

Cambria Community Services District  
P.O. Box 65  
1316 Tamson Drive, Ste 201  
Cambria, CA 93428

805-927-6235

DATE: January 13, 2010

TO: INTERESTED PARTIES

SUBJECT: NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION

PROJECT: Geotechnical and Hydrogeologic Study at Santa Rosa Creek Beach

The Community Services District of Cambria is proposing a project that involves installation of monitoring wells along the State Beach and County-owned Shamel Park beach over a two-year maximum time period for the purpose of temporary information gathering activities of groundwater. The investigation will consist of geophysical surveys and soil borings along the Santa Rosa Creek beach, laboratory analysis, and pump tests, and computer modeling to characterize the subsurface materials and hydrology. The Cambria Community Services District has prepared a draft Negative Declaration (ND) pursuant to the requirements of CEQA. The Cambria Community Services District requests that you review the enclosed materials and provide any appropriate comments related to your agency's area of responsibility within 30 days of receipt of this Notice.

The space below may be used to indicate that your agency has no comments or to state brief comments. If you comment on the ND you will be notified of any public hearing where the adoption of the ND will be considered. If you have any questions, please contact the District's consultant, David Foote at (805) 781-9800, fax (805) 781-9803. Please respond by 5:00 P.M., February 14, 2010.

Distribution: (page 3)

- No Comments provided
- Comments noted below
- Comments provided in separate letter

COMMENTS: SCH Compliance Due Date 2-18-10

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From: Agency Name: CDFG  
Contact Person: Brandon Sanderson  
Phone Number: 805-594-6141

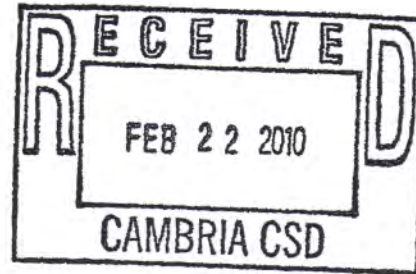




California Natural Resource Agency  
 DEPARTMENT OF FISH AND GAME  
 Central Region  
 1234 East Shaw Avenue  
 Fresno, California 93710  
 (559) 243-4005  
 http://www.dfg.ca.gov

ARNOL

HWARZENEGGER, Governor  
 JOHN McCAMMAN, Director



February 17, 2010

Tammy Rudock  
 Cambria Community Services District  
 1316 Tamson Drive, Suite 201  
 Post Office Box 65  
 Cambria, California 93428  
 trudock@cambriacsd.org

Subject: Negative Declaration (ND)  
 Geotechnical and Hydrological Study at Santa Rosa Creek Beach  
 SCH No. 2010011039

Dear Ms. Rudock:

The Department of Fish and Game has reviewed the ND submitted by the Cambria Community Services District (District) for the above Project. Project approval would allow for installation of monitoring wells along San Simeon State Park and Shamel County Park for temporary subsurface data gathering of ground water. Objectives of investigation are to classify the lithology and material gradation within beach-area paleochannels; define the hydraulic characteristics of the alluvial deposits; determine subsurface and ground water quality and soil properties for preliminary computer modeling; and preliminarily estimate ground water flow patterns and quantities. The Project as described identifies that it would not have a significant effect on the environment.

The Department is concerned that the Project description has not been adequately characterized and excludes Project details needed to assess whether potential significant effects may occur to wildlife species and habitat. The Department finds that the ND is not appropriate for this Project due to the potential for fish and wildlife impacts and, therefore, recommends the District revise the California Environmental Quality Act (CEQA) document and resubmit it for re-circulation as a Mitigated Negative Declaration (MND).

**Department Jurisdiction**

**Trustee Agency Role:** The Department is a Trustee Agency with the responsibility under CEQA for commenting on projects that could impact plant and wildlife resources. Pursuant to Fish and Game Code Section 1802, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. As a Trustee Agency for fish and wildlife resources, the Department is responsible for providing, as available, biological expertise to review and comment on environmental documents and impacts arising from project activities, as those terms are used under CEQA.

**Responsible Agency Role:** The Department is a Responsible Agency when a subsequent permit or other type of discretionary approval is required from the Department, such as an Incidental Take Permit, pursuant to the California Endangered Species Act (CESA), or a Lake and Streambed Alteration Agreement (LSAA) issued under Fish and Game Code Sections 1600 et seq.

The Department has regulatory authority over projects that could result in the "take" of any species listed by the State as threatened or endangered, pursuant to Fish and Game Code Section 2081. If the Project could result in the "take" of any species listed as threatened or endangered under CESA, the Department may need to issue an Incidental Take Permit for the Project. CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (Sections 21001(c), 21083, Guidelines Sections 15380, 15064, 15065). Significant impacts must be avoided or mitigated to less than significant levels in order for "take" authorization to be issued by the Department, and while the CEQA Lead Agency may make a supported Statement of Overriding Considerations (SOC), the Department cannot issue a "take" authorization unless all impacts have been "minimized and fully mitigated" (Fish and Game Code Section 2081).

The CEQA Lead Agency's SOC does not eliminate the Project proponent's obligation to comply with CESA. In other words, compliance with CESA does not automatically occur based on local agency project approvals or CEQA compliance; consultation with the Department is warranted to ensure that Project implementation does not result in unauthorized "take" of a State-listed species.

Incidental "take" authority is required prior to engaging in "take" of any plant or animal species listed under CESA. Plants listed as threatened or endangered under CESA cannot be addressed by methods described in the Native Plant Protection Act. No direct or indirect disturbance, including translocation, may legally occur to State-listed species prior to the applicant obtaining incidental "take" authority in the form of an Incidental Take Permit.

**Permit Streamlining:** Issuance of an LSAA and/or an Incidental Take Permit by the Department is considered a "project" (CEQA Guidelines Section 15378) and is subject to CEQA. The Department typically relies on the Lead Agency's CEQA compliance to make our own findings. For the Lead Agency's CEQA document to suffice for permit/agreement issuance, it must commit to fully describing the potential Project-related impacts to stream/riparian resources and listed species, as well as measures to avoid, minimize, and mitigate impacts to these resources. Impacts to State-listed species must be "fully mitigated" in order to comply with CESA (California Fish and Game Code Section 2081(b)(2)). If the CEQA document issued by the District for this Project does not contain this information, the Department may need to act as a Lead CEQA Agency and complete a subsequent CEQA document. This could significantly delay permit issuance and, subsequently, Project implementation. In addition, CEQA grants Responsible Agencies authority to require changes in a Project to lessen or avoid effects of that part of the Project which the Responsible Agency will be called on to approve (CEQA Guidelines Section 15041).

**Bird Protection:** The Department has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized "take" of birds. Sections of the Fish and Game Code that protect birds, their eggs and nests include Sections 3503 (regarding unlawful "take," possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the "take," possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful "take" of any migratory nongame bird).

#### **General Comments and Recommendations**

**CEQA Compliance (No Effect Determination):** The Initial Study (IS) states that the Project will not have any potential effects on fish and wildlife resources or the habitat upon which the wildlife depends and therefore qualifies for a "no effect" determination. Based on the Department's review of the Project Description contained within the IS and ND prepared for this Project, this Project does not qualify for the no effect determination. In order for the Department to make a no effect determination, the project has to have no potential impacts to wildlife resources, not just a de minimus or "insignificant" impact as per CEQA. Beaches, parks, and even dirt parking lots can have wildlife value, and any disturbance in such areas (e.g., vehicle movement, construction or installation activities) could impact wildlife. Please see the following website for further information CEQA fees and effect determinations:  
[http://www.dfg.ca.gov/habcon/ceqa/ceqa\\_changes.html](http://www.dfg.ca.gov/habcon/ceqa/ceqa_changes.html).

**CEQA Compliance (Project Description):** The proposed Project involves the installation of monitoring and test wells for information gathering of subsurface materials and hydrology along Santa Rosa Creek State Beach. This includes geophysical surveys, soil borings, laboratory analysis, pump tests, and computer modeling of ground water activity over a maximum of two years. The IS Project description does not include a discussion of soil boring and pump test activities (including ground water pollutant sampling and test well dewatering), staging area location and associated activities, beach access routes, and sampling and monitoring activities during the two year time period. The Project description also does not discuss the potential relocation of test wells due to environmental conditions to ensure potential impacts remain less than significant (e.g., seasonal movement patterns of the Santa Rosa Creek mouth and high tide line). The Santa Rosa Creek mouth is known to have variable seasonal movements which could impede proposed well locations. The Project description should describe variability in well sampling and monitoring locations in regards to seasonal movements of the Santa Rosa Creek mouth over the two-year Project time frame.

The Department finds the Project description to be incomplete in relation to proposed activities. Thus, the Department cannot make a complete and accurate determination regarding potential Project-related impacts to biological resources nor properly evaluate measures proposed to avoid environmental impacts and to minimize potential impacts to a less than significant level. The CEQA document also does not discuss the Project's potential nexus to the proposed future desalination facility as referenced in the United States Army Corps of Engineers Coastal Consistency Determination (CCD).

In addition, the IS seems to be inconsistent with the CCD as referenced in the CEQA document. For example, the CCD states that ten test holes will be drilled with three or more being converted to test wells, and that each test well will have two monitoring wells associated with it. In contrast, the IS identifies a maximum of three monitoring wells with six to seven additional core sampling holes. The IS does not properly identify the additional six monitoring wells that will be installed per each test well with the option of additional test wells and monitoring wells if conditions permit. This allows for great variability and uncertainty with regards to Project activities and potential environmental impacts.

Finally, the Project as proposed does not appear to include utilization of the test wells to obtain information which would be useful in identification of impacts to stream and lagoon resources from pumping sub-surface flow to service a desalination facility, such as the effects of pumping on water quality and quantity, salinity in the stream/lagoon, dissolved oxygen, water temperature, and other factors which may impact stream and lagoon resources. The Department recommends that these activities be covered in the Project description to better inform any subsequent environmental document which may be prepared for the proposed future desalination facility. Additionally, pumping of water from underflow of Santa Rosa Creek to supply a desalination facility may require an appropriative water right from the State Water Resources Control Board (SWRCB), the issuance of which would also be considered a "project" under CEQA. The SWRCB should be contacted to determine their jurisdiction and information they may require in an environmental document to support a water right application.

Finally, the Project identifies test wells only in the vicinity of Santa Rosa Creek, and does not reference any previous analysis of potential alternative sites for a desalination facility. The Department recommends that such an alternatives analysis be prepared prior to selection of this site as the only area for the installation of monitoring wells, or identification of additional areas where test wells will be installed. Without such an analysis, and the absence of test wells in other potential locations, the District may not have sufficient information to consider other legitimate alternatives for the desalination facility. The absence of alternative locations could be viewed as pre-decisional commitment of resources and/or a discretionary decision on the part of the District, without the environmental documentation and transparent public process required by CEQA.

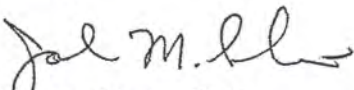
**Site Contamination:** The IS does not properly identify potential impacts from mercury and MTBE contamination in the sediment and ground water associated with the Project location. Santa Rosa Creek is known to contain mercury contamination from previous upstream mine operations as well as potential MTBE contamination within the Santa Rosa Creek aquifer. The Project is proposing to discharge ground water from test pump wells to the ocean as described in the IS impact discussion 8.f. Therefore, the CEQA document should address potential impacts to fish and wildlife habitat, including surface waters from this activity. The Department understands that the Project will be subject to Regional Water Quality Control Board National Pollution Discharge Elimination System (NPDES) permit conditions; however, this does not alleviate the District from evaluating potential impacts from such activities. The Department recommends that the CEQA document be revised to address potential impacts related to site contamination, accompanied with appropriate mitigation measures.

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**CEQA Compliance (Appropriate Environmental Document):** The Department recommends that the CEQA document be revised and re-circulated, as a Mitigated Negative Declaration, to adequately reflect all probable Project activities and associated potential impacts to natural resources over the entire Project site that could occur upon approval of the Project. This should include a discussion regarding the potential relocation of test wells and the avoidance of all activities within Santa Rosa Creek and its lagoon. It should be noted within the CEQA document that a separate environmental document will be produced for the future desalination facility (with explanation) and that the facility is not part of this IS.

Thank you for the opportunity to comment on the ND for the Geotechnical and Hydrological Study at Santa Rosa Creek Beach Project. If you have any questions regarding these comments, please contact Brandon Sanderson, Environmental Scientist, at 3196 Higuera Street, Suite A, San Luis Obispo, California 93401, by telephone at (805) 594-6141, or by e-mail at bsanderson@dfg.ca.gov.

Sincerely,

  
for Jeffrey R. Single, Ph.D.  
Regional Manager

cc: Victoria Whitney  
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