

RECORDING REQUESTED BY:

County of San Luis Obispo

AND WHEN RECORDED MAIL TO:

Clerk of the Board of Supervisors
County of San Luis Obispo
County Government Center
San Luis Obispo, CA 93408

APN Nos: 064-112-022
064-112-023

**AGREEMENT GRANTING AN OPEN-SPACE EASEMENT
TO THE COUNTY OF SAN LUIS OBISPO**

THIS AGREEMENT is made and entered into this ____ day of _____,
20____, by and between M & R INVESTMENT ONE COMPANY, INC., a Nevada
corporation, who acquired title as M & R Investment Company, Inc., hereinafter referred
to as "Owner," and the COUNTY OF SAN LUIS OBISPO, a political subdivision of the
State of California, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, Owner is the record owner of certain real property (hereinafter
referred to as the "Property") located in the County of San Luis Obispo, State of
California, which is more particularly described in Exhibit A attached hereto and
incorporated by reference herein as though set forth in full; and

WHEREAS, the Property is located within the coastal zone as defined in section
30103 of Division 20 of the California Public Resources Code, hereinafter referred to as
the "California Coastal Act of 1976"; and

WHEREAS, Owner has filed an application for approval of Minor Use Permit/Coastal Development Permit DRC2014-00022 in order to authorize the construction of three single family residences on privately-owned land in the unincorporated area of the County of San Luis Obispo, State of California; and

WHEREAS, as agreed to by the Owner and as a requirement of the conditions of approval of Minor Use Permit/Coastal Development Permit DRC2014-00022 (as shown in the attachments to the Notice of Final County Action attached hereto as Exhibit B) and in accordance with section 23.07.170 of the San Luis Obispo County Code, Owner is required to enter into an open-space easement agreement with the County, on behalf of itself and its successors in interest, in order to restore, protect, and enhance the native riparian habitat and Monarch butterfly habitat ; and

WHEREAS, Owner intends that the restrictions contained in this agreement shall apply to that portion of the Property (hereinafter referred to as the "Easement Area") which is more particularly described and shown in Exhibit C, attached hereto and incorporated by reference herein as though set forth in full; and

WHEREAS, execution of this agreement by Owner and County, and subsequent performance of its obligations by Owner and his successors in interest, will satisfy the requirement for dedication of an open-space easement agreed to by Owner and imposed by condition 12 of the conditions of approval of Minor Use Permit/Coastal Development Permit DRC2014-00022; and

WHEREAS, the Easement Area has certain scenic beauty and important wildlife and habitat conservation values, and both Owner and County desire to preserve and conserve for the public benefit the scenic beauty and wildlife and habitat conservation values of said property of the Owner; and

WHEREAS, Owner is willing to grant to County the scenic use, as hereinafter expressed, of the land and thereby protect and preserve the creek habitat and the wildlife and habitat conservation values and scenic beauty of the Easement Area by the restricted use of said property by Owner through the imposition of the conditions hereinafter expressed; and

WHEREAS, both Owner and County intend that the terms, conditions, and restrictions of the open-space easement granted in this agreement are in compliance with the provisions of the California Coastal Act of 1976; the Local Coastal Program, as set forth in the Land Use Element of the General Plan of the County and in Title 23 of the San Luis Obispo County Code, hereinafter referred to as the "Local Coastal Program" and; Government Code sections 51070 through 51097, inclusive, hereinafter referred to as the "Open-Space Easement Act of 1974;" and

WHEREAS, both Owner and County intend that the open-space easement granted herein is irrevocable and shall constitute an enforceable restriction within the meaning of Article XIII, section 8 of the California Constitution and under the provisions of Revenue and Taxation Code section 422; and

WHEREAS, Owner has supplied County with a current title company preliminary title report, interim binder of title insurance for Owner's purchase of the Property, or lot book guarantee listing all trust deed beneficiaries and mortgagees, if any, under prior recorded deeds of trust and mortgages on the Property.

NOW, THEREFORE, in consideration of the premises and in compliance with the provisions of the California Coastal Act of 1976, the Local Coastal Program, and the Open-Space Easement Act of 1974, and in further consideration of the mutual

promises, covenants, and conditions herein contained and the substantial public benefits to be derived therefrom, the parties hereto agree as follows:

1. Grant of open-space easement. Owner hereby grants to County, for the benefit of the People of the State of California, and for the term specified in paragraph 5 below, an open-space easement in and to the Easement Area described above. For the purpose of accomplishing the intent of the parties hereto, Owner hereby agrees on behalf of itself, its successors and assigns with the County, its successors and assigns, to the following terms, conditions and restrictions.

2. Restrictions on use of the Easement Area. No development, as that term is defined under the California Coastal Act of 1976, Public Resources Code section 30106, attached as Exhibit D, and the County's Local Coastal Program, shall be permitted on the Easement Area, except for the following, as set forth Minor Use Permit/Coastal Development Permit DRC2014-00022 referred to above:

- i. Restoration, protection, and enhancement of native riparian habitat and Monarch butterfly habitat consistent with the terms of the Final Landscape Restoration and Enhancement Plan (which plan is available for review at the County Department of Planning and Building and is incorporated by reference herein as though set forth in full); and
- ii. Public interpretive access improvements approved by a coastal development permit.

3. Development Subject to Applicable Laws. Land uses permitted or reserved to the Owner by this agreement shall be subject to and in compliance with all applicable laws regulating the use of land.

4. No authorization for public trespass. Except as provided in the above-referenced permit or in a subsequently issued coastal development permit, the grant of easement contained herein and its acceptance by the County of San Luis Obispo does not authorize, and is not to be construed as authorizing, the public, or any member thereof, to trespass upon or use all or any portion of the Easement Area, or as granting to the public, or any member thereof, any tangible rights in or to the Easement Area or the right to go upon or use or utilize the Easement Area in any manner whatsoever. It is understood that the purpose of this agreement is solely to restrict the uses to which the Easement Area may be put so that the Property may be kept as near as possible in its natural condition for the benefit of the public by preserving habitat and the conservation value of the Easement Area.

5. Duration of easement. The grant of easement to the County contained in this agreement shall be effective when it has been approved and accepted by resolution of the Board of Supervisors (the "Board") in the manner provided by law. Upon approval and acceptance by the Board, the clerk of the Board shall record the resolution and this agreement together in the Office of the County Clerk-Recorder. The easement shall remain in effect in perpetuity unless abandoned or otherwise terminated by the Board of Supervisors in accordance with the provisions of the Open-Space Easement Act of 1974. No easement shall be abandoned or otherwise terminated without first obtaining (1) approval of an amendment to the Minor Use Permit/Coastal Development Permit DRC2014-00022 authorizing such abandonment or termination and, (2) if applicable, any additional required approval under the California Coastal Act of 1976 or the Local Coastal Program.

6. Enforceable restriction. Upon acceptance of the open-space easement granted herein, the Property shall be deemed to be "enforceably restricted" within the meaning of section 422 of the Revenue and Taxation Code and section 8 of Article XIII of the Constitution of the State of California.

7. Binding on successors in interest. The restrictions set forth in this agreement shall be deemed equitable servitudes and covenants running with the land described herein and shall be binding on the parties hereto and their heirs, assigns, and successors in interest. Any conveyance, transfer, or sale made by Owner of the Property or any portion thereof shall be deemed to incorporate by reference, and be subject to, each of the provisions of this agreement.

8. Effect of waiver. County's waiver of the breach of any one term, covenant, or provision of this agreement shall not be a waiver of a subsequent breach of the same term, covenant, or provision of this agreement or of the breach of any other term, covenant, or provision of this agreement.

9. Judicial enforcement. Enforcement shall be by proceeding at law or in equity, either to restrain a violation or an attempted violation or by suit to recover damages against any person or persons violating or attempting to violate any covenant or restriction contained herein.

10. Interpretation, governing law and venue. This agreement has been executed and delivered in, and shall be interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of California, including the California Coastal Act of 1976, the Local Coastal Program and the Open-Space Easement Act of 1974. To the extent that there is a conflict between these provisions, the California Coastal Act of 1976 shall govern, followed by the provisions of the Local Coastal

Program, and the language in this agreement. All duties and obligations of the parties created hereunder are performable in the County of San Luis Obispo, and such County shall be the venue for any action or proceeding that may be brought, or arise out of, in connection with or by reason of this agreement.

11. Enforceability. If any term, covenant, condition, or provision of this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

12. Notices. Unless otherwise provided, all notices herein required shall be in writing, and delivered in person or sent by United States first class mail, postage prepaid. Notices shall be addressed as follows:

To the County: Director of Planning and Building
 County of San Luis Obispo
 976 Osos Street, Room 300
 San Luis Obispo, California 93408

To the Owner: M & R Investment One Company, Inc.
 1170 Main Street,
 Morro Bay, California 93442

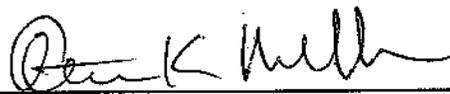
Either party may change the address above by providing notice in writing to the other party. Subsequent notices shall be addressed and transmitted to the new address.

13. Agreement to be recorded. Owner and County intend and consent to the recordation of this agreement in the office of the County Recorder of the County of San Luis Obispo, and such recordation shall serve as constructive notice of the obligations contained herein to be performed by the Owner and the successors in interest to all or any portion of the Property.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

OWNER

M & R INVESTMENT ONE COMPANY, INC.,
a Nevada corporation

By: 
Its [name]: STEVE K. MILLER
[title]: PRESIDENT

COUNTY OF SAN LUIS OBISPO

By: _____
Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: 
Deputy County Counsel

Dated: 7/22/16

LEGAL DESCRIPTION APPROVED AS TO FORM:

JOE MORRIS
Deputy County Surveyor

By: Joseph J. Morris

Dated: 6-27-2016

[NOTE: This Open-Space Agreement will be recorded. All signatures to this agreement must be acknowledged by a notary.]

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EXHIBIT A

Legal Description of the Property

Real property in the unincorporated area of the County of San Luis Obispo, State of California, described as follows:

PARCEL A: (Certificate of Merger Instrument No. 2005-024021)

Lots 3 and 4 in Block 3 of the Town of Cayucos, County of San Luis Obispo, State of California, according to the map recorded in Book A, Page 160 of Maps, in the office of the County Recorder of said County.

PARCEL B: (Certificates of Compliance 2002-037297 and 2002-037298)

Lots 5 and 6 in Block 3 of the Town of Cayucos, County of San Luis Obispo, State of California, according to the map recorded in Book A, Page 160 of Maps, in the office of the County Recorder of said County.

APN: 064-112-022 and 064-112-023

Exhibit B

Notice of Final County Action



SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

Promoting the wise use of land - Helping to build great communities

May 22, 2015

Paul Abbott
3590 Broad St. Suite 130
San Luis Obispo, CA 93401

M & R Investments One Co.
1170 Main Street
Morro Bay, CA 93442

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: May 15, 2015

SUBJECT: M&R INVESTMENT ONE COMPANY, INC.
County File Number: DRC2014-00022
Minor Use Permit / Coastal Development Permit
DOCUMENT NUMBER: 2015-038_PDH

LOCATED WITHIN COASTAL ZONE: YES

The above-referenced application was approved by the Hearing Officer, based on the approved Findings and Conditions, which are attached for your records. This Notice of Final Action is being mailed to you pursuant to Section 23.02.033(d) of the Land Use Ordinance.

This action is appealable to the Board of Supervisors within 14 days of this action. If there are Coastal grounds for the appeal there will be no fee. If an appeal is filed with non-coastal issues there is a fee of \$850.00. This action is appealable to the California Coastal Commission pursuant to regulations contained in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission 10 working days following the expiration of the County appeal period to appeal the decision. This means that no construction permits can be issued until both the County appeal period and the additional Coastal Commission appeal period have expired without an appeal being filed.

Exhaustion of appeals at the county level is required prior to appealing the matter to the California Coastal Commission. This second appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (831) 427-4863 for further information on their appeal procedures.

If the use authorized by this Permit approval has not been established or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through

conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 23.02.050 of the Land Use Ordinance.

If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six (6) months or conditions have not been complied with, such Permit approval shall become void.

If you have questions regarding your project, please contact, **Schanl Siong, Project Manager**, at (805) 781-5600. If you have any questions regarding these procedures, please contact me at (805) 781-5718.

Sincerely,

**NICOLE RETANA, SECRETARY
PLANNING DEPARTMENT HEARINGS**

EXHIBIT A – FINDINGS
DRC2014-00022 / M&R Investment One Company, Inc.

Environmental Determination

- A. The Environmental Coordinator found that the previously adopted Mitigated Negative Declaration is adequate for the purposes of compliance with CEQA. Per State CEQA Guidelines (Sec. 15164(a), Sec. 15162) an Addendum to the adopted Mitigated Negative Declaration was prepared as the following conditions apply: 1) only minor technical changes or additions are necessary; 2) no substantial changes have been made or occurred that would require major revisions to the Negative Declaration due to either new significant effects or substantial increases in the severity of previously identified significant effects; 3) substantial changes have not occurred with respect to the circumstances under which the project is undertaken; 4) no new information of substantial importance which was not known or could not have been known at the time of the adopted Negative Declaration has been identified. No new mitigation measures have been proposed.

Minor Use Permit/ Coastal Development Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan and Local Coastal Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the new residences do not generate activities that present potential threats to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the three single family residences are allowed uses and will not conflict with the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Birch Avenue, a (local) road constructed to a level able to handle any additional traffic associated with the project

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

Sensitive Resource Area

- H. The development will not create significant adverse effects on the natural features (Coastal Stream) of the site or vicinity that are the basis for the Sensitive Resource Area designation, and will preserve and protect such features through site design because the project includes adequate setbacks from the riparian vegetation, a prohibition of fireplaces and direct lighting into

the riparian area, and conditions to restore the riparian habitat and implement grading, erosion, sedimentation standard measures that will protect the sensitive habitat.

- I. Natural features and topography have been considered in the design and siting of all proposed physical improvements because the three residences and driveway are located in the least environmentally damaging portion of the project site and outside the creek setback.
- J. The proposed clearing of topsoil is the minimum necessary to achieve safe and convenient access and siting for the project, and will not create significant adverse effects on the identified sensitive resource because the development will be located outside the creek setback and sensitive riparian habitat. No tree removal will be allowed and the residences are located the furthest extent possible from the riparian vegetation.
- K. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff. To ensure compliance, the project is conditioned to submit an erosion, sedimentation control and drainage plan utilizing Best Management Practices to Public Works for approval at the time of building permit applications and implementation during construction.

Streams and Riparian Vegetation

- L. The proposed project is a development of three single family residences that is an allowable use and will be located approximately 20 to 40 feet to the creek. No alternative locations and routes are feasible or less environmentally damaging because the residences are placed from the furthest extent of the riparian vegetation and on the least environmentally damaging portion of the project site.
- M. Adverse environmental effects have been mitigated to the maximum extent feasible. Implementation of the conditions and mitigation measures will ensure no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.

Archaeology findings

- N. Disturbance of archeological resources cannot be feasibly avoided through a site design and construction. A mitigation plan was submitted (Applied Earthworks, 2015) and will be implemented prior to permit issuance or ground disturbing activities, and during construction.

**REVISED EXHIBIT B - CONDITIONS OF APPROVAL
DRC2014-00022 M&R Investment One Company, Inc.**

Approved Development

1. This Minor Use Permit/ Coastal Development Permit approves the following development and project-related activities in three work areas: The applicant shall complete each work area in its entirety:

Work Area 1

- a. Grading and street improvements to Birch Avenue access road;
- b. Grading and minor site work along the alley for sewer laterals;
- c. Grading and minor site work across Lot 3 & 4 (merged), Lot 5, Lot 6, and adjacent Lot 7 for gas lines;
- d. Restoration and enhancement of the riparian habitat area; and
- e. Total site disturbance of approximately 6,200 square feet (not including riparian restoration).

Work Area 2

- f. Grading and construction of a shared driveway across Lot 3 & 4 (merged), Lot 5, Lot 6, and adjacent Lot 7;
- g. Grading and construction of a new 3,000 sf. (garage included) two-story residence on Lot 3 & 4 (merged). Maximum building height is 28 feet;
- h. Grading and construction of building pads on Lot 5 and Lot 6;
- i. On-going monitoring and restoration of the riparian habitat area; and
- j. Total site disturbance of approximately 11,300 square feet (not including riparian restoration).

Work Area 3

- k. Grading and construction of 2 new two-story residences and related site improvements; 3,600 sf. (garage included) on Lot 5 and 3,600 sf. (garaged included) on Lot 6. Maximum building height is 28 feet;
- l. On-going monitoring and restoration of the riparian habitat area (as necessary); and
- m. Total site disturbance of approximately 3,550 square feet (not including riparian restoration).

2. The project will result in a total area of onsite disturbance of approximately 10,000 sf. and offsite disturbance of approximately 7,500 sq.ft. (Birch Avenue access road, utility trenching, and shared driveway construction on adjacent Lot 7).

Conditions required to be completed at the time of application and/or prior to issuance of construction permits

Site Development

3. **At the time of application for grading and/or construction permit(s), the applicant shall submit final site plans to the Department of Planning and Building for review and approval. The final site plans shall show the following:**
- a. **Little Cayucos Creek Setback.** Other than habitat restoration related development, all development including but not limited to cut and fill slopes, retaining walls, drainage features, fencing, decking, and parking areas, shall be set back a minimum distance of 20 feet from the upland edge of Little Cayucos Creek riparian vegetation.
 - b. **Approved Development Envelope.** All areas of the site outside of the Little Cayucos Creek Riparian Habitat Area and its required setback shall be demarked as the Approved Development Envelope.
 - c. **Little Cayucos Creek Riparian Habitat Area.** The area of the site outside the Approved Development Envelope shall be demarked as the Little Cayucos Creek Riparian Habitat Area, where development and uses shall be limited to restoration, enhancement, protection, and interpretation of the Little Cayucos Creek riparian and Monarch Butterfly habitats.
 - d. **Site Access.** All access to the residential units from E Street shall be clearly identified on the final site plans, and shall include:
 - i. Verification that access has been reviewed and approved by the Department of Public Works with respect to improvements in the Birch Street right-of-way;
 - ii. Verification that access has been reviewed and approved by the Cayucos Fire Department in respects to fire safety regulations;
 - iii. Record of access easement or other legal right of access granted by the Cayucos School District for access across Lot 7.
 - iv. Removable bollards shall be installed at the end of the common driveway between Lots 3&4 and Lot 5 to prevent daily vehicular access into the alley.
 - e. **Project Limit Area.** The final plans shall clearly identify specific locations of construction, areas for staging and storage, and construction access corridors. Such areas shall be minimized to the maximum extent feasible to minimize impacts on the creek habitat area. Silt fences, or equivalent shall be installed at the perimeter of allowable construction area to prevent runoff and/or sediment from entering the riparian habitat area.
 - f. **Construction Plan Notes.** The final plans shall include a final construction schedule and erosion control/ water quality BMPs (and locations). The following required criteria must be shown on the Plan Notes:
 - i. All work shall take place during daylight hours. Lighting of the creek and riparian area is prohibited.

- ii. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside the defined construction, staging, and storage areas.
 - iii. Construction shall only occur during Monarch roosting off season, between April 15 to October 1. No construction shall be permitted during any other month to ensure Monarch habitat protection.
- g. **Riparian Access.** The final plans shall provide a pedestrian accessway through the retaining wall on Birch Avenue leading to the existing stairway/ creek access.
4. **Prior to issuance of construction permits for the residences,** the applicant shall submit a color and materials board to the Department of Planning and Building for review and approval.

Fire Safety

5. **Prior to issuance of construction and/or grading permits for each Work Area,** all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Requirements shall include, but not be limited to, those outlined in the project's Fire Safety Plan (Cayucos Fire Department; August 29, 2002 and 2006). Additional Fire Safety Review will be required and the applicant shall provide evidence that all plans submitted are compliant with current fire and life safety requirements of the Cayucos Fire Department and the California Fire Code.

Services

6. **Prior to issuance of construction and/or grading permits for each Work Area,** the applicant shall provide confirmation of final water availability letter from Morro Rock Mutual Water Company to service the new residences. The project shall meet all applicable conditions of the final will serve requirements by the water purveyor.
7. **Prior to issuance of construction and/or grading permits for each Work Area,** the applicant shall provide confirmation of final sewer availability letter from Cayucos Sanitary District to service the new residences. The project shall meet all applicable requirements of the final-will serve requirements by the District

Exterior Lighting

8. **Prior to issuance of construction permits for the residences,** the applicant shall submit exterior lighting plans to the Department of Planning and Building for review and approval. All proposed exterior lighting shall be shielded to the maximum extent possible and be of the lowest intensity feasible in order to avoid artificial light pollution of the riparian habitat area. Exterior lights on the north and northwest sides of the project (bordering the creek) shall be avoided where possible and be the minimum necessary to meet safety requirements. Exterior light shall be shielded and lighting shall be directed downward and away from the creek and riparian areas.

Access & Access Easement

9. **Prior to issuance of a grading permit for Work Area 1, the applicant shall provide evidence of a recorded easement for access and utilities to Lots 3 and 4, Lot 5 and Lot 6, over the adjacent Lot 7 to the Department of Planning and Building,**

10. **Prior to issuance of construction and/or grading permits for Work Area 1, the applicant shall submit plans to the Department of Public Works to secure an Encroachment Permit and post a cash damage bond to install improvements within the public right-of-way in accordance with County Public Improvement Standards. The plan is to include, as applicable:**
 - a. **Construct or reconstruct the existing site access driveway approach in accordance with County Public Improvement Standard B-1a.**

 - b. **Drainage ditches, culverts, and other structures (if drainage calculations require).**

11. **Prior to issuance of construction and/or grading permits for Work Area 1 & 2, the applicant shall provide evidence to the Department of Planning and Building that onsite circulation and pavement structural sections have been designed and shall be constructed in conformance with Cal Fire standards and specifications back to the nearest public maintained roadway.**

Open Space Easement

12. **Prior to issuance of a grading permit for Work Area 1, the applicant shall execute and record an open space easement for creek habitat protection, in a form approved by County Counsel and the Executive Director of California Coastal Commission in conformance with applicable Coastal Act regulations, for the Lots 3 and 4 (merged), and Lot 5, and Lot 6. The open space easement shall be 15,610 square feet and include a formal legal description and graphic depiction of subject properties including the Little Cayucos Creek Riparian Habitat Area. Development shall be prohibited in the open space area except for:**
 - a. **Restoration, protection, and enhancement of native riparian habitat and Monarch butterfly habitat consistent with the terms of the Final Landscape Restoration and Enhancement Plan;**

 - b. **Public interpretive access improvements approved by a coastal development permit.**

Quit Claim Deed

13. Prior to issuance of a grading permit for Work Area 1, the applicant shall provide evidence acceptable to the Executive Director of California Coastal Commission that it is the record title owner of the project site, such as a Quit Claim Deed and/or updated preliminary title report.

Fees

14. Prior to issuance of construction permits, the applicant shall pay all applicable school and public facilities fees.

Grading, Drainage, Sedimentation and Erosion Control

15. Prior to issuance of construction and/or grading permits for each Work Area, the applicant shall submit a complete drainage, erosion, and sedimentation control plan for review and approval, by the Public Works Department, in accordance with Section 23.05.040 through 23.05.050 of the Coastal Zone Land Use Ordinance. The plan shall use sediment control measures to protect Little Cayucos Creek. Installation of erosion and sedimentation control devices shall be installed around the perimeter of the construction zone. The plan shall include the following:
- a. **Implementation of Best Management Practices during Construction.** The Plan shall identify the types and location of the measures that will be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants in the Little Cayucos Creek during construction. These measures shall be designed in accordance to the California Storm Water Best Management Practices Handbook and the San Luis Obispo County Resources Conservation District, as such:
 - i. Limit the extent of land disturbance to the minimum amount necessary to construct the project;
 - ii. Designate areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which must be covered on a daily basis;
 - iii. Provide installation of silt fences, temporary detention basins, and/or other controls to intercept, filter, and remove sediments contained in the runoff from construction, staging, and storage/stockpiled areas;
 - iv. Provide hydro seeding (with native plants) of disturbed areas immediately upon conclusion of construction activities;
 - v. Good construction measures such as the use of dry cleanup measures whenever possible, collecting and filtering cleanup water when dry cleanup methods are not feasible, cleaning and refueling construction equipment at designated off site maintenance areas, and immediate cleanup of any leaks or spills.
 - b. **Permanent Drainage and Erosion Control Plan.** The Plan shall include and clearly identify all permanent measures to control and direct all site runoff and a drainage system designed to collect all on-site drainage (in gutters, pipers, drainage ditches, swales, etc.) for use in on-site irrigation, infiltrations, and/or habitat enhancement, and/or directed to off-site storm drain systems. The Plan shall be prepared by a licensed engineer and incorporate structure and non-structural Best Management Practices (BMPs) designed to control the volume, velocity, and pollutant load of stormwater and other run-off associated with the development.

The Plan shall include required calculations and documentations for all BMPs proposed and shall, at the minimum provide for:

- i. Drainage system designed to filter and treat the volume of runoff produced from irrigation and storm event up to and including the 85th percentile 24-hour runoff event for volume-based BMPs and/or the 85th percentile, 1 hour runoff event (with an appropriate safety factor) for flow-based BMPs, prior to its use for on-site infiltration, landscape irrigation, habitat enhancement, and/or discharge offsite. All filtering and treating mechanism shall be clearly identified, and supporting technical information shall be provided.
 - ii. Runoff from the roofs, driveways, parking lots, and other impervious surfaces shall be collected and directed into pervious areas on the site for infiltration to the maximum extent practicable in a non-erosive manner, prior to being conveyed off-site;
 - iii. Post-development peak runoff rates and volumes shall be maintained at levels similar to, or less than, pre-development conditions;
 - iv. All runoff shall be directed away from the creek/riparian habitat area unless proven appropriate for habitat enhancement process;
 - v. All drainage system elements shall be permanently operated and maintained.
16. **At the time of application for grading and/or construction permit(s)**, the applicant shall show the limits of the 100 year floodway on the site plan and all development located outside of the floodway and submit to Public Works for approval.

Stormwater Pollution Prevention

17. **Prior to issuance of a grading permit for Work Area 1**, the applicant shall demonstrate whether the project is subject to the LUO Section for Stormwater Management. Applicable projects shall submit a Stormwater Control Plan (SWCP) prepared by an appropriately licensed professional to the County Public Works for review and approval. The SWCP shall incorporate appropriate BMP's, shall demonstrate compliance with Stormwater Quality Standards and shall include a final drainage plan, a final erosion and sedimentation plan for all Work Areas 1, 2 and 3. The applicant shall also submit complete drainage calculations for all proposed developments and improvements on Work Area 1, 2 and 3 to Public Works for review and approval.
18. **At the time of application for construction permits**, if necessary, the applicant shall submit a draft "Private Stormwater Conveyance Management and Maintenance System" exhibit for review and approval by the County.
19. **Prior to issuance of construction permits**, if necessary, the applicant shall record with the County Clerk the "Private Stormwater Conveyance Management and Maintenance System" to document on-going and permanent storm drainage control, management, treatment, disposal and reporting.

Biological Resources

21. **BR-1: Prior to issuance of grading and/or construction permits for each Work Area**, the applicant shall retain an biological consultant approved by the County Planning and Building Department to monitor the implementation of the biological mitigation measures and erosion and sedimentation control measures during grading and construction activities. The biologist shall monitor the installation of fencing as per the approved construction plans and, at a

minimum, monitor the construction activities once per week and provide a summary report to the County Planning Department at the close of construction activities. Construction activities shall be limited to the Monarch butterfly roosting off-season (April 15 through October 15).

22. **BR-7: At the time of building permit application(s) for the residences**, the Department of Planning and Building shall verify no fireplaces are allowed because smoke from fireplaces interferes with Monarch Butterfly habitat.

Landscape Plan

23. **BR-9: Prior to issuance of grading and/or construction permit(s) for Work Area 2 & 3**, the applicant shall submit a landscaping plan including native, drought and fire resistant species that are compatible with the habitat values of the surrounding habitat and compliant with the Landscape Restoration and Enhancement Plan (LREP). Landscaped areas within the Approved Development Envelope shall consist only of native plants of local origin that are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be so identified from time to time by the State of California, and no plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be planted or allowed to naturalize or persist on the property except for existing eucalyptus trees associated with the Monarch butterfly habitat.

Landscape Restoration and Enhancement Plan

24. **Prior to issuance of grading and/or construction permit(s) for Work Area 1**, the applicant shall submit the Landscape Restoration and Enhancement Plan (LREP) to the Department of Planning and Building for review and approval. The LREP shall provide for riparian corridor and Monarch butterfly landscape restoration and enhancement in the Little Cayucos Creek Riparian Habitat Area, with the goal of enhancing and restoring this area to self-sustaining and high resource value natural habitat state. The LREP shall be prepared by a qualified restoration ecologist, and shall incorporate specific conditions of the site (including soil, exposure, temperature, moisture, wind, etc), as well as restoration and enhancement goals. At a minimum, the plan shall provide for the following:
- a. A baseline assessment, including photographs, of the current physical and ecological condition of the restoration and enhancement area;
 - b. A description of the goals and measurable success criteria of the plan, including, at a minimum, the requirement that success be determined after a period of at least three years wherein the site has been subject to no remediation or maintenance activities other than weeding, and this condition be maintained in perpetuity.
 - c. Removal of invasive and non-native plant species, except for existing eucalyptus trees associated with the Monarch butterfly habitat;
 - d. Planting of native species of local stock appropriate to the Little Cayucos Creek riparian corridor, including provision of fall and winter-flowering nectar sources for Monarch butterflies at appropriate locations. Non-native and/or invasive plant species shall be prohibited;
 - e. Monitoring and maintenance provisions including a schedule of the proposed monitoring and maintenance activities to ensure that success criteria are achieved;
 - f. Provision of submission of annual reports of monitoring results to the Department of Planning and Building, beginning the first year after completion of the restoration effort and concluding once success criteria have been achieved. Each report shall document the

condition of the site area with photographs taken from the same fixed points in the same directions, shall describe the progress towards reaching the success criteria of the plan, and shall make recommendations (if any) on changes necessary to achieve success.

Cultural Resources

25. **Prior to issuance of grading and/or construction permit(s) for Work Area 1**, the applicant shall implement the Archeological Work Plan for CA-SLO-2195 (Applied Earthworks, April 2015). A Stage 2 investigation shall be prepared and submitted to the Environmental Coordinator, for review and approval upon completion of Stage 1 investigation.

26. **Prior to issuance of grading and/or construction permit(s) for Work Area 1**, the applicant shall submit to the Environmental Coordinator, a Fieldwork Closure Report from the consulting archaeologist indicating that all necessary field work as identified in the Stage 2 Plan has been completed.

27. **Prior to issuance of grading and/or construction permit(s) for Work Area 1**, the applicant shall submit a revised monitoring plan, prepared by a qualified archaeologist, for the review and approval by the Environmental Coordinator. The monitoring plan shall include at a minimum:
 - A. List of personnel involved in the monitoring activities;
 - B. Description of how the monitoring shall occur;
 - C. Description of frequency of monitoring (e.g. full-time, part time, spot checking);
 - D. Description of what resources are expected to be encountered;
 - E. Description of circumstances that would result in the halting of work at the project site (e.g. What is considered "significant" archaeological resources?);
 - F. Description of procedures for halting work on the site and notification procedures;
 - G. Description of monitoring reporting procedures.

Conditions to be completed prior to ground disturbance or construction activities

Landscape Restoration and Enhancement Plan

28. **Prior to any ground disturbing activities**, a qualified biologist shall conduct a butterfly survey within 30 days of initial ground disturbance and/or planting activities. To the maximum extent possible, restoration and enhancement work shall be conducted during potential the Monarch butterfly roosting off-season (April 15 to October 1).

Site Development

29. **Prior to any grading work / ground disturbing work**, a qualified surveyor shall delineate the 20 foot setback areas from the upland edge of the riparian habitat. Temporary fencing shall be erected to delineate it clearly for the construction phase. No permanent site disturbance, vehicular traffic, or equipment/ material staging shall occur within the setback area during construction or

following completion of the project, except work authorized for the Landscape Restoration and Enhancement Plan (LREP).

CONDITIONS TO BE COMPLETED DURING PROJECT CONSTRUCTION

Biological Resources

30. To reduce the likelihood of sedimentation to Little Cayucos Creek, all private and construction vehicle traffic should be limited to those areas away from the northern and eastern edges of the property, outside of the fenced areas.
31. Construction activities shall be limited to the Monarch butterfly roosting off-season (April 15 – October 15).
32. **BR-4:** The applicant shall implement the erosion and sedimentation control plan.
33. **BR-6:** The applicant shall implement the drainage plan.
34. The biological mitigation monitoring plan shall be implemented with on-site construction monitoring.

Cultural Resources

35. **During all ground disturbing construction activities**, the applicant shall retain a qualified archaeologist (approved by the Environmental Coordinator) and Native American to monitor all earth disturbing activities, per the approved monitoring plan. If any significant archaeological resources or human remains are found during monitoring, work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as the resource can be evaluated by an archaeologist and any other appropriate individuals. The applicant shall implement the mitigation as required by the Environmental Coordinator.

CONDITIONS TO BE COMPLETED PRIOR TO OCCUPANCY OR FINAL INSPECTION

Landscape Restoration and Enhancement Plan

36. **Prior to occupancy of any residence associated with this approval**, the applicant shall implement the LREP during construction as directed by a qualified restoration ecologist. The initial planting and plant removal shall be completed prior to the occupancy of the **first**

approved residence. Submit field report prepared by qualified biologist verifying the completion of replanting to the Planning Department.

Birch Avenue Access Drive and Fire Lane Signage

37. **Prior to final inspection of Work Area 2**, the applicant shall provide to the Department of Planning and Building, evidence of a recorded maintenance agreement for Birch Avenue access driveway and "no parking (fire lane) signage" for Lots 3 and 4, Lot 5 and Lot 6. In lieu of a recorded maintenance agreement, the applicant may elect to provide maintenance in accordance with the provisions of Civil Code Section 845. The applicant shall also demonstrate to the Department of Planning and Building that the portion of the access driveway is either included within the above maintenance agreement or adequately addressed by another maintenance arrangement (such as Civil Code Section 845).

Cultural Resources

38. **Upon completion of all monitoring/mitigation activities, and prior to occupancy or final inspection (whichever occurs first)**, the consulting archaeologist shall submit a report to the Environmental Coordinator summarizing all monitoring/mitigation activities and confirming that all recommended mitigation measures have been met. If the analysis included in the Data Recovery plan is not complete by the time final inspection or occupancy will occur, the applicant shall provide to the Environmental Coordinator,

proof of obligation to complete the required analysis.

Biological Resources

39. **Prior to final inspection of any permits associated with this approval**, the applicant shall submit a biology monitoring report to the Environmental Coordinator for approval verifying completion of all necessary field work and monitoring.
40. **BR-6: Prior to final inspection of any permits associated with this approval**, the drainage plan shall be implemented and verified by the Department of Planning and Building.
41. **BR-7: Prior to final inspection of any residence associated with this approval**, the Department of Planning and Building shall verify no fireplaces are allowed because smoke from fireplaces interferes with Monarch Butterfly habitat.

Landscape

42. **BR-9: Prior to final inspection or occupancy**, the landscape shall be installed in accordance with the approved landscaping plan shall be installed. All landscaping shall be maintained in a viable condition in perpetuity.

Fire Safety

43. Prior to final inspection or occupancy, the applicant shall obtain final inspection and approval from Cayucos Department of Fire of all required fire/life safety measures.

Development Review Inspection

44. Prior to final inspection of each Work Areas the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

45. Prior to occupancy of any residence associated with this approval, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

Grading, Drainage, Sedimentation and Erosion Control

46. All areas disturbed by grading activities shall be revegetated with temporary or permanent erosion control devices. Devices must be installed in conjunction with any grading and must effectively control siltation

ON-GOING CONDITIONS OF APPROVAL (VALID FOR THE LIFE OF THE PROJECT)

Landscape Restoration and Enhancement Plan

47. Annual reports of monitoring results, beginning the first year after completion of the restoration efforts and concluding once success criteria have been achieved (criteria: 3 years of non-remediation/ maintenance activities except for weeding) must be submitted to the Department of Planning and Building. Upon success criteria achievement, the self-sustaining riparian habitat must be maintained in perpetuity.

Landscaping

48. No fireplaces are allowed in any of the residential structures.
49. All landscape (including all trees and riparian vegetation) shall be maintained in viable condition in perpetuity.

Permit Vesting

50. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

General

51. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.

Drainage

52. On-going condition of approval (valid for the life of the project), the project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and / or Phase II storm water program and the County's Storm Water Pollution Control and Discharge Ordinance, Title 8, Section 8.68 et sec.

EXHIBIT C

Legal Description and Graphic Depiction of Easement Area

That portion of Lots 3, 4, 5, and 6 in Block 3 of the Town of Cayucos, in the County of San Luis Obispo, State of California, according to map recorded September 22, 1875, in Book A, Page 160 of Maps, in the Office of the County Recorder of said County and also shown on Record of Survey filed March 5, 2003 in Book 85, Pages 14 and 15 of Licensed Survey Maps in the office of said County Recorder and being more particularly described as follows:

Beginning at the most northerly corner of said Lot 3 said point being a point on the southwesterly right-of-way line of Birch Street, 70 feet wide, per said map of the Town of Cayucos; thence S59°27'45"E 199.17 feet along said right-of-way line to the most easterly corner of said Lot 6; thence S30°29'13"W 33.03 feet along the southeasterly boundary of said Lot 6; thence S85°34'34"W 39.63 feet; thence N75°05'51"W 96.87 feet to the beginning of a 30.00 foot radius non-tangent curve, concave northwesterly, through which a radial line bears S72°54'03"E; thence southerly, southwesterly, and westerly along said curve an arc length of 42.39 feet through a central angle of 80°57'40" to the beginning of a 5.00 foot radius tangent reverse curve, concave southeasterly; thence westerly, southwesterly, southerly, and southeasterly along said curve an arc length of 11.07 feet through a central angle of 126°48'54" to the beginning of a 30.00 foot radius tangent reverse curve, concave westerly; thence southeasterly and southerly along said curve an arc length of 37.80 feet through a central angle of 72°12'03"; more or less, to a point on the southwesterly boundary of said Lot 4; thence along the southerly boundaries of said Lot 4 and said Lot 3 N59°26'55"W 69.08 feet to the most westerly corner of said Lot 3; thence N30°33'51"E 159.94 feet to the point of beginning.

Containing: 0.44 acres, more or less.



Legal Description prepared by
or under the supervision of:

Cris E. Fry
Cris E. Fry, LS 8356
Lic, Exp. 12/31/09

EXHIBIT C (cont.)
County of San Luis Obispo, State of California
OPEN SPACE EASEMENT

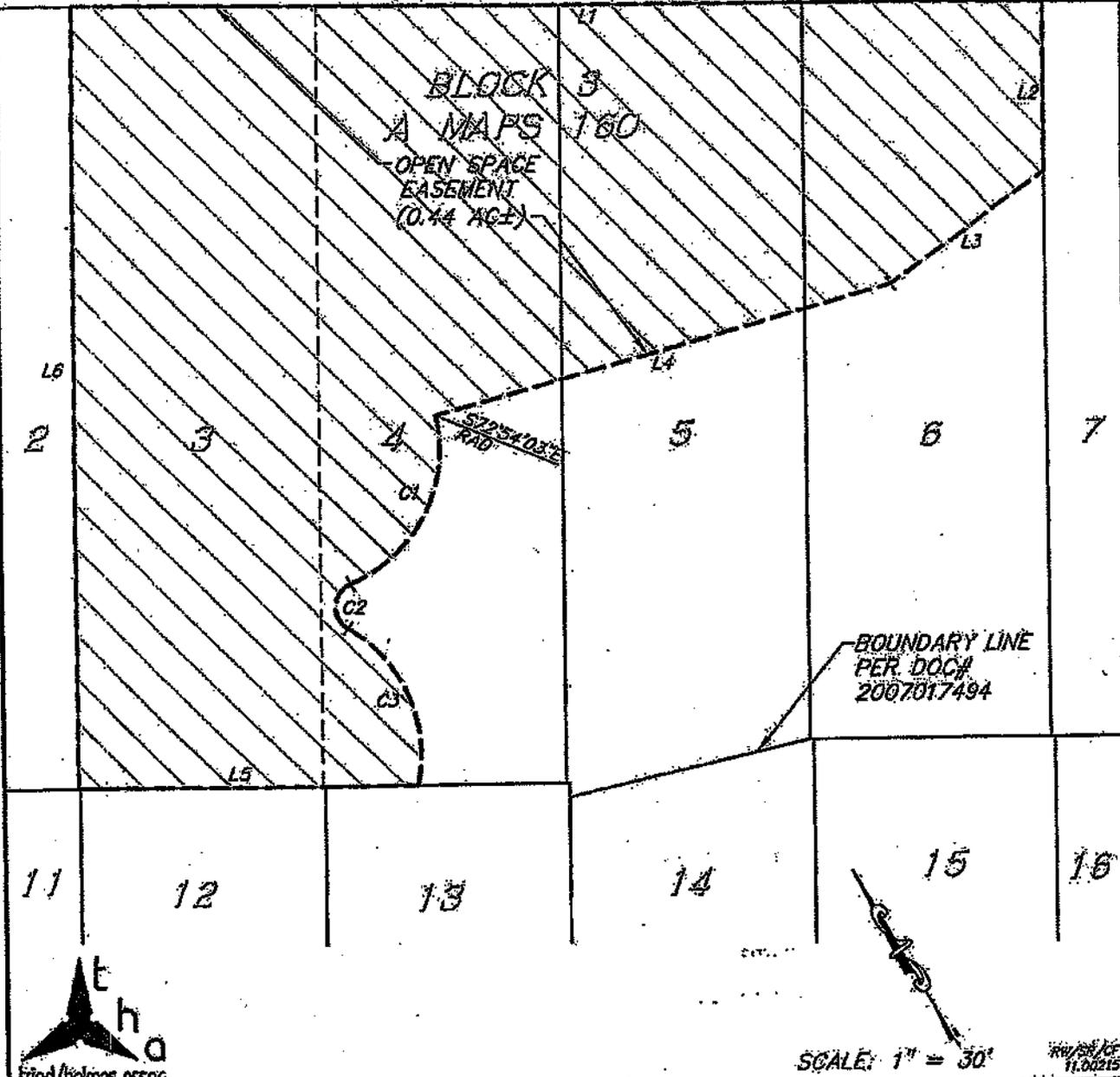
LINE TABLE		
LINE	BEARING	LENGTH
L1	S59°27'45"E	199.17'
L2	S30°29'13"W	35.03'
L3	S85°34'34"W	39.63'
L4	N75°05'51"W	96.87'
L5	N59°26'55"W	69.08'
L6	N30°33'51"E	159.94'

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	42.39'	30.00'	80°57'40"
C2	11.07'	5.00'	126°48'54"
C3	37.80'	30.00'	72°12'03"



BIRCH AVE

70' R/W



SCALE: 1" = 30'

11.0215

EXHIBIT D

Public Resources Code § 30106

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.