculturally zoned lands. After discussions with the County staff and agricultural community, the Commission concurs that other alternatives, such as establishing performance standards for residential development on agricultural parcels, are more appropriate than a defined maximum building envelope. The use of performance standards will allow flexibility to address specific characteristics of a site while improving the protection of agricultural lands. The Commission therefore deletes references to house and building envelope sizes in Recommendations 5-4 and 5-5, and establishes performance standards for residential uses on agriculturally designated lands under Recommendation 5-8.

Lot Mergers and Non-conforming Lots (Recommendation 5-5 and 5-6)

The *Preliminary Report* also recommended obtaining a count of non-conforming parcels in rural areas (Recommendation 5-5) and exploring a lot merger ordinance to improve the protection of long-term agricultural viability by increasing the parcel sizes (Recommendation 5-6). The County has expressed concerns that these recommendations would contribute to accelerating development. The Commission understands the concerns raised by the County and suggests modifications to the recommendations. A merger ordinance may not be the appropriate vehicle to pursue. In order to identify additional ways to further the protection of agriculture lands, a cumulative assessment to understand the number and location of non-conforming lots, and the alternatives for locating development on those lots, could be useful to protect agricultural resources. With this information, the County could explore a variety of ways to minimize the cumulative effects from future lot line adjustments and certificates of compliance. The Commission consolidates Recommendation 5-5 and Recommendation 5-6 as follows (see also Recommendation 2.8):

Recommendation 5-5: ~~Consider standards to govern existing non-conforming lots in agriculture. Pursue policies and programs to provide for more comprehensive treatment of nonconforming agricultural parcels, including: obtaining a count of the number of non-conforming parcels in the rural area by Planning Area; revising the agricultural standards to require maximizing the agricultural potential of non-conforming parcels by clustering non-agricultural uses; defining maximum building/landscaping envelopes such as 5000 square feet; minimizing road construction; and so forth.~~

Recommendation 5-6: ~~Explore adopting a merger ordinance for non-conforming Agricultural parcels, as provided in the Subdivision Map Act.~~ Undertake a study to identify: 1) existing non-conforming lots on agriculturally zoned lands adjacent to conforming lots, and 2) non-conforming lots which meet the standards under the Subdivision Map Act for potential lot mergers.

Certificates of Compliance

Recommendation 5-7 sought to enhance coordination between the County and the Commission to assure that issuance of certificates of compliance adequately protect agricultural lands. Since publication of the *Preliminary Report*, County staff have provided additional information to the Commission staff, including a manual used to process certificates of compliance, with criteria for what constitutes legal lots. As mentioned, the County has also expressed general concern about the *Preliminary Report* discussion and Recommendation 5.7.

Under the certified LCP, certificates of compliance are not included in the CZLUO 21.08.020(a) definition of "subdivision development," and thus are not treated as development that requires a coastal development permit. In addition, under CZLUO 21.02.020(c), notice to the Commission of the issuance of certificates of compliance by the County is not currently required; nor are they subject to any sort of administrative appeal. As stated in CZLUO 21.02.020(c)(2), "notice of hearing is not required to be given for certificates of compliance under Government Code 66499.35(a) because the issuance of such certificates of compliance is ministerial." Conditional certificates of compliance, which are defined as subdivision development for purposes of the LCP, do require a coastal development permit and are subject to the Commission's appeal jurisdiction.[45]

As discussed in the *Preliminary Report*, the issuance of certificates of compliance is often the first step in a process whereby nonconforming parcels are identified, adjusted, and developed with non-agricultural, often residential, land uses. Ultimately, this

[45] As with all subdivisions in San Luis Obispo County, conditional certificates of compliance are appealable to the Coastal Commission because they are not identified in the LCP as a principally permitted use in any land use category.

development process threatens the long-run viability and character of rural agricultural lands (as well other coastal resources such as scenic landscapes and sensitive habitats), as previously unfragmented ranches and other large agricultural holdings are chopped up into smaller holdings with cumulative development patterns that may conflict with or in fact lead to the cessation of existing agricultural land uses.

With conditional certificates of compliance, the LCP provides a mechanism for addressing these potential impacts to agricultural lands because coastal development permits must be duly noticed and issued through a public hearing process. By definition, a conditional certificate of compliance is issued when a parcel was not legally created and thus, the recognition of such a parcel constitutes a land division for purposes of review under the Coastal Act and the LCP.

With unconditional certificates of compliance, though, there is no notice or coastal development permit requirement because, in theory, certificates of compliance are merely recognizing and describing the existence of a parcel that has already been legally created. This is why the issuance of a certificate of compliance is often described as a ministerial action. Under the Subdivision Map Act, a certificate of compliance must be issued for a parcel if the circumstances of its creation were consistent with the relevant law for the creation of parcels in effect at the time of its creation. That is, if the facts of a parcel's creation analyzed against the relevant subdivision law show that the parcel was legally created, there is no discretion and a certificate of compliance must be issued.

As discussed in the *Preliminary Report*, though, the fact patterns of purported parcel creations are often complex, and may involve detailed analysis of historic parcel maps, deeds, and other legal documents. The application of the relevant subdivision law, which has evolved through many variations over a hundred years, and any relevant local ordinances, can be equally complex. Because of this complexity, it is conceivable that errors in processing could be made, either through incorrect factual analysis, or through incorrect application of the law. It is also possible that reasonable people will disagree about the correct <u>interpretation</u> of the facts and law of a given case, because of the complexity of such decisions.

The Schoenfield case, scheduled for hearing in August, provides a good example of the inherent complexity and potential impacts on coastal resources that are often associated with these proposals to legitimize parcels. The Commission and the County are currently involved in a dispute over the Board of Supervisor's action to approve two unconditional Certificates of Compliance for Mr. Schoenfield's property in Los Osos. The gently rolling 4.2-acre site is located on the seaward side of Pecho Valley Road between the first public road and the sea on the edge of the developed portion of Los Osos. It is outside the defined "Urban Services Area" and just within the "Urban Reserve" line. Most of the nearby lots are developed with single family homes and range in size from over four acres to less than one half an acre. The LCP designation for the site is suburban residential with a minimum parcel size of 2 and one half acres. The site is identified as a "Sensitive Resource Area" for terrestrial habitat.

The current applicant purchased the site in 1987 and in 1989, the County approved a Coastal Development Permit for the construction of a 3500 square foot home on the westerly portion of the parcel. The Staff Report prepared for the project identified existing and potential habitat on the site (coastal scrub, Morro Bay Kangaroo Rat and Morro Manzanita). Various conditions were attached to the approval including requirements for an open space easement on a portion of the property and deed restrictions to protect habitat values and native vegetation. The project was not appealed to the Coastal Commission and has been constructed.

In 1995, Mr. Schoenfield applied for a land division to divide his parcel into two parcels of 1+ and 3+ acres configured exactly as the parcels recently authorized by the Board's action on the Certificates of Compliance. The land division was denied by the County because the resulting lots did not meet the minimum parcel size for the area of two and one half acres. The Staff Report for this project included a letter from the United States Fish and Wildlife Service (USFWS) that stated there would be adverse impacts on habitat values if the land division was approved and an additional house built on the site. If the Board's action to approve two unconditional certificates holds, the result will be an additional building site in an area containing environmentally sensitive habitat. In order to avoid a "takings" it can be anticipated that the site will be developed with an additional residential use that can be expected to displace habitat.

In 2000, Mr. Schoenfield applied for two unconditional Certificates of Compliance (C00-0166). In October of 2000, County staff prepared a report on the proposal and recommended that only one certificate for the entire site be approved because the applicant was not entitled to two unconditional Certificates of Compliance as the lots had been created illegally in 1949 and were thus not eligible to receive *unconditional* Certificates pursuant to Map Act and County requirements. On November 14, 2000, the Planning Director approved the issuance of **one,** unconditional Certificate of Compliance.

The Planning Director's decision was challenged by the applicant and a hearing before the Board of Supervisors was set for March of 2001. A staff report recommending that the Planning Director's decision be upheld was prepared. In February, a copy of this report was sent to Commission staff with a cover memo indicating that if the Director's decision was overruled "*Staff fully expects that if the Board overturns the Director's decision and approves two certificates then both would be conditional certificates of compliance.*" The memo also notes that the "*project is in a coastal appeal zone*".

The Board continued the hearing on the item from the March 6 meeting to April 10. On April 10, the Board ruled that the Applicant's parcels had not been created illegally in 1949 and were therefore entitled to two, unconditional Certificates of Compliance. Commission staff reviewed the application and after tracing the chain of title and

analyzing the relevant subdivision law[46], came to the same conclusion as County Staff, which was that the parcels had been created illegally in 1949 and thus should not be awarded unconditional Certificates of Compliance. The Executive Director of the Commission has thus taken the position that the County should have issued conditional certificates of compliance and thus appealable coastal developments permits for the parcels in question, and that the Board of Supervisors erred in applying the law to this case.

More to the point, the fact remains that there may be a significant amount of factual and legal judgment and thus discretion involved in the process of deciding whether a certificate of compliance should be conditional or not. Although the actual issuance of a certificate of compliance may be considered to be ministerial under the SMA, the process of deciding whether a requested parcel certificate qualifies as unconditional or not involves discretion, as recently illustrated by the differing opinions of the San Luis Obispo County Planning Director and the County Board of Supervisors in Schoenfield case. In a recent correspondence to the Commission, the County has also pointed out that certain filing requirements for certificates of compliance may be waived at the discretion of the Planning Director.

In light of the foregoing, the certified LCP is not adequate to carry out the resource protection policies of the Coastal Act. Specifically, CZLUO 21.02.020(c) delegates the authority to approve and issue a certificate of compliance to the Planning Director. Except for appeals, available only to the applicant, to the Board of Supervisors, there is no other mechanism, and in fact no required notice, that allows for review of the Planning Director's judgement to classify a certificate of compliance as conditional or

---

[46]In 1949, the Subdivision Map Act provided in Business and Professions Code Section *11535 (a) " Subdivision" refers to any land or portion thereof, shown on the last preceding tax roll as a unit* <u>*or as contiguous units*</u> *emphasis added), which is divided for the purposes of sale, whether immediate or future, by any subdivider into five or more parcels within any one year period*. In 1949, Martin owned two contiguous parcels, Parcel One and Parcel Two. Parcel One, approximately six acres in size was bounded by Costa Azul Road on the north, Parcel Two on the west with Pecho Road providing the easterly and southerly boundary. Parcel Two was approximately three acres in size and bounded by Costa Azul on the north, Parcel One on the east and Pecho Road on the south. Martin divided off a six acre parcel in the center of these parcels for conveyance to Wilcoxn by drawing new property lines through both Parcel One and Two from east to west. In order to be consistent with the Board of Supervisors Finding that Mr. Schoenfield was entitled to two lots from this conveyance, the effect of this conveyance must have also created two parcels north of the Wilcoxn site and two parcels south of the two parcels conveyed to Wilcoxn for a total of six parcels. The 1949 version of the Map Act required that, if the division of these two contiguous parcels, for immediate **or** future sale, resulted in five or more parcels, then compliance with the provisions of the Map Act, including a Final Map was required. It can be presumed that Martin created the parcels for sale because within the next few years, he in fact sold the parcels. He sold two to Wilcoxn shortly after he acquired the original two parcels from Vermazen, sold two more to Andersen six years later and the last two sometime after that. Note also, that the language of the 1949 Map Act does not count only the *additional* parcels created by the division, it simply provides that if, after the division is done, there are more than five parcels, then the provisions for Tract Maps must be complied with. There is no record that Mr. Martin complied with the requirements of the Subdivision Map Act in subdividing these parcels and no Final Map was ever approved or filed, the lots were thus created illegally in 1949.

unconditional. Indeed, certificates of compliance may be issued by the Planning Director and the Commission may never learn of such actions, until such time as development proposals are being considered on parcels long since certified as legally created.

This is significant because, notwithstanding the requirements of the SMA, for purposes of review under the state Coastal Act and the LCP, the decision about the status of a certificate of compliance (conditional or not) will determine whether a coastal development permit review is necessary at all. Although the Commission is generally confident in the professional review processes of San Luis Obispo County, differences in legal interpretation and judgment can occur (such as the Schoenfield case) which may place coastal resources at risk because of the lack of a publically-noticed coastal permit review. Of course, local governments, and the Commission for that matter, make judgements all the time about whether certain activities do not require a coastal development permit. Many of these decisions, such as the informal phone inquiry, are made without any type of notice or formal decisionmaking. It would be difficult if not impracticable to have a noticing process for all such decisions. However, unlike a potential decision by a local government to exempt some type of physical development from coastal development permit requirements, the Commission and the public have much less chance of being aware of the issuance of a certificate of compliance, without some type of notice. Thus, in the case where a physical development may be inappropriately exempted from permit requirements, whether through error or differing judgement about the permit requirements, it is much more difficult to conduct the development without it being brought to the attention of the Commission, which may then lead to more formal action to address what may be erroneously exempted development.[47]

Fortunately, in recent correspondence concerning the pending certificate of compliance applications for the Hearst Ranch, the County of San Luis Obispo has agreed to provide courtesy notice to the Commission of certificate of compliance applications that it receives. This will go a long ways towards building support between the Commission and the County concerning coordinated review of certificates of compliance. Nonetheless, in light of the significant risks to coastal resources posed by the potential issuance of conditional certificates of compliance as unconditional certificates, and in light of the inherent discretion involved in the classification of a certificate of

[47] In addition, whether the process of classifying certificates of compliance should be subject to more formal review on the basis of the California Environmental Quality Act should be further evaluated. For example, CEQA applies to "discretionary projects". According to the CEQA guidelines (15357), a discretionary project is one that:

> requires the exercise of judgment or deliberation when the public agency or body decides approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances or regulations.

Ministerial projects, on the other hand, "involve little or no personal judgment by the public official as to the wisdom or manner of carrying out the project." In theory, the public official uses no special discretion in such cases, and the decision only involves the use of "fixed standard or objective measurements" (15369). In cases, like Schoenfield, clearly there is some judgment involved, which raises a question as to whether the issuance of certificates of compliance can be considered ministerial for purposes of CEQA.

compliance for purposes of the state Coastal Act, the Commission finds that the LCP should be amended to provide a more formal process of notice and consultation concerning certificates of compliance. Ultimately, the provision and implementation of such a process is in the interest of good public policy, will avoid unnecessary judicial review and legal conflict, and is necessary for the San Luis Obispo County LCP to adequately implement the resource protection policies of the Coastal Act. Further, although the Subdivision Map Act establishes the mechanism for the issuance of certificates of compliance, it does not preclude the implementation of a formal noticing and consultation process to assure consistency with the Coastal Act.[48] Providing such a process harmonizes the goals and policies of each respective state law. Accordingly, amended Recommendation 5-7 suggests establishing a pre-decision process for certificates of compliance, pursuant to the Commission's and County's obligations to decide whether an activity qualifies as development under Coastal Act, through which the Commission has an opportunity to consult with the County about applications for certificates of compliance. In the interest of not requiring unnecessary administrative process, and because the threat to coastal resources is greatest in rural areas, the required process would be limited to applications for certificates in rural areas.

Recommendation 5-7: Processing of Certificates of Compliance. In the interest of good public policy and avoidance of unnecessary judicial review, amend the LCP with standards such as the following:

- Amend CZLUO 21.02.020(a) to require that within three calendar days of receipt, the County provide to the Coastal Commission [notice/a copy] of all certificate of compliance applications submitted to the County for any property lying wholly or in part outside of an urban area (as defined by the USL for each area).

- Amend CZLUO 21.02.020(c) to

  1. require that upon request, the complete application content for a certificate of compliance be provided to the Coastal Commission. Such requests shall be made by the Commission within 7 calendar days of receipt of the [notice/application] submitted pursuant to CZLUO 21.02.020(a).

  2. provide an administrative consultation process, through which the Executive Director of the Coastal Commission may consult with the County Planning Director about individual applications for certificates of compliance for which the application content has been requested. The Executive Director shall request consultation within 7 calendar days of receiving a complete certificate of

[48] 66499.35(a) of the Subdivision Map Act states:

Any person owning real property or a vendee of that person pursuant to a contract of sale of the real property may request, and a local agency shall determine, whether the real property complies with the provisions of this division and of local ordinances enacted pursuant thereto. Upon making the determination, the city or the county shall cause a certificate of compliance to be filed for record with the recorder of the county in which the real property is located. The certificate of compliance shall identify the real property and shall state that the division thereof complies with applicable provisions of this division and of local ordinances enacted pursuant thereto. The local agency may impose a reasonable fee to cover the cost of issuing and recording the certificate of compliance.

compliance application. No certificates of compliance shall be issued by the Planning Director until such time as a requested consultation has taken place. Any staff reports prepared pursuant to CZLUO 21.02.020(c)(1) shall be provided to the Executive Director.

3. provide an administrative conflict resolution process for cases in which the Executive Director and County Planning Director do not agree on the issuance of a certificate of compliance. For example, provide for review by the Board of Supervisors as currently provided for subdividers pursuant to CZLUO 21.04.020.

4) Conclusion

The *Preliminary Report* presented evidence and analysis showing that the San Luis Obispo County LCP has not been effectively implemented to adequately protect agricultural lands, in conformance with Coastal Act sections 30241 and 30242 (see Exhibit A, findings incorporated by reference). As stated in the *Preliminary Report*, the "cumulative effect of future subdivisions, lot-line adjustments, and certificates of compliance could significantly change land use patterns, decrease overall parcel sizes, and may decrease the overall long-term viability of agricultural lands, inconsistent with the Coastal Act" (pg. 220). As modified above, Recommendations 5-4 and 5-7 will assure that the LCP is implemented to reduce impacts from subdivisions, lotline adjustments, and certificates of compliance, to protect the long-term viability of agriculturally designated lands. After further evaluation and consideration of public comments, pursuant to Coastal Act Section 30519.5, the Commission adopts Recommendations 5-4 and 5-7 as appropriate corrective actions to be undertaken by the County.

C. Effect of Non-Agricultural Uses on Agricultural Land

1. Summary of *Preliminary Periodic Review* Findings (Exhibit A, pg. 227-236)

Non-agricultural uses in agricultural areas are an increasing trend in the County; these uses can affect the long-term viability of agriculture by affecting land use patterns, increasing conflicts between agriculture and other uses, and potentially changing the primary land uses. Table O of the LCP and area plan standards define the land uses allowed on agricultural lands; these uses are defined either as principally permitted, allowed, or special uses. The LCP also establishes criteria that must be met for a supplemental use to be allowed on agriculturally zoned land, including economic studies of existing and potential agriculture which show that continued or renewed agricultural use is not feasible without the proposed supplemental use (Agriculture Policy 3 and Ordinance 23.05.040). However, Table O does not clearly identify which uses are considered supplemental uses for the purposes of applying Agriculture Policy 3 and Ordinance 23.04.05.

Other than residential development, the County's approval of non-agricultural uses on agricultural lands has been limited. However, in most cases, it is unclear whether the County has considered whether the proposed development complies with the specific requirements identified in Agriculture Policy 3 and Ordinance 23.04.050. The County findings generally do not discuss the need for the supplemental use, nor how that use will support the long-term agricultural use of the property. Without adequate analysis of whether, and how, the proposed project will affect the long-term viability of agriculture, the County is not implementing the LCP to adequately protect agricultural lands consistent with Coastal Act policies.

In the *Preliminary Report*, the Commission recommended developing standards for residential development on agricultural lands (Recommendation 5-8) and re-evaluating the supplemental uses allowed on agricultural lands (Recommendation 5-9). Recommendation 5-9 also recommended defining residential uses not in direct support of an agricultural operation to be a conditional use and recommended requiring easements on the parcels in conjunction with residential development. As discussed previously, Recommendation 5-1 also proposed requiring a viability report for all supplemental uses.

2. Comments Raised

San Luis Obispo County Response (Exhibit C)*:*
In general, the County objects to the level of detail required for viability reports for supplemental uses as proposed through Recommendations 5-1 and 5-3, and opposes requiring viability reports for non-agricultural uses related to agricultural operations, including for residential development. The County also opposes requiring easements for residential uses, and questions how to determine a "bonafide" agricultural use. The County believes that the existing requirements for residential development are sufficient to protect agricultural lands.

Summary of Public Comments (Exhibit D)*:*
While some comments indicate that existing review of projects through the Agricultural Commissioner is sufficient, other comments indicate that existing requirements for review of projects is insufficient and not enforceable. Comments oppose the level of information required under Recommendation 5-3. In addition, concern was raised that because most agriculturists supplement their income with outside work, viability reports would indicate that agricultural operations were *not* viable, and lead to additional inappropriate development.

Specific Clarifications/Errata
Table 5-5 in the *Preliminary Report* was intended only to illustrate what the current LCP allows on agricultural lands. The Commission's concerns with implementation of Table O are reflected in Recommendation 5-9, below. Based on the County's request, Table 5-5 on page 228 of the *Preliminary Report* will be modified to reflect the County's views as to which special uses are also considered principal permitted uses.

3. Analysis

Viability Reports

As modified, Recommendation 5-1 proposes to require viability reports only for proposed rezonings, and to exclude supplemental uses; therefore, the criteria identified in Recommendation 5-3 will not apply to supplemental uses from that requirement. Criteria for assessing the need for supplemental uses is discussed in *Defining Supplemental and Other Uses* and in Recommendation 5-9c, below.

Residential Development

As discussed on throuugh Recommendations 5-4 and 5-5, the Commission finds that establishing performance standards for the siting and design of residential structures on agriculturally designated lands is more appropriate than establishing specific building size limits. Use of performance standards will allow flexibility in the siting and design of structures while establishing criteria to minimize impacts to agricultural lands and other coastal resources. Therefore, Recommendation 5-8 is modified to reflect the following performance standards:

> **Recommendation 5-8: Develop~~ing~~ LCP standards for residential developments on Agricultural Land.** ~~For example, consider limiting the size of single family homes in agricultural districts to a maximum of 3,500 sq. ft. total; and limiting development envelopes to 5,000 square feet~~. Update the CZLUO to establish performance standards for residential development on agriculturally zoned lands which protect the maximum amount of agricultural lands. Such standards could include the following:
>
> - non-agricultural uses on agricultural lands should be subordinate and accessory to agricultural operations;
> - single family residences and associated accessory development should minimize site disturbance;
> - roads and driveways shall be the minimum width and length necessary , and shall be designed to avoid unnecessary cut and fill, particularly by conforming to natural landforms;
> - residential structures and residential accessory structures shall be sited to retain the maximum amount of agriculturally designated lands available for agricultural production, consistent with all other LCP policies;
> - residential structures and residential accessory structures shall be sited and designed to protect ESHA, avoid impacts to critical viewsheds to the maximum extent feasible, and maintain the rural character of the area.

Defining Supplemental and Other Uses

LCP Agriculture Policy 3 establishes criteria for "non-agricultural uses" on agriculturally zoned land. Ordinance 23.05.050 establishes similar criteria for "supplemental, non-agricultural" uses on agriculturally zoned land. Ordinance 23.04.050

defines supplemental uses as uses "that are not directly related to the principal agricultural use on the site". For a supplemental use to be authorized on agriculturally zoned lands, Agriculture Policy 3 requires, in part, a determination that continued or renewed agricultural use is not feasible without the proposed supplemental use. Other requirements include siting non-agricultural development on non-prime soils, with limited exceptions, and assuring that non-agricultural uses do not conflict with ongoing agricultural uses of the land. Supplemental uses must still meet all other requirements of the LCP, including policies regarding ESHA protection and visual resource protection.

Table O defines land uses as "allowed" (identified by "A"), "special"[49] (identified by "S"), and principally permitted (identified by "P"). Table O also identifies uses as "S-P". However, these categories do not clearly define which land uses potentially allowable on agriculturally-zoned lands are considered *supplemental* uses. The County agrees that re-evaluating Table O is appropriate to clarify this issue, and suggests that the following land uses be considered a supplemental use for the purposes of applying Agriculture Policy 3 and Ordinance 23.04.050:

Bed and Breakfast facilities;
Eating and Drinking places[50];
Electric Generating plants;
Mining;
Outdoor Retail sales[51];
Paving Materials;
Petroleum Extraction;
Rural Recreation and Camping;
Stone and Cut Stone Products;
Warehousing[52];
Waste Disposal sites[53]; and
Wholesaling and Distribution[54].

While the Commission agrees that these many of these activities should be defined as supplemental uses, some of the uses proposed may not be consistent with the protection of agricultural uses. The Commission finds that electric generating plants and mining should not be allowable uses on agricultural lands, and are more appropriate to industrial

[49] Chapter 8 of the CZLUO identifies specific criteria for each of the special uses identified in Table O, including, for example, permit requirements, siting requirements, limitations on size of structures, and restrictions on use.
[50] On agricultural lands, CZLUO Section 23.08.208 limits restaurants to accessory uses, where there is an existing conforming visitor serving use, and where the restaurant is secondary and incidental to the visitor serving use. Drinking places must also be accessory to a restaurant.
[51] Table O and the CZLUO define outdoor retail sales as "temporary retail trade establishments", including farmer's markets, sidewalk sales, seasonal sales, and semiannual sales of items in connection with community festivals or art shows. Table O excludes flea markets and swap meets from outdoor retail sales. CZLUO Section 23.08.142 defines time limits for many of the activities under outdoor retail sales.
[52] CZLUO Section 23.08.402 limits warehousing in the Agricultural land use category to "storage facilities that support approved agricultural production or processing operations conducted on the same site".
[53] Defined under Table O as County-approved or operated refuse dumps, sanitary landfills or other solid waste disposal facilities. Excludes disposal sites for hazardous materials.
[54] CZLUO Section 23.08.408 limits warehousing in the Agricultural land use category to "facilities that support approved agricultural production or processing operations conducted on the same site".

designations. The Commission also finds that some temporary events, such as events which are for-profit and non agriculturally related, should also be considered supplemental uses. Recommendation 5-9a, below, is modified to reflect those land uses under Table O that the Commission finds should be classified as supplemental uses. Recommendation 5-9e modifies Table O to remove electric generating plants and mining as land uses allowable on agriculturally zoned lands.

As required under Agriculture Policy 3, to authorize a supplemental use, the County must find that agriculture is not economically viable without the supplemental use and must evaluate the use for consistency with all other LCP resource protection policies. To assure that the LCP will be implemented to adequately assess this need, the Commission proposes to modify Ordinance 23.04.050 (5) to require additional information as part of a permit application for a supplemental use. The level of information proposed through Recommendation 5-9b below, is significantly less than the information recommended for proposed rezoning of agricultural lands, but includes identification of existing land uses on the site, annual income derived from agricultural operations, site characteristics affecting agricultural use, the potential of the site to support future agricultural uses, and the potential effects of the proposed development on agricultural uses.

The Commission finds that due to the nature of temporary events, the agricultural easement required for supplemental uses is not a necessary requirement for approval of temporary events. Recommendation 5-9c modifies Ordinance 23.04.050 (7) and Agriculture Policy 3 to exclude temporary events from the requirement.

Table O also identifies other land uses as special uses. As discussed in the *Preliminary Report* it is unclear to what extent the County applies the criteria under Agricultural Policy 3 and Ordinance 23.04.050 to these uses. While many of these uses directly support agriculture, including agricultural processing, farm equipment supplies, agriculture accessory uses, and roadside stands, other land uses do not. These uses include recycling centers, pipelines, and temporary construction yards, and public safety facilities. While the Commission agrees that these land uses should not require an economic analysis to determine their need, the land uses can still potentially impact agricultural lands. However, the Commission finds that if the existing criteria in the LCP is complied with (e.g., locating uses on non-prime soils, assuring adequate buffers, and assuring that uses will not conflict with ongoing agricultural operations), and all other resource protection policies are complied with, that impacts to agricultural lands will be minimized. Further, the Commission finds that the land uses should not significantly affect the long-term viability of agricultural resources because they are either sufficiently limited in scale, and/or will be sufficiently limited in scope to prevent a trend towards non-agricultural development if the criteria in the LCP is met. The table below summarizes the requirements for supplemental and non-supplemental uses on agriculturally zoned lands, as proposed through Recommendation 5-9 below. As discussed above, and detailed through Recommendation 5-9, supplemental uses must

meet more stringent criteria to assess the need for the use and to assure the long-term protection of agriculture.

	Supplemental Uses	**Residential and Residential Accessory Uses**	**Other Special Uses (S or S-P designation in Table O)**
Land Uses	Bed and Breakfast Facilities; Eating and Drinking Places; Outdoor Retail Sales; Paving Materials; Petroleum Extraction; Rural Recreation and Camping; Stone and Cut Stone Products; Warehousing; Waste Disposal Sites; Wholesaling and Distribution; Temporary events which are for profit and non-agriculturally related.	Caretaker Residence; Farm Support Quarters; Mobilehomes; Residential Accessory Uses; Single Family Dwellings; Temporary Dwelling	Ag Accessory Structures; Ag processing; Animal Raising and Keeping; Aquaculture; Farm Equipment and Supplies; Nursery Specialties (soil dependent and non-soil dependent); Specialized Animal Facilities; Communication Facilities; Food and Kindred Products; Recycling Collection Centers; Home Occupations; Water Wells and Impoundments; Roadside Stands; Temporary Construction Yards; Temporary Construction Trailer Park; Airfields and Landing Strips; Pipelines and Transmission Lines; Public Safety Facilities; Public Utility Facilities; Temporary events which are not classified as supplemental uses.
Requirements per Recommendation 5-9 and Modifications to LCP	• Must meet all requirements under Agriculture Policy 3 and Ordinance 23.04.050. • Modify Table O to clearly identify supplemental uses. • Modify Agriculture Policy 3 (b) to clarify economic analysis required only for supplemental uses. • Modify Ordinance 23.04.050 (6) to add information required for economic analysis. • Modify Ordinance 23.04.050 (7) and Agriculture Policy 3 (h) to exclude temporary events from requirement for	• Does not require economic analysis. • Is not required to comply Ordinance 23.04.050 (6) (ii), requiring that supplemental, non-agricultural uses be limited to a maximum of 2% of the gross site area. However, single family residences and residential accessory structures must comply with standards established through Recommendation 5-8. • Does not require agricultural or open space easement. • Must comply with other existing criteria under	• Does not require economic analysis. • Does not require agricultural or open space easement, unless is it determined that an easement is necessary to assure the protection of agricultural lands. • Must comply with other existing criteria under Agriculture Policy 3 and Ordinance 23.04.050, including Ordinance 23.04.050 (6) (ii), requiring that supplemental, non-agricultural uses be limited to a maximum of 2% of the gross site area.

	Supplemental Uses	**Residential and Residential Accessory Uses**	**Other Special Uses (S or S-P designation in Table O)**
	agriculture and open space easement.	Agriculture Policy 3 and Ordinance 23.04.050.	

To clarify the LCP policy and ordinance language regarding supplemental uses, the Commission modifies Recommendation 5-9 to require that: a) Table O clearly identify which land uses are supplemental to agricultural land uses, b) an economic analysis is required for all supplemental uses; and c) all uses identified as "special" uses under Table O comply with all other criteria of Agricultural Policy 3 and Ordinance 23.05.050. The Commission deletes preliminary recommendation 5-9, and replaces it with the following recommendations:

~~**Recommendation 5-9**: Evaluate Table O for revisions to address non-agricultural uses. Table O should be reevaluated to clarify conditional uses on agricultural land. For example, consider defining residences that are not developed in direct support of bonafide agricultural operation to be a conditional use. Require agricultural protection easements on the parcel in conjunction with residential development.~~

Recommendation 5-9a: Amend Table O to define the following land uses as supplemental uses for agriculturally zoned land:

Bed and Breakfast facilities;
Eating and Drinking places;
Outdoor Retail sales;
Paving Materials;
Petroleum Extraction;
Rural Recreation and Camping;
Stone and Cut Stone Products;
Warehousing;
Waste Disposal sites;
Wholesaling and Distribution;
Temporary Events which are for profit and non-agriculturally related.

Recommendation 5-9b: Modify Agriculture Policy 3 (b) to specify that an economic analysis is required for supplemental uses only. To implement Agriculture Policy 3 (b), modify Ordinance 23.04.050(5) to require the following information as a condition of filing for all supplemental uses:

- existing land uses on the site;
- present annual income derived from agricultural operations
- income generated from other, non-agricultural operations on the site;
- site characteristics affecting agricultural land use and production, including topography, soils, climate, water availability, and adjacent land uses;
- the potential of the site to support future food-producing agricultural uses and estimated annual income from such uses;
- estimated income from proposed supplemental development;
- potential effects of the proposed development on agricultural food production, both short-term and long-term;

- recommendations and conclusions of the development's effects on agricultural production.

Recommendation 5-9c: Modify Ordinance 23.04.050 (7) and Agriculture Policy 3 (h) to require agriculture easements and, where appropriate, open space easements for all supplemental uses except temporary events, and for non-supplemental uses where it is determined that an easement is necessary to assure the protection of agricultural lands.

Recommendation 5-9d: Modify Agriculture Policy 3 and Ordinance 23.04.050(b) (3) through (6) to clarify that *all* uses identified as special uses under Table O ("S" or "S-P" uses) in agriculturally designated areas, whether also defined as supplemental uses or not, must comply with the existing criteria to: a) obtain permits for development, b) meet the required findings to locate development off prime soils and avoid conflicts with surrounding agricultural lands, c) provide the information currently specified for a permit application, d) comply with the siting and design standards for development, with the following exceptions:

- non-supplemental uses are exempt from economic analysis, as required under Recommendation 5-9b;
- residential and residential accessory structures are exempt from Ordinance 23.04.050 (6) (ii), requiring that non-agricultural uses be limited to a maximum of 2% of the gross site area.

Recommendation 5-9e: Modify Table O to exclude as electric generating plants and mining as allowable uses on agriculturally zoned lands.

4. Conclusion

As discussed above and further in the *Preliminary Report*, implementing the LCP to limit non-agricultural uses on agricultural lands is necessary to protect long-term agricultural viability, consistent with Coastal Act Section 30242. The *Preliminary Report* presented evidence and analysis showing that the San Luis Obispo County LCP has not been effectively implemented to adequately protect agricultural lands, in conformance with Coastal Act Sections 30241 and 30242 (see Exhibit A, findings incorporated by reference). After further evaluation and consideration of public comments, pursuant to Coastal Act Section 30519.5, the Commission adopts Recommendations 5-8 – 5-9 as appropriate corrective actions for submission to the County.

D. Addressing Impacts from Intensification of Agriculture

1. Summary of *Preliminary Periodic Review* Findings (Exhibit A, pg. 236-243)

As discussed in the *Preliminary Report*, a number of environmental concerns can result from intensive agricultural land uses, including the removal of native habitat and open space; erosion and water quality impacts from extensive grading activities (see also *Preliminary Report* Chapter 3, pg. 77-83); and impacts to stream and riparian ecosystems from an increase in water withdrawals. At the same time, protection of agriculture is a priority under the Coastal Act and LCP. Policies of the Coastal Act and LCP also require the protection of other coastal resources. As discussed in the *Preliminary Report*, most agricultural activities do not require a grading or land use permit, and are not reviewed under the County's LCP.

In order to address the potential impacts from agricultural activities on coastal resources, the *Preliminary Report* proposed establishing criteria and performance standards to identify when agricultural development would require review under the LCP (PR 5-10, 5-11, 5-13). Criteria proposed for requiring permit review include when agricultural activities resulted in: a) substantial grading, removal of native vegetation, or significant landform alteration that impacts sensitive resources; b) development within 100 ft. of a coastal stream or other waters; c) an increase in water extractions; or d) alteration of sensitive habitat. Impact to scenic vistas was also included as a standard for reviewing development that converted grazing lands to crop production. Standards included a) limiting new or expanded crop production to slopes of less than 30%; b) incorporating erosion control measures; c) maintaining sensitive resources; d) minimizing nonpoint runoff of pesticides and fertilizers; and e) maintaining wildlife corridors.

In addition, PR 5-12 sought to address the concern over potential impacts from increases in water use, including the need to protect groundwater basins. The LCP currently requires that all water extractions, impoundments, and other water resource developments obtain all necessary permits and that information about these developments be incorporated into the County's Resource Management System (Watershed Policy 2). Watershed Policy 3 requires applicants for water extraction developments to install monitoring devices and participate in a water monitoring management program in basins where extractions are overdrafting groundwater basins.

2. Comments Raised

San Luis Obispo County Response (Exhibit C):
The County disagrees with Recommendations 5-10, 5-11, and 5-13 in the Preliminary Report, and has requested additional information for Recommendation 5-12. The County suggests continuing educational and voluntary programs to assure that resource protection policies are met, and the use of an alternative review process for grading activities, which is incorporated into the County's proposed updated grading ordinance.[55]

[55] The County's proposed updated grading ordinance will be brought to the Commission for review as a separate LCP amendment in the near future.

Public Comments (Exhibit D):
The agricultural community also disagrees with the need for any new regulatory review of agricultural development (Recommendations 5-10 through 5-13), stating that the proposed recommendations are excessive, would unduly burden agriculturists, and would threaten the ongoing viability of agriculture, in part by introducing a cumbersome and lengthy process that would hinder flexibility for agriculturists. The agricultural community also believes that many of the concerns raised in the report are addressed through other agencies and voluntary efforts. They are also concerned that the proposed standards would remove significant amounts of viable agricultural land from production (i.e., the proposed setbacks from streams and prohibition on steep slopes and restrictions on cultivation on steep slopes). Some agriculturists are concerned that the proposed regulations provided no means to undertake work in emergencies. Finally, the agricultural community feels that the preliminary findings portrayed the agriculturists as "bad actors".

Specific Clarifications/Errata:
The County and public raised a number of additional comments and questions regarding the text of the Preliminary Report. The following discussion addresses those comments and clarifies the text in the Preliminary Report.

1. Delete statement on page 237 of the *Preliminary Report* which discusses a loss of large mammals from grazing areas.
2. Comments state that the discussion on pgs. 189 and 236 mischaracterizes the intensification of agriculture in the County's coastal zone. The discussion notes an increase in the production of water-intensive crops and the growth in vineyards. The discussion will be corrected to clarify that the majority of the increase in these uses occurred outside of the coastal zone.
3. Comments indicated that data citing a loss of oak trees in Santa Barbara County (pg. 237 of the *Preliminary Report*) was inaccurate. This information was originally obtained from Santa Barbara County staff and the draft EIR for the County's proposed Oak Protection Program; the reference to this statement was inadvertently omitted from the *Preliminary Report*. Since publication of the report, Commission staff verified this data with staff at Santa Barbara County.[56] Although projections are not discussed in the *Preliminary Report*, the County staff has modified its assumption this rate of loss would continue in the future. The text will be changed to reflect that the data cited may not be representative of future oak tree losses.

3. Analysis

As discussed under the Water Quality section of this staff report, the Commission proposes to address environmental impacts emanating from agricultural development

[56] Merrick, Jennifer. Planning Staff at Santa Barbara County. Pers. comm. June 11, 2001.

through revisions to the County's grading ordinance. These revisions are based on the County's proposed grading ordinance, which emphasizes the use of RCD/NRCS standards and an alternative review process by NRCS for some grading projects. In response to concerns raised regarding proposed requirements for permits for agricultural development in the *Preliminary Report*, the Commission acknowledges that certain agricultural grading should be exempt from permits. The Commission reiterates that the protection of agricultural resources is a priority under the Coastal Act. Based on discussions with the agricultural community, the Commission understands the need for flexibility to respond to market forces and changing conditions in order to ensure that agricultural operations remain viable. The proposed exemptions from grading permit requirements include such things as the maintenance of existing agricultural roads, grading further than 100 ft. from and ESHA, and grading on slopes if measures are incorporated to address erosion and other environmental concerns. Tillage of existing agricultural fields does not constitute development, and would *not* require a grading permit. As modified through this staff report, Recommendations 3-2b – 3-2d propose a grading permit for new agricultural grading, but establish broad criteria to exempt certain agricultural grading.

The criteria proposed in the *Preliminary Report* have been modified so that agricultural grading that constitutes development is *not* necessarily prohibited on slopes over 30% or within 100 ft. of an ESHA, but are reviewed to ensure that impacts to coastal resources are avoided or mitigated. Other factors originally proposed through Recommendations 5-10, 5-11, and 5-13 (e.g., increase in water use, protection of wildlife corridors, and impacts to visual resources) are not included as criteria to require a permit. The Commission proposes to delete Recommendations 5-10, 5-11, and 5-13. To assure that implementation of the LCP will be consistent with resource protection policies, modified Recommendations 3-2b through 3-2d, detail the criteria proposed and the proposed modifications to the LCP.

Regarding Recommendation 5-12, the County and the agricultural community note that there is already a trend toward water conservation, and state that policies in the agriculture and open space element of the County's General Plan adequately address water use issues. Policy 10 encourages water conservation through best management practices, and encourages the U.C. Cooperative Extension to continue its public information program. The incorporation of a similar program is addressed through modified Recommendation 3-2a. However, to fully assure the protection of groundwater resources, the County should improve its monitoring of water withdrawals, as already required under the LCP.

Emergencies: Ordinance 23.03.045 addresses emergency permits, and defines emergencies as "a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services". Under the ordinance, the Planning Director may issue an emergency permit for development, by telephone if necessary. This provision allows grading to occur if

necessary to address an emergency situation without the time delays of obtaining a permit.

4. Conclusion

The Commission has modified the regulatory oversight of agricultural development proposed in the *Preliminary Report* primarily to focus on addressing impacts from grading that constitutes development under the Coastal Act. Recommendations 3-2a – 3-2d incorporate the criteria to review agricultural grading that constitutes development, consistent with Coastal Act Sections 30230 and 32021. Therefore, the Commission deletes Recommendations 5-10, 5-11, and 5-13.

In addition, Recommendation 3-2a advocates adding a program to the LCP, encouraging the County to continue supporting education efforts, in part to encourage irrigation techniques which conserve water and retain water on-site. Recommendation 3-2a, combined with more stringent monitoring of water withdrawals, addresses the intent of Recommendation 5-12, and will improve the protection of groundwater resources, consistent with Coastal Act Section 30231. Therefore, the Commission deletes Recommendation 5-12.

Additional Comments and Clarifications to the *Preliminary Report*

1. Comments indicated a need to define many of the terms in the preliminary findings. Concerns were that without precise definitions, the LCP would not be interpreted consistently. Commission staff relies on definitions incorporated into the Coastal Act, California Coastal Regulations, and the LCP. Where necessary, additional definitions will be developed with County staff as part of LCP amendments.
2. The County has requested modification of the following sentence (pg. 189, preliminary findings) to include the italicized language: "The flexibility to change practices *and crops* to respond to changing economic situations is one element that is critical in maintaining agricultural uses." Commission staff will incorporate the requested changes.
3. The County questioned the use of American Farmland Trust findings on page 190 of the *Preliminary Report*, stating the need to link the general findings to the specific issues applicable to the San Luis Obispo County coastal zone. Commission included the discussion of AFT findings to illustrate the numerous factors that can affect agricultural viability, and believe the discussion is appropriate.
4. The County requested that footnote 24 on page 192 be incorporated into the body of the text. Commission staff will incorporate the requested change.
5. The County has stated that references to "agricultural viability reports" reviewed by the County for development on agricultural lands should be called "agricultural

capability reports". Where findings reference County reports not required under Ordinance 23.04.024, which specifically requires an agricultural viability report for land divisions, Commission staff will incorporate the requested change.

6. In the discussion of acres of agricultural land (page 188), Commission staff will add a statement that part of the decline of land used for agriculture resulted from the federal Conservation Reserve Program, which removes lands with highly erodible soil from production.
7. Commission staff will clarify that under the FMMP classification, irrigated land may be classified not only as prime, but also as Unique Farmland or Farmland of Statewide Importance.
8. A public comment suggested the need to increase the minimum parcel size for some agriculturally zoned lands. Maintaining a viable minimum parcel size is a critical tool for the long-term protection of agricultural land. The Commission makes no specific recommendation at this time to increase the minimum acreage for agriculturally designated lands. However, re-evaluating and adjusting the minimum parcel size for agriculturally designated lands should be considered through the Area Plan updates.
9. During its public hearing, the Commission requested that staff investigate impacts of genetically modified crops. The County Agricultural Commission staff does not have documentation on the extent of genetically engineered crops in the coastal zone. However, biotechnology is regulated under the Department of Agriculture, the U.S. EPA, and the Food and Drug Administration. The USDA's Animal and Plant Health inspection Service (APHIS) regulates the safe testing of biotechnology-derived, new plant varieties, and evaluates the possible environmental impacts before field tests are undertaken, including possible impacts on endangered or threatened species. Before a genetically engineered crop can be produced and sold commercially, APHIS must determine that the plant poses no significant risk to other plants in the environment and is as safe to use as more traditional varieties. The EPA also issues permits for large scale testing of herbicides and biotechnology-derived plants containing new pesticidal substances.

6. PUBLIC ACCESS AND RECREATION

The Coastal Act requires that maximum public access opportunities be provided, consistent with public safety and the need to protect private property owners' rights and natural resource areas from overuse. Moreover, Section 30211 provides that development shall not interfere with the public's right of access to the sea where acquired through use or legislation. The provision of public access, however, is to take into account whether or not adequate public access exists nearby, or if agriculture would be adversely affected. With regard to Local Coastal Program requirements, the Coastal Act provides that each LCP shall contain a specific public access component. Coastal

Act Section 30213 requires the protection and provision of lower-cost visitor-serving and recreational development. It also states that developments providing public recreational opportunities are preferred.

A. Maximizing Public Access Through New Development

1) Summary of *Preliminary Periodic Review* Findings (Exhibit A, pp. 247-257)

Public access and recreational resources are key to the County residents' quality of life, as well as to the county tourism industry. Currently, public parks, improved street ends leading to the shoreline, and access easements resulting from Offers to Dedicate Public Access (OTDs) provide the majority of these opportunities within the County.

The LCP requires the protection of existing access and requires that new development provide maximum public access to and along the shoreline, consistent with public safety needs and the rights of private property owners. To carry out this policy, the LCP requires that accessways be established at the time of development where prescriptive rights may exist, and specifies how to acquire, measure, and establish accessways. It requires that support facilities and improvements shall be provided and states that a uniform signing system program should be developed. The LCP also addresses impacts of public access on agriculture and sensitive habitats and states that, in some cases, access may be limited and controlled.

The *Preliminary Report* concluded that the County has made major gains in providing new public access since certification, particularly through acceptance of offers to dedicate public access and new acquisitions. However, there are still areas where access is not available or adequate to meet demand, where existing access may be threatened, and where easements are sited in a way that may not maximize access. The County has accepted numerous outstanding Offers to Dedicate Public Access (OTDs), mostly for lateral access along the shoreline. Since certification, the County has required additional access mitigation — sixty lateral shoreline easements, five vertical shoreline easements and five trail easements — primarily in Cambria, Cayucos, and Los Osos. However, as the *Preliminary Report* noted, these required easements represent only about 37% of the cases where the County has authorized development along the shoreline. In some cases the County actions requiring access OTDs appear to conflict with the intent of the LCP policies by including limitations in the condition language that do not assure that the access will be provided. In other cases, permit requirements site easements in a way that will not assure maximum public access.

A related concern is assuring adequate distribution of pedestrian access throughout the County. The *Preliminary Report* also found that there are many stretches of coastline in the County lacking adequate vertical access; the two longest areas are each approximately 15 miles long. An important component of assuring this distribution of access is completing the segments of the California Coastal Trail.

Recommendations to address these concerns included:

- Incorporating a Comprehensive Access Component into Each of the Area Plans
- Amending LCP Lateral Access Requirements to Provide for Blufftop Accessways
- Continuing Efforts to Accept and Open Outstanding Access OTDs
- Amending the LCP to Allow Direct Dedications; Evaluating Accessway Performance Standards

2) Comments Raised

San Luis Obispo County Response (Exhibit C):
The County agrees with many of the recommendations, including pursuing comprehensive access planning in Area Plans and continuing to accept and open OTDs. However, the County disagrees with Recommendation 6.2, noting that the provision for blufftop accessways should be made on a case-by-case basis. The County also disagrees with Recommendation 6.4. They note that amending the LCP to include direct access dedications is unnecessary since the LCP does not preclude direct dedications currently. The County suggests that more clarification is needed on the recommendation to evaluate accessway performance standards. Additionally, County staff questions the number of vertical OTDs cited in the report.

Public Comments (Exhibit D):
The Cayucos Advisory Council, along with other members of the public, commented that Recommendation 6.2 requiring blufftop accessways should not be considered for Cayucos because the small lot sizes in this area could not accommodate blufftop accessways. Other comments noted that blufftop accessways may contribute to erosion, may not provide safe access, and could interfere with grazing operations.

Another public comment suggested highlighting the value of the California Coastal Trail in addressing distribution of public access opportunities. Other comments noted concern that public access on the North Coast be addressed in conjunction with any future realignment of Highway One. A question about whether the OTDs that have been accepted are actually open and accessible to the public was also raised.

Specific Clarifications/Errata:
The County suggested clarification of the number of vertical access OTDs cited in the report on page 246. To clarify, the report noted 12 verticals; this number includes only those vertical OTDs required as conditions of coastal development permits, either issued by the Coastal Commission or San Luis Obispo County. It is true that a significant number of vertical accessways are provided by improved street ends, most notably in Cayucos; however, these were not included in the count cited above, because the discussion in which the count appeared was focused primarily on OTDs required as mitigation for coastal development permits. The report will clarify this and also note that existing vertical access is provided at other points.

The County also suggested that the discussion on page 253 of the *Preliminary Report* did not accurately depict the situation and recommends that it be deleted. In this discussion, it was observed that the County's siting of OTDs had, in many cases, not adequately mitigated for impacts to public access. For example, many lateral OTDs had been sited on rocky shores where access is difficult, or on publicly owned land where the public may already have had access. The County states that they are simply following the Coastal Act and the certified LCP in requiring lateral access. The Commission agrees that this discussion should reflect that the County has implemented the access requirements of the LCP and also that many of the laterals in Cambria and other locations where they may not be entirely usable were required by the Coastal Commission prior to LCP certification. However, the discussion will also be modified to note that one benefit of the LCP's periodic review is that it allows for the effectiveness of policies to be evaluated. Should the policy not have the desired effect of maximizing public access, it should be revised to better achieve consistency with the Coastal Act. Additionally, alternative means of mitigation can be suggested.

3) Analysis

Comprehensive Public Access Component

The Preliminary Report found that in order to address many of the concerns raised regarding the provision of public access, a Comprehensive Public Access Component should be incorporated into each of the Area Plans. As noted in the Preliminary Report, the County has positively responded to the Commission's 1998 North Coast Area Plan findings by drafting a Comprehensive Access Component for the current North Coast Area Plan Update Project Description. The County has also begun work on a similar effort for the Estero Area Plan. In addition, the County has prepared a Request for Proposal, funded by the Resources Agency, for a project whose purpose is to complete a coastal accessway plan for the County's coastal areas, including incorporated coastal cities. This plan will provide extensive information for the Comprehensive Access Components of the LCP's Area Plans.

The Commission finds that in order to maximize public access, the County should continue its efforts to incorporate a Comprehensive Access Component into all of the Area Plans of the LCP. The suggestions here are intended to further guide the development of such access components.

The Access Component should include the following:

- Strategies for public acquisition of key areas;
- Strategies for identifying funding sources for the opening and ongoing management of easements resulting from OTDs, including signage and upland support;
- Methods to ensure that existing public areas are protected for long-term access and recreation;
- Improved condition compliance procedures to be applied prior to the issuance of building permits;
- A map or set of maps inventorying existing formal and informal accessways, potential accessways, public parklands, and trails; and
- Planning and implementation for the California Coastal Trail (see below for detailed discussion).

The Access Component should identify the following areas, either by mapping or descriptive text:

- Areas lacking sufficient access;
- Upland areas that should be reserved for the support of public access and recreation uses;
- Areas where the requirements for lateral access should be expanded to include provision of blufftop access in locations where blufftop access is superior and/or should be provided through a blufftop trail system;
- Areas where concentration of more intense access and recreation uses is appropriate, such as urban areas; and

- Areas where provision and management of passive recreation is appropriate in order to protect sensitive resources.

In addition, the Access Component should include Recommendations 6.1a, 6.1b, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7 and 6.9 as recommended in this report. Recommendation 6.1 remains:

> **Recommendation 6.1: Incorporate Comprehensive Access Components into Each Area Pla**n. All of the Area Plans in the LCP should be amended to include a specific access component, consistent with Section 30500 of the Coastal Act. This component should include at a minimum, the following information: (1) Statements of the public access goals, objectives, policies, ordinances, standards, programs, and other management objectives relevant to each planning area; (2) a comprehensive inventory of existing and potential public shoreline access, including a map or maps indicating the specific locations of such access resources.

Other elements of this recommendation also include Recommendations 6.1a and 6.1b discussed below.

<u>Planning for the California Coastal Trail:</u>

The *Preliminary Report* concluded that in order to continue ensuring that the implementation of the LCP was consistent with Coastal Act policies, a Comprehensive Public Access Component should be incorporated into the LCP. The *Preliminary Report* also noted the importance of the California Coastal Trail (CCT) as part of the Access Component. Recommendation 6.1 should be expanded to include direction for planning for the California Coastal Trail.

The CCT gained national significance with its designation as a Millennium Legacy Trail by the White House Millennium Council in 2000. State legislators are also increasingly recognizing its value. Recent legislation introduced (Senate Bill 908 and Assembly Concurrent Resolution 20) would declare the California Coastal Trail an official state trail, and would require the State Coastal Conservancy, in consultation with other state agencies and local governments, to coordinate the planning and implementation of the California Coastal Trail. Additionally, SB 908 would require each agency, board, department, or commission of the state with property interests or regulatory authority in coastal areas, and consistent with their individual mandate, to cooperate with the Conservancy with respect to planning and making lands available for completion of the trail. This pending legislation would, if enacted, provide the overall framework for planning and implementing the CCT.

In addition to government efforts, nonprofit organizations will play a role in the implementation and establishment of the California Coastal Trail. Recently, Coastwalk received a grant from the State Coastal Conservancy for up to $600,000 for development of a statewide Implementation Study for the CCT, scheduled for completion by the end of 2002. As of this writing Coastwalk, the Coastal Commission, the Department of Parks and Recreation, and the State Coastal Conservancy are in the process of selecting a

suitable consultant to initiate and complete the study. Certainly the Implementation Study will provide an important blueprint for the county's CCT planning. Moreover, state funding assistance to local governments will be important to completing and operating the CCT.

Although the level of awareness of the CCT has been raised significantly in the last couple years, the idea of the trail has existed for over 25 years. Despite its recent attention, however, the CCT does not yet have a distinct definition. Generally it is a concept of a trail or system of trails along the entire length of the California coastline. The closest to a definition for the CCT was a reference to a "coastal trails system" in the 1975 California Coastal Plan in which Policy 145 stated, "a hiking, bicycle, and equestrian trails system shall be established along or near the coast, consistent with the protection of agriculture, fragile natural resources, coastal-dependent developments, and land-owners' property rights… ."

In order to bring the concept of the trail to fruition, planning for and implementation of the CCT will require the involvement of many parties, including local, state and national park agencies and the community. These initial planning efforts will help provide guidance to local governments for implementing key aspects of the CCT. However, while implementation of the CCT will require the joint efforts of many participants, the LCPs can play a critical role in the overall effort. The inclusion of a Comprehensive Access Component in all of the Area Plans of the LCP should help provide a framework for implementing the trail at the local level and for setting out and implementing trail development standards that can be expected to arise from the statewide CCT planning effort.

Recommendation 6.1 in the *Preliminary Report* suggested incorporating a Comprehensive Public Access Component into the LCP. The Commission also recommends that planning for the California Coastal Trail should be incorporated into the Public Access Component, including mechanisms to guide future implementation of the CCT. The Access Component should identify the CCT as a continuous trail the length of the state's coastline. While planning for the implementation of the CCT is a statewide effort, local governments can and should participate in the process through their LCPs, an appropriate vehicle for such a planning endeavor.

In the North Coast Update Project Description[57] the Access Component specifically notes that general goal 15 "envisions creation of a coastal trail and regional bike path system enabling residents and visitors to enjoy this segment of the California coastline." Certainly county planning staff also recognizes the importance and value of planning for the California Coastal Trail; by further expanding this section to include the goals, policies, and standards recommended below, the LCP would be more able to provide for the implementation of the CCT.

[57] San Luis Obispo County Department of Planning and Building, North Coast Area Plan Project Description, January 2000, page 8-1.

It was noted in the *Preliminary Report* that as part of the County's Comprehensive Public Access Component, mechanisms for completing the CCT should be identified. As discussed previously, the California Coastal Trail has not been specifically defined; however, the following guidelines have been developed by Coastal Commission staff to assist County staff in providing for the implementation of the CCT. While statewide planning for the CCT will develop specific goals, objectives and standards, in general, the Commission finds that the following objectives should be considered in planning for the CCT:

- Providing a continuous trail as close to the ocean as possible;
- Providing maximum access for a variety of non-motorized uses;
- Maximizing connections to existing and proposed local trail systems;
- Ensuring that all segments of the trail have vertical access connections at appropriate intervals and sufficient parking and trailhead access to maximize use of the trail;
- Maximizing ocean views and scenic coastal vistas in the siting of the trail; and,
- Providing an educational experience where feasible through interpretive facilities.

A variety of siting and design policies and standards could be considered including, but not be limited to:

- The trail should be sited and designed to be located along the shoreline. It should be designed to allow for shoreline retreat and relocation of the trail if necessary. If it is not feasible to locate the trail on the shoreline due to landforms or legally authorized development that blocks safe passage at all times of the year, the trail may be located at a slightly inland location, or at different seasonal alignments.
- Where gaps are identified in the trail, interim segments should be identified to ensure passage along a continuous coastal trail. These interim segments should be noted as such, with the provision that as opportunities arise, the trail shall be realigned for ideal siting. Interim trail segments should meet as many of the CCT standards as possible.
- In order to minimize impacts to sensitive areas, appropriate uses, location and design of the trail should be determined. In certain areas, pedestrian pass and repass may be all that is appropriate.
- The CCT should be located to incorporate existing oceanfront trails and paths and support facilities of public shoreline parks and beaches to the maximum extent feasible.
- So as to provide a continuously identifiable trail along the Central Coast, the trail should be integrated with the coastal trail in Monterey and Santa Barbara Counties and the coastal cities in San Luis Obispo County.

- The trail should avoid being located on roads with motorized vehicle traffic to the maximum extent feasible. In locations where it is not possible to avoid siting along a roadway, the trail shall be separated from traffic by an appropriate distance if at all feasible. In locations where the trail must cross a roadway, provide trail crossing protection signing.
- In order to maximize access to the trail, the trail should have adequate parking and trailhead access.
- The trail should have adequate locational signage incorporating the CCT logo (yet to be developed), as well as adequate safety signage, including but not limited to, road crossing signs and yield signs on multi-use trail segments.

New development should avoid impacts to public use of existing public trails comprising the CCT or mitigate impacts through dedication of trail easements, as required by CZLUO 23.04.420.

Acquisition and Management policies and standards could be considered including, but not limited to:

Trail easements should be obtained by encouraging private donation of land, by public purchase, or by the dedication of trail easements, as required by CZLUO 23.04.420.

The trail plan should identify an appropriate management agency to take responsibility for operation, maintenance and liability for the trail.

- Additionally, mapping could be incorporated into the trail planning including a general trail map(s) generally showing a planned location of the CCT. Such a map should include existing trail segments, access connections and planned staging areas, public and private lands, existing easements, deed restrictions and Offers to Dedicate public access.

- Recognizing that the CCT is an important tool for distribution of low-cost public access opportunities throughout the coastal zone as required by Sections 30212.5 and 30213 of the Coastal Act, the Commission finds that planning for the California Coastal Trail should be incorporated into the Public Access Component.

Recommendation 6.1a (to be incorporated into 6.1): The Access Component should include a Public Trails Plan to ensure future implementation of the California Coastal Trail. Development of the Trails Plan should consider guidance outlined in the Periodic Review for development of:

Planning objectives;
Siting and Design policies and standards; and
Acquisition and management policies and standards.

Future Realignment of Highway One in the North Coast

The Preliminary Report concluded on page 292 that alternatives to relocate Highway One inland should be planned for as a means to avoid shoreline armoring. Comments noted that in such planning protection of public access should be addressed. The Commission finds that to ensure protection of public access consistent with the Coastal Act, any impacts to public access due to highway realignment should be fully analyzed and mitigated for.

> **Recommendation 6.1b:** The Comprehensive Public Access Component should consider realignment alternatives as recommended by Recommendation 7.14 and should include a policy that will ensure that any impacts to access from highway realignment are mitigated such that no public access is lost and new access opportunities are maximized.

Status of Public Access Acquired Through OTDs

The *Preliminary Report* concluded on page 248 that the County had been successful in accepting OTDs; however, it was noted in public comments that accepting an OTD is just the first step in providing additional access— many times accepted OTDs require improvements before they are accessible to the public. In response to the query about whether accepted Offers to Dedicate translated to open and accessible OTDs, staff investigated most of the OTD sites in the county, both those required as conditions of Commission permits and those required by the County. Of the OTDs that have been *accepted*, 88% of the laterals and 25% of the verticals are open and available to the public. (Note, of course that the majority of these are lateral access on a sandy beach, where there is no action needed to open the accessway.) However, in other locations, such as parts of the Morro Bay shoreline, the lateral accessways are located through brush and will provide no public access until an actual trail is delineated through the brush. And, as stated in the *Preliminary Report*, some of the laterals traverse over rocky shorelines that are less accessible to the public. In the case of the accepted vertical OTDs, most require path delineation and signage before they will be accessible to the public.

Commission staff documentation of the status of the accessways (in the form of digital photographs and map notes) will be shared with the County for use in development of the Comprehensive Access Components for the North Coast and Estero Planning Areas.

Staff also investigated the 33 OTDs where the *Preliminary Report* noted that recordation may not have occurred. Most appeared to have new structures built which indicate issuance of building permits. The County's Department of General Services was consulted and could not confirm whether the OTDs had in fact been recorded. Further research is being done by staff of that department. While discussion of this issue did not result in a preliminary recommendation, it is recommended that a strategy for improving condition compliance prior to the issuance of building permits be included in the Comprehensive Access Component (as noted in the discussion detailing the elements of the Access Component previously in this section). Moreover, Recommendation 12.12, as discussed in the Implementation Procedures chapter of this report, would improve condition compliance and monitoring to address LCP implementation in a number of areas, including improved tracking of OTDs. No further changes to recommendations are proposed with regard to condition compliance.

Amending Lateral Access Requirements to Provide for Blufftop Accessways

Recommendation 6.2 of the *Preliminary Report* suggested that the access requirements of the LCP allow for siting of OTDs along the blufftop. As the *Preliminary Report* found, the blufftop

may provide superior access. The County's response noted that this access requirement should be made on a case-by-case basis. Also supporting site-specific access requirements, the Cayucos Advisory Council commented that blufftop accessways would not be appropriate in most parts of Cayucos. Most of the Cayucos shoreline, except for lots in the northwestern area of the community, is wide sandy beach, where blufftop accessways are not necessary. Therefore, the Commission finds that blufftop access may not be appropriate in areas such as Cayucos. However, in other parts of the County, where there is no sandy beach available, the current LCP requirement that lateral accessways be delineated from MHTL to the toe of the bluff may preclude the ability of the County to locate access in a way that maximizes the ability of the public to use the shoreline.

Concerns were also raised with the fact that blufftop accessways could interfere with a property owner's private use of property, such as maintaining grazing operations. As noted in the *Preliminary Report*, Agriculture Policy 12 states that improvement and management practices shall include developing access trails with fences or other buffers to protect agricultural lands. Other options to aid in the prevention of conflicts between grazing and other agricultural operations and public access include seasonal use, self-closing gates or gates that allow passage of hikers while preventing cattle from passing through, and education of the public in appropriate behavior. Several park managers were consulted and noted that conflicts between hikers and cattle-grazing operations were minimal at their sites. Each utilizes one or more of the above measures to minimize conflicts.

It was also noted in a public comment that blufftop accessways may have safety and erosion concerns. This is certainly true of beach accessways where high tide may completely cover the lateral accessway, or the accessway may consist of a rocky shoreline. One method to avoid unusable or unsafe beach accessways is to resite them onto the blufftop. Certainly erosion issues must be evaluated; "rolling" easements, whereby as the bluff edge erodes landward, the access easement also moves landward, are a viable option for many situations.

Where superior access will be provided by blufftop accessways, they should be utilized. Therefore the Commission recommends modifying Recommendation 6.2:

> **Recommendation 6.2:** Amend LCP lateral access requirements to provide for blufftop accessways, where superior access will be provided. Where the area between the MHTL and the toe of the bluff is constrained by rocky shoreline, evaluate whether alternative siting of accessways along the blufftop would maximize public access consistent with the Coastal Act.

Amending the LCP to Allow Direct Dedications and Evaluating Accessway Performance Standards

The County states that the LCP does not currently preclude direct dedications. However, the Commission finds that the LCP should be more specific in recognizing the benefits of implementation through direct dedications. In order to minimize the amount of paperwork required for an Offer to Dedicate to be recorded and then some time later accepted, it is preferable in most cases to acquire a direct dedication. Also, it reduces the risk of the OTD

expiring or being overlooked as the number of years between recordation and acceptance increases. A key benefit of direct dedications is that the mitigation that the OTD is intended to provide can occur immediately after the impact to public access occurs.

The County requested clarification of the recommendation to evaluate performance standards. The recommendation was intended to convey that at the time of direct dedication of access easements, attention should be paid to accessway performance standards such as siting and design. The joint access program of the Commission and the State Coastal Conservancy has published two reports, subsequently adopted by the Commission, in order to provide guidance to local governments and others about standards of coastal accessway design. They are titled *Coastal Access: Standards and Recommendations*; and *Designing Accessways – Coastal Access Standards Element of the California Recreation Plan*; both are available from either agency. The first report focuses on the physical aspects of coastal access, such as accessways, trails, support facilities, and hostels. It also defines standards for accessway widths, as well as the minimum distance allowed between them. The second report discusses the critical factors in accessway design, such as shoreline erosion and facilities for the disabled, as well as design guidelines, such as trails, stairways, and boardwalks. At the time of dedication of public access easements, these reports should aid in evaluating accessway performance standards.

Recommendation 6.4 will be modified to clarify the intent of "evaluating accessway performance standards":

> **Preliminary Recommendation 6.4: Amend LCP to Allow Provide for Direct Dedications of Accessways and Evaluate Accessway Performance Standards for these Accessways**.
> As discussed in the Commission's Public Access Action Plan, the County should amend the LCP to allow for direct dedication of public access to the County where appropriate. Performance standards for access OTDs and these dedications and other access OTDs should be evaluated to address such needs issues as coastal erosion and long-term trail maintenance.

4) Conclusion

The Preliminary Report noted that in order to effectively implement the LCP in conformance with the requirements of Coastal Act Sections 30210, and 30212 to provide public access, the LCP should be updated to include new policies (Exhibit A, findings incorporated herein by reference). After further evaluation and consideration of public comments, the Commission adopts Recommendations 6.1, 6.1a, 6.1b, 6.2, 6.3, and 6.4 as modified as appropriate corrective actions for submission to the County pursuant to Coastal Act Section 30519.5.

B. Protecting Existing Public Access

1) Summary of *Preliminary Periodic Review* Findings (Exhibit A, pp. 259-262)

The Preliminary Report noted that street ends leading to the shoreline provide a number of public access opportunities in San Luis Obispo County, some of which may be threatened by quiet title actions on behalf of private property owners. The Preliminary Report also noted that areas of historic public use, where prescriptive rights may exist, also provide informal access opportunities, especially in the North Coast area of the county.

The San Luis Obispo County LCP includes a policy which states that development shall not interfere with the public's right of access to the sea where acquired through historic use or legislative authorization. The County's Area Plans specify locations where prescriptive rights may exist; the Estero Area Plan notes that Cuesta Inlet is one of these areas and that new development in this location shall be required to provide public access consistent with existing prescriptive rights. Staff observed in the *Preliminary Report* that there was one permitted development in Cuesta Inlet in which the County's access findings did not support the protection of prescriptive rights. However, it was also noted that such prescriptive rights studies require significant resources, which both the County and the Coastal Commission frequently lack.

The findings in the *Preliminary Report* stated that while the County's LCP policies strive to protect access and recreational opportunities, the implementation of these policies may not have fully protected some access opportunities. As a result of these findings, staff identified two preliminary recommendations to address the issues of public access opportunities being lost to quiet title actions and protecting potential prescriptive rights areas:

- Developing an LCP Program to Document and Pursue Prescriptive Rights; and
- Developing an LCP Program to Assure Protection of Existing and Potential Public Rights

2) Comments Raised and New Information

San Luis Obispo County Response (Exhibit C)
The County staff disagrees with Recommendation 6.5 regarding the documentation of prescriptive rights, citing a previous decision by the Board of Supervisors. In response to one of the Commission's suggested modifications for the County's draft North Coast Update, the County had previously developed language whose intent was to expand the responsibility for documenting prescriptive rights to other groups in addition to the County. Additionally, County staff inquired as to the status of past prescriptive rights studies completed for areas in the San Luis Obispo County coastal zone.

Public Comments (Exhibit D)
Public comment noted dissatisfaction with the loss of public access due to quiet title actions, and commended the Commission for addressing this issue in the Preliminary Report. Regarding prescriptive rights, some property owners objected to Recommendation 6.5,

contending that either prescriptive rights do not exist on their property or constitute trespassing.

Specific Clarifications/Errata:
With regard to County staff's query concerning past prescriptive rights studies within the county, review of Commission's public access files revealed that Sweet Springs Marsh was the subject of an Attorney General's Implied Dedication Report in July and August of 1978. The report documented extensive and continuous use since 1950. The property in now part of Sweet Springs Marsh Natural Preserve, owned by the Audubon Society. For Cuesta Inlet a study was initiated; however it has not yet been completed.

3) Analysis

The County notes that it is pursuing alternative policies to address prescriptive rights in response to the Commission's suggested modifications for the draft North Coast Update. The modification suggested by the Commission and the County's adaptation are as follows:[58]

Coastal Commission alternative:

> "Add the following program…. :
> The County shall systematically document all areas of historic public use in the North Coast Area for incorporation into the NCAP access component. Such documentation shall be used to protect evidence of prescriptive rights in future County planning and development reviews."

County/committee alternative:

> "Add the following program…. :
> The County, agencies, and interested groups should ~~shall systematically~~ document ~~all~~ areas of historic public use in the North Coast Area for incorporation into the NCAP access component. Such documentation should ~~shall~~ be used to protect evidence of prescriptive rights in future County planning and development reviews."

While the County's version suggests sharing the responsibility for documenting prescriptive rights with other agencies and interested groups, the Commission finds that it is the primary responsibility of the County and the Commission to document and protect such rights, as noted in Recommendation 6.5. Certainly, however, other agencies and interested individuals may participate in the process. Additionally, the Commission finds that the County's suggested language changes serve to weaken the requirement to document and utilize evidence for the protection of prescriptive rights. Thus, the Commission finds that the original modification language suggested by the Commission for the draft North Coast Update more appropriately meets the intent of Coastal Act Section 30211, which requires that the public's right of access to the sea, where acquired through historic use or legislative

[58] While the Commission's proposed modification and the County's adaptation presented here for discussion purposes pertain only to the North Coast Planning Area, Recommendation 6.5 and relevant discussion pertain to all of the Planning Areas in the LCP.

authorization be protected. Accordingly, a program incorporated into the LCP requiring the County to document and protect prescriptive rights is necessary to meet this intent.

Also with regard to prescriptive rights, some property owners commented that these rights constitute trespassing. This, however, is a misunderstanding of authentic prescriptive rights. The Coastal Act (under Section 30211) and the LCP (in Access Policy 1), as well as the California Constitution, provide that when prescriptive rights exist, they should be protected. Thus, the Coastal Commission and the County are required by law to protect these rights.

Regarding potential prescriptive rights on the Hearst property in the North Coast, the Hearst Corporation submitted a letter denying the existence of such rights on their property and objecting to public funding of prescriptive rights studies. In response, it is noted that the intent of prescriptive rights studies is to determine whether or not prescriptive rights actually exist in a certain location; if prescriptive rights in fact do not exist on the Hearst property, the study would bear this out. Additionally, since the ultimate beneficiary of prescriptive rights dedications is the public, it makes sense to finance such studies with public funds.

Thus, in order for the LCP to meet the intent of Coastal Act Section 30211, Recommendation 6.5 remains unchanged except for reflecting the County's obligation to protect prescriptive rights and noting the other partners that might be involved, as requested by the County:

> Recommendation 6.5: Develop an LCP Program to Document and Pursue Prescriptive Rights.
> As part of protecting historic use areas, the County should shall develop a program to document informal use and potential prescriptive rights as part of the Access Component. Information developed under this documentation effort shall be used to protect prescriptive rights in future County planning and development reviews. Such a program could be coordinated with the efforts of the Commission's Public Access Program to document prescriptive rights, and could include the participation of other agencies and interested groups.

4) Conclusion

The Preliminary Report noted that in order to effectively implement the LCP in conformance with the requirements of Coastal Act Section 30211 to protect existing public access, the LCP should be updated to include new policies (Exhibit A, findings incorporated herein by reference). After further evaluation and consideration of public comments, the Commission adopts Recommendations 6.5 and 6.6 as appropriate corrective actions for submission to the County pursuant to Coastal Act Section 30519.5.

C. Providing Low-Cost Visitor-Serving Access and Recreation

1) Summary of *Preliminary Periodic Review* Findings (Exhibit A, pp. 263-265)

The Preliminary Report noted that public demand for lower-cost visitor uses has increased since certification, and more attention is needed on protection and provision of such uses in San Luis Obispo County. The report also observed the continuing unmet demand for

campgrounds, both tent and RV, since prior to LCP certification. At the same time, it was also reported that since LCP certification, the County had approved the construction of over 700 overnight accommodation rooms (in hotels, motels, and bed and breakfast establishments), a notable increase in visitor-serving development. Also included in the discussion was the current status of overnight accommodations in the County, including occupancy rates and recent trends in the number of overnight rooms available in the coastal zone. The Preliminary Report concluded that current occupancy rates did not support additional hotel development at this time.

The Preliminary Report suggested that comprehensive recreation planning be incorporated as part of the Comprehensive Public Access Component, in order to evaluate long-term supply and demand and opportunities, particularly for low-cost visitor-serving recreation.

2) Comments Raised

San Luis Obispo County Response (Exhibit C):
The County agrees with Recommendation 6.7 to undertake comprehensive recreation planning through the Area Plan updates.

Public Comments (Exhibit D):
Commenters raised concerns regarding Hearst Castle State Park's goals for increased numbers of visitors and the impact that might have on water supply and road capacity. Comments included concerns with overnight accommodation occupancy rates quoted in the report, the numbers of rooms cited for the North Coast, and the tourism industry in general. Additional concerns were raised about a topic not mentioned in the report, the issue of the proliferation of short-term vacation rentals in Cambria and Cayucos.

3) Analysis

Increased Visitation at Hearst Castle

The San Simeon District of the California Department of Parks and Recreation (DPR) is attempting to increase visitation to Hearst Castle and this has raised concerns in the North Coast community regarding water supply and traffic capacity on Highway One. According to staff at DPR, levels of park visitation have dropped since the late 1980's. DPR's goal is to increase visitation during the slower off-season months, in order to return to 1980's levels. Figure 6-1 depicts the trends in ticket sales since 1978-79. Figure 6-2 shows the monthly ticket sales breakdown for the highest and lowest years on record.

Figure 6-1: Hearst Castle Ticket Sales, 1979-1999

Source: Department of Parks and Recreation, San Simeon District, 2001.

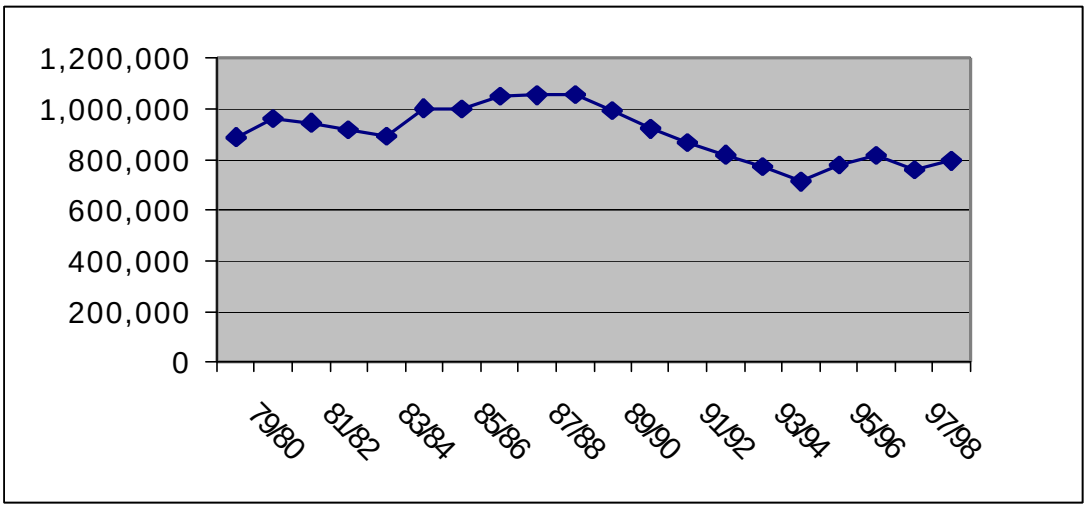
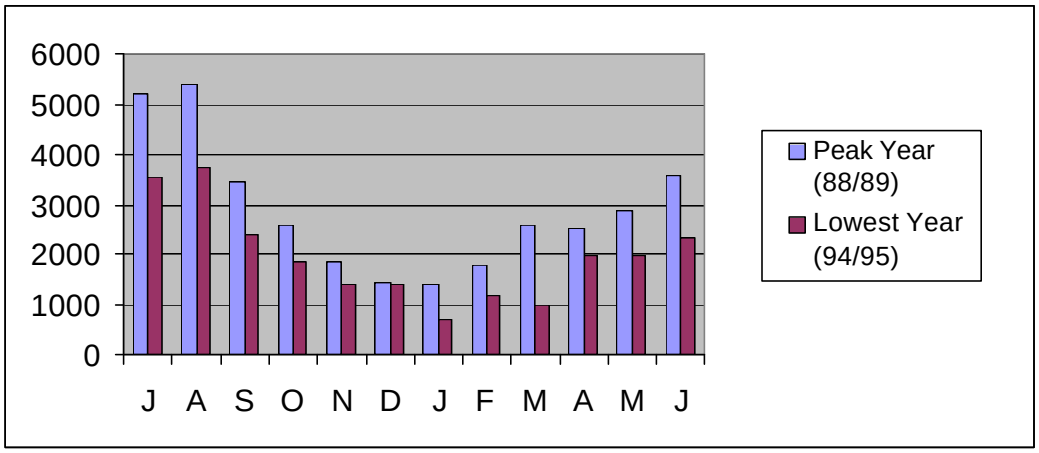


Figure 6-2: Comparison of Highest and Lowest Years for Hearst Castle Visitation

Source: Department of Parks and Recreation, San Simeon District, 2001.



Number of Visitors: According to State Park staff, the maximum number of tour tickets that can be sold in one day is 5300, due to the physical limitations of the visitor center, number of buses on the road between the visitor center and the castle, and other factors. This maximum is already being achieved during the summer months, when water supply is at its lowest and Highway One is at Level of Service (LOS) D. It should be noted that DPR does not track numbers of actual people coming to Hearst Castle; rather they count number of tour tickets sold. Because many visitors to the Castle participate in multiple tours (between 1 and 4), the actual number of people visiting the Castle during a peak summer day may be less than 5300

(however, some visitors merely go to the visitor's center and do not tour the castle at all; thus, they would not be accounted for in ticket sales).

Water Supply: The current goal of the Park District is to increase visitation during the slower off-season months. According to Park District staff at Hearst Castle, the District has several permits from the State Water Resources Control Board (SWRCB), either as the primary applicant or as a co-applicant with Hearst Corporation. The permits allow for a total allocation of 60 acre feet/year (afy) from three springs on Pine Mountain for the park district. In recent years, the district's actual usage rate has been only about half of the allotment; therefore they maintain they have more than sufficient capacity to serve the expected increase in visitors. Park District staff also notes that in the years of peak visitation, in the mid- to late-80's, before they had implemented any type of water-saving programs, the District did not exceed their water allocation.

Nonetheless, it should be noted that although the Park District may be permitted 60 afy, 60 afy may not always be available. More research concerning available water supplies along the North Coast is needed, particularly concerning the need to assure that new development is environmentally sustainable, and does not harm environmentally sensitive habitats (see Development and ESHA chapters). Also, many of the increasing numbers of visitors to the Castle would require overnight accommodations in the North Coast area, most likely in Cambria or San Simeon Acres. As noted in the New Development chapter, Cambria, whose water is provided by Santa Rosa and San Simeon creeks, faces severe constraints in terms of water supply. Water for San Simeon Acres is withdrawn from Pico Creek, which is already at or over capacity.

Traffic: While summertime LOS on Highway One south of the Hearst Castle entrance is LOS D, the wintertime LOS has not been determined, though staff at Caltrans estimates it typically is at LOS B or C.[59] As discussed in the Development chapter, traffic counts for peak periods at the Castle have shown a steady increase since 1976. Since the average number of off-season ticket sales for Hearst Castle is 1650, it is likely the Castle could accommodate a threefold increase in the number of visitors in the off-season. It is unlikely that this will occur, due to the nature of the tourist industry in general. Typically summer is high tourist season because children are out of school and families are able to travel together; additionally the weather is more conducive to travel. Nonetheless, more research will be needed to ascertain more precise trends in traffic during off-peak times. It may be that future increases in off-peak visitation at Hearst Castle will raise concerns both with highway capacity, and other limited resources such as water supply.

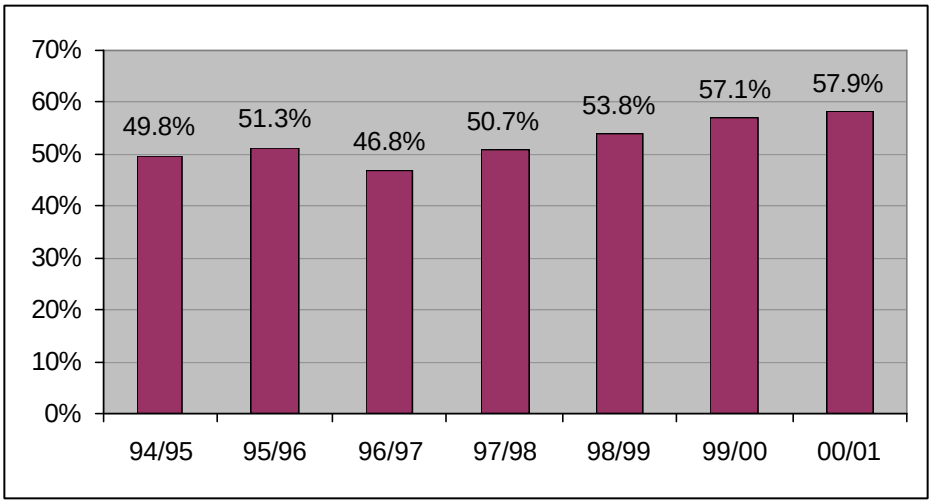
Comments Raised by the San Luis Obispo Visitors and Conference Bureau Regarding the Feasibility of Tourism Development

[59] Ron West, Caltrans, District 5.

Occupancy Rates: It was suggested by the San Luis Obispo Visitors and Conference Bureau that the occupancy rates for the City of Morro Bay were actually higher than what was quoted in the Preliminary Report, which noted an occupancy rate of 54% in 1998. However, further research indicates that occupancy rates cited in the report are accurate. The chart below illustrates occupancy rate data for a 7-year period.

Figure 6-3: Occupancy Rates, City of Morro Bay

Source: City of Morro Bay Finance Department, 2001



The San Luis Obispo County Visitors and Conference Bureau provided occupancy data from a private firm[60], which shows county-wide occupancy rates to be in the 60-70% range. It is unclear why occupancy rates for the county as a whole would be so much higher than a typical coastal community, which would have more of a tourist draw. Occupancy rates with separate coastal zone breakdowns were unavailable. This lack of clarity in data supports the need for more comprehensive recreational and visitor-serving planning as called for in Recommendation 6.7.

An additional comment raised by the San Luis Obispo County Visitors and Conference Bureau was that the *Preliminary Report* failed to recognize that "this county needs a balance of all types of accommodations to successfully weather any storm… ." The Conference Bureau also states that "occupancy statistics are often used when determining the feasibility of tourism development, but it is by no means the only factor." They state that other considerations include average daily rates, and whether or not there is a void in the local market of the type of product offered. While the *Preliminary Report* observed that "a hotel market is considered ready for new development when overall occupancy rates reach 65 to

[60] Smith Travel Research, 1994-2000.

70%,"[61] and concluded that there is an apparent lack of need for additional hotel development, it was also noted that in the years since LCP certification, over 700 additional hotel, motel and bed and breakfast units had been approved for development in the coastal zone (page 264). Nonetheless, it is also important to note that analysis of economic need is not the only relevant component of planning for additional hotel development, but also scrutiny of the suitability of the proposed site, including capacity of existing infrastructure and impacts to community character and sensitive resources.

Count of Overnight Rooms in the North Coast: The San Luis Obispo County Visitors and Conference Bureau also voiced concern about the number of rooms specified in the Preliminary Report. The original report cited "a 110% increase in the number of visitor serving accommodations between 1982 and 1997" in the North Coast, a value quoted directly from the County's proposed North Coast Area Plan update, which noted 676 rooms in 1982 and 1418 in 1997. These numbers include rooms in Cambria and San Simeon, as well as the rural area of the North Coast Planning Area. Currently the Cambria Chamber of Commerce counts 1378 overnight units in just Cambria and San Simeon, as of April 2001. However, the San Luis Obispo County Visitors and Conference Bureau notes that according the UCSB Economic Forecast Project, the count of rooms in the North Coast area was 1710 in 1992. As shown, the data varies, but it does support the fact that between 1982 and 2001 the number of overnight rooms in the North Coast increased significantly.

While it appears that the county is meeting the intent of Section 30213 of the Coastal Act through the implementation of the LCP, it is not apparent whether there is sufficient water or road capacity to support this existing permitted visitor-serving development, much less provide for future developments. In particular, as discussed in the New Development chapter, Cambria has severe water limitations and while a significant portion of existing water use goes toward visitor-serving development, it is not clear that enough water is reserved for approvals of other new development. Thus, comprehensive recreation and visitor-serving planning is necessary to ensure that existing needs are met prior to planning for new recreation and visitor-serving development (see also, discussion of planning constraints for the Hearst Ranch in the Development chapter).

Short-term Vacation Rentals: Comments were also voiced regarding use of single-family homes as short-term vacation rentals in Cambria and Cayucos. Residents in these communities are concerned about the number of single family residences in residentially-zoned areas that are being rented out as vacation rentals, potentially leading to the deterioration of the neighborhood. Concerns involve noise, trash and community character. County staff has been aware of the issue for some time and in the past year has developed an ordinance for vacation rentals within the Coastal Zone.[62] It will come before the Coastal Commission for final review as an LCP amendment in the near future. Thus the Coastal Commission will soon review this issue as a separate LCP amendment proposal.

---

[61] *Evaluation of Development Potential for Visitor-Serving Uses, Caratan/Colmer Site, Morro Bay*, prepared for City of Morro Bay by Bay Area Economics, December 1999.
[62] Available at http://www.slonet.org/vv/ipcoplng/newvacnotice.pdf

Clearly the above-mentioned discrepancies in occupancy data and overnight room counts, as well as concerns with the types of accommodations being provided, point to the need for comprehensive visitor-serving and recreation planning, which should provide consistent and up-to-date supply and demand information. As this is the major thrust of Recommendation 6.7, it remains unchanged.

Recommendation 6.7: Comprehensive Public Recreation Planning
Through a comprehensive Public Access planning process, long-term supply and demand and opportunities for low-cost visitor-serving recreation should be analyzed. The LCP should be evaluated for potential amendments to provide for such uses. In addition, the LCP should be further evaluated to ensure that an adequate level of limited public services is being reserved for priority visitor-serving uses, including that which may be needed in the future.

4) Conclusion

The *Preliminary Report* noted that in order to effectively implement the LCP in conformance with the requirements of Coastal Act Sections 30210, 30213, 30250, 30252, and 30254 to protect low-cost visitor-serving and recreational uses within the Coastal Zone, the LCP should be updated to provide for comprehensive recreation planning (Exhibit A, findings incorporated herein by reference). After further evaluation and consideration of public comments, the Commission adopts Recommendation 6.7 as an appropriate corrective action for submission to the County pursuant to Coastal Act Section 30519.5.

D. Balancing Access and Recreation with Protection of Sensitive Habitats

1) Summary of Preliminary Periodic Report Findings (Exhibit A, pp. 265-267)

As noted in the Preliminary Report, San Luis Obispo County encompasses a great deal of environmentally sensitive area. New conditions and changed circumstances with regard to sensitive habitats were also noted, including the establishment of the elephant seal colony at Piedras Blancas and the listing of the snowy plover as a threatened species. The Preliminary Report concluded that to date, the County had generally been successful in balancing the provision of public access with the protection of sensitive resources in their regulatory program. On the other hand, it was also found that continuing development pressures within the County and the emergence of new information and changed circumstances (particularly the increasing number of threatened and endangered species) suggested a need to strengthen LCP policies regarding the balance between sensitive resource protection and the provision of public access. The Preliminary Report identified the following recommendations:

- Review New Access Developments for Appropriate Management Measures; and
- Incorporate Public Access Management and Enhancement as a Component of All Habitat Conservation Plans and Natural Community Conservation Plans.

2) Comments Raised

San Luis Obispo County Response (Exhibit C):
The County concurs with Recommendation 6.8, noting that new access developments require discretionary review and that appropriate habitat management measures are already assessed through CEQA review. The County disagrees with Recommendation 6.9. The County contends that since Habitat Conservation Plans are not within County control, they cannot implement this recommendation.

Public Comments (Exhibit D):
Additional comments from the public expressed ongoing concern with the status of protecting snowy plovers at Oceano Dunes State Vehicular Recreation Area.

Specific Clarifications/Errata
The report will be modified to include Natural Community Conservation Plans (NCCPs) in the discussion of public access protection in the development of Habitat Conservation Plans (HCPs).

3) Analysis

Reviewing new access developments for appropriate habitat management measures

The County has stated that they do not object to the recommendation regarding reviewing new access developments for appropriate habitat management measures, because they already do so. The Commission concurs, noting the findings in the Preliminary Report which observed that "the County has been successful in balancing the provision of public access with the protection of sensitive resources in their regulatory program." (page 265). It was also observed that the LCP contains policies and ordinances which do provide for the protection of sensitive habitats with regard to the provision of public access. These include Access Policy 2, ESHA Policies 29 and 38, and Ordinance 23.04.420 c1 which states that "access is required except where inconsistent with the protection of fragile coastal resources." Thus, this recommendation provides no additional protection to sensitive resources with regard to the provision of public access, and is therefore deleted.

> **Preliminary Recommendation 6-8: ~~Review New Access Developments for Appropriate Habitat Management Measures~~**

Public Access Considerations in Federal and State Conservation Plan Reviews

In their assertion that they have no jurisdiction over federal Habitat Conservation Plans and State Natural Community Conservation Plans, the County is correct, *only if it is not designated with a primary responsibility for implementing the plan*. However, the County could participate or take the lead, in developing and implementing any such conservation plans (for example, in the proposed Los Osos HCP). Regardless, the County has a responsibility to pursue conformance with all LCP policies, including those concerning the provision of appropriate public access, in conservation planning processes being considered

in the San Luis Obispo coastal zone. In order to ensure that conservation plans in the County do indeed comply with the LCP's public access policies, it is important that this recommendation, as modified, remain:

> **Recommendation 6-9: Habitat Conservation Plan Access Review**
>
> ~~Include~~ Ensure that public access management and enhancement consistent with LCP policies is considered as a component of all habitat management planning and natural community conservation plans within the coastal zone.

Oceano Dunes State Vehicular Recreation Area

As stated in the *Preliminary Report*, issues concerning visitor use and the protection of sensitive resources at the ODSVRA were addressed in a separate staff recommendation regarding an amendment (4-82-30-A5) to the Recreation Area's original 1982 permit. With the Commission's approval, the ODSVRA is now instituting interim vehicle use limits at the ODSVRA and establishing an interagency Technical Review Team to act as an advisory body to the Superintendent of the ODSVRA. A scientific subcommittee is also established to advise the Technical Review Team on such issues as habitat protection and access management. The Commission will be reviewing the permit annually in order to evaluate the overall effectiveness of the Technical Review Team in managing vehicle impacts at the ODSVRA. Since public comments concerning the ODSVRA were not directed at a specific recommendation put forth in the *Preliminary Report*, none of the recommendations are affected.

4) Conclusion

The Preliminary Report noted that in order to effectively implement the LCP in conformance with the requirements of Coastal Act Sections 30210, 30212, 30214, and 30230 to balance the conflicts between providing public access and protecting sensitive habitat, the LCP should be updated to include a new policy (Exhibit A, findings incorporated herein by reference). After further evaluation and consideration of public comments, the Commission adopts Recommendation 6.9 as modified as an appropriate corrective action for submission to the County pursuant to Coastal Act Section 30519.5.

7. COASTAL HAZARDS

Shoreline Hazards
The Coastal Act Section 30253 requires in part that new development minimize risks and neither create nor contribute to erosion or require construction of protective devices. Section

30235 allows construction of shoreline protective devices when existing development is threatened by erosion and when designed to mitigate impacts.

A. Implementing Setback Standards

1) Summary of *Preliminary Periodic Review* Findings (Exhibit A, pp. 269-299)

The *Preliminary Report* found that while the County was generally requiring setbacks for new development, implementation of its LCP setback policies was not avoiding or minimizing the construction of shoreline protective devices. Ancillary structures were authorized in setback areas that can increase the exposure of structures to hazards and result in additional demand for shoreline armoring. Variances were granted which resulted in development within setback areas and development of shoreline protective devices. The *Preliminary Report* (page 279) determined that the setback standard itself, the method for determining the setback, and the restrictions on what is allowed in the setback all need to be strengthened to assure that new development will not result in future armoring of the shoreline. The *Preliminary Report* recommended measures to increase the setback based on an increase of the expected life of the structure from 75 years to 100 years, and recommended incorporation of a safety factor in determining the adequacy of the setback. It recommended further limitations on exemptions to the setbacks to minimize encroachment of primary and permanent structures in the setback.

In implementing the LCP through its issuance of permits, the County has authorized shoreline protective devices to protect new development. The *Preliminary Report* recommended that new development authorizations on vacant parcels require a deed restriction that ensures waiver of any potential rights for shoreline protective devices in the future.

2) Comments Raised

SLO County Response (Exhibit C)

For many of the proposed suggested revisions to setback standards in the LCP, the County suggested modifications or identified a need for more information. The County agreed to further define what constitutes existing development (7.1). While agreeing to eliminate the stringline method of determining setbacks, the County identified a need for more information on determining an expanded setback and proposed safety factor (PR 7.2 and 7.3). The County disagreed with PR 7.4 that would specify that structures within setbacks be designed to be relocated or removed if threatened. The County suggests that the same objective can be achieved by clarifying what is allowed within the setback and how the setback is measured. The County disagreed with prohibiting new subdivisions and lots splits in high wave hazard areas without more clarification, and questioned the legality for restricting lot legalization in high wave hazard areas (PR 7.6).

Specific Clarifications/Errata (to be incorporated into the report)

There were comments concerning typographical errors on page 287 and suggestions to refer to concrete instead of cement on page 295 of the *Preliminary Report*. These changes will be corrected.

3) Analysis

As found in the *Preliminary Report*, the implementation of the existing LCP setback policies is resulting in the construction of shoreline protective devices. In addition, development on coastal bluffs can contribute to instability of the bluff, particularly if the development includes landscape watering, which also leads to the development of protective devices. The Commission finds that in order to assure that implementation of the LCP will avoid or minimize future armoring of the shoreline consistent with Sections 30253 and 30235 of the Coastal Act, modifications to the method in which setbacks are determined and the extent of setbacks are recommended. Increasing the estimated life-of-structure standard upon which setbacks are calculated, from 75 years to 100 years as indicated in Recommendation 7.3 can increase setbacks. As discussed in the *Preliminary Report* pages 279-281, the 75-year economic life of structure may not be an accurate estimate and, when such setbacks are determined using that standard, armoring can be expected to occur.

However, the Commission notes that determination of a specific setback safety factor may be most effective when based on an evaluation of specific geologic conditions. Therefore, the Commission modifies Recommendation 7.3 to incorporate development of safety factors as part of an Area-Wide Shoreline Management Plan, as further discussed in Section B of this Chapter.

> **Recommendation 7.3: Revise CZLUO 23.04.118**: Eliminate the stringline method for determining setbacks, section (a). Modify section (b) to base setback on a projected 100 year economic life of structure. Add requirement <u>to incorporate a</u> safety factor either as a multiplier or as a set distance, <u>as developed through an Areawide Shoreline Management Plan</u>.

As found in the *Preliminary Report*, the County implementation of the LCP resulted in exceptions to the bluff setbacks that allowed encroachment of portions of permanent structures (architectural features as chimneys, bay windows, balconies) in the setbacks. Such encroachments can increase the demand for future armoring. Recommendation 7.4 would eliminate the exception for encroachment of architectural features of a permanent structure and assure that any development permitted within the setback would be designed to be removed or relocated. The County suggests that the alternative to clarify what is allowed in the setback and how the setback is measured would accomplish the same objective. The Commission notes that the recommendation would eliminate encroachments of portions of primary structures on the site. Subpart 2 already prohibits encroachment of decks or other solid structures or similar design elements. With these modification to the exceptions, the Commission agrees with the County that it is not necessary to specify that landscaping, minor earthworks or steps placed directly on natural grade need to be designed to be removed or relocated. As modified, recommendation 7.4 would assure that LCP implementation would minimize encroachment of structures that would contribute to future armoring of the shoreline.

> **Recommendation 7.4**: Modify CZLUO 23.04.118 "Exceptions to Bluff Setbacks Requirements" section (c) to eliminate subpart (3) roof and wall projections. ~~and to modify subpart (2) to provide that provide:" The minimum setback requirements of this section do not apply to the following at grade earthworks, steps, and similar design elements should be designed to provided the structures are designed to be removed or relocated in the event of threat from erosion.~~

The Commission also finds that recommendations concerning subdivisions and lots splits require more specific clarification. Rather than relying on identification of what is considered to be "high wave hazard areas", the Commission modifies Recommendation 7.6 to limit proposed subdivision or lot splits to urban infill areas or in areas addressed through area-wide management plans. As modified this recommendation would assure that strategies would be implemented to assure that new development sites created minimize future shoreline armoring. This recommendation, in combination with Recommendation 7.7 to require that such new development assume the risk that future armoring may not be permitted will ensure that the implementation of the LCP will minimize shoreline armoring consistent with policies of the Coastal Act.

> **Recommendation 7.5: Reexamine regional average annual erosion rates**. Recent studies of the area for individual shoreline protection have shown that the estimate that the shoreline will retreat only 25 feet during the next 75 years is often low. The minimum setback distances use this value for siting new development and the minimum distance should be revised to better reflect current shoreline changes. Recommendation incorporated into 7. 8.

> **Recommendation 7.6: Add new Policy standards.** Prohibit new subdivisions or lot splits or lot legalization that create new lots in high wave hazard areas. Modify Hazard Policy 1 to ensure that in shoreline areas subject to erosion, subdivisions and lot splits shall not be permitted unless they are within (1) an urban infill area and (2) a region covered by an Areawide Shoreline Management Plan that has been certified into the LCP.

4) Conclusion

The Commission finds that the *Preliminary Report* pages 269-299 presented evidence and analysis showing that the San Luis Obispo County LCP has not been effectively implemented in conformance with the Coastal Act Section 30235 and 30253. After further evaluation and consideration of public comments, pursuant to section 30519.5 of the Coastal Act, the Commission adopts final recommendations 7.1-7.6 as appropriate corrective actions for submission to the County.

B. Seawall Development in Existing Developed Areas

1) Summary of *Preliminary Periodic Review* Findings (Exhibit A, pp. 283-286)

The *Preliminary Report* noted the challenge in minimizing armoring in already developed areas such as Cayucos where few vacant lots remain. Many of the coastal developments authorized by the County in this area were for remodels and reconstruction of existing structures. The *Preliminary Report* recommended minimizing armoring in these areas in part through a comprehensive approach to area wide shoreline management. The *Preliminary Report* also addressed impacts from emergency authorizations of shoreline protective devices and impacts to the scenic and visual resources of shoreline areas from development of shoreline protective devices.

2) Comments Raised

SLO County Response (Exhibit C)
In general the County comments noted agreement to include a program in the LCP to undertake Areawide Shoreline Management Plans for the Cayucos and Cambria areas, provided funding was available to support such studies. The County agreed that such Areawide Plans would be an appropriate mechanism to address such issues as pursuing additional setback of development through reconstruction of older structures, reevaluating the annual erosion rate, establishing emergency armoring procedures and development guidelines for design of shoreline protective devices to minimize visual resource impacts. (PR 7.8, 7.5, 7.12, 7.16). The County agreed to improve requirements to identify existing access easements on shoreline parcels where seawall projects may be considered.

The County disagrees with the Preliminary Recommendation to require applicants for new development on vacant shorefront lots to assume risk that a future seawall may not be permitted.

Public Comments (Exhibit D)
Other comments focused on the effect of the preliminary recommendations on properties in Cayucos. The Cayucos Advisory Council supports authorization of shoreline protective devices on vacant parcels in infill situations where adjacent properties have seawalls because of the existing pattern of development in Cayucos. The Council also supports use of the stringline to determine setbacks if neighboring properties agree. The Council also recommends that as older properties recycle, rather than remove seawalls, older walls should be replaced with walls properly sited and designed and that such walls should not encroach on public property.

3) Analysis

The Commission agrees that minimizing the cumulative impacts of shoreline armoring may require closer evaluation of site specific shoreline conditions, annual erosion rates, and patterns of development, especially in areas such as Cayucos where lots are smaller and where there are few vacant lots. Developing a long-term comprehensive approach to avoid the permanent armoring of the shoreline or to minimize impacts to shoreline resources is

preferable to the continued site-by-site armoring of the shoreline in existing developed areas and offers a means to address some of specific constraints in Cayucos. However, until such Area-Wide Plans are completed, the implementation of the LCP should assure that new development will minimize risks to life and property and neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding area, or in any way require the construction of protective devices that would substantially alter the natural landforms along bluffs and cliffs as required by Section 30253 of the Coastal Act. As discussed in the *Preliminary Report*, the Commission finds that where new development is proposed on vacant lots, the LCP implementation should be strengthened to avoid the need for shoreline armoring. Recommendation 7.7 as modified more clearly describes mechanisms that the Commission has identified to assure that new development will be implemented in conformity with Section 30253 of the Coastal Act. Recommendation 7.8 suggests the framework for conducting an Area Wide Management Plan.

> **Recommendation 7.7: Strengthen Measures to ensure no future armoring.** Modify standards for new development on vacant lots or for demolition and rebuilding of structures subject to beach or cliff erosion, inundation, wave uprush, etc. in areas subject to hazards. The modified standards should require as a condition of new development that the applicant assumes the risk of building in the hazardous areas without assurances that future armoring will be allowed. This could be implemented by modifying and expanding the GSA combining designation to identify specific areas where no future shoreline armoring will be permitted. Modify standards in shorefront areas subject to beach or cliff erosion, inundation, wave uprush, etc., to avoid future shoreline protective devices as a result of new development. For new development on vacant shorefront lots, or for demolition and rebuilding of structures, where geologic evaluations conclude that the development can be sited and designed to avoid the need for a future shoreline protective device, require recordation of a deed restriction that ensures that no shoreline protective device(s) shall be constructed to protect the development approved and ensures waiver of any rights to construct such devices that may exist under Public Resources Code Section 30235.

As modified, Recommendations 7.5, 7.12 and 7.16 are modified and incorporated into recommendation 7.8. This will clarify that measures to reevaluate annual erosion rates, determine appropriate safety factors in setbacks, as well as procedures to address emergency permitting and designs to minimize visual impacts of armoring can be developed through Areawide Shoreline Management Plans. In addition, Recommendation 7.15 will update LCP policies to ensure that setbacks and other measures are based on improved geologic evaluation reports. However, the Commission agrees that such plans are complex and that local government requires funding assistance to undertake such programs.

> **Recommendation 7.8: Adopt Areawide Shoreline Management Plans as a program in the LCP:** Pursue funding to develop and implement ~~an~~ Area-Wide Shoreline Erosion and Bluff Retreat Management Plans for Cayucos and Cambria, and, if appropriate, for other shoreline hazard areas. The Area-wide Plans should:
> ~~as part of this plan~~ assess specific sections of these coastline areas ~~should be assessed~~ based on factors including, but not be limited to, geology, wave conditions, and sand budget. The management plans should include:
>
> - A re-examination of regional average annual erosion rates in order to reflect current shoreline changes.

- Standard engineering plans defining the specific types of armoring that would be acceptable for specific areas, and where appropriate, identification of the types of armoring that should never be considered for certain areas in order to minimize risks and minimize impacts from armoring to public access and scenic resources from the shoreline and water recreation areas.

- Standard alternatives feasibility analysis worksheet that would be a required element of all hazard response projects and that would require applicants to go through a series of steps to assure that hard protective devices were only created as a last resort. The analysis may require, but not be limited to, the use of technical evaluations of the site (geotechnical reports, engineering geology reports, etc.), an examination of all other options (removal, relocation, "do nothing", sand replenishment, etc.), and a conclusion that a shoreline protective device would be the "best option" (most protective of the public trust, best long term solution, etc.) for the subject site.

- Standard conditions and monitoring requirements that may include discussion of mechanisms to ensure shoreline protection effectiveness and public safety with provisions for the removal of ineffective or hazardous protective structures as well as programs to address beach replenishment and sand supply.

- Procedures to address emergency armoring, such as: coordination with property owners and for field inspections before and after storm seasons; guidance for types of temporary structures preferred and a provision for removal of temporary structures if no follow up permit is filed within 30 days.

Recommendation 7.16: Delete and incorporate into 7.8 ~~The area wide shoreline retreat and management plan suggested for Cayucos and Cambria in Preliminary Recommendation 7-7 could also incorporate guidelines for identifying specific types of armoring that would be acceptable for specific areas to minimize visual impacts from armoring along the shoreline and water recreation areas.~~

4) Conclusion

The Commission finds that the *Preliminary Report* pages 269-299 presented evidence and analysis showing that the San Luis Obispo County LCP has not been effectively implemented in conformance with the Coastal Act Section 30235 and 30253. After further evaluation and consideration of public comments, pursuant to Section 30519.5 of the Coastal Act, the Commission adopts final recommendations 7.7-7.8 as appropriate corrective actions for submission to the County.

C. Mitigation of Access Impacts from Shoreline Armoring

1) Summary of *Preliminary Periodic Review* Findings (Exhibit A, pp.287-288)

The *Preliminary Report* noted that County approvals of shoreline protective devices mitigated public access impacts through implementation of requirements to dedicate lateral access easements. However, as the report noted on pages 287-288, some access mitigation may be negated by County authorizations which located the OTDs in areas which are already public lands, in areas which do not provide maximum public access or by encroachment of seawall development within easement areas. Preliminary Recommendations 7.9, 7.10 and 7.11 included measures to ensure that information on the location of existing access

easements is more readily available in the review of coastal permits and that access mitigation is assured.

2) Comments Raised

SLO County Response (Exhibit C)
The County agrees with recommending improvements to require better identification of easement areas. However, they disagree with Recommendation 7.11 suggesting the alternative to clarify in the standard that applicability of access mitigation is dependent on a determination that an access easement already exists on the site.

Public Comments (Exhibit D)
No comments were received on the proposed recommendations concerning access mitigation.

3) Analysis

Recommendations 7.11 is proposed based on findings in the *Preliminary Report* page 287-288 that LCP implementation of access mitigation was required only "if applicable" and that this did not assure adequate mitigation of impacts from the development of shoreline protective devices. As suggested by the County, this assurance could be provided with modification to the recommendation that would also clarify that an access easement would not be required if one already existed on the property. The Commission agrees and modifies Recommendation 7-11.

> **Recommendation 7.11:** Revise condition language for requiring access easements ~~to clarify that phrases such as "if applicable" should not be part of access requirements.~~ to provide that access is required unless verification is provided to the Department of Planning and Building that such recorded easement already exists on the property.

3) Conclusion

The Commission finds that the *Preliminary Report* pages 287-288 presented evidence and analysis showing that the San Luis Obispo County LCP has not been effectively implemented in conformance with the Coastal Act Section 30211 and 30212. After further evaluation and consideration of public comments, pursuant to Section 30519.5 of the Coastal Act, the Commission adopts final recommendations 7.9, 7.10 and 7.11 as appropriate corrective actions for submission to the County to assure that the LCP is implemented consistent with public access policies of the Coastal Act.

D. Emergency Armoring of the Shoreline

1) Summary of *Preliminary Periodic Review* Findings (Exhibit A, pp. 288-290)

The *Preliminary Report* found that significant shoreline armoring resulted from emergency authorizations. Review of these actions also shows that the armoring placed in an emergency usually remains, although in most cases mitigation is required. As more of the shoreline is armored, the demand will increase for maintaining or expanding existing armoring. While developing guidance for emergency permitting to reinforce the temporary nature of the development is possible, in most cases even placement of riprap and rock intended to be temporary is rarely removed.

2) Comments Raised

SLO County Response (Exhibit C)
The county responded that more information is needed on ways to address emergency armoring procedures; for example, more information is requested on the need for field inspection. The County agrees to consider developing such procedures if funding is available.

Public Comments (Exhibit D)
No public comments were received on this recommendation.

3) Analysis

The *Preliminary Report* concluded that steps could be taken to minimize the likelihood of future enforcement cases. For example, procedures can be established for coordination with property owners to clarify the types of emergency shoreline protection preferred and to assure measures taken are temporary. Field inspections of shoreline areas where development is subject to wave hazards before and after storm seasons can provide more specific information on shoreline conditions to inform decisions on allowable emergency authorizations. Through preparation of shoreline management plans, the County can provide advance information on the location of easement areas to assure emergency structures are not occupying public easements; provide for inspections to identify shoreline protective structures built without permits; and assure emergency structures are removed or regular permit follow-up is completed within the 30 day period. The Commission finds, however, that development of these improvements to LCP implementation can best be addressed as part of development of the Area Wide Management Plans recommended in Recommendation 7.8. Therefore, Recommendation 7.12 is deleted as a separate recommendation and development of emergency procedures is added to Recommendation 7.8.

> **Recommendation 7.12:** ~~As part of shoreline management plans noted in Preliminary Recommendation 7.7, include procedures to address emergency armoring. Include procedures for coordination with property owners and for field inspections before and after storm seasons. Include guidance for types of temporary structures preferred and a provision for removal of temporary structures if no follow up permit is filed within 30 days.~~ Incorporated into 7.8

E. Mitigating the Impacts of Armoring Pacific Coast Highway

1) Summary of *Preliminary Periodic Review* Findings (Exhibit A, pp. 290-292)

The impact to shoreline resources from maintaining Highway 1 was also noted in the *Preliminary Report.* Recommendations were made to expand LCP policies to ensure that new development related to Highway One conform to LCP setback standards, and relocation alternatives considered as part of updating the North Coast Area Plan in order to avoid or minimize future shoreline armoring.

2) Comments Raised

SLO County Response (Exhibit C)
The County disagrees with recommendations for avoiding armoring of Highway One (7.13 and 7.14) requesting further evaluation or modification.

Public Comments (Exhibit D)
Additional comments proposed deleting the recommendations on avoiding armoring related to Highway One, suggesting that the County and Caltrans should be responsible for evaluating alternatives and determining the preferable mix of armoring and realignment of Highway 1. Comments noted that in other areas of the County, shoreline armoring is needed to protect public access roads where relocation due to other sensitive resources is not a feasible alternative.

3) Analysis

As found in the *Preliminary Report* pages 290-291, in prior actions on permits to Caltrans for projects on Highway One and on the LCP Amendment 1-97, the Commission required that alternative alignments to avoid or minimize future shoreline armoring be considered. Recommendations 7.13 and 7.14 reinforce those previous Commission actions and suggest that the LCP modify policies to clarify that Highway 1 projects should conform to other LCP setback standards to avoid or minimize shoreline armoring. Recommendation 7.14 as modified would not mandate relocation of Highway 1. Rather it suggests that as the North Coast Area Plan is updated and revised, the planning process should consider the possible relocation of Highway 1 as a less damaging alternative to placement of additional shoreline armoring in order to implement the LCP consistent with Section 30235 and 30253 of the Coastal Act while also protecting the scenic and recreation values of Highway 1. Modifications to Recommendation 7.14 would further clarify that alternatives should be considered as part of the Area Plan updates.

Recommendation 7.13: Policy 6 should clarify that Highway 1 must comply with setback standards similar to other existing structures. Establish~~ing~~ setbacks based on assuring that the highway will be safe from erosion without need for armoring for 100 years. Policy 4 should be expanded to clarify that consideration of alternatives should include possible relocation of the structure to be protected, including Highway 1.

Recommendation 7.14: Amend the NCAP to ~~Provide~~ consider alternatives for the Realignment of Highway One to avoid further placement of shoreline protection while protecting the public access and scenic and visual resources of Highway 1.

4) Conclusion

The Commission finds that the *Preliminary Report* pages 290-292 presented evidence and analysis showing that the San Luis Obispo County LCP has not been effectively implemented in conformance with Coastal Act Sections 30211 and 30212. After further evaluation and consideration of public comments, pursuant to Section 30519.5 of the Coastal Act, the Commission adopts final recommendations 7.13 and 7.14 as appropriate corrective actions for submission to the County.

F. Flooding Hazards

1) Summary of *Preliminary Periodic Review* Findings (Exhibit A, pp. 297-298)

The *Preliminary Report* page 297-298 noted flooding hazards in the County and, in particular, flooding hazards in the West Village of Cambria. The Report noted that the LCP incorporates the FEMA coastal high hazards area maps and subsequent updates, but found that the LCP should be updated to identify additional areas where flood hazards exist and revise policies and hazard designations to minimize risks from flooding hazards consistent with the Coastal Act. The *Preliminary Report* recommended expanding the Flood Hazard Combining Designation standards to more creeks in the North Coast Area and recommended that no new development should be authorized until a flood analysis and management plan for the West Village of Cambria is completed in order to assure that LCP will be implemented consistent with Section 30253(1) of the Coastal Act.

2) Comments Raised

SLO County Response (Exhibit C)
The County comments requested further information on whether the additional creeks identified appear on updated FEMA maps and agreed to expand the designation to be consistent with existing information in the County's Safety Element. The County noted that a moratorium on new development pending completion of a flood management plan for the West Village is a major policy question and noted that County Public Works Department is currently working on a flood analysis and management plan.

Summary of Public Comments (Exhibit D)
Other comments suggested the 100-year flood plain standard for West Village is not sufficient as it floods every 4 or 5 years, especially with climate change and sea level rise. The Cambria Community Services District commented that the *Preliminary Report* should recognize that a Flood Control Benefit Assessment Zone is planned by the County and financed by the property owners. The County is making progress on developing a project to minimize flood hazards. The Draft EIR for the Flood Plan is now under public review.

3) Analysis

No changes are recommended to 7.18. As discussed in the *Preliminary Report*, the policies of the LCP need to be revised to reflect more comprehensive measures to minimize risks from flooding in order to be implemented consistent with Section 30253(1) of the Coastal Act. Recommendation 7.18 addresses potential flood hazards identified in the North Coast Area. While the Commission found in its action on LCP Amendment 1-97 that there is little development threatened along many of the rural streams in the North Coast Area, the North Coast Project Update identified additional potential flood hazards along several creeks. Recommendation 7.18 would result in an implementation mechanism to assure that existing development standards to minimize risks from flooding are applied to any future development in areas subject to flood hazards. Recommendation 7.19 will assure that ongoing efforts to develop a management strategy to address flood hazards risk in the West Village of Cambria are incorporated into future development by prohibiting new development in the West Village pending implementation of the comprehensive flood management plan. There has been substantial progress in developing this flood management plan. With these modifications the LCP implementation will minimize risks to life and property in flood hazards areas of the West Village area of Cambria.

> **Recommendation 7.19**: For areas subject to FH combining designation in Cambria, no new development except public services shall be approved until the County has ~~certified and implemented a~~ approved the recommendations of the flood analysis and management plan for the West Village that is currently being developed.

4) Conclusion

The Commission finds that the *Preliminary Report* pages 297-298 presented evidence and analysis showing that the San Luis Obispo County LCP has not been effectively implemented in conformance with Coastal Act Section 30253. After further evaluation and consideration of public comments, pursuant to Section 30519.5 of the Coastal Act, the Commission adopts final recommendations 7.18 and 7.19 as appropriate corrective actions for submission to the County.

G. Fire Hazards

1) Summary of *Preliminary Periodic Review* Findings (Exhibit A, pp. 298-299)

As noted in the *Preliminary Report* page 298, while the County's implementation of LCP policies does not appear to raise significant concerns regarding conformance with Coastal Act Section 30253, the LCP still needs to be strengthened to reflect stronger protections for habitat and recreation when implementing required fuel modification standards. The Commission has seen an increase in impacts to habitat and recreation areas as a result of the siting of new development in a manner that then requires fuel modification to take place on public recreation lands in order to comply with fire code requirements. The *Preliminary Report* recommended policy modifications (PR 7.20) to ensure that fuel modification necessary to protect private structures would avoid encroaching into public habitat and recreation lands.

2) Comments Raised

SLO County Response (Exhibit C)
The County agreed with the intent of the recommended policy revisions but suggested alternatives to make the policy standards more clear and to consider possible mitigation programs such as in-lieu fee programs (if funding is available to support development of the program).

Public Comments (Exhibit D)
Other comments on the *Preliminary Report* suggested that the recommendation placed a higher value on habitat and recreation protection than on protection of life and property, and would prevent any fire management measures on public or private lands to avoid risk of major fires at the urban/wildland interface. Comments suggested that the recommendation superceded the Uniform Fire Code and that current Fire Management Plans developed by the California Dept. of Forestry and Fire Protection, San Luis Obispo County Fire Dept. and a variety of local community groups offered a preferred plan for managing fire hazards. Comments suggested clearance methods which conserve rare plant species by pruning rather than removal are to be preferred over wholesale clearance. Comments note in-lieu fees are not effective. Other comments suggested that water storage for fire safety and response is limited and therefore new development should be set back from wildlands and provide adequate fire protection measures.

3) Analysis

The discussion and recommendation in the *Preliminary Report* did not clearly indicate the intent of the proposed suggested revisions to the LCP development standards and the Commission agrees that the recommendation should be revised and clarified. Under current LCP implementation, fuel modification required by applicable fire codes and necessary for

minimizing risks to life and property takes place both on private lands and on public lands. On private lands in developed areas such fuel modification can be required to protect developed structures. In rural areas, fuel modification and fire management on private and public lands is necessary to minimize wildland fire risks at the urban interface, in addition to protecting existing structures.

The Commission recognizes the need to implement comprehensive fire management to avoid serious wildland fire risks. Creating defensible space around structures and employing other fire protection measures is important to minimize risks consistent with the Coastal Act. In some cases there may be habitat benefits from fire management techniques. However, fuel modifications necessary to create defensible space around authorized development can impact habitat and recreation resources of public parklands. Creating this defensible space required by fire codes requires some clearance of vegetation. According to the Fire Chiefs Association, the standard for such clearance in most areas is 30 feet from the building and clearance rarely extends more than 100 feet, but does not require removal of all vegetation.[63]

For properties adjacent to parklands, if the building envelopes for new structures are designed immediately adjacent to the public lands, fuel modification to protect the resulting private structures would be required to take place primarily on public lands and could result in added fuel management responsibilities on public agencies.

The recommended LCP policy update would not preclude ongoing wildland fire management on public or private lands. Rather, it recommends development standards to mitigate the impacts of fuel modification when considering the siting and design of new development adjacent to public recreation lands. Recommendation 7.20 as modified would ensure that when the County considers a coastal development permit application for new development, that any development authorized is sited and designed so that necessary fuel modification takes place on private lands. It is not intended to affect ongoing fire management measures on public lands or maintenance of required fuel modification zones to protect existing development as part of implementing ongoing fire management plans. It addresses siting and development of new private structures.

> **Recommendation 7.20:** Modify the Coastal Policies or the CZLUO to provide standards that require: 1) that any fire clearance area is shown on the site plan for new development proposals as part of the application content; 2) that any proposed new development of structures adjacent to public parklands or lands designated as Open Space be sited and designed such that any required fuel modification for the proposed development is confined to the private property in order to avoid impacts to habitat and recreational resources on public lands; 3) where structures cannot feasibly be sited to avoid fuel modification on adjacent public lands, that alternative mitigation is provided which can include measures such as off-site restoration or provision of in-lieu fees for restoration; 4) that where feasible, proposed structures are sited so that a natural vegetation buffer of sufficient size is maintained between the necessary fuel modification areas and the public parkland. Development, vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation should not be permitted in the buffer areas, except that habitat restoration and invasive plant eradication may be permitted if designed to protect and enhance habitat values. These standards should not apply to ongoing fire suppression and management activities conducted on public parklands necessary to minimize fire hazards to

[63] Letter from Greg O'Sullivan, President, Fire Chiefs Association of San Luis Obispo County, May 2, 2001.

adjacent property. ~~siting new development to ensure that any required vegetation clearance will be done fully on the private property and will not encroach on any sensitive public lands or habitat areas. And, if development cannot be sited to avoid encroachments, to require mitigation in lieu fee to support habitat restoration programs.~~

3) Conclusion

The Commission finds that the *Preliminary Report* pages 298 presented evidence and analysis showing that the San Luis Obispo County LCP should be strengthened in order to ensure conformance with the Coastal Act 30253. After further evaluation and consideration of public comments, pursuant to Section 30519.5 of the Coastal Act, the Commission adopts final recommendation 7.20 as modified as an appropriate corrective action for submission to the County.

8. SCENIC AND VISUAL RESOURCES

The Coastal Act requires protection of scenic and visual qualities of coastal areas as a resource of public importance. New development must be sited and designed to protect views to and along the ocean and scenic coastal areas. Development must also minimize landform alteration, be compatible with the character of its surroundings and, where feasible, restore and enhance visual quality in visually degraded areas. In highly scenic areas, new development is required to be subordinate to its setting. The Coastal Act also requires that Highway One remain a scenic, two-lane road through the rural areas of the state. The Coastal Act also specifically protects the character of special coastal communities that may have unique characteristics or are popular visitor destination points (Sections 30251, 30253).

A. Protection of Scenic Viewsheds and Rural Landscapes

1) Summary of *Preliminary Periodic Review* Findings (Exhibit A pp. 326)

The *Preliminary Report* pages 301-318 found that the LCP implementation has resulted in protection of some highly scenic areas within the coastal zone through acquisition of public lands. However, cumulative development patterns in rural areas have resulted in some incremental erosion of scenic rural landscapes within public viewsheds as a result of implementation of LCP policies. The *Preliminary Report* noted that LCP policies should be updated to allow for more comprehensive evaluation and policy approaches for addressing proposed development, particularly in rural areas.

From the Commission's evaluation it appears most LCP implementation to date has addressed protection of viewsheds through screening conditions on permit approvals. However, monitoring and reporting designed to assure the effectiveness of mitigation is not

always carried out. The *Preliminary Report* found that, in order to assure that LCP implementation is consistent with protection of scenic and visual resources, avoidance of impacts through site selection and design alternatives is the preferred method for preserving scenic views over mitigation through vegetation screening.

The recommendations of the *Preliminary Report* suggested that the LCP policies be revised and expanded to enact a Critical Viewshed Policy similar to that in place along the Big Sur coastline in order to adequately protect scenic resources (PR 8.1.). Viewshed protection policies of the LCP should also be implemented to protect public views from offshore boating and recreation areas in state waters (PR 8.6). Development of a Scenic Sensitive Resource Area (SRA) overlay in the LCP (PR 8.2) could strengthen protection of sensitive resource areas as required by other sections of the CZLUO (23.01.043). It noted that the County is proposing revised Critical Viewshed policies as part of its Area plan Updates. The *Preliminary Report* suggested guidance for development of the revised Area Plan policies. In addition, the *Preliminary Report* (page 317) also recognized the need to strengthen condition compliance and monitoring. It suggested enhanced coordination with Coastal Commission staff on condition compliance and enforcement issues may improve implementation of the LCP (PR 8.3). It identified additional options that could be incorporated into the LCP in order to assure that the LCP will be implemented in conformity with the Coastal Act Sections 30251 and 30253, including pursuing formulation of an Open Space District to acquire scenic lands (PR 8.4) and pursuing National Scenic Byway Designation for Highway One in the North Coast and Estero Planning Areas (PR 8.5).

2) Comments Raised

San Luis Obispo County Response (Exhibit C)
The County agrees to consider adding/clarifying a scenic SRA classification and standards as suggested by Recommendation 8.2 and to consider clarifying the extent of viewsheds and permit requirements as suggested by Recommendation 8.6. The County comments note that Recommendation 8.1 should be modified to define "critical" viewsheds and policies. It suggested implementing the policy through the Area Plan updates and performance standards for a project-level visibility analysis and siting prohibition in visible areas. Coastal policies and ordinances could be amended with prioritized limitations, criteria and findings. Policies and standards could be reviewed for more explicit and consistent interpretation of standards. The County agreed to pursue recommendations 8.3, 8.4 and 8.5 provided staffing and funding is available.

Public Comments (Exhibit D)
Public comments were received in support of the recommendation for development of a Critical Viewshed Policy that would extend the Big Sur critical viewshed policy to the North Coast Area of San Luis Obispo County.

Other comments generally supported protection of critical viewsheds but suggested that viewshed should be carefully defined based on detailed visual resource analysis and

mitigation measures available. Concern was noted that viewshed protection measures could be so strict as to unreasonably restrict any uses or priority uses such as agriculture buildings. Comments noted that the recommendations would extend viewshed protections to cover any public viewing area—including views from Hearst Castle and the water and were overly broad and beyond the scope of the Coastal Act. Some comments suggested that Coastal Act policies require that impacts be minimized to the extent possible but not completely eliminated. Other comments also note that the recommendations may conflict with the limited scope of existing view easements gifted by the Hearst Company to the state. Comments note that recommendations 8.1, 8.2 and 8.6 when taken together would effectively prohibit development in almost all locations between the water and Highway One or would require development to be located in artificial berm pits.

Comments from agriculturists noted that scenic viewshed protection recommendations appeared to restrict agricultural production activities and development of principal agricultural residences and agricultural buildings. The Port San Luis Harbor District also noted that the district is generally supportive of viewshed protection but also supports mitigation to visual effects of a development when other Coastal priority uses are jeopardized and recommended that the Commission specifically address the Harbor Terrace property by developing recommendations which allow for visitor-serving improvements if proper mitigation measures are implemented.

3) Analysis

Critical Viewshed Policy

The *Preliminary Report* found that the scenic and visual resources of San Luis Obispo County are a significant resource that is threatened by the incremental erosion of scenic rural landscapes through new development. Between 1988 and 1998 more than 40 projects were approved in the North Coast and Estero Planning Areas that raised issues of protecting scenic and visual resources.

The County has implemented the LCP to mitigate impacts to scenic resources, primarily through vegetation screening. However, the Commission has found in assessing development in San Luis Obispo County, and in other areas such as the Big Sur coastline, that adequate protection of scenic and visual resources in conformity with the Coastal Act may require standards that first seek to avoid where feasible any new development within view of Highway One and other areas designated as critical viewsheds, including views from state waters. Recommendations 8.1, 8.2 and 8.6 suggest the need for a more comprehensive approach to evaluating impacts to public views in highly scenic areas and outline policy approaches to help maintain the significant rural landscapes of the County.

However, the Commission finds that some modifications to the recommendations are necessary in order to provide more clear objectives for a Critical Viewshed policy and other policies to protect scenic resources throughout the coastal zone. As modified, the recommendations suggest standards for development of a Critical Viewshed policy that would, in effect, extend the Critical Viewshed policy from the Big Sur area of Monterey

County. As the northern part of San Luis Obispo County is an extension of the Big Sur coastline and contains scenic resources equal in significance, development of a compatible policy would assure protection of these scenic and visual resources of statewide, national and even international importance.

To address lands adjacent to Highway One and other scenic public viewing areas that are zoned Agriculture, the policy could provide for exemptions of certain agricultural structures from the viewshed standards in order to support continued protection of coastal agricultural operations consistent with Sections 30222 and 30241-30242 of the Coastal Act. The Commission notes that the County is developing significant new Critical Viewshed policies as proposed in the North Coast Area Plan Update Project Description, January 2000. However, the Commission comments have noted that the Update standards may not go far enough to adequately protect these landscapes by ensuring that no development is visible from public areas. Recommendations 8.1 and 8.6 suggest further guidance and criteria for developing and implementing a Critical Viewshed policy that would improve protection of scenic and visual resources. Also, a Critical Viewshed designation should be reserved for those areas that are generally accepted as "highly scenic" (in the meaning of Coastal Act Section 30251). And to address Coastal Act Section 30250c, Recommendation 8.1, as modified, identifies exceptions to accommodate visitor-serving development within existing recreational nodes.

Recommendation 8.2 suggests implementation through a Scenic SRA would also help protect scenic and visual resources. In addition, Recommendation 8.6 provides overall protection of visual resources throughout the coastal zone. Only minor text changes are proposed to Recommendation 8.2.

The policy could include an approach to resolve situations where the stringent implementation of coastal resource protection provisions would preclude a reasonable economic use of land because alternatives that would comply with resource protection standards are not feasible. In addition, as noted in the ESHA chapter of this report, Recommendation 4.10 is proposed to address the wider range of circumstances where an established methodology of balancing coastal resource protection with the constitutional rights of private property owners is anticipated to be needed.

Recommendation 8.1: Enact a Critical Viewshed Protection Policy ~~that precludes any~~ for the North Coast Area that applies to any new development within "critical viewsheds" to be designated north of Cayucos (except any location within the Urban Reserve Lines at Cambria or San Simeon Acres, or in San Simeon Village, or the existing community of Harmony) and for the Estero Area that applies to portions of the Morro corridor. The following actions should be taken to develop this policy: ~~areas in those areas designated as critical viewsheds.~~

Designate "critical viewsheds" in these areas by taking into account all public vantage points from:

- State Highway Route One,
- public beaches, shoreline recreation areas and offshore state coastal waters,
- bluff overlooks, turnouts, and designated future public use areas (particularly, between the first public road and the sea outside of the designated Urban Services Lines).

Develop standards for new development within designated Critical Viewsheds that provide:

- no new development will be allowed that can be seen or that could potentially degrade public views (e.g., construction and grading that can been seen by normal, unaided vision from any public vantage points)
- mechanisms to resolve private property takings concerns where it is not feasible to comply with the critical viewshed protection policy and standards (alternatives include incorporating review procedures within the LCP as outlined in Recommendation 4.10 of this report as well as development of ~~as~~ a Transfer of Development Rights program.
- all new parcels must contain building sites outside the critical viewshed (i.e., at least one location per parcel that will accommodate a reasonable residential development that will be entirely hidden from public view). Residential development includes any grading needed to provide a driveway or other improvement.
- underground utility placement, restoration, public access improvements and intensification, demolitions, resubdivisions, and temporary events can be allowed within the Critical Viewshed;
- Provide strict design, density and mitigation standards that allow improvements and enhancements of recreational support facilities within existing, isolated commercial visitor serving nodes (Harmony, San Simeon, Piedras Blancas, Ragged Point).

Additional standards should be considered to guide review of development in Critical Viewsheds. For example:

- Provide for project specific visual analysis with story poles or comparable demonstration techniques, including consideration of views from state waters.
- Avoid viewshed impacts through application of sensitive design measures and siting that uses existing topography. Allow landscape screening with planting, earthen berms or other measures only where no building site can be concealed from view and where such measures would be in keeping with the character of the surrounding areas and also be consistent with all other resource and protection policies.
- Provide guidelines for preferential use of non-reflective, earth tone building materials for mitigating public view impacts;
- Provide that all exterior lighting (except traffic signals, navigational aids and similar safety devices with no reasonable alternative) shall be concealed or shielded so that no light source is directly visible from public viewing areas, and that no artificial lighting of the shoreline or sea results.
- Require utility extensions to be installed underground or otherwise concealed from public view (e.g., suspended under bridges); pursue all opportunities to remediate existing visually intrusive utility lines (e.g., undergrounding, conversion to shared poles, etc.).
- Where fencing is required, standard range fencing that does not impair public views, nor the passage of light, air, or common native wildlife is preferred. Fencing that interferes with public views should be avoided.
- Address maintenance of landscaping where landscaping could either block important public views or is specifically required to mitigate impacts to public views by screening development.
- Provide exceptions for development that requires a location in the viewshed in order to properly function and no other location is feasible for such things as necessary public facilities (including public access improvements), agricultural improvements needed to support grazing operations and crop production, and necessary resource protection and restoration projects.

~~These areas should include all of the North Coast rural areas with exceptions for the urban nodes of San Simeon Acres and Cambria.~~

In developing the Critical Viewshed Policy and standards, approaches of the Coast Highway Management Plan being developed for the Big Sur Coast in Monterey County under the National Scenic Byways program may provide possible guidance.

Recommendation 8.6: Strengthen Public Viewshed Protection Policy Language
The LCP should be amended to clarify that scenic viewsheds need to be protected from all public viewing areas, including state coastal waters. This could be accomplished through additional language in existing LCP visual policies and ordinances. For example, ~~amend~~ Policy 2 could be amended as follows:

Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from all major public viewing areas, **including state waters** ~~corridors~~. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion.

To effectively resolve takings concerns where it is not feasible to comply with the scenic resource protection policies and standards, incorporate additional standards and review procedures within the LCP (as outlined in Recommendation 4.10 of this report) that will maximize protection of coastal resources and conform to Coastal Act Section 30010. Alternatives such as Transfer of Development Rights should also be considered.

~~Amend~~ Ordinance 23.04.021 (c)(6) could be modified as follows:
New land divisions where the only feasible building site would be on a slope or ridgetop where a building would be silhouetted against the skyline as viewed from any public viewing area, including state lands ~~a public road~~ shall be prohibited.

Recommendation 8.2: Create a Scenic SRA Combining Designation
All highly scenic areas in the Coastal Zone should be mapped and designated as Sensitive Coastal Resource Areas. Creation of a coastal visual SRA could incorporate and expand upon ~~these elements~~. ~~At the same time, it also should be noted that the County has made improvements to~~ inland standards that require ~~SRA designations to address scenic and visual resources inland of the Coastal Zone. Permit requirements include~~ assessing visibility of the project, requiring a site visit as part of the application process and other standards on ridgetop development, slopes, rock outcroppings, building feature and landscaping.

Minor changes are recommended to Recommendation 8.3 to encourage improved condition compliance of visual impact mitigation.

Preliminary Recommendation 8.3: Strengthen Enforcement Program and Condition Compliance Monitoring
~~In order to ensure that conditions that are required to achieve LCP consistency with visual resource protection policies are implemented, the County should increase monitoring and condition compliance efforts. The Planning Department should~~ Develop a project tracking system to facilitate ~~assure that all approvals that include specific mitigation measures get assigned to a staff person responsible for their~~ monitoring and enforcement of mitigation measures, and coordination~~ing~~ with other affected departments, as funding allows. ~~Enhanced coordination between the Commission and the County on condition compliance and enforcement issues would also improve implementation of the LCP and the Commission's on-going permitting responsibilities.~~

Scenic Byway Designation

Recommendation 8.5 in the *Preliminary Report* suggested pursuing National Scenic Byway Designation for Highway One in the North Coast and Estero Planning Areas. The Commission encourages this because such designation would afford access to substantial federal financial and planning assistance for protecting the scenic resources of Highway One.

The National Scenic Byways Program, enacted in 1991 as a provision of the Intermodal Surface Transportation Enhancement Act (ISTEA), provides dedicated funding for preserving, protecting and enhancing scenic and related resources along qualifying scenic highways. Designation requires that the highway's virtues must be of regional or national significance. The segment of Highway One along the County's North Coast and through the Morros corridor, already designated as a State Scenic Highway, clearly qualifies.

Every designated highway accepted into the National Scenic Byway System is required to have a management plan. In Monterey County such a plan, known as the Coast Highway Management Plan (CHMP), is already being developed for the Big Sur Coast. A Management Plan can supplement the existing Local Coastal Program and provides for implementation of various desirable measures that could not otherwise be achieved in the land use regulatory process. Implementation of a Management Plan would require an extensive collaborative effort, but would provide many recommendations and development standards especially applicable to Caltrans.

San Luis Obispo County would need to develop its own distinct management plan under a Scenic Byway Designation with management strategies specific to the County. The program therefore presents an opportunity for ensuring many kinds of protections. These could include such things as:

- Recognition of Highway One's primary role as a recreational access corridor, not only for reaching campgrounds, trailheads, restaurants and inns from other parts of the State, but also for the recreational experience of motoring, bicycling or hiking along this scenic highlight of California's coast. In some constrained places, the margins of the highway right-of-way may be needed to span the "missing links" in the California Coastal Trail. And, where no reasonable off-highway alternative can be found, new bridges and other structures will need to provide for safe pedestrian and bicycle passage
- Protecting the coast's world-class scenic resources through measures such as identifying threats to scenic qualities, purchase of scenic easements, undergrounding of overhead utility lines, insuring that the principles of Context Sensitive Design are applied in all new highway projects, developing new types of bridge rails with better see-through characteristics, eliminating unnecessary signage, and modification of Caltrans' customary maintenance practices.
- Preserving environmentally sensitive habitats by improving highway stability in the vicinity of particularly sensitive portions of the marine environment, avoiding reliance on shoreline armoring, removing barriers to steelhead migration, replacing riparian fills with bridges, curbing the spread of invasive exotic plant species,

directing maintenance activities away from sensitive terrestrial habitats, and applying water quality Best Management Practices.

- Creating a public information system that integrates Caltrans highway and wildlife (especially elephant seal) advisories, State Park recreation opportunities, the BLM Piedras Blancas lighthouse restoration and reuse project, and National Forest and National Marine Sanctuary interpretive programs to significantly enhance the visitor's appreciation for these coastal resources.
- Creating improved vista points and interpretive displays at key locations with wildlife, scenic, historic or cultural attractions.
- Minimizing closures, and improving safety and reliability through measures such as appropriate landslide management, realignment away from shoreline erosion hazards, implementing more efficient interagency communication, and minimizing "down time" after a closure event by pre-planning for the recovery process.
- Identifying appropriate sites, techniques and priorities for disposal of landslide debris, including beach replenishment, reuse of suitable materials, and terrestrial disposal.

The Commission finds that this program designation for Highway One in San Luis Obispo County, as suggested by modified recommendation 8.5, could help to ensure ongoing protection of scenic resources throughout the entire Central Coast region consistent with Section 30251 of the Coastal Act. No changes are suggested to Recommendations 8.3 and 8.4. These recommended actions would incorporate a variety of other implementing actions into the LCP as part of an updated comprehensive scenic resource protection policy.

> **Recommendation 8.5: Pursue National Scenic Byway Designation for Highway One in the Estero and North Coast Planning Areas.** Consider including Highway One north of Cayucos and the scenic Morro corridor (already designated by the County as a State Scenic Highway) ~~should also be evaluated~~ for ~~enhanced~~ ~~viewshed protection~~ ~~for~~ inclusion in the National Scenic Byways program. ~~Appropriate portions of the corridor, particularly north of Cayucos, should be designated as a critical viewshed~~. This will allow implementation funding to be sought under the ~~and implementation funding sought under the~~ Federal Highway Administration's scenic byway ~~grants~~ program.

The Commission notes that twenty-five million dollars per year in competitive grants are available nationwide each year through this program in addition to seed money for start-up. Additional funding is also available through ISTEA. Local or State (or non-profit or corporate) match may be required for the specifically earmarked Byway competitive grant funds. Byway grants may be used to purchase land or development rights (e.g., a critical viewshed parcel at historic Notley's Landing in Big Sur is currently being purchased with such funds, with the Coastal Conservancy providing the match).

B. Preserving Community Character

In addition to Section 30251 to protect scenic and visual resources of the coastal zone, the Coastal Act Sections 30253 and 30116 protect the community character of unique coastal towns. Permitted development is to be sited and designed to be visually compatible with the

character of surrounding area and, where feasible, to restore and enhance visual quality in visually degraded areas.

1) Summary of *Preliminary Periodic Review* Findings (Exhibit A, pp. 319-326)

The *Preliminary Report* noted that, in the urban areas of the county's coastal zone, the County has made considerable progress in protecting community character. The LCP contains a number of programs that are intended to support community objectives in implementing the LCP. These are non-regulatory, voluntary actions undertaken by the community, the County and other public agencies to address local concerns about maintaining community character. Some also address implementing LCP and Coastal Act policies to restore visually degraded areas where feasible, and/or to add to the overall attractiveness of special communities as required by LCP Policy 6. The County has made significant progress in implementing many of these programs, including the Oceano Urban Area Program, the Avila Specific Plan, the Cambria Forest Management Plan and the Overhead Utility Undergrounding Project. The *Preliminary Report* recommended continued support for these projects, specifically noting the importance to pursue continued implementation of the Utility Undergrounding Project (PR 8.10).

The *Preliminary Report* also notes the efforts of the County to implement Design Plans as a means of carrying out policies to protect community character. The *Preliminary Report* concluded that while design plans provide greater specificity in planning and building standards, the design plans do not address specific enforceable issues and are often more open to interpretation than are specific plans.

Designations of small-scale neighborhoods or special communities are implementation actions used by the County to protect community character. The County, with a community-wide effort adopted Small Scale Neighborhood Design Standards in 1995 and modified the Small-Scale Neighborhood designations in two areas of Cayucos (Pacific Avenue and Studio Drive Neighborhoods). The LCP Amendment resulting from this effort was certified by the Commission and removed the Sensitive Resource Area (SRA) Combining Designation from this area, replacing it with Small Scale Design Neighborhood Standards.

The *Preliminary Report* concluded that the effort to further define and describe area plan standards through the pursuit of design plans is commendable, but that the implementation resulted in less permit and appeal review of new development proposals. The *Preliminary Report* recommended in PR 8.7 that the SRA Combining Designation be restored. The *Preliminary Report* also noted that Specific Plans that address zoning changes and specific uses may result in fewer appeals and streamlined development approvals and recommended in PR 8.8 that Specific Plans rather than Design Plans be pursued to ensure protection of community character. The *Preliminary Report* concluded that further evaluation of the effects of the Small-Scale Neighborhood Design designation for its ability to protect community character consistent with the Coastal Act should be undertaken.

The *Preliminary Report* also noted that another LCP implementation effort, the TDC Program in the Lodge Hill area of Cambria, was effective in preserving environmentally sensitive habitat area and reducing the number of buildable parcels in Lodge Hill. However, implementation of the program may be having adverse affects on community character within the receiver areas. The *Preliminary Report* recommended that the County should monitor the results of the program's implementation and pursue an evaluation of the effect on the neighborhood community character (PR 8.9).

And, as an important implementation tool to ensure protection of community character consistent with the Coastal Act, the *Preliminary Report* recommended that the County consider designating the community of Harmony as a Special Community of Historic Importance. Such a designation could trigger a heightened review of the type, intensity, and character of new development, to preserve the unique character of the town.

2) Comments Raised

San Luis Obispo County Response (Exhibit C)
The County disagrees with Recommendation 8.7 to restore an Small Scale Neighborhood SRA designation for Cayucos, noting that the Community Advisory Council prefers the tiered standards and measures to streamline the permitting process which were developed as part of the process. Broad community support is critical to the successful implementation of design and community character controls.

The County disagreed with Recommendation 8.8 to complete Specific Plans rather than Design Plans because the Design Plans are intended to address the appearance of the community as an essential part of community character. The County notes that design plans implement the Small-Scale Neighborhood designations because they are adopted as LCP amendments with standards that have the status of planning area standards and should include implementation programs and schedules. In response to Recommendations 8.9 and 8.10 the County agreed to review the effects of the current TDC program on community character and to support other scenic programs such as the utility undergrounding. The County proposed modification to Recommendation 8.11 to consider Harmony's location as a commercial development rather than a community and to consider, as part of the Area Plan update, proposals to increase the size of Harmony and possible designation with an Historic Combining Designation through the zoning ordinance.

Public Comments (Exhibit D)

The Cayucos Citizens Advisory Council indicated opposition to Recommendation 8.7, commenting that the Small Scale Neighborhood SRA should not be restored to Cayucos. It noted that the benefits of allowing plot plan permits for small projects outweigh those of allowing appeals beyond the Board of Supervisors. It recommended that any projects requesting variances within the Small Scale Neighborhood should be appealable to the Commission.

3) Analysis

Upon further review, the Commission agrees with the County that Recommendation 8.7 is not needed to assure enforceability of implementation of the LCP in conformity with the Coastal Act and recommends deletion. The Commission finds that, because Small-Scale Design Neighborhood classifications are adopted through LCP amendments with standards that have the status of planning area standards and include implementation programs and schedules, that protection of community character is assured even though the developments are not appealable to the Commission. And, absent broad community support for a Small Scale Neighborhood SRA rezoning, the Design Plans offer an effective means to implement measures to protect community character consistent with the policies of the Coastal Act. However, granting of variances to design standards can undermine the implementation of standards. As further discussed in the Implementation Procedures section of this report, procedures for granting variances should be strengthened, in part to minimize actions which would adversely impact community character.

The Commission finds that, as noted in the *Preliminary Report* page 324, Specific Plans can be preferable to Design Plans. While Design Plans address primarily the appearance of communities, and not the kinds of uses, Specific Plans can be more comprehensive. They can address not only land uses and infrastructure planning but can also incorporate detailed and enforceable design guidelines. Recommendation 8.8 would encourage Specific Plans as a preferable implementation mechanism to protect community character. Recommendations 8.9 and 8.10 would provide additional implementation mechanisms to ensure protection of community character in the implementation of the LCP. No changes are proposed to Recommendation 8.10.

As discussed in the *Preliminary Report*, Preliminary Recommendation 8.11 suggested that, because of its unique value and special character, the County should evaluate designating the town of Harmony as a "special community" and thus, by definition, a Sensitive Resource Area. The County suggests adequate protection of community character would be afforded by placing a Historic Combining Designation zoning on the area. This designation in the CZLUO 23.07.100 is applied to "recognize the importance of archaeological and historic sites, structures and areas important to local, state, or national history." The Combining Designation may provide a mechanism to protect the community character of Harmony but it also may not afford the same level of scrutiny of new development projects as special community designation. The *Preliminary Report* Recommendation 8.11 suggested evaluating possible special community designation. Such evaluation is appropriate and could compare implementation techniques to determine which method offers the strongest protection of the character of the town consistent with Coastal Act Section 30253.

The Commission finds that Recommendations 8.7 through 8.11 as modified in this report will ensure that the LCP is implemented consistent with the scenic and visual resource policies 30253 and 30251 of the Coastal Act.

a) **Recommendation 8.7**: ~~Restore Small Scale Neighborhood SRA Designation to Cayucos~~.

b) **Recommendation 8.11**: Evaluate ~~Designation~~ of implementation techniques to protect the community character of Harmony including designation as a Special Community of Historic Importance or by applying the Historic Combining Designation.

Other minor text changes are made to clarify other recommendations:

Recommendation 8.4: Create a Funding Mechanism For An Open Space District
~~Because the most effective way to preserve visual resources is to purchase open space for public use,~~ The County should consider creating a permanent source of funding for open space acquisitions. A 1/2 cent sales tax, bond initiative or creation of a county-wide or coastal zone open space district could provide millions of dollars annually for the purchase of property and retirement of development rights. The County should also strategically pursue grants and other outside funding supplies to augment such a funding mechanism.

Recommendation 8.8: Complete Specific Plans, Rather Than Design Plans
~~The effort~~ to further define and describe area plan standards~~. through the pursuit of design plans is commendable. However, design plans may not go far enough to address the problematic issues in coastal communities. Although specific plans, because they deal with zoning changes and specific uses, may be more controversial and time consuming to develop, ultimately they may result in fewer appeals and streamlined development approvals.~~

Preliminary Recommendation 8.9: Monitor and Evaluate Current TDC Program
~~Although the TDC program was originally intended to reduce build-out and preserve forest resources,~~ to assess the effect of the current TDC program implementation on its ~~effect on~~ community character and its overall performance in reducing buildout and preserving forest resources. ~~should be thoroughly assessed through enhanced evaluation and monitoring of the program's impact on neighborhoods.~~

Recommendation 8.10: Support Continued Undergrounding of Overhead Utilities
The County Undergrounding Committee should continue to receive strong support for their work, and the Coastal Commission should work with the PUC to ensure that this important program is retained. The committee should consider including the overhead utilities across and along Highway One through the Hearst Ranch on the next priority list submitted to the Board of Supervisors.

4) Conclusion

The *Preliminary Report* found that the San Luis Obispo County LCP has not been effectively implemented in conformance with Coastal Act Sections 30251 and 30253 requirements to protect scenic and visual resources of the coastal zone. (Exhibit A, findings incorporated herein by reference). After further evaluation and consideration of public comments, the Commission adopts Recommendations 8.1- 8.11 as modified as appropriate corrective actions for submission to the County pursuant to Coastal Act section 30519.5.

9. ARCHAEOLOGICAL RESOURCES

The Coastal Act Section 30244 requires that where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

1) Summary of *Preliminary Periodic Review* Findings (Exhibit A, pp. 327-337)

The *Preliminary Report* concluded that the County has been reasonably successful in identifying archaeological sites but that maps used to help trigger more specific archaeological site evaluation are not all-inclusive of archaeological resources within urban areas. Preliminary Recommendation 9.1 recommended updating the Archaeological Resources Overlay Maps to assist in site identification based on new and updated information.

The *Preliminary Report* also noted that the County has been successful overall in incorporating mitigation measures to protect archaeological resources as required by the Coastal Act. However, it noted that monitoring during construction where appropriate might need to be increased. Recommendations 9.2, 9.3 and 9.4 recommend that the County evaluate some additional implementation techniques that might offer additional protection of archaeological resources. These include requiring geoarchaoelogy surveys, use of conservation easements instead of data recovery and modifications to permit exemptions to increase permit review of new development to trigger archaeological survey work.

2) Comments Raised

SLO County Response (Exhibit C)
The County agrees with recommendation 9.1 regarding the need to update maps and include criteria for the rural areas, as also recommended in the Estero Area Plan. The County disagrees with the remainder of the recommendations. They comment that geoarchaeology surveys should not be required for all projects within the Archaeological Sensitive Area Combining Designation (ASA) but agree that such surveys could be used as a tool for limited situations under CEQA review. The County suggests as an alternative that during Area Plan Updates, review of areas of potentially buried archaeological resources could be undertaken and through this process they could identify a need for geoarchaeological surveys in these areas. The County notes that Recommendation 9.3 suggesting use of conservation easements instead of data recovery is ineffective as proposed. In reviewing proposed projects on small, urban lots, for example, conservation easements are often not an option because resiting alternatives may not be feasible. Conservation easements may be more appropriate on larger undeveloped areas. The County suggests that an alternative may be to amend the ASA (CZLUO 23.07.104(c)) to require avoidance wherever possible and work with land trusts to develop an offsite mitigation program. The County also disagreed with Recommendation 9.4 for the same reasons given for their position on Agricultural Recommendation 5.10.

Public Comments
Public comments noted that archaeological reports are often incomplete and inaccurate and onsite monitoring inadequate. The standards for archaeologists should be addressed and the lists of qualified individuals should be updated. Qualifications of monitors should be checked with the Native American Heritage Commission to ensure monitors are registered with the Commission and qualifications included with reports.

Comments also noted that the County has a flawed process for dealing with archaeological sites and treasures. Public comments suggested that the County should have a comprehensive cultural resource policy and that data recovery is not the best mitigation. If impacts to a cultural site cannot be avoided, then mitigation could consider such mechanisms as: conservation easements over portions of sites that are undisturbed and comparable sites in the vicinity; creation of mitigation funds to purchase easements over cultural sites; and transfer of development credits programs that protect cultural sites.

Specific Clarifications/Errata (to be incorporated into the report)
The County has commented that the discussion of CEQA should be revised to reflect further elaboration through the CEQA guidelines. The report will include this CEQA Guideline discussion. The County noted that Cambria, Cayucos and Los Osos should be referred to as communities rather than cities.

The County also notes that the *Preliminary Report* should not limit the discussion of cultural resources to references to the Chumash. They note that the coastal zone from approximately Morro Bay north is recognized by the Native American Heritage Commission as "disputed territory" between the Chumash and Salinan tribes and at this point the state recognizes that this portion of the coast may have been inhabited by either group (or both) over the 8000+ year span of documented human habitation in this region. The report will be modified to reflect this designation. However, the Commission notes that the LCP Policy 5 and the CZLUO refer only to the Chumash tribe.

The report will clarify that it is the County's policy to involve Native American representatives any time there are "ground disturbing activities" involved with a project, not just in the case of subsurface testing. The County also noted corrections in the description of separate permit actions by the County on the "Todd project", noting that the County did require conditions for monitoring of grading activities by an archaeologist for the Todd Minor Use Permit at Piedras Blancas.

Comments were made that the California Archaeological Site Survey Office referenced in the document does not exist. This is a reference cited from the County's Land Use Ordinance. Since the LCP was certified in the 1980s, this is merely an out of date reference in the County's zoning ordinance and should be updated. The Central Coastal Information Center under contract to the State Office of Historic Preservation helps implement the California Historical Resources Information System (CHRIS). It integrates information on new resources and known resources into the CHRIS, supplies information on resources and surveys to government and supplies lists of consultants qualified to do historic preservation fieldwork within the area. The California Archaeological Site Inventory is the collection of Site Records, which has been acquired and managed by the Information Centers and the OHP since 1975.[64]

[64] State Dept. of Parks and Recreation Office of Historic Preservation, California Historical Resources Information System Information Center Procedural manual, November 20, 1995, pg.6.

Lastly, Tables and Figure references on pages 330-331 will be corrected.

3) Analysis

As the *Preliminary Report* concluded, the County has been effective in implementing its LCP to protect archaeological resources consistent with Section 30244 of the Coastal Act. However, some updating of maps and procedures would provide greater assurances that resources will continue to be protected. In addition, County staff indicates that within the past year, efforts have begun to update direction to applicants and consultants in order to provide more specific directions on the contents and procedures for conducting archaeological reviews and reports. They have also begun to update the requirements for monitoring which are placed as conditions on applicable new development. These conditions require submittal of a monitoring plan that will allow the County to more closely review methods and procedures for onsite monitoring during construction. The County staff is consulting guidelines for monitoring that have been developed by the Native American Heritage Commission.

To encourage more detailed site surveys, Recommendation 9.2 suggests evaluating the use of Geoarchaeology Surveys. The Commission agrees with the County that these surveys may not be required for *all* new development. Through the Area Plan Updates, the LCP should be updated to review of areas of potentially buried archaeological resources and develop criteria for when such surveys may be required. Only minor text changes are proposed to Recommendation 9.1.

> **Recommendation 9.1: Update Archeological Resources Overlay Maps**
> ~~It appears that the official maps of the LUE delineating urban ASAs have been valuable in triggering archaeological site review for the majority of planned urban development. They are not, however, all inclusive of archaeological resources within the urban areas.~~ Updating the LUE maps to reflect a more accurate location of archaeologically sensitive areas will assist with site identification. The proposed Estero Area Plan Update from February, 1999 offers a possible option to update maps:
>
> > ***Protection of Resources Not Within the AS Combining Designation.*** *All land use permit applications that propose development within 100 feet of the bank of a coastal stream (as defined in the Coastal Zone Land Use Ordinance), or within 300 feet of such stream where the slope of the site is less than 10 percent, shall be subject to the standards for the Archaeologically Sensitive (AS) combining designation in the Coastal Zone Land Use Ordinance and in this plan.*
>
> **Recommendation 9.2: Evaluate Requirement for Geoarchaeology Surveys**.
> Through Area Plan Updates, conduct an assessment of potentially buried archaeological resources and identify requirements for undertaking more specific Geoarchaeology Surveys.

The County comments that conservation easements are not a practical mitigation tool in all instances. Easements are more effective on larger landholdings where development can more easily be resited to avoid impacts resources. Such resiting is more problematic on very small urban lots, where resources extend over a large portion of the lot. In these cases, avoidance

may not be feasible and mitigation may be required. Therefore Recommendation 9.3 clarifies consideration of this implementation technique as more appropriate to larger sites.

> **Preliminary Recommendation 9.3: Evaluate Use of Conservation Easements.**
> Disturbance to archaeological data could also be avoided on larger sites by requiring a conservation easement over the area containing archaeological resources.[65] Avoiding impacts through such easements where feasible may be more protective of the resources than reliance on data recovery. The LCP should be modified to consider such conservation easements instead of data recovery on larger sites where possible.

As discussed in section 5 of this report, staff is recommending modification to the recommendations addressing permit exemptions. These modifications will also affect Recommendation 9.4. In order to minimize confusion, Recommendation 9.4 should be modified to delete references to specific types of exemptions. The intent of Recommendation 9.4 is to indicate that the County should consider regulatory mechanisms that might provide additional scrutiny of proposed development projects outside of urban areas that may impact archaeological resources.

> **Preliminary Recommendation 9.4: Evaluate Permit Exemptions.**
> The County should consider including standards in permit requirements (CZLUO23.03.040) that development which requires a coastal development permit should not be exempt from permit requirements if archaeological resources may be impacted. ~~Protection of archaeological resources can be increased through modifications to permit exemptions. If the project is considered to be development according to the Coastal Act, it will generate a permit and a preliminary survey will be conducted (e.g. building a house and a driveway on agricultural land or erecting a water tank). If the activity on the land does not require a permit, then the site survey will not be conducted (e.g. converting grazing lands to vineyards).~~[66] ~~These agricultural~~ Rural lands may contain archaeological resources and exempt development ~~some of these activities~~ may be destructive to these resources. ~~For example, in the creation of vineyards, the land can be disturbed up to a depth of four feet. As discussed in more detail in Chapter 5 (Agriculture), permits should be required for modification of agricultural uses that would result in impacts such as grading or increased sedimentation. This would assure maximum protection of archaeological resources.~~

4) Conclusion

The *Preliminary Report* found that the San Luis Obispo County LCP has been effectively implemented in conformance with Coastal Act requirements to protect archaeological resources of the coastal zone. (Exhibit A, findings incorporated herein by reference). Recommendations to improve the implementation of the LCP with more up to date information may provide further protection of cultural resources consistent with Section 30244 of the Coastal Act. After further evaluation and consideration of public comments, the Commission adopts Recommendations 9.1-9.4 as modified by this report as appropriate corrective actions for submission to the County pursuant to Coastal Act Section 30519.5.

---

[65] Personal communication, Tarren Collins, Attorney, San Luis Obispo County Chumash Council, (11/7/00)
[66] Personal communication, Steven McMasters, Environmental Specialist, SLO Planning Department, (11/15/00).

10. ENERGY AND INDUSTRIAL DEVELOPMENT

A. Fiber Optic Cable Projects

1) Summary of *Preliminary Periodic Review* Findings (Exhibit A, pp. 339-348)

The Preliminary Report analyzed the policies related to the siting and mitigation of new energy and industrial facilities based on technologies that have emerged since certification, including fiber optic cables. The report found that the LCP should update policies to locate future consolidated landing sites or consolidate corridors for land-based cables in order to carry out Coastal Act Sections 30255, 30260, 30262 and 30263. The *Preliminary Report* recommendations also suggested the need to update LCP policies to expand mitigation requirements to address impacts of the new technologies including mitigation measures for drilling fluid monitoring plans, for access and recreation impacts, and for construction impacts, including erosion control and revegetation requirements. The *Preliminary Report* also discussed the need to update the LCP Area Plans to anticipate increased demand for future energy facilities and to ensure that the LCP includes adequate guidance for locating future facilities and mitigating impacts. These measures were suggested in order to ensure that the LCP would be implemented consistent with the policies of the Coastal Act.

The *Preliminary Report* also found that the County should revise and update the LCP's guidance for the phase-out of obsolete energy and oil and gas facilities based on more recent experience in overseeing abandonment projects since certification of the LCP. The County and the Commission have gained experience in identifying new management measures to improve mitigation of impacts from abandonment of facilities. For example, requirements for deadlines for abandonment and site restoration will establish financial incentives for rapid site cleanup and restoration. The *Preliminary Report* found the County adequately implemented current LCP policies. However, the LCP policies and standards need to be updated to reflect new information on best available mitigation measures in order to carry out Coastal Act policies. The County should apply the new information and techniques learned through experience to strengthen the LCP policies and standards for abandonment procedures, site remediation, and rezoning for all types of energy, communications and oil and gas facilities.

2) Comments Raised

SLO County Response (Exhibit C):
The County is in general agreement with most of the recommended corrective actions except for part of Recommendation 10.1 to update land use designations to identify consolidated cable corridors and landing sites. Related to Recommendation 10.1, the County comments suggest modifications to the findings to acknowledge and clarify the role of the Coastal Commission and adjacent cities in permitting the offshore portions of cable alignments and the Commission's role in designating landing sites. Implementing such a recommendation would be a highly complex, expensive study to identify offshore corridors which need to

correlate to onshore landing sites located in several jurisdictions. The County also commented that the discussion of Ordinance 2899 concerning telecommunication projects should be modified to clarify that development standards for projects are found in the LCP and not in this ordinance. The ordinance provides a framework for allowing telecommunications uses within County road rights of way.

Public Comments (Exhibit D)
Public comments generally supported the *Preliminary Report* Recommendation 10.1.

Specific Clarifications/Errata (to be incorporated into the report)
County comments note some typographical corrections on pages 341 and 344 and minor clarifications in the *Preliminary Report*. These include clarification on page 340 that the former Guadalupe oilfield is the site of major underground contamination and will require years of remediation and monitoring, that the storage tanks at Avila have been removed from the site and it is in the early stages of clean-up, and that the major pipeline corridors extends from the Santa Maria Refinery through Tosco's pipeline system to its refinery in San Francisco. The County also noted that they require the preparation of a Specific Plan for any onshore component of an offshore energy project and a Development Plan or Minor Use Permit is required for the installation of most fiber optic cables in the Coastal Zone. The County correctly noted that five of the listed Commission actions in Table 10-1 were encompassed in two County permits (at one consolidated landing site) and that other local jurisdictions are involved. On page 343 the County noted that an offshore bentonite release was suspected but never confirmed, and resulted in the shutdown of the project, but the parking lot was already closed for the construction. The Commission finds that these changes correct some factual information in the report, do not result in any significant change to the recommendations and will be incorporated into the report.

3) Analysis

As correctly noted by the County, two of the three permitted cable-landing sites are within city jurisdiction and thus the County is not the only agency involved in ensuring consolidation of facilities. The Commission agrees with the County that many agencies, including the Commission and State Lands Commission play a significant role in regulating energy facilities that cross jurisdictional boundaries and that planning to ensure consolidation of landing sites for offshore cables needs to be a joint effort. As provided by Coastal Act Section 30519, the Commission retains permit authority over the onshore portion of projects that are located in tidelands, submerged lands or public trust lands. This applies to the immediate shoreline where offshore facilities may come onshore. The designation of cable landing sites is driven, in large part, by offshore conditions that are in the primary jurisdiction of the Coastal Commission and the State Lands Commission. The County is correct that the identification and designation of consolidate landing sites in the region is a complex endeavor. Such efforts would necessitate funding and cooperative involvement of numerous state agencies and the industry.

However, this should not minimize the important role of the LCP in identifying onshore sites for location of onshore facilities and in mitigating onshore impacts related to construction. The LCP contains consolidation policies for both pipelines and electrical transmission lines but not specifically for communication facilities such as fiber optic cables. Recommendation 10.1 would encourage evaluation and possible establishment of onshore corridors as part of the Area Plan Updates. Development standards could consider the potential reuse of existing gas/oil pipelines for communication facilities or development of stronger performance standards for locating such facilities to ensure consolidation. Standards should be updated to minimize the impacts from development within cable and pipeline corridors, especially impacts related to new technology. Therefore, the Commission agrees with the County comments and finds that recommendation 10.1 should be modified to reflect limitations on the County's role in evaluating offshore sites and to update and strengthen siting and development standards for onshore corridors.

> **Recommendation 10.1 UPDATE LCP to Address Onshore Fiber Optic Cable Projects**
> ~~The County could take several steps~~ In updating its LCP Area Plans, ~~to plan for such projects.~~ Land Use designations and/or siting criteria standards should ~~could~~ be revised to ~~identify~~ encourage consolidated cable corridors. Evaluate potential reuse of abandoned oil/gas facilities pipelines for possible alternative use for communication cables. ~~and consolidated landing sites.~~ ~~via overlays~~. Additional mitigation measures ~~could~~ should be developed to address potential impacts from drilling such as requirements for Drilling Fluid Monitoring Plans. Monitoring requirements should ~~could~~ be included that provide for qualified monitors onsite with ability to stop drilling should fractures occur which could releases bentonite. The CZLUO should ~~could~~ be revised to include more specific mitigation for access/recreation impacts, avoidance or minimization of sensitive resources during construction, as well as mitigation measures such as erosion control, revegetation, and other measures necessary to protect scenic resources and habitat values.

As modified Recommendation 10.1 will ensure that LCP implementation will carry out the energy siting and resource protection policies of the Coastal Act.

B. New or Expanded Power Plants

1) Summary of *Preliminary Periodic Review* Findings (Exhibit D, pp. 345-346)

The Coastal Act provides measures to protect coastal resources from power plant siting while balancing the need to allow reasonable expansion of such facilities. The *Preliminary Report* noted the limited jurisdiction of the Coastal Commission and local governments in regulating development of new or expanded power plants. The California Energy Commission (CEC) has exclusive jurisdiction over thermal power plants of 50 megawatts or greater. In these cases, the CEC preempts the jurisdiction of all other state and local agencies (including the Coastal Commission and local government) when it certifies a new, modified or expanded power plant. However, Coastal Act Section 30413 requires the Coastal Commission to submit a report to the CEC analyzing the proposed power plant project's conformity with the Coastal Act's Chapter 3 policies and the policies of the certified LCP.

2) Comments Raised

SLO County Response (Exhibit C)
The County is in general agreement with Recommendation 10.2.

Public Comments (Exhibit D)
Public comments requested clarification as to whether the Commission finds power plants to be coastal dependent uses. The determination of whether a project is coastal dependent is made on a case by case basis. Many older existing power plants were designed to use ocean water for cooling and in past Commission actions have been considered to be coastal dependent. But newer dry cooling technologies have been developed which are not dependent on using ocean water. Therefore the siting and design of new power plants may not be considered coastal dependent, given the specific project proposed.

Specific Clarifications/Errata (to be incorporated into the report)
Clarification of whether facilities are coastal dependent as discussed above will be incorporated into the report.

3) Analysis

As found in the *Preliminary Report* it appears that many new or expanded power plants are planned for California in the near future. Recent statewide energy problems related to deregulation also make it possible that pressure will continue to increase for new and expanded power facilities. This, in turn, may lead to greater numbers of transmission lines and ancillary facilities. The *Preliminary Report* concluded that more up to date policies and standards may be needed to ensure that the LCP is implemented in conformity with the Coastal Act. The update of the Area Plans offer an opportunity to ensure that the LCP contains adequate guidance for mitigating the impacts of future energy facility development consistent with resource protection policies of the LCP and Coastal Act. Only minor text changes are proposed to Recommendation 10.2:

> **Recommendation 10.2. Update Energy Policies of LCP Area Plans** ~~to Address Future Energy Facility Demand.~~ As part of the-update of LCP Area Plans, the County should update information on current energy demand and ensure that existing policies and standards provide adequate guidance for mitigating the impacts of any potential energy facilities consistent with other LCP and Coastal Act policies.

C. Managing the Phase-out of Energy and Oil Facilities

1) Summary of *Preliminary Periodic Review* Findings (Exhibit A, pp. 346-348)

The *Preliminary Report* concluded that the Commission as well as the County has gained experience in identifying new information and management measures to improve mitigation of impacts from abandonment of facilities. The County should apply the new information and

techniques learned through experience to strengthen the LCP policies and standards for abandonment procedures, site remediation, and rezoning for all types of energy, communications and oil and gas facilities as part of the EX Combining Designation.

2) Comments Raised

SLO County Response (Exhibit C)
The County is in general agreement with Recommendation 10.3.

Public Comments (Exhibit D)
Public Comments were in general agreement with Recommendation 10.3.

3) Analysis

The LCP Update process offers the opportunity to incorporate more recent information and knowledge of effective mitigation techniques into LCP policies and standards. No modifications to Recommendation 10.3 are proposed.

4) Conclusion

The Commission finds that the San Luis Obispo County LCP needs to be updated to improve policies and standards to plan for new and expanded energy facilities, including new and emerging technologies such as fiber optic cables. Policies and standards for mitigation of impacts should be updated as well based on new information and technologies. (Exhibit A, findings incorporated herein by reference). Recommendations to improve the implementation of the LCP with more up to date information will ensure that new and expanded energy facilities will be consistent with Sections 30001.2; 30263-30264, 30413, 30232, 30250, 30222, 30233 (a) (1), 30235, and 30254 30255, 30260, 30262, and 30263 and the resource protection policies of the Coastal Act. After further evaluation and consideration of public comments, the Commission adopts Recommendations 10.1 through 10.3 as modified by this report as appropriate corrective actions for submission to the County pursuant to Coastal Act section 30519.5.

11. COMMERCIAL FISHING AND RECREATIONAL BOATING

The Coastal Act states that the economic, commercial, and recreational importance of fishing activities shall be recognized and protected, and that facilities serving the commercial fishing and recreational boating industries shall be protected, and where feasible, upgraded. The Coastal Act requires that coastal-dependent developments shall have priority over other developments on or near the shoreline. Recreational boating use is encouraged by providing for the development of berthing space, increasing facilities and limiting non-water-dependent uses. Existing space shall not be reduced unless demand no longer exists or substitute space has been provided. The needs of the commercial fishing industry have priority over

recreational boating. Recreational boating facilities should be designed and sited so as not to interfere with the needs of the commercial fishing industry. Additionally, uses of the marine environment shall be carried out in a manner that will maintain healthy populations of all species of marine organisms.

1) Summary of Preliminary Periodic Review Findings (Exhibit A, p. 351)

San Luis Obispo County has three harbors: San Luis Bay, Morro Bay and San Simeon Bay. Each of the three affords support to the commercial fishing industry; Port San Luis and Morro Bay harbors provide docking, mooring, and processing facilities, while San Simeon functions as a marginal shelter during adverse weather conditions. Commercial fishing is an important source of income for the county; it was noted that the commercial fishery landings at the three harbors in 1998 were valued at over $6.4 million.[67] However, the Preliminary Report also observed the decline in demand for commercial fishing facilities, due to a decrease in fish landings. At the same time demand for recreational boating facilities has increased.

The *Preliminary Report* noted that since LCP certification, some issues had been raised, including:

- the loss of the small boat ramp in Baywood Park and the impact that a proposed replacement ramp may have on wetland resources;
- the potential impacts that increased recreational boating may be having on wetland and sand dune habitats around Morro Bay;
- the impacts that proposed visitor-serving and commercial development on upland areas owned by the Port San Luis Harbor District might have on the provision of adequate boating and fishing facilities and other coastal resources; and
- Reducing polluted runoff generated by boating activities and facilities.

The *Preliminary Report* suggested the following recommendations:

- Developing a program to educate boaters on the sensitive habitat values of Morro Bay and other aquatic habitats
- Coordinating the review of the proposed boat launch ramp in Baywood Park with Commission staff, the Department of Fish and Game, and other involved regulatory agencies and interested individuals
- Updating the Port San Luis Master Plan and associated sections of the San Luis Bay Area Plan.

2) Comments Raised

San Luis Obispo County Response:

[67] San Luis Obispo Council of Governments, *1999 Regional Profile*, October 1999.

The County agrees with the recommendations.

Public Comments:
The Port San Luis Harbor District strongly supports recommendation 11-3, regarding updating the Port's Master Plan and associated sections of the San Luis Bay Area Plan. In addition, the Harbor District raised the issue of assuring that road capacity on Avila Beach Drive is reserved to serve coastal-dependent and other priority uses under the Coastal Act. Additional public comments indicated both support for and opposition to a replacement boat launch ramp in Baywood Park.

Specific Clarifications/Errata:
Minor typographical corrections on pages 349 and 351 will be corrected as suggested by the County.

3) Analysis

Road Capacity on Avila Beach Drive

Regarding Port San Luis Harbor District's comment about reserving road capacity of Avila Beach Drive, the Commission finds that Recommendation 11.3 is the first step in addressing this issue. Nonetheless, in order to clarify the importance of this evaluation, the Commission suggests modifying the recommendation to incorporate specific statements regarding Avila Beach Drive. Much of the impact to capacity on Avila Beach Drive is likely caused by development activities in Avila Valley, which is outside of the coastal zone. However, under the Coastal Act, the County has a responsibility to reserve road capacity and other public services for priority uses such as recreation *within* the coastal zone. To achieve this, sources of impacts to capacity both within and outside of the coastal zone must be identified and addressed. In order to ensure that adequate capacity will be available inside the coastal zone on Avila Beach Drive, the County could evaluate and update the General Plan for the Avila Valley area and ensure the amount and intensity of development will result in preserving road capacity for priority uses. While the Commission cannot require General Plan revisions outside the coastal zone, the Commission finds it is appropriate to include a program in the LCP to encourage that planning efforts to address *all* sources of impacts to capacity on Avila Beach Drive take place, as funding allows.

> **Recommendation 11.3: Update the Port San Luis Master Plan and Associated Sections of the San Luis Bay Area Plan**
> Recognizing that circumstances regarding the operation, maintenance, and financing of Port San Luis Harbor facilities have changed since the relevant sections of the LCP were certified, a comprehensive update of the Port San Luis Master Plan and associated LCP provisions is in order. Given the wide range of coastal resource issues raised by future development of uplands owned by the Port San Luis Harbor District, this update should be closely coordinated with Commission and County staff.
>
> The San Luis Bay Area Plan and the Port San Luis Master Plan shall be updated to include a standard to ensure adequate capacity on Avila Beach Road for priority uses under the Coastal Act and LCP. As well, a program should be developed to encourage analysis of the effects of development in Avila Valley on capacity of Avila Beach Road inside the coastal zone. The program should encourage

> revisions as needed to the General Plan standards for the amount and intensity of development to ensure that adequate road capacity to serve priority uses within the coastal zone will be provided.

Additionally, Recommendation 6.7 of the Public Access section of this report calls for comprehensive recreation planning, which will also speak to this concern. Portions of the New Development section also include more discussion.

Baywood Park Boat Ramp

The Commission reiterates that the preliminary recommendation states that review of the ramp should be coordinated with staffs of the Coastal Commission, County, Department of Fish and Game, as well as *other interested individuals*. Preliminary Recommendation 6-8 also directs that proposed public access developments be reviewed for appropriate habitat management measures. The Commission believes these recommendations are adequate to assure that the LCP will be implemented to protect recreational boating consistent with Sections 30224 and 30230. No modifications are proposed to 11.1 or 11.2.

4) Conclusion

The *Preliminary Report* noted that in order to effectively implement the LCP in conformance with the requirements of Coastal Act Sections 30224, 30230, 30234, 30234.5, and 30255 to protect commercial fishing and recreational boating uses within the coastal zone, the LCP should be updated to address new and emerging issues (Exhibit A, findings incorporated herein by reference). After further evaluation and consideration of public comments, the Commission adopts Recommendations 11.1- 11.3 as modified as appropriate corrective actions for submission to the County pursuant to Coastal Act section 30519.5.

12. IMPLEMENTATION PROCEDURES

The preliminary report identified numerous areas where LCP procedures should be revised to ensure that the LCP is being implemented consistent with the Coastal Act and the California Code of Administrative Regulations. In addition, the preliminary report suggests changes to the LCP, as well as changes to current methods of administration, intended to improve the quality of environmental analysis and to maximize public participation and regulatory efficiency. It is envisioned that many of these procedural changes and improvements would be achieved through one or more amendments to the Coastal Zone Land Use Ordinance that would address application requirements, noticing, appeals, variances, non-conforming uses, exemptions, exclusions, emergencies, easements, and enforcement. (Please see Recommendations 12.1 – 12.17.)

For the most part, specific comments regarding the procedural recommendations contained in the preliminary report were limited to those contained in the County staff report prepared for the May 1, 2001 Board of Supervisors meeting. The preliminary procedural

recommendations that the County has indicated their general agreement with, and have been carried over without change into the final report, include:

- Preliminary Recommendation 12.1, 3rd bullet, calling for the appealability of development to be determined according to what exists on the ground as opposed to what is shown on LCP and Post-Certification maps.

- Preliminary Recommendation 12.2, suggesting better coordination between County and Commission staff on projects that cross jurisdictional boundaries, and the pursuit of a coordinated permit review procedures for such cases.[68]

- Preliminary Recommendation 12.3, to update the Area Plan in a way that will resolve areas of deferred certification (e.g., Sweet Springs Marsh and Otto Property)

- Preliminary Recommendation 12.6, recommending the review of previously approved Categorical Exclusions[69].

- Preliminary Recommendation 12.10, calling for Executive Director review and approval of locally required easements and dedications.

- Preliminary Recommendation 12.11, clarifying that if any component of a project is a conditional use the entire project is appealable.

- Preliminary Recommendations 12.13 and 12.14, advocating better interagency coordination on enforcement activities and emergency permits. In agreeing with Preliminary Recommendation 12.14, the County has suggested the preparation of an Emergency Permit Procedure Manual. In addition, the County has proposed developing a process to identify areas that are susceptible to emergency situations (e.g., the flood plain along Arroyo Grande Creek). This process would include preparation of and Emergency Prevention Implementation Plan focusing on methods and agency contacts for avoiding emergencies. These suggestions have been incorporated into final Recommendation 12.14 as follows:

  Recommendation 12.14: Improve Coordination Regarding Emergency Actions
  When time allows, consult with the Commission regarding alleged emergencies. This is critically important when a proposed emergency action may result in development on lands that are within the permit jurisdiction of the Coastal Commission.

[68] If a revision to the Coastal Act is needed to implement a coordinated permit review process (i.e., a single coastal development permit from the Coastal Commission rather than requiring two separate permits for each portion of the project lying in separate jurisdictions), it is recognized that the responsibility for initiating such legislation lies with the Coastal Commission.
[69] The County's conceptual agreement with this recommendation is based on an understanding that the Commission staff would take the lead in this review.

> To facilitate improved coordination and emergency permit processing, the County should prepare an Emergency Permit Procedure Manual. In addition, the County should initiate a process to identify areas that are susceptible to emergency situations (e.g., the flood plain along Arroyo Grande Creek), and to prepare Emergency Prevention Implementation Plans for these areas focusing on methods for avoiding emergencies.

The issues and preliminary recommendations contained in the Preliminary Report that the County staff and other commenters disagree with, or have proposed alternatives to, are addressed below.

A. Defining Development

1. Summary of Findings

Page 353 of the Preliminary Report reiterated the issues associated with Certificates of Compliance addressed in detail by Chapter 5 of the Preliminary Report at pages 210 - 227. A procedural change suggested to respond to these issues was to identify all Certificates of Compliance, not just Conditional Certificates of Compliance, as development that requires a coastal development permit.

2. Comments Received

County staff has expressed significant concerns regarding this suggestion. An explanation of these concerns, and the final recommendation proposed by Commission staff to address this important issue in light of the comments received, are detailed in Chapter 5 of this final report.

3. Analysis and Conclusion

Because Chapter 5 addresses this issue in detail, Commission staff recommends that the last 2 paragraphs on page 353 of the Preliminary Report be deleted. Please refer to Chapter 5 of this report for a conclusion on how the County's implementation of the LCP, in regard to Certificates of Compliance, should be revised to ensure consistency with Coastal Act requirements.

B. Coastal Zone Boundary and Permit Jurisdiction

1. Summary of Findings

The preliminary report identified the need for accurate determinations of the coastal zone boundary and permit jurisdictions as a critical procedural step in the development review process. Preliminary Recommendation 12.1 therefore proposed updates to the LCP and post-certification maps used to delineate permit jurisdictions.
Notwithstanding the improvements that could be realized through updates to the maps, accurate determinations of permit jurisdictions would continue to be difficult along shoreline

areas (e.g., seawall proposals), where permit jurisdictions may change over time due to the ambulatory nature of the mean high tide line. To address this challenge, Preliminary Recommendation 12.2 recommended better coordination between the County and Commission staff in situations such as these. In addition, this recommendation suggested that where development proposals cross jurisdictional boundaries, a coordinated permit process should be pursued, recognizing that such a process may necessitate a change to the Coastal Act.

2. Comments Received

County staff has indicated their disagreement with the portions of recommendations 12.1 and 12.2 calling for updates the LCP and Post-certification maps and increased coordination on where the coastal zone and appeal boundaries may lie. As an alternative, County staff has suggested that the Commission provide coastal zone boundary and appeal maps in electronic form that the County could use to identify any discrepancies with the LCP maps.

3. Analysis

It appears that the County's objection to these recommendations is based on an impression that the Coastal Commission rather than local government has the primary responsibility of providing coastal jurisdictions with accurate maps of coastal zone and appeal boundaries.

The preliminary recommendations were not intended to place this responsibility solely on the local governments. Rather, they were created with the intent of establishing a cooperative process under which the locally adopted LCP maps, as well as the post-certification maps approved by the Commission, could be improved in terms of accuracy and consistency. The recommendations were also intended to facilitate early discussion between the County and the Commission where the maps may not resolve jurisdictional questions.

The Commission recognizes its responsibility for providing the local government with post-certification maps that accurately depict, to the greatest degree feasible, the coastal zone boundary and the geographic areas where locally approved development is appealable to the Commission pursuant to Section 30603 of the Coastal Act.

However, the County also plays an important role in resolving jurisdictional issues. The County has the primary responsibility of updating the LCP maps in a way that conforms to the post certification maps and incorporates the appeal criteria established by the LCP (e.g., the presence of an SRA). In addition, as the first point of contact for local development proposals, the County is in the best position to coordinate with other agencies, particularly the Commission, to resolve questions regarding permit and appeal jurisdiction.

The County's suggestion that the Commission provide electronic versions of updated post certification maps has been incorporated into Preliminary Recommendation 12.1 as follows:

Recommendation 12.1: Update LCP and Post-Certification Maps

- The County and the Commission staff should coordinate a review of LCP Maps for accurate delineations of coastal zone boundary and sensitive resource areas and update as necessary.

- The Coastal Commission staff, in coordination with the County, should update the Post-Certification maps to accurately reflect permit and appeal jurisdictions. Once updated, the Commission should provide electronic versions of these maps for use in updating LCP maps.

- Recognize that the appealability of development based on geographic criteria (e.g., the presence of an SRA, a location between the first public road and the sea) should be determined according to what is on the ground as opposed to what is shown on the LCP and Post-Certification Maps. An exception to this is that roads constructed without the proper permits should not be considered as the first public road.

4. Conclusions

Preliminary Recommendations 12.1 and 12.2 ensure that questions regarding permit and appeal jurisdictions are resolved in a coordinated manner that ensures the LCP us implemented consistent with Coastal Act policies.

C. Permit Exemptions and Temporary Events

1. Summary of *Preliminary Review Periodic* Findings

The preliminary report identified that the permit exemptions contained in the County's Coastal Zone Land Use Ordinance were not consistent with the exemptions provided by Section 30610 of the Coastal Act and further specified by Sections 13250 – 13253 of the Commission's Regulations (Title 14, Division 5.5). Two examples of such inconsistencies cited by the preliminary report were the LCP's exemptions for repair and maintenance activities and exemptions for temporary events. Preliminary Recommendations 12.4 and 12.5 responded to these issue by calling for revisions to Section 23.04.040 of the Coastal Zone Land Use Ordinance, and for incorporating the updated provisions regarding temporary events adopted as part of the Avila Beach Specific Plan into the CZLUO.

2. Comments Received

County staff has agreed to a full evaluation of the LCP's permit exemptions, but has reserved judgement on whether they agree with the changes that will come out of this review. With regard to temporary events, they have agreed to incorporate the general concepts developed through the Commission's review of the Avila Beach Specific Plan, but have indicated that they would prefer not to incorporate these provisions in their entirety.

3. Analysis

The implementation of Preliminary Recommendations 12.4 and 12.5, as well as many of the other procedural recommendations, is anticipated to be achieved through a comprehensive

update of the implementation provisions contained in the Coastal Zone Land Use Ordinance. This process will necessitate further discussion with the County, and close coordination on the specific contents of the amendment. It is during this process that the additional information requested by the County will be developed.
Regarding temporary events, the Commission is familiar with the complexities and controversies that can be generated in determining whether a temporary event may pose significant impacts on coastal resources and therefore triggers the need for a permit pursuant to Section 30610(i) of the Coastal Act. As directed by the Coastal Act, the Commission has adopted guidelines to assist local governments in complying with Coastal Act requirements.

The temporary event guidelines adopted by the Commission provided a framework for developing the temporary event provisions that were incorporated into the San Luis Bay Area Plan via the Avila Beach Specific Plan. The updated San Luis Bay Area Plan standards provide the details necessary to ensure that the full range of potential impacts to coastal resources associated with temporary events. Incorporations of these standards into the CZLUO will allow for these issues to be effectively addressed throughout the San Luis Obispo County coastal zone, and will maintain consistency with the San Luis Bay Area Plan.

4. Conclusion

Additional information regarding the specific changes necessary to ensure that the implementation of LCP permit exemptions conformance to the Coastal Act will be developed in coordination with the County as part of a comprehensive amendment to the CZLUO. The recommended permit requirements for temporary events will ensure that LCP implementation will not exempt temporary events that may have a significant impact on coastal resources, consistent with the provisions of Coastal Act Section 30610(i). As a result, Preliminary Recommendations 12.5 and 12.6 have been carried over into the final report without change.

1. Summary of *Preliminary Review Periodic* Findings

The Preliminary Report documented noticing problems associated with the various types of County Coastal Development Permits. Emergency permits, permit amendments, permit extensions, grading permits, and land use permits (Plot Plans, Minor Use Permits, and Development Plans) involve different noticing procedures, and equate to a coastal development in differing circumstances. A grading permit, for instance, constitutes a coastal development permit when not associated with a land use permit[70]. These should, but not always are, noticed as a coastal development permit. In contrast, a grading permit required as a condition of a land use permit is not considered a separate coastal development permit.[71] Noticing standards also differ when development is appealable to the Coastal Commission,

[70] CZLUO Section 23.05.025
[71] Ensuring that the impacts of grading on coastal resources are effectively addressed at the Land Use Permit stage is an issue that will be addressed when the Commission considers the pending amendment to the Grading Standards contained in the CZLUO.

which is based on the type and geographic location of the development.[72] Ensuring that LCP noticing standards are implemented consistent with the Coastal Act and Administrative Regulations was the focus of Preliminary Recommendation 12.7.

2. Comments Received

The County has observed that the Commission's noticing procedures should be improved as well. Specifically, the County has suggested that Commission accept Notices of Final County Action electronically, and inform the County of the dates and completion of the Commission appeal period. With respect to noticing grading permits, the County has suggested that such notice be limited to grading activities within 100 feet of an ESHA by requiring a Minor Use Permit for such activities. County staff has indicated their agreement with the recommendation to coordinate emergency permits with the Commission staff.

3. Analysis

The Commission should improve its noticing regarding appeal periods as recommended by the County. This will assist the County in knowing when local building permits can be released, and has been incorporated into Recommendation 12.7 as follows:

> **Recommendation 12.7: Improve Noticing and Processing Procedures**
> The Commission staff should coordinate with the County to resolve noticing and processing issues related to CDPs, CDP amendments and extensions, grading permits, emergency permits, and appeals. In some cases, changes to the LCP may be needed to bring LCP noticing and processing requirements in conformance with the Coastal Act and the California Code of Regulations. <u>The Commission too should improve its noticing procedures. In particular, Commission staff should provide the following notice to the County:</u>
>
> - <u>The date on which Notices of Final Action are received. This will inform the County of the Coastal Commission appeal period for those projects that are appealable, and the effective date of the local permit for unappealable development;</u>
> - <u>Whether any appeals have been received at the conclusion of the Coastal Commission appeal period. If no appeals have been filed, this notice will confirm the County's ability to release local building permits. If an appeal has been filed, this notice will allow the County to send the Commission a copy of the local file in a more timely manner.</u>

The suggested electronic acceptance of Final Local Action Notices raises a more challenging question. Section 13571 of the Commission's Administrative Regulations specifies that such notice should be provided by first class mail. This ensures that all interested parties receive such notice within the same timeframe. Otherwise, the Commission's appeal period may commence prior to the time that someone interested in appealing the project would receive notice of the County's action. Although the Commission is supportive of changes in noticing practices that will improve the efficiency of the coastal development permit process, maximum public participation in the oversight process must also be assured. Further research is warranted concerning this question. For the time being, though, this suggestion has not been incorporated into the recommendations for procedural improvements.

[72] Section 23.01.043 of the CZLUO specifies when development approvals are appealable to the Coastal Commission .

The County's suggestion to limit the noticing of grading permits to those that involve grading within 100 feet of an ESHA is also problematic. One of the most important changes needed to ensure that the LCP noticing procedures are implemented in conformity with the Coastal Act and Section 13571 of the Administrative Regulations is to ensure that the Commission receives notice of the County's final action on all coastal development approvals, whether or not the project is appealable to the Coastal Commission. Currently, the County interprets the CZLUO as requiring the County to provide notice to the Commission of its final actions on appealable projects only. The problem with this interpretation is that it does not provide the Commission with the opportunity to evaluate whether the County determination regarding appealability has been made correctly. Thus, the Commission should be noticed of all grading permits that function as coastal development permits (i.e., when they are not associated with a land use permit) regardless of geographic location.

4. Conclusion

The noticing improvements called for by Recommendation 12.7 are needed to ensure that the LCP is implemented in conformity with the Coastal Act and Title 14, Division 5.5 of the California Code of Regulations. Additional coordination between Commission and County staffs will be needed to develop the specific changes to the CZLUO required to implement this recommendation. The need for the Commission to also improve its noticing procedures are reflected in the changes to Recommendation 12.7 proposed by this report.

D. Allowable and Principally Permitted Uses

1. Summary of *Preliminary Review Periodic* Findings

The preliminary report identified procedural problems associated with Table O, the primary LCP component used to determine if different types of development are allowable, and whether they constitute a principally permitted use. These include:

- Table O does not identify that only resource dependent uses are principally permitted within ESHA;
- Table O does not identify that land divisions are a conditional rather than principally permitted use; and
- Table O does not clearly differentiate between conditional uses and the principally permitted use.

2. Comments Received

Rather than clarifying Table O to identify all uses other than resources dependent uses in ESHA as conditional, the County has suggested that the non-resource dependent development could still be designated as principally permitted, but listed as appealable to the Coastal Commission.

The County also disagrees with the provisions of preliminary recommendation 12.8 calling for all uses listed as "S" (special) uses by Table O, as well as all subdivisions, certificates of compliance (COC's), and lot line adjustments (LLA's), to be considered conditional uses. The application of special standards to S uses, in the opinion of County staff, should not require that these uses be considered conditional. With respect to subdivisions, COC's and LLA's the County asserts that these are not land uses, and therefore do not qualify as conditional uses. Again, the County suggests that the concerns expressed over these types of development be addressed by making them appealable based on geographic (e.g., within an ESHA) rather than use criteria.

3. Analysis and Response

Coastal Act Section 30603a(4) specifies that "any development approved by coastal county that is not designated as the principally permitted use" shall be appealable to the Coastal Commission (emphasis added). This implies that only one type of use should be considered as principally permitted, and that all others are conditional. Within this context, the kinds of development that necessitate the application of special standards, and are not directly associated with the identified principally permitted use[73], should be processed as conditional uses. This includes subdivisions which, under CZLUO 21.08.020(a) includes lot line adjustments and conditional certificates of compliance. Land divisions are defined as development for purposes of the Act and the LCP. However, inasmuch as a land division is not a land *use*, they could not be designated as principally permitted use, let alone the principally permitted use. At the same time, as coastal development, land divisions typically lead to fundamental changes in future locations, densities, and intensities of land uses that can significantly impact coastal resources. The appealability of land divisions assures adequate oversight of these potentially fundamental land use impacts.

The alternative of maintaining a number of uses as principally permitted uses, but listing them as appealable based on geographic criteria (i.e., within an ESHA) is not as preferable as clarifying what constitutes the principal permitted use within each land use designation. It is not just an issue of appealability, but relates to the clear articulation of land use regulations. It is inappropriate for Table O to imply that the all uses listed as "P" use are principally permitted, irrespective of environmental constraints such as ESHA, because it can create false expectations regarding the type and extent of development that can be allowed on the site.

4. Conclusion

Preliminary Recommendation 12.8 has not been modified because the clarification of what is allowable and principally permitted is necessary to ensure that the LCP is implemented in

[73] The designation of a single principally permitted use does not exclude subsets of that use from also being considered principally permitted. For example, in residential districts where single family residences are designated as the principally permitted use, it may be appropriate to consider certain residential accessory uses as part of the principally permitted residential use.

conformity with various policies of the Coastal Act, including Section 30240(a) and 30603 (a)(4).

F. Application Requirements

1. Summary of *Preliminary Review Periodic* Findings

The application requirements for coastal development projects have been found, in some cases, to be deficient in obtaining the information necessary to evaluate coastal resource issues. This is problem is related to both the content of the LCP ordinances, and the way in which the County implements them.

2. Comments Received

The County agrees that detailed plans (grading, landscape, drainage, etc.) should be obtained at the application stage *when resource protection is at stake*. For example, a landscape plan is noted as being appropriate to require at the application stage where scenic resources are at stake. In other circumstances, County staff asserts that specific construction plans should be required as condition of the discretionary coastal development/land use permit, so that the applicant can be sure that the project is approved before final plans are prepared.
The County has also requested the Commission staff to review the existing application requirements in more detail, and provide a more specific description of the changes that are needed.

3. Analysis

It is agreed that a balance must be struck between obtaining all the information needed for an up-front analysis of resource issues, and requiring such detailed plans at the application stage that any change to the plans determined to be necessary becomes an excessive burden upon the applicant. In general, the "resource test" (i.e., whether or coastal resource issues are at stake) is a good indicator of when more detailed plans may be required as part of a development application.

While this often necessitates discretion upon the part of County planning staff, there are certain pieces of information that should *always* be required at the application stage. For instance, providing evidence of adequate water supply and wastewater treatment should be a prerequisite to development that should be addressed prior to the investment of significant resources into project development and review.

As suggested by the County, additional review of the existing application requirements is needed to determine the specific changes necessary. The preliminary report has identified the coastal resource issues (e.g., water quality, ESHA) where a rigorous review application requirements are warranted. Additional particulars will be forthcoming in the recommended

modifications to the submitted grading ordinance amendment and other pending LCP updates.
The preliminary report also identifies that obtaining the necessary environmental information at the application stage is not, in all cases, dependent upon updates to existing LCP application standards, but can be achieved through refined administration of existing ordinances. The demonstration of adequate water and sewer prior to the acceptance of an application is one such administrative improvement crucial to implementing the LCP consistent with the Coastal Act.

4. Conclusion

Recommendation 12.8 will improve LCP implementation procedures in a way that will ensure that standards for development established by Chapter 3 of the Coastal Act issues are effectively addressed during development review. In addition to benefiting coastal resources, it should increase the efficiency of the permit review process by minimizing the number of appeals filed over unresolved issues. The County's suggestion to complete a more thorough review of existing application requirements, and their request for more specificity, will be undertaken as part of the detailed update to LCP procedures needed to respond to the full range of recommendations presented by this report.

G. Condition Compliance

1. Summary of *Preliminary Review Periodic* Findings

To make certain that permit conditions are effectively carried out, the Preliminary report suggests the development of a tracking system that would be available to all County Departments and Commission staff.

2. Comments Received

The County is currently developing a tracking system that may be used to implement this recommendation, but will involve additional staffing costs. More information is needed for the County to understand what is expected and what is legally required.

3. Analysis and Response

There is no legal requirement for the County to develop the tracking system proposed by Recommendation 12.12. It is a suggested tool for enhancing condition compliance, which has been identified in public testimony as a weakness in LCP implementation. If accessible to the Commission staff, the Central Coast District office would be in a better able to assist the County in condition follow-through and respond to inquiries received about alleged violations.

Preliminary Recommendation has been revised to clarify that it is only a suggestion as follows:

Recommendation 12.12: Improve Methods for Ensuring Compliance with Permit Conditions
Among other means available to achieve effective compliance with permit conditions, the County could develop a tracking system that would be available to all relevant County departments and Commission staff.

4. Conclusion

Although not legally required, implementation of Recommendation 12.12 is strongly encouraged as a means to better achieve resource protection objectives of the Coastal Act and LCP.

H. Variances

1. Summary of *Preliminary Review Periodic* Findings

Chapter 4 of the Preliminary Report identified instances where variances to LCP habitat protection requirements may have been inappropriately approved. The Commission has also overturned variances to setback standards granted by the County. To address the concern that the approval of variances may be undermining the resource protection provisions of the Coastal Act, Preliminary Recommendation 12.15 calls for greater limitations on the use of variances. For example, the Preliminary Report suggests prohibiting variances when they would result in adverse impacts to Environmentally Sensitive Habitats.

2. Comments Received

The County response expresses concern that limiting the use of variances would create legal liabilities and could equate to a "takings" and states that the County will not take action to preclude the use of variances where a taking may occur and result in costly lawsuits for the County. The response requests acknowledgement that limiting the use of variances may result in significant reductions in project size and impacts to the economic backed expectations of applicants.

3. Analysis

The need to grant variances in situations where the strict application of a development standard would result in a taking is well understood by the Commission. The "constitutional variance" provided by Section 30010 of the Coastal Act has been invoked by the Commission where development that is inconsistent with the Coastal Act because of its impact on ESHA must be accommodated to avoid a taking. These procedures are very similar to those a local government uses in granting a variance.

The intent of Preliminary Recommendation 12.15 is not to preclude the County from granting variances in situations where the variance is needed to prevent a taking. Rather, the purpose of this recommendation is to respond to the potential for variances to be misused.

An example of such potential misuse is presented on pages 163-165 of the Preliminary Report.

One potential limit on the use of variances suggested by Preliminary Recommendation 12.15 is prohibiting their approval where the variance would adversely affect ESHA. Again, this is not intended to result in a taking. The recommendation must be read in concert with Preliminary Recommendations 4.10 and 4.11, which provide specific suggestions for balancing the rights of private property owners with the need to protect ESHA.

Taken together, these recommendations would not prevent the County from granting the exceptions to LCP standards where necessary to prevent a taking. Instead, they call for a more detailed analysis of the particular facts necessary to strike the appropriate balance between the protection of private property rights and sensitive coastal resources. Existing variance procedures could still be used to resolve less complex issues, such as where an adjustment is needed to accommodate an economic use on steep slopes where no alternative is available. However, where significant habitats are at stake, a higher level of analysis, such as that suggested by Recommendation 4.10, would be required before an exception to ESHA protection standards could be granted. To clarify this, Preliminary Recommendation 12.15 has been revised as follows:

> **Recommendation 12.15: ~~Further Restrict the Use of Variances~~ Expand Standards for Approval of Variances**
>
> Incorporate additional ~~limitations~~ standards regarding the use of variances into the LCP ~~(e.g., prohibit the use of variances where the project will adversely impact Environmentally Sensitive Habitats)~~. For instance, where a variance is needed to prevent the strict application of ESHA protection standards from resulting in a taking, approval of the variance should be accompanied by information and analyses needed to establish that the variance is warranted under Coastal Act Section 30010.

An additional way to ensure that variances are not inappropriately granted is to make their approval appealable to the Coastal Commission. Coastal Act Section 30603(a)(4) states that any development not designated as the principal permitted use under the zoning ordinance or zoning district map is appealable to the Coastal Commission. A *principally permitted* use is limited to the specific type of developed envisioned for a particular area of land. Conversely, the approval of a variance is a discretionary action that allows for a development/land use that is not consistent with development standards, subject to the conditional approval of the decisionmaking body (see CZLUO 23.01.045(d)). It would therefore be appropriate to amend the LCP in a manner that would establish that any development that requires a variance is, by definition, a conditionally permitted use, appealable to the Coastal Commission. Such a provision is contained in Chapter 20.78 of the Monterey County certified Implementation Plan, and is recommended to be incorporated into the San Luis Obispo County LCP by the following new recommendation:

Recommendation 12.18: Institute Appeal Provisions for Variances

Amend the LCP to identify that any development approved by variance is a conditionally permitted use appealable to the Coastal Commission. An appropriate location for this change would be within Section 23.01.045 of the CZLUO.

4. Conclusion

Recommendations 12.15 and 12.18 will ensure that the implementation of LCP variance provisions will not unnecessarily undermine the coastal resource protection objectives of the Coastal Act.

I. Non-Conforming Uses, Structures, and Parcels

1. Summary of *Preliminary Review Periodic* Findings

Various issues regarding the interpretation of exiting LCP standards for non-conforming uses, structures, and parcels have been raised in recent appeals. For example, the preliminary report identified implementation problems associated with the development of parcels that do not conform to minimum lot size requirements.

Preliminary Recommendation 12.16 proposed two actions to address these problems. First, it recommends that LCP standards for non-conforming situations be clarified. This would most likely take the form of an update to Chapter 9 of the CZLUO. Second, it recommends that the County consider incorporating new standards for the development, adjustment, and certification of non-conforming lots into Chapter 9 of the CZLUO.

2. Comments Received

The County response indicates agreement with the recommendation to clarify and update Chapter 9 of the CZLUO. However, based on legal concerns, they disagree with the portion of the recommendation calling for new standards to address the development, adjustment, and certification of non-conforming lots.

3. Analysis

It is recognized that the County's ability to require the restructuring of non-conforming parcels may be limited by the Subdivision Map Act and other applicable laws. That does not mean, however, that the County is prohibited from taking action to minimize the impacts associated with the certification, adjustment, and development of sub-standards lots. The intent of Preliminary Recommendation 12.16 was to encourage the County to pursue new standards, within its legal authority, that would limit the impacts of such development on coastal resources to the greatest degree feasible. One means of accomplishing this objective with respect to lot line adjustments would be to revise Section 21.02.030(c) of the County's Real Property Division Ordinance so that adjustments must conform to all elements of the

LCP (not just the zoning and building ordinances). Other suggestions for addressing this issue are contained in Chapter 5 of this report.

Accordingly, Preliminary Recommendation 12.16 has been revised as follows:

> **Recommendation 12.16: Clarify LCP Provisions Regarding Nonconforming Uses**
> Clarify LCP provisions regarding nonconforming uses and structures, and consider incorporating new standards for the development/adjustment/certification of non-conforming parcels as addressed ~~earlier~~ in Chapter 5 of this report. With respect to the adjustment of non-conforming parcels, Section 21.02.030(c) of the County's Real Property Division Ordinance should be revised to require lot line adjustments to conform to all elements of the LCP (not just the zoning and building ordinances). These new standards should be crafted in a way that conforms to all applicable local, state, and federal laws.

4. Conclusion

Improvements to LCP standards that regulate nonconforming uses and structures, and the incorporation of new standards to address development on nonconforming parcels, is needed to ensure that LCP implementation prevents nonconforming development from having adverse impacts on coastal resources in conflict with Chapter 3 of the Coastal Act.

J. Efficient Resolution of Appeals

1. Summary of *Preliminary Review Periodic* Findings

The Preliminary report identified a number of ways in which the process for appeals to the Coastal Commission can be improved, as well as ways in which the number of projects being appealed to the Commission could be minimized. These include:

- updating maps and methodologies for determining appealability;
- providing Commission staff with copies of County staff reports prior to the local hearing;
- forwarding the local file of appealed projects to the Commission staff in a complete and timely manner[74];
- utilizing LCP provisions that allows the County to modify its approval of a project in order to resolve an appeal filed by two Commissioners; and,
- incorporating other provisions into the LCP that would allow the County to expeditiously incorporate additional conditions or project revisions to resolve an appeal.

2. Comments Received

[74] Where the local file may be excessively large and/or difficult to reproduce, the Preliminary Report suggests that the County provide a list of all information contained in the file, and include this list with an initial submittal of all relevant plans, documents, and correspondence. Commission staff could request additional information from this list as may be necessary.

The County response states that they disagree/need more information regarding these recommendations. Specifically, the response requests a timeframe for the Commission staff's review of the County's draft staff report (e.g., 10 days), and requests clarification regarding the type of items from the local file the Commission needs when a project is appealed.

3. Analysis and Response

The recommendations of the *Preliminary Report* did not request the County to provide *draft* staff reports for Commission staff review. (While this would be welcomed and encouraged as a means of improving coordination, it is recognized that the timeframe for staff report completion often does not allow as much coordination prior to the reports release as may be desirable.) Rather, the *Preliminary Report* encouraged the County to send the Commission staff a copy of the *final* County staff report prior to the local hearing. It is assumed that County staff currently provides the reports for each hearing to the interested parties and decision-makers in advance of the hearing. The Preliminary report simply requests that these reports be provided to the Commission staff at the same time. The County's current practice is to provide the staff reports after an action has been taken on the project. This unfortunately does not provide the Commission staff with the opportunity to inform the County staff and decision makers about any coastal resource concerns they may have regarding the project or recommended action prior to the local decision.

With regard to the particular type information form the local file that should be transmitted to the Commission staff when an appeal is filed, Sections 13112 of the Coastal Commission's Administrative Regulations state:
Upon receipt of a Notice of Appeal the local government shall refrain from issuing a development permit for the proposed development and shall, within five (5) working days, deliver to the executive director all relevant documents and materials used by the local government in its consideration of the coastal development permit application. (Emphasis added.)

The Notice of Appeal used by the Commission further specifies that this should include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony. Preferably, all of this information would be forwarded to the Commission staff within the 5 day time period established by the administrative regulations. When the size and/or content of the local file may prevent the County from meeting this timeframe, the list of the file contents suggested by the Preliminary Report should include each and every item contained in the file that has relevance to the project that has been appealed. This will help prevent delays in the processing of the appeal and ensure that the Commission has been provided all the information needed to evaluate the appeal.

The following changes to Preliminary Recommendation 12.17 clarify what is being requested of the County, and expand on the various options available to improve the appeal process:

Recommendation 12.17: Provide Additional Opportunities to Efficiently Resolve Appeals

- Incorporate new procedures into the LCP that would provide additional opportunities to resolve appeals at the local level and use existing LCP provisions that allows the County to modify its approval of a project in order to resolve an appeal filed by two Commissioners.

- Improve procedures for providing Commission staff with all information relevant to appealed projects. The information transmitted must include all documents and materials used by the local government in its consideration of the coastal development permit application. Where the County has a question regarding the need or relevance of particular documents or materials, such questions shall be referred to the Commission staff.

- Provide Commission staff with copies of County staff reports prior to the local hearing.

4. Conclusion

The procedural improvements recommended by the Preliminary Report are intended to help minimize the number of local approvals being appealed to the Commission, and facilitate the efficient resolution of appeals that are filed. Most importantly, the recommended actions would ensure that the LCP is implemented in conformity with policies of the Coastal Act regarding appeals and public participation.

The following additional comments generated in response to the Preliminary Report are of a procedural nature, but are not specific to the findings or recommendations contained in Chapter 12.

K. Funding

One concern expressed regarding the preliminary recommendations is the cost and staff time associated with their implementation. Many of the recommendations call for the County to develop new administrative procedures, LCP Amendments, and to expand current update efforts. Carrying out these recommendations will require a commitment of financial resources, as well as additional staff and staff training.

Similarly, the Periodic Review calls on other local agencies and organizations to take certain actions to respond to particular coastal resource concerns. For example, the Cambria Community Services District plays a crucial role in responding to the water supply/riparian habitat issues in the North Coast Area, as well as participating in the protection of forest resources through development and implementation of the Cambria Monterey Pine Forest Management Plan. The Los Osos Community Services District is a critical player in carrying out the recommendations regarding the protection of dune habitat in southern Morro Bay, as well as being the primary entity responsible to addressing wastewater treatment needs.

The LCP grants awarded to San Luis Obispo County, and the dedication of additional Commission staff to the Periodic Review effort, has provided a unique opportunity for enhanced coordination. It has allowed more frequent dialogue regarding pending development applications and planning efforts, periodic visits to the County by the Commission staff, and numerous public workshops, all of which have proven to be valuable tools for resolving issues and improving coordination. The continued commitment of County and Commission funding

and staff resources is crucial to the ongoing coordination needed to bring the recommendations of the Periodic Review to fruition.

Other grant and funding opportunities are also needed to facilitate the essential participation of the community services districts and the other local agencies and organizations. Some grant projects already underway will help implement the recommendations of the Periodic Review. For instance, Commission staff, the Morro Bay National Estuary Project, and the California Conservation Corps have secured funding to complete more detailed and accurate delineations of Morro Bay Wetlands, which will have direct application towards updating the LCP's Combing Designation Maps. Taking advantage of existing and new grants, in a collaborative and coordinated fashion, is a key way in which the Periodic Review can be implemented.

In recognition of these important needs, Exhibit E attached to this report identifies potential grant and funding sources that could be used towards fulfilling the recommendations. In addition, the following new Recommendation 12.19 encourages the Commission and County staff to outreach to grantors and grantees in a way that will promote projects that will achieve the coastal resource protection and planning improvements called for by this report:

> **Recommendation 12.19: Improve Coordination with Grant Programs**
>
> Commission and County staff should work with local state and federal grant sources, as well as the recipient of grants, in a way that will facilitate the coastal resource protection and planning improvements called for by this report.

As another means to effectuate the recommendations of the Periodic Review and improve the coastal planning process at both the local and state level, the following new recommendation has been incorporated into this review:

> **Recommendation 12.20: Seek Additional Funding and Staffing Resources**
>
> Both the Coastal Commission and the County should attempt to secure the funding necessary to further develop and implement the recommendations of the Periodic Review. In particular, the Commission should continue to offer LCP Grants that will facilitate the County's ability to commit staff resources to this effort, and the County should take full advantage of these and other grant opportunities. In addition, the Commission should seek funding to staff the Central Coast District Office at a level that will enhance its ability to assist and coordinate with San Luis Obispo County.

L. Interagency Coordination

Land use and development in the San Luis Obispo coastal zone often triggers numerous regulatory requirements and the approval of various governmental agencies. Prior to incorporating the additional regulatory requirements recommended by the preliminary report, commenters have requested that the Commission staff identify the other government agencies and organizations working towards similar objectives.

This final report has attempted to better articulate the important role that the LCP plays in the coastal resource protection, and how the LCP can be better integrated with other regulatory programs so they can work together in a coordinated and complimentary manner. Recommendations intended to facilitate improved regulatory coordination include:

- Recommendations within the new development chapter that will enhance coordination between local service providers and the County's development review process;
- Recommendations within the Water Quality Chapter that help define the role of the County in implementing state and nationwide pollution control objectives;
- Recommendations within the agriculture chapter that encourage cooperation with voluntary programs such as those implemented by the National Resource Conservation Service; and,
- Recommendations within the Environmentally Sensitive Habitat Areas Chapter that maximize opportunities for the development of habitat conservation plans that will address the requirements of state and federal endangered species acts as well as the Coastal Act.

Commission staff will continue to work with the County and other involved agencies to refine the implementation of these recommendations and better integrate existing regulatory programs and requirements.

M. LCP Simplification

The San Luis Obispo County certified LCP is comprised of over 10 documents and two sets of official maps. Commenters have indicated that the size of the LCP makes is difficult to obtain and understand the various standards and requirements that apply to new development.
One option for responding to this issue would be to compile the portions of the LCP that contain the policies, ordinances and standards applicable to new coastal development in a single document. This document could be used as a supplemental tool to the complete LCP that would provide applicants and administrators with a quick reference guide to applicable regulatory standards.

This concept has been incorporated into the final report as new Recommendation 12.21:

> Recommendation 12.21: Develop an LCP "Quick Reference Guide"
> Compile the portions of the LCP that contain the policies, ordinances and standards applicable to new coastal development in a single document that would provide applicants and administrators with a quick reference guide to applicable regulatory standards.

G:\SLORecap\Final Staff Reports\Final Staff Recommendation\Final Staff Report.doc

---

[i] The Cambrian, December 3, 1987, 5.

[ii] San Luis Obispo County Major LCP Amendment 2-88, Adopted Findings, August 25, 1988.

[iii] Comments of the Hearst Corporation, Tab G.

[iv] Sage Associates, *The Hearst Ranch Agricultural Compatibility Study Visitor Serving Facilities*, July 1988, 4.

[v] The Commission found that "an easement . . . over the remaining property [was] necessary in order to find that the development proposed on the Ranch [could] be balanced with the maintenance of the existing agricultural uses . . . protected by Sections . . . 30241 and 30242 of the Coastal Act." CCC, Revised Findings for Suggested Modifications for Resubmittal, Oct. 10, 1983.

[vi] See California Coastal Commission, Adopted Findings, San Luis Obispo County Major LCP Amendment, 2-88, August 25, 1988.