

## **APPENDIX A-3**

Summary of all seven restoration projects proposed by the Avila Valley Advisory Council (AVAC) for the 1992 Unocal pipeline oil spill at Avila Beach. Project proposals are identified by project type and descriptions of the problems requiring restoration actions along with brief descriptions of the project concepts are given.

### Appendix A3

#### RESTORATION PROJECTS PROPOSED FOR THE 1992 UNOCAL PIPELINE OIL SPILL AT AVILA BEACH

Project	Project Type	Description of Problem
Outfall Extension and Diffuser	Water Quality Protection	No specific problem was identified. The existing outfall terminates in an area utilized by a substantial number of bathers. The project concept is to extend the outfall line and include a new diffuser system to lower the concentration of secondary treated effluent at the point of terminus.
Outfall Line Hydraulic Improvements		Although the outfall line has adequate capacity to meet ultimate plant capacity, several portions of the pipe near the treatment plant have hydraulic limitations that have the potential to cause effluent to be retained for long periods of time at low sewage flows. The project concept is to make hydraulic improvements at these locations that will allow higher flows to better clear out the water retained in the pipe, thus improving effluent quality to protect offshore resources.
Waste Water Disposal and Collection Improvements		There is a need to improve the Avila Beach Community Services District's (District) wastewater collection system against the intrusion of oil and other contaminants during periods of high rainfall coupled with a high tide. One project concept is to provide linings in those facilities that are most susceptible to this type of infiltration. Other project concepts include an emergency bypass connection so that during the frequent power outages in Avila, an emergency pumping connection can be made to the District's pump station to pump raw sewage to a safe point of discharge. With a dedicated pumping connection in place, one person could perform this operation rather than the three people now required, and no time would be lost in laying a temporary discharge line as currently required.

### Appendix A3

#### RESTORATION PROJECTS PROPOSED FOR THE 1992 UNOCAL PIPELINE OIL SPILL AT AVILA BEACH

Project	Project Type	Description of Problem
Emergency Electrical Connection	Water Quality Protection	There are many occasions when power outages cause sewage to back-up into the District's main lift station. This situation is corrected by emergency pumping to the next downstream manhole. The project concept is to provide electrical lines and conduit from the District's emergency generator station at the treatment plant to the lift station.
Pump Replacement & Well Rehabilitation		The District's wastewater wet well and collection system is about twenty years old and portions are technologically outdated, though functionally adequate. Pump parts are difficult to obtain and the control and maintenance systems are dated and require more power consumption than does modern equipment. The project concept is to upgrade the existing system. By making these improvements, the overall reliability of the District's operation of the treatment plant will increase, thereby reducing the probability of a raw sewage spill affecting San Luis Obispo Creek and the marine environment.
Tertiary Level Waste Water Treatment		The project concept is to upgrade the District's sewage treatment process to tertiary treatment in order to meet the State Health Department's Title 22 requirement for unrestricted contact. With tertiary treatment, reclaimed water could be discharged to San Luis Creek during dry years and to partially offset the City of San Luis Obispo's planned diversion of treated wastewater from the creek, and would provide better protection against seawater intrusion.

### Appendix A3

#### RESTORATION PROJECTS PROPOSED FOR THE 1992 UNOCAL PIPELINE OIL SPILL AT AVILA BEACH

Project	Project Type	Description of Problem
Technical Support & Equipment	Emergency Response	The Avila Beach Fire Department is the only emergency response agency in Avila Beach trained to handle emergencies such as the 1992 Unocal pipeline oil spill, and their emergency response equipment needs to be upgraded.. The project concept is to purchase emergency response equipment for the Avila Beach Fire Department to better respond to such emergencies..

## **APPENDIX A-4**

Summary of four *new* restoration projects proposed by the public during the public comment period for the 1992 Unocal pipeline oil spill at Avila Beach. Projects are identified by project type and descriptions of the problems requiring restoration actions along with brief descriptions of the project concepts are given.

**Appendix A4**

**RESTORATION PROJECT CONCEPTS PROPOSED FOR THE 1992 UNOCAL PIPELINE OIL SPILL AT AVILA BEACH**

<b>Project</b>	<b>Project Type</b>	<b>Description of Problem</b>
Shellfish and Sea Otter Restoration	Resource Management	Shellfish populations in the area, especially abalone, are seriously reduced. The project concepts are to restore abalone and other shellfish populations and habitat around Avila Beach and to enhance the sea otter population. This is to be accomplished by planting abalone, building artificial reefs, and augmenting kelp forests. It was also proposed to investigate the enhancement of sea otter reproduction as well as building enclosures to protect sea otters.
San Luis Cr. Mouth	Estuarine Habitat Enhancement	The mouth of San Luis Obispo Creek undergoes periodic flooding and bank erosion. The project concept is to stabilize the mouth of the creek by re-channelization.
Marre Dam Monitoring	Water Quality Protection	No specific problem was identified. The project concept is to remotely monitor the flow at Marre Dam to aid in managing wastewater discharges into San Luis Obispo Creek.
Seasonal Reservoirs		Low water flows, particularly during the summer, are a problem to steelhead throughout the watershed. The project concept is to construct seasonal reservoirs to trap winter run-off for use during the dry season to maintain water levels high enough for fish.

## **APPENDIX B-1**

Summary of the 13 restoration projects proposed by the Trustee Council for the 1992 Unocal pipeline oil spill at Avila Beach that do not meet restoration evaluation criteria for implementation along with rationale for rejection. Projects are identified by project type and are listed by stream reach, from the lower watershed to the upper watershed.

## Appendix B1

### PROJECT PROPOSALS NOT MEETING RESTORATION CRITERIA FOR IMPLEMENTATION

Project	Project Type	Cost	Comments
Golf Course Narrows (SL-1)	Estuarine Habitat Enhancement	NA	<p>These three project concepts have been combined because of their proximity and similarity to each other. Because of ongoing contaminant cleanup in the vicinity of Avila Beach and the estuary as a result of the Avila Beach Restoration Project and the probable disturbance to the estuarine habitat as a result of these cleanup activities, the Trustee Council has set aside funds for work in the estuary. Additionally the Trustee Council wants to coordinate all restoration projects within the estuary that may be funded by settlement dollars obtained from Unocal for impacts caused by the releases of oil and remediation at Avila Beach. Furthermore, the existence of levies bordering the estuary and the morphology of the estuary and surrounding land require the Trustee Council to examine alternatives to bank stabilization other than those presented in the project concept proposals. The Draft Plan recognized the need to examine additional alternatives to these problems for the Big Bend and Golf Course Narrows sites and recommended that a Request for Proposal be developed for planning and engineering that would only be released if and when a construction bond is secured from the landowner.</p>
Marshall Site (SL-1)			
Big Bend (SL-1)			
Marre Dam (SL-1)	Fish Barrier Removal	NA	<p>The City of San Luis Obispo is proposing work at this site as mitigation for their wastewater reclamation program. If done by the city, no Avila restoration funds should be spent.</p>

## Appendix B1

### PROJECT PROPOSALS NOT MEETING RESTORATION CRITERIA FOR IMPLEMENTATION

Project	Project Type	Cost	Comments
Lower Devincenzo (SL-4)	Riparian Corridor Revegetation	NA	These are stream habitat maintenance projects. The Trustee Council believes that settlement money should not be spent on such projects until there is a watershed-wide plan for exotic plant species removal and stream habitat maintenance.
Bunnel/Rothman (SL-5)			
Stagecoach Rd. @ 101 (SL-16)	Fish Barrier Removal	NA	CalTrans has committed to this project as mitigation for the Cuesta Grade Project, and there is no need to expend Avila restoration funds.
Cuesta Grade Culvert SLO Cr. (SL-16)		NA	Recent inspection of the culvert by the Department of Fish and Game reveals that the problems with this culvert are relatively minor, and that sediment accumulation has resolved the problem.
See Canyon Dam (SE-1)		\$100,000	The steep slope of the channel and the height make this an unlikely site for a rock fishway. The estimated cost of \$100,000, the limited area for construction, and the limited benefits to be realized, do not justify funding.

Concrete Apron

Fish Barrier

Closer examination of the concrete barrier reveals that fish can pass through

## Appendix B1

### PROJECT PROPOSALS NOT MEETING RESTORATION CRITERIA FOR IMPLEMENTATION

Project	Project Type	Cost	Comments
Stenner Creek (ST-2)	Removal	NA	this section under most conditions and that the will not appreciably enhance fish passage.
Reservoir Canyon. Cascade Stenner Creek (RS-1)		\$300,000	The project would be costly and complex. The barrier effects a small portion of the spawning habitat, and the cost to benefit does not justify the expenditure.
Vachel Ln. to Buckley Rd. E. Fork SLO (EF-2)	Riparian Corridor Revegetation	NA	The project concept was to test manual clearing methods designed to enhance the riparian corridor while addressing flooding damage and bank stability. The Trustee Council believes that settlement money should not be spent on stream habitat maintenance projects until there is a watershed-wide plan for exotic plant species removal and stream habitat maintenance.
Filiponi Wetland (EF-1)		NA	The project concept was to establish a wetland by acquiring the rights to the land, possibly through a mitigation bank. The scale of this proposal is beyond the scope of work that could be accomplished under this restoration settlement, and the basic requirements for establishing a mitigation bank have not been met.

## **APPENDIX B-2**

Summary of eleven restoration project proposals submitted by the San Luis Obispo County Board of Supervisors for the 1992 Unocal pipeline oil spill at Avila Beach, totaling \$1,505,000, that do not meet restoration evaluation criteria for implementation, with rationale for rejection. Projects are identified by project type along with estimated project costs.

## Appendix B2

### PROJECT PROPOSALS NOT MEETING RESTORATION EVALUATION FOR IMPLEMENTATION

Project	Project Type	Cost	Comments
Avila Beach Sewer Improvements	Water Quality Protection	\$175,000	<p>These project concepts do not fall within the categories of projects identified in the State Settlement Agreement and Federal Consent Decree and the for the Avila Beach 1992 Oil Spill.</p> <p>Furthermore, where permitted waste discharges cause harm to fish and wildlife resources the waste discharger is required by State and Federal laws to correct the problem.</p>
Port San Luis Bilge Pump Station		\$75,000	
Salmon Enhancement Inc.	Resource Management	\$100,000	<p>This is an on-going project that does not fall within the category of projects identified in the State Settlement Agreement and Federal Consent Decree for the Avila Beach 1992 Oil Spill.</p> <p>There is no nexus to the Avila Beach 1992 oil spill or to the resources impacted by the spill. These project concepts do not fall within the categories of projects identified in the State Settlement Agreement and Federal Consent Decree for the Avila Beach 1992 Oil Spill.</p>
Nipomo-Guadalupe Dunes Enhancement		\$500,000	
Monterey Pines Forest Management		\$125,000	
Piedras Blancas	Public	\$100,000	There is no nexus to the Avila Beach 1992 oil spill or to the resources

## Appendix B2

### PROJECT PROPOSALS NOT MEETING RESTORATION EVALUATION FOR IMPLEMENTATION

Project	Project Type	Cost	Comments
Elephant Seal Docent Training Program	Services		impacted by the spill. These project concepts do not fall within the categories of projects identified in the State Settlement Agreement and Federal Consent Decree for the Avila Beach 1992 Oil Spill.
Oceano Community Center		\$200,000	
Coastal Access Improvements		\$50,000	Restoration funding from the settlement to compensate lost human uses was directly allotted to the Harbor District and separated from funds currently proposed for improving ecological services of natural resources.
Coastal Plan Data Collection	Planning	\$40,000	There is no clear nexus to the Avila Beach 1992 oil spill or to the resources impacted by the spill. These project concepts do not fall within the categories of projects identified in the State Settlement Agreement and Federal Consent Decree for the Avila Beach 1992 Oil Spill.
Outer Continental Shelf Monitoring and Public Information Program		\$100,000	
Conservation Element Update		\$40,000	

## **APPENDIX B-3**

Summary of seven restoration project proposals submitted by the Avila Valley Advisory Council for the 1992 Unocal pipeline oil spill at Avila Beach, totaling \$2,074,000, that do not meet restoration evaluation criteria for implementation, with rationale for rejection. Project proposals are identified by project type along with estimated project costs.

### Appendix B3

#### Summary of Project Proposals Not Meeting Restoration Evaluation Criteria for Implementation

Project	Project Type	Cost	Comments
Outfall Extension and Diffuser	Water Quality Protection	\$100,000	<p>This project concept does not fall within the categories of projects identified in the State Settlement Agreement and Federal Consent Decree for the Avila Beach 1992 Oil Spill. Furthermore, where permitted waste discharges cause harm to fish and wildlife resources, the waste discharger is required by State and Federal laws to correct the problems.</p> <p>These appear to be estuarine habitat improvement projects. Because of ongoing contaminant cleanup in the vicinity of Avila Beach and the estuary as a result of other pipelines spills by Unocal, the Trustee Council has set aside funds for work in the estuary. Additionally the Trustee Council wants to coordinate all restoration projects within the estuary that may be funded by settlement dollars obtained from Unocal for impacts caused by the releases of oil and remediation at Avila Beach. Furthermore, where permitted waste discharges cause harm to fish and wildlife resources, the waste discharger is required by State and Federal laws to correct the problem.</p>
Outfall Line Hydraulic Improvements		\$150,000	
Waste Water Disposal and Collection Improvements		\$100,000	
Emergency Electrical Connection		\$75,000	

### Appendix B3

#### Summary of Project Proposals Not Meeting Restoration Evaluation Criteria for Implementation

Project	Project Type	Cost	Comments
Pump Replacement & Well Rehabilitation		\$75,000	
Tertiary Level Waste Water Treatment	Water Quality Protection	\$1,500,000	In addition to the preceding comments, expected benefits to fish and wildlife are low relative to cost. Additionally, the total cost of this project concept is prohibitive.
Technical Support & Equipment	Emergency Response	\$74,500	This project concept provides no measurable benefits to fish and wildlife. Additionally, this project concept does not fall within the categories of projects identified in the Federal consent Decree and the State Agreement for the Avila Beach 1992 Oil Spill.

## **APPENDIX B-4**

Summary of four restoration project proposals received from the public during the public comment period without cost estimates that do not meet restoration evaluation criteria for implementation, with rationale for rejection. Project proposals are identified by project type.

**Appendix B4**

**Summary of Project Proposals Not Meeting Restoration Evaluation Criteria for Implementation**

<b>Project</b>	<b>Project Type</b>	<b>Cost</b>	<b>Comments</b>
Shellfish and Sea Otter Restoration	Resource Management	NA	At the time of settlement, the Trustee Agencies were not aware of technically feasible intertidal and nearshore restoration projects with a high expected benefit to cost relationship. Instead, the Trustee Agencies decided to evaluate off-site projects along the San Luis Obispo Creek that would restore or benefit the same types of resources injured in the Avila Beach spill. Additionally, the Trustee Agencies did not detect specific injuries to abalone or other shellfish as a result of the 1992 oil spill. Furthermore, restoration of sea otters is addressed in a separate “Sea Otter Restoration Plan”. The Trustee Council remains open to other near shore restoration project concepts that meet the evaluation criteria.
San Luis Obispo Creek Mouth	Estuarine Habitat Enhancement	NA	There is no evidence that re-channelizing the mouth of the Creek would benefit estuarine habitat or fish and wildlife resources.
Marre Dam Monitoring	Water Quality Protection	NA	There is no evidence that monitoring water quality at Marre Dam will aid in managing wastewater discharges into San Luis Obispo Creek to benefit water quality.
Seasonal Reservoirs		NA	The time and anticipated cost for planning and construction of these reservoirs is beyond the scope of this restoration project.

## **APPENDIX C**

Summary of the sixteen restoration projects proposed in the Draft Restoration Plan or added by the Trustee Council for the 1992 Unocal pipeline oil spill at Avila Beach that meet restoration evaluation criteria for implementation. Projects fall into two categories: Riparian Corridor Revegetation and Fish Barrier Removal. Project summaries are included along with estimated project costs, accumulated costs, and budget amount remaining by category.

**Appendix C**  
(version 12/15/98)

**PROJECT PROPOSALS MEETING RESTORATION EVALUATION CRITERIA FOR IMPLEMENTATION**

<b>Project</b>	<b>Project Type</b>	<b>Cost</b>	<b>Running Total</b>	<b>Project Description</b>
SL-3-1R	Riparian Corridor Revegetation	\$13,000	\$13,000	The project will stabilize the banks with willow material and increase the width of the riparian corridor through tree and shrub plantings, thereby reducing sediment deposition and improving water quality in the stream. Bank stabilization may require bank re-sloping.
SL-4-1R		\$37,500	\$50,500	Project calls for one acre of revegetation with large canopy trees. Planting will fill in gaps in riparian vegetation and enhance the width of the vegetated corridor in several spots vulnerable to erosion. The project will also involve exotic weed removal and maintenance to assure project success.
SL-6-1R		\$ 119,000	\$169,500	Project calls for bank revegetation along a section of the south bank measuring approximately 1,750 feet. Some bank resloping will likely be necessary. This project will also involve coordination with Tosco regarding the reburial of exposed oil pipelines. Funds through this program will be for activities upstream and downstream of the pipe burial project. This project may also involve the installation of instream fish habitat structures.

**Appendix C**  
(version 12/15/98)

**PROJECT PROPOSALS MEETING RESTORATION EVALUATION CRITERIA FOR IMPLEMENTATION**

<b>Project</b>	<b>Project Type</b>	<b>Cost</b>	<b>Running Total</b>	<b>Project Description</b>
SL-7-1R	Riparian Corridor Revegetation	\$53,000	\$222,500	Project will stabilize the outer bend of the creek, possibly with the installation of a vegetation based structure. The project will also consist of revegetation along an extended area of the north bank measuring approximately 1,100 feet. Total revegetation area is 1 acre.
EF-1-1R		\$67,000	\$289,500	The project is for the riparian restoration along the East Fork tributary immediately upstream of the San Luis Obispo Creek confluence. The project will include bank stabilization through vegetation based structures and planting of canopy trees along both banks. Total restoration area will be 1 acre. Some channel relocation may be necessary to repair historic damage to the riparian corridor.
Exotic Plant Species Removal and Stream Habitat Maintenance Plan		\$25,000	\$314,500	The project will result in a watershed-wide plan for exotic plant species removal and stream habitat maintenance. It will identify exotic species locations, removal strategies and methods, approaches to habitat improvement, and provide guidelines for future exotic species removal and stream habitat maintenance projects.

**Amount Budgeted for Riparian Corridor revegetation:           \$425,000**  
**Amount Remaining:   \$110,500**

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**PROJECT PROPOSALS MEETING RESTORATION EVALUATION CRITERIA FOR IMPLEMENTATION**

Project	Project Type	Cost	Running Total	Project Description
<b>Fish Barrier Projects</b>				
SL-16-1B	Fish Barrier Modification	\$16,500	\$16,500	The project plans are to construct rock weir fishways downstream of the culverts in the downstream channel to an elevation that will backwater the culverts to allow fish passage while not impeding water flow during high water events.
PR-1-1B		\$74,500	\$91,000	
PR-1-2B		\$18,000	\$109,000	
PR-1-3B		\$55,000	\$164,000	The project will construct a series of rock weirs along with minor modifications to the rock dam to provide for fish passage. Maintaining the agricultural equipment crossing would need to be considered in the design of the rock weir structure.
PR-2-1B		\$6,000	\$170,000	The project plan is to cut or chip a low flow notch into the center of the dam sill. A single rock weir below the check dams would further improve passage for smaller fish.
	Fish Barrier			

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**PROJECT PROPOSALS MEETING RESTORATION EVALUATION CRITERIA FOR IMPLEMENTATION**

<b>Project</b>	<b>Project Type</b>	<b>Cost</b>	<b>Running Total</b>	<b>Project Description</b>
PR-2-2B	Modification	\$32,000	\$202,000	The project plan is to construct a series of rock weirs down stream of the dam along with minor modifications to the crest of the rock dam. Opening this last major barrier on Prefumo Creek will open access for adult and juvenile to high quality spawning, holding, and nursery habitat.
ST-2-1B		\$5,500	\$207,500	The project concept is to remove the spillway section of the dam between the two abutment wing walls. This is the first barrier to fish passage on Stenner Creek. Removal of this barrier, along with the three following barriers, are essential for providing fish passage to high quality upstream habitat.
ST-2-2B		\$5,500	\$213,000	The Project concept is to construct a series of rock weirs in the downstream channel to an elevation that will begin to backwater the concrete crossing, thus eliminating the shallow water fish barrier.
ST-2-3B		\$27,100	\$240,100	The project concept is to remove the center concrete weir and leave the abutments and spillway plunge pool in place.
ST-3-1B		\$3,500	\$243,600	The project concept is to add one more weir to the three boulder weirs previously placed.

**Amount Budgeted for Fish Barrier Removal:   \$250,000**  
**Amount Remaining:                               \$6,400**

## APPENDIX D

## APPENDIX D

### Final Plan for Restoration Actions within the San Luis Obispo Creek Watershed Unocal Oil Spill, Avila Beach 1992

#### Response to Public Comments

#### A. General Comments Regarding Composition and Responsibilities of the Trustee Council

##### 1. *Issues Presented by the Public*

- a. The Trustee Council is not “local” as it is only composed of nonresidents of Avila Beach.
- b. The Trustee Council does not have the interest of the local Avila Beach citizen in mind, but the agencies the Trustee Council represents.

##### 2. *Suggestions Offered by the Public*

- a. There should be someone on the Trustee Council that represents the citizens of Avila Beach.
- b. The Avila Valley Advisory Council represents the people of Avila Beach and can provide recommendations for an Avila Beach Representative to the Trustee Council.

##### 3. *The Trustee Council Response*

- a. The Trustee Council is comprised of Trustee Agencies having a trusteeship over the natural resources impacted by the Avila Beach oil spill of 1992. The basis for the council membership is not residency, rather, it is based on jurisdiction over the impacted natural resources and statutory responsibilities. The Trustee Agencies have been designated pursuant to the Oil Pollution Act (OPA), which specifies the functions of the Trustees to assess natural resource damages following an oil spill to natural resources under their trusteeship, and to develop and implement a plan for restoration, rehabilitation, replacement, or acquisition of the equivalent of the natural resources under their trusteeship. The California Department of

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Fish and Game (CDFG) is the trustee for fish, wildlife, and their habitats and the U.S. Fish and Wildlife Service has trustee responsibilities for federally listed species, anadromous fish, migratory birds, and sea otters. The primary interest of the Trustee Council is restoration of the injured resources over which we have trustee responsibility. The settlement monies are not being used to fund other non related activities of the Trustee Agencies, nor can they be used to fund non-related local projects.

- b. The Trustee Council will be establishing technical advisory groups to assist that Trustee Council in implementation and review of the final Restoration Plan. The Trustee Council will accept nominations for individuals that are knowledgeable about the local resources and conditions, and experienced in natural resource restoration.

### **B. General Comments on the Draft Plan**

#### *1. Issues Presented by the Public*

- a. The Draft Plan does not address the personal and economic impacts on people caused by the Unocal Oil Spill.
- b. \$200,000 allocated to be spent on administration seems excessive. How were the \$200,000 in management funds arranged and how are they being applied?
- c. More money should be spent on improving local services.

#### *2. Suggestions Offered by the Public*

- a. Personal and economic impacts should be considered by the Trustees.
- b. \$200,000 allocated to be spent on administration would be better spent on mitigation and ground projects in Avila Beach. When projects are completed there should be little or no maintenance.
- c. Improve the Avila Beach Community Services District's emergency response system and equipment.
- d. Include a copy of the Consent Decree and the Settlement Agreement in the Draft Plan.
- e. The San Luis Obispo County Board of Supervisors proposed a total of \$1,505,000 in projects designed to improve local waste water treatment and other public services. The Avila Valley Advisory Council (AVAC) proposed a total of \$2,074,000 in projects designed to improve local waste water treatment and other public services.

#### *3. The Trustee Council Response*

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- a. Compensation for personal and economic impacts is outside the scope of the Draft Plan or the Trustees' responsibility. The law provides for third party claims directly against the responsible party (Unocal) by those suffering personal and economic losses from the spill.
- b. Monies allocated to the Trustee Agencies to develop the final restoration plan, and to oversee implementation of restoration were approved by the Court for such purposes. The monies will cover additional costs and obligations incurred by the Trustee Agencies that arose as a result of the spill. The close tracking of this restoration program over 3-plus years of implementation and 2-years of evaluation will require a considerable amount of effort and travel by agency representatives. The Trustees will make every effort to minimize administrative costs.
- d. The State Settlement Agreement and Federal Consent Decree are public documents filed with the Court and are available from the California Department of Fish and Game Office of Spill Prevention and Response. The key elements and background information are summarized at the beginning of the Draft Plan.
- e. The proposals from the Board of Supervisors and The Avila Valley Advisory Council were not consistent with the Trustees restoration goals as specified in the State Settlement Agreement and Federal Consent Decree. These proposals and the reasons for not funding are summarized in Appendix A2, A3, B2, and B3.

### C. Restoration Actions Proposed by the Trustee Council

#### 1. *Issues Presented by the Public*

- a. Restoration actions proposed by the Trustee Council do not follow the direction of the Court's decree or the initial direction of Unocal.
- b. Beliefs that the Trustee Council is funding the Land Conservancy of San Luis Obispo County (LCSLOC) long term goals of "City to the Sea Bikeway" and the "Transfer of Development Program."

#### 2. *Suggestions Offered by the Public*

- a. No specific suggestion was offered by the public, although it was implied that Unocal should have a greater voice in directing the restoration plan.

#### 3. *The Trustee Council Response*

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- a. The Trustee Council believes that the proposed restoration projects follow the direction of the State Settlement Agreement and Federal Consent Decree that specify fish barrier removal, riparian corridor revegetation and estuarine enhancement projects. Unocal may offer comments and recommendations to the Trustee Council, however, the Trustees are not required to follow the direction of Unocal with respect to restoration actions. Moreover, the Trustee Council is not aware of what the commentor is referring to when referencing the initial direction of Unocal. Furthermore, Unocal agreed to the State Settlement Agreement and Federal Consent Decree. The Trustee Council's goal is to develop and implement restoration projects that will directly or indirectly restore the injured natural resources. The goal is not to fund the LCSLOC's long term goals, although some of these goals may be compatible with theirs.

### D. Selection of the LCSLOC

#### 1. *Issues Presented by the Public*

- a. How did the LCSLOC become involved with the project?
- b. What is the LCSLOC's role in the project?
- c. There is concern that the LCSLOC does not have the staff with the proper professional qualifications necessary to be taking the lead on this important San Luis Creek mitigation project.

#### 2. *Suggestions Offered by the Public*

- a. Hire an independent engineer.
- b. Engage local Avila-based managers.

#### 3. *The Trustee Council Response*

- a. The LCSLOC has worked with Trustee Agencies in the past. The LCSLOC was involved in this project for a number of reasons. It has a public outreach mechanism in place, it has experience in implementing restoration projects, and it is knowledgeable about natural resources in the area. Its role is to facilitate the implementation of projects selected by the Trustee Agencies and help oversee local contractors. The LCSLOC will coordinate with local experts who are knowledgeable concerning the local resources and restoration implementation.
- b. The Trustee Agencies recognize that certain projects will require staff having professional qualifications beyond the capabilities of the LCSLOC.

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Additional contracts with persons having the necessary qualifications may be necessary. The Trustee Agencies will work with local technical experts to help identify additional consultants or expertise that may be required.

### E. Avila Beach: Localized vs. Regional Restoration Emphasis

#### 1. *Issues Presented by the Public*

- a. Restoration projects only indirectly affect Avila Beach.
- b. Lack of on-site restoration projects within the intertidal zone.
- c. The public challenges the assumption that intertidal and marine restoration projects are too expensive and difficult to implement.
- d. In regards to the stated justification that restoration closer to the spill is technically difficult and expensive to implement, what projects are deemed technically difficult and expensive and by whom?

#### 2. *Suggestions Offered by the Public*

- a. Unocal spill monies should be spent in the salt water estuary in Avila Beach as that is where the spill occurred. Unocal only intended for monies to be spent on projects that help the local environment of Avila Beach. This was a local disaster in Avila Beach and has not affected property owners upstream.
- b. The estuary will ultimately benefit from upstream improvements.
- c. Restore the abalone and other shell fish habitat around Avila Beach.

#### 3. *The Trustee Council Response*

- a. The 1992 Unocal oil spill did not enter the salt water estuary. Furthermore, the responsible party does not direct where restoration monies will be spent. Natural Resource Trustees may select projects that either directly or indirectly restore natural resources injured by an oil spill. In this case the proposed San Luis Obispo Creek projects will provide direct benefits to anadromous fish and birds that were impacted by the spill and indirect benefits to the intertidal community. Additionally, Unocal carried out a terrestrial revegetation project in the ravine above Boulder Cove where the oil flowed. In addition to restoring vegetation that was removed during the spill and subsequent clean up efforts, the purpose of this project was to reduce sedimentation and erosion into Boulder Cove and provide direct benefits to the intertidal community that was primarily impacted by the spill.

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At the time of settlement, the Trustees were not aware of technically feasible intertidal restoration projects with a high expected benefit to cost relationship. Natural recovery may be enhanced through projects that restore productivity such as the terrestrial revegetation project and other projects proposed by the Trustee Council. Furthermore, many of the natural resources injured by the 1992 oil spill, particularly the birds, are not necessarily local resident species. The spill impacted migratory birds, anadromous fish and other species whose range exceeds the local Avila Beach community. Moreover, the State Settlement Agreement and Federal Consent Decree call for restoration projects in and along San Luis Obispo Creek. However, the Trustees remain open to specific near shore restoration projects that meet the evaluation criteria.

- b. The Trustees agree that the estuary will ultimately benefit from upstream improvements.
- c. The shellfish project proposals calling for planting abalones in protective structures and creation of artificial reefs and kelp beds as a means of improving shellfish populations, primarily abalones, to support fisheries are not viable projects because of predation by sea otters. Furthermore, the Trustees did not detect specific injuries to abalone or other shell fish as a result of the 1992 oil spill. Nonetheless, the Trustees believe that rocky intertidal communities that include abalone and other shell fish, will benefit from projects that improve the productivity of San Luis Obispo Creek.

### F. Restoration of Upper San Luis Creek

#### 1. *Issues Presented by the Public*

- a. Upper San Luis Obispo Creek is not receiving the same attention as the lower reaches of San Luis Creek

#### 2. *Suggestions Offered by the Public*

- a. The upper reaches of San Luis Obispo Creek that include Steelhead spawning and the Steelhead nursery need improvement before any improvements are made on the corridor and lower reaches of San Luis Obispo Creek.

#### 3. *The Trustee Council Response*

- a. The primary problems regarding steelhead spawning and nursery habitat in the upper reaches of the San Luis Obispo Creek watershed are fish barriers

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that impede or prevent upstream and downstream migration. A sequential approach has been adopted in addressing these barriers since an individual stream is only as good as its least passable barrier. Project concepts have been tentatively, approved, subject to final approval of all required permits and easements, in San Luis Obispo Creek up to Stagecoach Road, in Stenner Creek to the Cheda Pond diversion, and in Prefumo Creek to the rip-rap barrier. Removal of these barriers will greatly increase access to the upper reaches of the San Luis Obispo Creek watershed. The Trustee Council will further evaluate the merits of placing additional restoration efforts on the upper San Luis Obispo Creek watershed and will seek input from local technical experts on this issue.

### **G. Restoration of Lower San Luis Creek**

#### *1. Issues Presented by the Public*

- a. If the City of San Luis Obispo is successful in their plan to reduce the discharge of treated effluent by 69%, San Luis Obispo creek will undergo unknown changes in its hydromorphology. The uncertainty of this issue accentuates concern with the concentration of effort currently proposed for lower San Luis Obispo Creek.

#### *2. Suggestions Offered by the Public*

- a. Purchase and maintain a remote flow monitoring system at Marre Dam to record and inform the City of San Luis Obispo of discharge rates.

#### *3. The Trustee Council Response*

- a. The Trustee Council has focused on current problems rather than speculate on the benefits of restoring resources that may be impacted by unknown future changes in the hydromorphology of San Luis Obispo Creek.
- b. This suggestion was rejected because there is no evidence that monitoring water quality at Marre Dam will aid in managing wastewater discharges into San Luis Obispo Creek to benefit water quality.

### **H. Flood Control and Water Conveyance of San Luis Obispo Creek**

#### *1. Issues Presented by the Public*

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- a. The Draft Plan is public works flood control based, rather than watershed and ecology based.
- b. The Draft Plan does not address flood threats of lower San Luis Obispo Creek.
- c. Considerable flooding has been caused by over planting of vegetation along San Luis Obispo Creek.

### 2. *Suggestions Offered by the Public*

- a. The primary benefit of San Luis Obispo Creek is flood water conveyance. San Luis Obispo Creek needs to be cleared and maintained so that flood waters are transported to the ocean with minimum damage to property and structures.
- b. San Luis Obispo Creek must continue to serve as a waste water channel for the City of San Luis Obispo.
- c. Return San Luis Obispo Creek to its natural flow so it can flush out during the winter season.
- d. Restoration will benefit all if San Luis Obispo Creek is clean and can flow freely to the ocean without barriers from storm refuse, litter, and Arundo bamboo.
- e. Discuss bank stabilization, channelization, etc. with the San Luis Obispo Creek Task Force regarding remedies for flood control.
- f. An entire drainage system plan is required for San Luis Obispo Creek. The City of San Luis Obispo and Cal Poly must be included in the plan.

### 3. *The Trustee Council Response*

- a. The intent of the Trustee Council is to develop and implement a restoration plan that is watershed and ecology based rather than public works flood control based. For that reason, the Draft Plan does not address flood threats of lower San Luis Obispo Creek. Flood control requirements are contained in local, State, and Federal law.
- b. The Trustee Council does not control whether San Luis Obispo Creek continues to serve as a wastewater channel for the City of San Luis Obispo. The State Settlement Agreement and Court Decree did not authorize the natural resources restoration funds to be used for measures that are otherwise required by State and Federal laws. The Trustee Council supports adequate flows to support fish, wildlife and their habitats.
- c. The Trustee Council's efforts to develop and implement restoration projects in and along San Luis Obispo Creek are to provide habitat and other benefits to natural resources. The Council's goal is not to maximize the river's use for flood water conveyance. The Council will seek advice from

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local technical experts to ensure that the proposed projects do not exacerbate flooding problems.

- d. The Trustee Council believes that benefits from restoration will increase if San Luis Obispo Creek can flow naturally to the ocean without barriers from storm refuse, litter, and Arundo. The Trustee Council supports the development of a watershed-wide plan for exotic plant species removal and stream habitat maintenance.
- e. The Trustee Council is willing to discuss the project proposals as well as implementation with the San Luis Obispo Creek Task Force. To the extent possible, the Trustee Council will ensure the projects are compatible with flood control efforts.
- f. The Trustee Council will coordinate with the City of San Luis Obispo and Cal Poly in developing and implementing natural resource restoration projects in and along San Luis Obispo Creek.

### I. Erosion Control and Bank Stabilization of San Luis Obispo Creek

#### 1. *Issues Presented by the Public*

- a. Erosion control on the banks of San Luis Obispo Creek is a major concern. Unless erosion is controlled upstream, the sedimentation cannot be controlled downstream.
- b. The stream, riparian zone, and wildlife benefit from the natural meandering of the stream. The bank stabilization and riparian enhancement aspects of the Draft Plan are designed to work against the natural stream meandering process. Thus, eliminating many ecological benefits derived from the meandering while creating a “channelization” project.

#### 2. *Suggestions Offered by the Public*

- a. Due to the 1995 storms, restoration of the Avila Beach Golf Course has run into millions of dollars. As such, the Avila Beach Resort requests the allocation of monies to provide funding for the construction of an appropriate reinforcement method for San Luis Obispo Creek’s banks between Bridges 12 and 16 on the Avila Beach Golf Course.
- b. Stabilize the banks of San Luis Obispo Creek that traverses through the Avila Beach Golf Course to prevent further siltation of San Luis Obispo Creek.
- c. San Luis Obispo Creek should be dredged and cleaned as it is full of rock and silt from this past winter season. This would enhance sport fishing and other recreational uses of San Luis Obispo Creek.

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- d. San Luis Obispo Creek needs to be cleaned to allow for a healthy estuarine habitat.
- e. Re-channel San Luis Obispo Creek where it meets the ocean.

### 3. *The Trustee Council Position*

- a. The Trustee Council considered three bank stabilization project concepts in the estuary and bordering the golf course that were not approved for funding. Ongoing contaminant cleanup in the vicinity of Avila Beach and in the estuary as a result of the Avila Beach Remediation Project, resulting in uncertain levels of disturbance to the estuarine habitat resulting from these cleanup activities, have led the Trustee Council to temporarily set aside the cleanup funds allocated for estuary habitat enhancement.
- b. The Trustee Council believes that settlement money should not be spent on stream maintenance projects such as bank stabilization until there is a watershed-wide plan for exotic plant species removal and stream habitat maintenance.
- c. The Trustee Council does not wish to interfere with ongoing investigation and remediation efforts occurring at Avila Beach and there is no evidence that the rechannelization of San Luis Obispo Creek where it meets the ocean will have any beneficial effects on fish and wildlife resources.

## J. **Restoration of the Riparian Forest Along San Luis Obispo Creek**

### 1. *Issues Presented by the Public*

- a. The Draft Plan inadequately discusses what is a fairly typical riparian forest along lower San Luis Obispo Creek.
- b. The Draft Plan is human friendly, but fish and wildlife unfriendly as it focuses on big trees that will shade the undergrowth and stabilization of stream banks that will result in decreased aquatic and riparian diversity, not restoration.
- c. On page 23 of the Draft Plan, the authors compared irrelevant summer water temperatures to optimum salmon spawning temperatures to justify more vegetation along San Luis Obispo Creek.

### 2. *Suggestions Offered by the Public*

- a. No willow elimination projects should be done under the Draft Plan. The willow riparian forest is not likely to regenerate at a maintenance level and is likely being systematically reduced.

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- b. Unocal monies should be spent on planting willows or studying whether the willow riparian forest is regenerating itself on lower San Luis Obispo Creek under current human centered San Luis Obispo Creek management practices.
- c. Willows should be planted along lower San Luis Obispo Creek where non endemic cottonwoods and sycamores were planted along the top bank. This planting should be done soon as the opportunity will be lost due to the willow shading effect that will be created by the trees planted on the top of the bank.
- d. Native cottonwoods and sycamores from the San Luis Obispo Creek Watershed (not from Orange, San Bernardino, and Eastern Sierra Counties) need to be planted.
- e. Revegetate the riparian corridor of San Luis Obispo Creek.
- f. Remove exotic plants, specifically the Casterbean and revegetate with German and English Ivy.

### 3. *The Trustee Council Response*

- a. The Trustee Council will seek advice from local technical experts regarding the issues and suggestions presented by the public in order to evaluate and prioritize revegetation efforts, including selection of plant species.
- b. Removal of exotic plant species will be based on a watershed-wide plan for exotic plant species removal and stream habitat maintenance. Revegetation with German and English Ivy will not be considered since these are exotic and invasive plant species.

## K. **Fill Projects within the San Luis Obispo Creek 100 Year Flood Plain**

### 1. *Issues Presented by the Public*

- a. People are filling the land within the 100-year flood plain of San Luis Obispo Creek and no entity is responding. This cancels out any restoration proposed.
- b. Concern was expressed over the two fill projects within the part of San Luis Obispo Creek that are influenced by ocean tides. Various government agencies have been contacted, but the agencies claim to have no jurisdiction over the projects.
- c. The Draft Plan does not address the problems of filling land within the 100-year flood plain of San Luis Obispo Creek that is presently occurring.

### 2. *Suggestions Offered by the Public*

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- a. Large amounts of money should not be spent upstream when the fill projects around Avila Beach continue unimpeded.
  - b. Stop the filling of San Luis Obispo Creek by developers as it creates damage and erosion to the creek.
3. *The Trustee Council Position*
- a. The Trustee Council does not control the filling of land within the 100-year flood plain. Problems resulting from “fill projects” are outside the scope of the restoration planning process. The Trustee Council acknowledges that numerous human activities have adverse impacts on natural resources and unfortunately neither the Trustee Council nor its parent agencies are in a position to correct all of the problems affecting San Luis Obispo Creek. The Trustee Council is concerned with whether the proposed projects will directly or indirectly restore resources injured by the 1992 oil spill. The Trustee Council will seek the advice of local experts whether these activities cancel out the benefits provided by the proposed restoration alternatives.

### L. The Effects of Waste Water Discharge on San Luis Obispo Creek

1. *Issues Presented by the Public*
  - a. How does the sewer effluent of San Luis Obispo waste water discharge affect the ability of salmon and steelhead to survive?
  - b. The Draft Plan suggests that the effluent from the Water Reclamation Facility is bad for San Luis Obispo Creek. Is this the opinion of the Trustee Council?
2. *Suggestions Offered by the Public*
  - a. Improve the Avila Beach Community Services District’s waste water disposal and collection system, including upgrading the Avila Beach Community Services District’s waste water treatment system to tertiary level treatment.
  - b. A compromise with the farmers is needed to assure that waste products will not be allowed in San Luis Obispo Creek.
3. *The Trustee Council Response*

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- a. The effects of wastewater discharges on the ability of salmon and steelhead to survive are mixed. On the one hand, a decrease in wastewater discharges from the City of San Luis Obispo waste water disposal system will result in decreased streamflow. Decreased stream flows are often detrimental to anadromous fish. On the other hand, wastewater discharges are often at a higher temperature than is optimal for anadromous fish.
- b. In the event that permitted waste water discharges cause harm to fish and wildlife resources, the waste discharger is required by State and federal laws to correct the problem. Furthermore, waste water treatment projects are not consistent with the Trustees restoration goals as specified in the State Settlement Agreement and Federal Consent Decree for the Avila Beach 1992 Oil Spill. Additionally, the tertiary treatment proposal at \$1,500,000 requires far more money than was allocated to the entire restoration project.
- c. The Trustee agencies represented by the Trustee Council will investigate the claims that farmers are discharging waste products into San Luis Obispo Creek and take the necessary actions through the Regional State Water Resources Control Board and the United States Environmental Protection Agency to stop this practice.

### **M. The Removal of Fish Barriers of the San Luis Obispo Creek**

#### *1. Issues Presented by the Public*

- a. Why are Unocal monies being spent upstream to remove fish barriers from private and public properties?
- b. Does the CDFG have the authority to enforce the removal of fish barriers on private property at the expense of the property owner?

#### *2. Suggestions Offered by the Public*

- a. The greatest biological benefit to anadromous fisheries as well as the biggest bang for the buck will be derived from the removal of fish passage barriers. These projects should take priority over any others.

#### *3. The Trustee Council Response*

- a. Although lands along the creek may be privately owned, ownership and control of all navigable waterways is vested in the state in trust for the people. The Trustee Council is not requiring private property owners to fund the removal of fish barriers. However, the Trustee Council will seek

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- landowner cooperation through conservation easements or other arrangements from willing landowners for purposes of site access.
- b. The Trustee Council agrees that fish barrier removal projects provide a great biological benefit to anadromous fisheries and shall place a high priority on these projects.

### **N. Restoration of Historic Fish Populations in San Luis Obispo Creek**

#### *1. Issues Presented by the Public*

- a. The Draft Plan correctly identifies the lack of pool habitat as being the greatest obstacle to rehabilitating historic fish populations, however, no specific projects are recommended to address this issue.

#### *2. Suggestions Offered by the Public*

- a. Consult with the monitoring and scientific programs that involve fisheries. See Canyon and Stenner Creek are the best spawning grounds, but they need work. Currently nothing is proposed for See Canyon Creek.
- b. To maintain water levels high enough for fish, construct seasonal reservoirs that will trap water run-off in the winter. This water could be stored and used during the dry season. Two possible sites for reservoirs: Base at Cuesta Grade or the lower Higuera area near Tank Farm Road.
- c. Routinely clean streams.

#### *3. The Trustee Council Response*

- a. Although the Draft Plan does not contain projects that focus primarily on pooling habitat, it does contain projects that are designed to stabilize stream banks and stream beds, and create and improve pool habitat.
- b. The Trustee Council welcomes proposals for See Canyon Creek. No proposals for Canyon Creek were submitted.
- c. The Trustee Council believes that the time and cost for planning and construction of seasonal reservoirs is beyond the scope of this restoration project.
- d. The Trustee Council believes that settlement money should not be spent on stream maintenance projects until there is a watershed-wide plan for exotic plant species removal and stream habitat maintenance.

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### O. The Draft Plan and the Rights of Private Property Owners Along San Luis Obispo Creek

#### 1. *Issues Presented by the Public*

- a. Will the easements acquired over private property along San Luis Obispo Creek be held by the State of California or the LCSLOC?
- b. If the Trustee Council is using Unocal monies as leverage to gain easements over private property along the San Luis Obispo Creek, is that a taking under the Fifth Amendment to the United States Constitution?
- c. Is an easement or an agreement with the LCSLOC a prerequisite for riparian benefits?
- d. How does the Trustee Council justify granting only one property owner (Marshall) bank stabilization when there are four contiguous property owners in the area?

#### 2. *Suggestions Offered by the Public*

- a. There must be parity between the private property owners along the San Luis Obispo Creek so that no one person may gain from another's sacrifice.

#### 3. *The Trustee Council Response*

- a. The Trustee Council has not yet determined whether easements acquired for the long term protection of restoration projects implemented by the Trustee Council shall be held by the CDFG or a suitable non-profit organization.
- b. The Trustee Council is not using the Unocal money as "leverage" to gain easements over private property along San Luis Obispo Creek. The Trustee Council intends to carry out the types of projects set forth in the State Settlement Agreement and Federal Consent Decree provided it is feasible to do so. One of the feasibility concerns of the Trustee Council is the long term protection of any revegetation or bank stabilization projects funded out of the settlement proceeds. The Trustee Council does not intend to fund projects unless long term protection is provided in the form of conservation easement or other protections from willing landowners. Because site (landowner) specific projects are not required under the terms of the State Settlement Agreement and Federal Consent Decree, no individual landowner is being forced to provide conservation easements. Moreover, if landowners are not willing to provide conservation easements, the Trustee Council will consider alternative projects elsewhere. Accordingly, there is no taking.

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- c. Conservation easements or similar protections must be in place prior to spending limited restoration funds on riparian restoration and fish barrier removal projects.
- d. The proposed projects in the Draft Plan were developed after considering which areas along the creek were in critical need of restoration and would provide the greatest benefits to wildlife given certain cost constraints. The goal was not to “benefit” one landowner over another. Use of certain landowners’ names in the Draft Plan was for ease of reference to the sites being targeted.
- e. The Marshall site was not approved by the Trustee Council for restoration.

### **P. The Draft Plan and the California Endangered Species Act (CESA)**

#### *1. Issues Presented by the Public*

- a. The Draft Plan and the planning projects of the City and County of San Luis Obispo regarding the Master Drainage Plan for San Luis Obispo Creek may conflict in regards to endangered species protection.
- b. Concern that the Draft Plan overlooks various endangered species.
- c. The Draft Plan’s neglect of willow restoration along San Luis Obispo Creek violates CESA as it affects the CESA listed Willow Flycatcher’s willow habitat.

#### *2. Suggestions Offered by the Public*

- a. A moratorium on any method to eliminate willows should be placed into effect in respect to the mitigation projects selected for restoration.

#### *3. The Trustee Council Response*

- a. The Trustee Council will take all steps necessary to ensure that the implementation of the restoration projects do not conflict with endangered species protection.
- b. The Draft Plan is not intended to benefit all endangered species in this area. However, if there is a likely potential for an adverse affect on an endangered species, the Trustee Council will either modify the proposed project to eliminate the potential for an adverse affect, or eliminate the project.
- c. Not restoring a particular habitat type that would, if restored, provide benefits for an endangered species, is not in and of itself a violation of CESA. However, Trustee Council will evaluate the potential effects on Willow Flycatcher habitat before implementing any projects that might have

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an adverse effect on such habitat, such as the removal of willows from certain locations along the creek.