Before the Planning Commission in and for the County of Monterey, State of California

In the matter of the application of:

CALTRANS and STATE PARKS (PLN100393) RESOLUTION NO. 10-023

Resolution by the Monterey County Planning Commission:

- 1) Categorically exempting PLN100393 per CEQA Guidelines Section 15333(d)(5); and
- 2) Approving a Combined Development Permit consisting of: 1) a Coastal Development Permit to allow development within the Big Sur Critical Viewshed; 2) a Coastal Development Permit to development within feet allow 100 environmentally sensitive habitat (Big Sur River); 3) a Coastal Development Permit to allow development on slope greater than 30 percent; 4) a Coastal Administrative Permit to allow the construction of an approximately 3,125 square foot flexible rock slope revetment, including grading consisting of approximately 400 cubic yards of fill; and 5) Design Approval.

(PLN100393, Caltrans and State Parks, post-mile 46.8, Highway 1 and Pfeiffer-Big Sur State Park, Big Sur Coast Land Use Plan, APNs 419-031-002-000 and 000-000-000-000, related to PLN100027)

The Caltrans application (PLN100393) came on for public hearing before the Monterey County Planning Commission on August 25, 2010. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:**

CONSISTENCY – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

EVIDENCE: a)

- During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
 - the Monterey County General Plan,
 - Big Sur Coast Land Use Plan,
 - Big Sur Coastal Implementation Plan (Part 3), and
 - Monterey County Zoning Ordinance (Title 20)

No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

b) The property is located at Highway 1 post-mile 46.8, Pfeiffer-Big Sur State Park (Assessor's Parcel Numbers 419-031-002-000 and 000-000-000-000-000), Big Sur Coast Land Use Plan. The parcel is zoned Open Space Recreation, with Design Control overlay (Coastal Zone). The proposed flexible rock slope revetment will allow for the re-

- establishment of an access trail, will reduce erosion into and restore habitat value along the Big Sur River, and will preserve utility and highway access to the Big Sur area. Therefore, the project is an allowed land use for this site.
- c) The project planner conducted a site inspection on August 10, 2010, to verify that the project on the subject parcel conforms to the plans listed above.
- d) Development on slopes that exceed 30% is prohibited unless there is no feasible alternative that would allow development to occur on slopes of less than 30%, or the proposed development better achieves the goals, policies and objectives of the Monterey County General Plan and applicable area plan than other development alternatives (see Finding No. 7).
- e) The project includes a Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat area (ESHA). Policies in Chapter 3.3 of the Big Sur Coast LUP are directed at maintaining, protecting, and where possible enhancing sensitive habitats. As designed and conditioned, the project is consistent with County policies regarding protection and restoration of ESHA (see Finding No. 8).
- f) The project includes a Coastal Development Permit to allow development within the Big Sur Critical Viewshed. The Big Sur Coast Land Use Plan (LUP), Section 3.2.3.A.7, allows an exception for replacement of structures destroyed by natural disaster. Although not specifically a structure, the eroded embankment provided support to Highway 1 an essential public road for the Big Sur area. The County finds that this project meets the intent of the applicable policies regarding visual resources (see Finding No. 9).
- g) Policies in Chapter 4 of the Big Sur Coast Land Use Plan (LUP) are directed at maintaining and enhancing the aesthetic beauty of Highway 1, and to protect its primary function as a recreational route. The LUP also promotes improvements for safety. The project, as proposed, is an improvement required to assure the continued use of the highway for recreational and emergency access; therefore, it is consistent with applicable policies.
- h) The project was referred to the Big Sur Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did warrant referral to the LUAC because involves a Design Approval subject to review by the Planning Commission. The LUAC voted unanimously to support the project at a public meeting on August 10, 2010. No changes or conditions were recommended.
- i) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA Planning Department for the proposed development found in Project File PLN100393.
- 2. **FINDING: SITE SUITABILITY** The site is physically suitable for the use proposed.
 - EVIDENCE: a) The project has been reviewed for site suitability by the following

departments and agencies: RMA - Planning Department, Cal-Fire (Fire Protection District), RMA - Public Works Department, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

- b) Staff identified potential impacts to Biological and Visual Resources. Technical correspondence and assessments prepared by Caltrans, Department of Fish and Game (DFG), and National Marine Fisheries Service (NMFS) indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff independently reviewed these assessments and concurs with their conclusions. The following correspondence/assessments have been prepared:
 - NMFS Letter prepared June 18, 2010.
 - DFG Streambed Alteration Agreement, Notification No. 1600-2010-0072-R4, prepared June 24, 2010.
 - Caltrans Alternatives Analysis prepared March, 2010.
- c) Staff conducted a site inspection on August 10, 2010, to verify that the site is suitable for this use.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA Planning Department for the proposed development found in Project File PLN100393.
- 3. **FINDING:**

HEALTH AND SAFETY - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: a)

- The project was reviewed by the RMA Planning Department, Cal-Fire (Fire Protection District), RMA Public Works Department, Environmental Health Bureau, and Water Resources Agency. The respective departments/agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
- b) Preceding findings and supporting evidence for PLN100393.
- 4. **FINDING:**

NO VIOLATIONS - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

EVIDENCE: a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.

b) Staff conducted a site inspection on August 10, 2010, and researched County records to assess if any violation exists on the subject property.

- c) There are no known violations on the subject parcel.
- d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100393.
- 5. **FINDING: CEQA (Exempt):** The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.
 - **EVIDENCE:** a) California Environmental Quality Act (CEQA) Guidelines Section 15333 (Class 33) categorically exempts small habitat restoration projects not exceeding 5 acres in size.
 - b) The project involves the construction of an approximately 3,125 square foot flexible rock slope revetment on the east bank of the Big Sur River to stabilize and prevent further erosion of the embankment. CEQA Guidelines Section 15333(d)(5) allows river bank stabilization with native vegetation or other bioengineering techniques, the primary purpose of which is to reduce or eliminate erosion. Therefore, the project is consistent with the Class 33 categorical exemption per Evidence 5a above.
 - c) No adverse environmental effects were identified during staff review of the development application during a site visit on August 10, 2010.
 - d) Exceptions to exemptions listed in Section 15300.2.a-f are inapplicable. The project does not involve a designated historical resource, a hazardous waste site, unusual circumstances that would result in a significant effect, nor development that would result in a cumulatively significant impact. The project site is located within view of a scenic highway; however, the development proposed is consistent with the existing development on the site and in the area, and will not result in a significant impact to visual resources (see Finding No. 9). Also, the project involves development in a particularly sensitive environment. However, the project is a restoration of an eroded embankment with native vegetation and natural materials, and will not result in a significant impact to the environmentally sensitive habitat (see Finding No. 8).
 - e) Caltrans, as Lead Agency, applied the Class 33 categorical exemption to the project. The County is serving as a Responsible Agency for this project. The County, in its independent judgment, has determined that the project is categorically exempt. As a Responsible Agency for permitting, the County has conditioned the project whereas Caltrans must provide evidence that measures are implemented (Condition 4).
 - f) The evidence in the record includes correspondence, data, and analysis supporting the Class 33 categorical exemption; information presented or discussed during public meetings and/or hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced correspondence, data, and analysis; application materials; and expert testimony. The following correspondence/assessments have been prepared and reviewed:
 - NMFS Letter prepared June 18, 2010.
 - DFG Streambed Alteration Agreement, Notification No. 1600-2010-0072-R4, prepared June 24, 2010.

- Caltrans Alternatives Analysis prepared March, 2010. County staff independently reviewed the above information and concurs with their conclusions.
- g) The California Department of Fish and Game and National Marine Fisheries Service concluded there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed, or that significant environmental impacts would occur as a result of the proposed project.
- h) The Planning Commission considered the Class 33 Categorical Exemption at a duly noticed public hearing held on August 25, 2010. The materials upon which the County's decision is based are located in the Planning Department, 168 W. Alisal Street, 2nd Floor, Salinas, CA.
- i) See preceding and following findings and supporting evidence.
- 6. **FINDING:**
- **PUBLIC ACCESS** The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.
- **EVIDENCE:** a)
- No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.145.150 of the Monterey County Coastal Implementation Plan (Part 3) can be demonstrated.
 - b) The subject property is not described as an area where the Local Coastal Program requires public access (Figure 3 [Trails Plan North Section] in the Big Sur Land Use Plan).
 - c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
 - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100393.
 - e) The project planner conducted a site inspection on August 10, 2010.
- 7. **FINDING:**
- **DEVELOPMENT ON SLOPE** There is no feasible alternative which would allow development to occur on slopes of less than 30%.
- **EVIDENCE**: a)
- a) In accordance with the applicable policies of the Big Sur Coast Land Use Plan and the Monterey County Zoning Ordinance (Title 20), a Coastal Development Permit is required and the authority to grant said permit has been met.
 - b) The project includes application for development on slopes exceeding 30% to allow the restoration of a portion of the eastern embankment of the Big Sur River at post-mile 46.8. The project will involve the construction of an approximately 3,125 square foot flexible rock slope revetment, including grading consisting of approximately 400 cubic yards of fill.
 - c) The project, as proposed, is the least amount of work and/or disturbance necessary to alleviate future erosion during periods of high water and debris flows, and there is no feasible alternative which would allow development to occur on slopes of less than 30%.
 - d) The Monterey County Zoning Ordinance (Title 20) provides that the

Appropriate Authority shall require such conditions and changes in the development as it may deem necessary to assure compliance with Section 20.64.230.E.2 of Title 20. Condition No. 4 is required to assure compliance. The DFG Streambed Alteration Agreement contains requirements for avoidance of erosion. Caltrans must demonstrate compliance with these requirements.

- e) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100393.
- f) The project planner conducted a site inspection on August 10, 2010.
- g) The subject project minimizes development on slopes exceeding 30% in accordance with the applicable goals and policies of the applicable area plan and zoning codes.
- 8. **FINDING:**

ESHA – The subject project minimizes impact on environmentally sensitive habitat areas in accordance with the applicable goals and policies of the applicable area plan and zoning codes.

- EVIDENCE: a)
- The project includes application for development within 100 feet of environmentally sensitive habitat areas (ESHA). In accordance with the applicable policies of the Big Sur Coast Land Use Plan and the Monterey County Zoning Ordinance (Title 20), a Coastal Development Permit is required and the authority to grant said permit has been met.
- b) Policies in Chapter 3.3 of the Big Sur Coast LUP are directed at maintaining, protecting, and where possible enhancing sensitive habitats. As designed and conditioned, the project is consistent with applicable policies regarding restoration and enhancement of habitat.
- c) Steelhead use the Big Sur River for migration to and from spawning and rearing sites. It is not likely that steelhead adults or smolts will be in the area at the time of construction. Fish are not expected to be in the area that work will occur because the flows have receded to a point that the work area is above the water surface elevation. Planting of the restored embankment with native vegetation is expected to improve shading, water temperature, and food resources for this section of the river. Placement of filter fabric as part of the project will reduce fine sediment and prevent loss of soil due to erosion. NMFS concurs that the proposed project will not adversely affect Steelhead or designated critical habitat.
- d) The project planner conducted a site inspection on August 10, 2010, to verify ESHA locations and potential project impacts to ESHA.
- e) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100393.
- 9. **FINDING:**

BIG SUR CRITICAL VIEWSHED – The subject project minimizes development within the viewshed in accordance with the applicable goals and policies of the applicable area plan and zoning codes.

EVIDENCE: a) The project includes application for development within the Big Sur Critical Viewshed. In accordance with the applicable policies of the Big Sur Coast Land Use Plan (LUP) and the Monterey County Zoning Ordinance (Title 20), a Coastal Development Permit is required and the

- authority to grant said permit has been met.
- b) Staff conducted a site visit on August 10, 2010, to assess the potential viewshed impacts of the project and ensure consistency with applicable LUP policies. LUP Policy 3.2.5.C.1 allows exceptions to the Scenic Resources Key Policy involving safety improvements to Highway 1 facilities, provided they are consistent with LUP Sections 4.1.1, 4.1.2., and 4.1.3. Key Policy 4.1.1 states that the County's objective is to maintain and enhance the highway's aesthetic beauty and to protect its primary function as a recreational route. General Policy 4.1.2.1 directs that improvements to Highway 1 shall be undertaken in order to increase its service capacity and safety, consistent with its retention as a scenic two-lane road. The project is a safety improvement that, as proposed, will restore the eroded area, and will use native vegetation in order to blend with the surrounding environment.
- c) The project, as proposed and conditioned, is consistent with policies of the Big Sur Coast Land Use Plan dealing with visual resources and will have no significant impact on the critical viewshed.
- d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100393.
- e) The project planner conducted a site inspection on August 10, 2010, to verify that the project minimizes development within the viewshed or to identify methods to minimize the development.
- 10. **FINDING:** APPEALABILITY The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.
 - EVIDENCE: a) Board of Supervisors: Section 20.86.030 of the Monterey County Zoning Ordinance allows an appeal to be made to the Board of Supervisors by any public agency or person aggrieved by a decision of an Appropriate Authority other than the Board of Supervisors.
 - b) California Coastal Commission: Sections 20.86.080.A.1, A.2, and A.3 of the Monterey County Zoning Ordinance (Title 20). The project is subject to appeal by/to the California Coastal Commission because it involves development between the sea and the first through public road paralleling the sea, it involves development within 100 feet of a stream, and it involves development that is permitted in the underlying zone as a conditional use.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby:

- A. Categorically exempt PLN100393 per CEQA Guidelines Section 15333(d)(5); and
- B. Approve a Combined Development Permit consisting of 1) a Coastal Development Permit to allow development within the Big Sur Critical Viewshed, 2) a Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat (Big Sur River), 3) a Coastal Development Permit to allow development on slope greater than 30 percent, 4) a Coastal Administrative Permit to allow the construction of an approximately 3,125 square foot flexible rock slope revetment, including grading

consisting of approximately 400 cubic yards of fill, and 5) Design Approval, in general conformance with the attached sketch (Exhibit 2) and subject to the conditions (Exhibit 1), both exhibits being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 25th day of August, 2010, upon motion of Commissioner Diehl, seconded by Commissioner Vandevere, by the following vote:

AYES: Getzelman, Vandevere, Roberts, Rochester, Salazar, Brown, Sanchez, Padilla, Diehl

NOES: None ABSENT: Ottone ABSTAIN: None

Mike Novo, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON AUG 2/7 2010

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

SEP 0 7 2010

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA.

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You may need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

RESOLUTION 10-023 - EXHIBIT 1

Monterey County Resource Management Agency Planning Department

Condition Compliance and/or Mitigation Monitoring Reporting Plan Project Name: CALTRANS (BIG SUR RIVER)

File No: PLN100393 APNs: 419-031-002-000/000-000-000

Approved by: Planning Commission Date: August 25, 2010

^{*}Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)				
RMA – Planning Department										
		PD001 - SPECIFIC USES ONLY This Combined Development Permit (PLN100393) allows 1) a Coastal Development Permit to allow development within the Big Sur Critical Viewshed, 2) a Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat (Big Sur River), 3) a Coastal Development Permit to allow development on slope greater than 30 percent, 4) a Coastal Administrative Permit to allow the construction of an approximately 3,125 square foot flexible rock slope revetment, including grading consisting of approximately 400 cubic yards of fill, and 5) Design Approval. The property is located at postmile 46.8, Highway 1, Pfeiffer-Big Sur State Park (Assessor's Parcel Numbers 419-031-002-000 and 000-000-000-000-000), Big Sur Coast Land Use Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use	Adhere to conditions and uses specified in the permit. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled.	Owner / Applicant RMA - Planning WRA RMA - Planning	Ongoing unless otherwise stated.					
	-	or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. (RMA-Planning Department)								

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
2.		PD002 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution 10-023) was approved by the Planning Commission for Assessor's Parcel Numbers 419-031-002- 000 and 000-000-000-000 on August 25, 2010. The permit was granted subject to four (4) conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." (RMA-Planning Department)	Obtain appropriate form from the RMA-Planning Department. The applicant shall complete the form and furnish proof of recordation of this notice to the RMA - Planning Department.	Owner/ Applicant RMA- Planning	Prior to the com- mence- ment of use.	
3.		PD032(A) - PERMIT EXPIRATION The permit shall be granted for a time period of 3 years, to expire on August 25, 2013, unless use of the property or actual construction has begun within this period. (RMA – Planning Department)	The applicant shall obtain a valid grading or building permit and/or commence the authorized use to the satisfaction of the Director of Planning. Any request for extension must be received by the Planning Department at least 30 days prior to the expiration date.	Owner/ Applicant	As stated in the conditions of approval.	
4.		PDSP001 – STREAMBED ALTERATION AGREEMENT COMPLIANCE CERTIFICATION The applicant shall submit certification from a qualified Caltrans biologist that all development has been completed in accordance with the DFG Streambed Alteration Agreement, Notification No. 1600-2010- 0072-R4, prepared June 24, 2010. (RMA – Planning Department)	Submit certification by a qualified Caltrans biologist to the RMA – Planning Department showing project's compliance with the DFG Streambed Alteration Agreement.	Owner/ Applicant	Within 30 days after completion of work.	

END OF CONDITIONS















