

SIGNATURES:

Dated: _____

CALIFORNIA DEPARTMENT OF
FISH AND GAME

By: _____
Pete Bontadelli, Administrator
California Department of Fish and Game
Office of Oil Spill Prevention
and Response

Dated: _____

STATE LANDS COMMISSION

By: _____

Robert C. Hight
Executive Officer
State Lands Commission

Dated: _____

Union Oil Company of California

By: _____
President/Vice President

EXHIBIT 4

AVILA BEACH TRUST

This Trust is established with the National Fish and Wildlife Foundation (the "Foundation") by Union Oil Company of California (the "Settlor"), for the benefit of the State Natural Resource Trustees, the California Department of Fish and Game and the California State Lands Commission (the "State").

I. DEFINITIONS

1. The "Court" means the Superior Court of the State of California for the County of San Luis Obispo.

2. The "Foundation" means the National Fish and Wildlife Foundation.

3. The "MOU" means the Memorandum of Understanding entered into in connection with the Avila Beach oil spill by the California Department of Fish and Game, the California State Lands Commission, and the U.S. Fish and Wildlife Service.

4. "Natural Resource" and "Natural Resources" mean land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States or the State of California.

5. The "Natural Resource Trustees" means the U.S. Department of the Interior (DOI), the California Department of Fish and Game, and the State Lands Commission.

6. The "Natural Resource Trustee Council" or "NRT Council" means the group of representatives of the Natural Resource Trustees selected pursuant to a Memorandum of Understanding entered into by the Natural Resource Trustees.

7. "Restoration Project" means any action to restore or rehabilitate any injured, lost, damaged, or destroyed Natural Resources (and the services provided by that Natural Resources), or any action that replaces or acquires

the equivalent of, the injured, lost, or destroyed Natural Resource and affected services injured, lost, or destroyed as a result of the rupture of a UNOCAL pipeline on August 3, 1992, in Avila Beach, California, which caused the discharge of San Joaquin Valley crude oil onto nearby lands and water.

8. The "Segregated Account" means the account in which the Foundation holds funds subject to the Avila Beach Trust.

9. "Settlement Agreement" means the Settlement Agreement entered into by the State of California and Union Oil Company of California and any amendments thereto, that resolves the action filed by the State in Superior Court regarding the Avila Beach oil spill.

10. "Settlement Funds" means the money paid into this Trust pursuant to a requirement in the Settlement Agreement.

11. The "State" means the California Department of Fish and Game, and the State Lands Commission.

12. The "Trust" means the Avila beach Trust established by this Agreement.

13. The "Trustee" means the trustee of the Avila Beach Trust.

II. PURPOSE

14. The purpose of this Agreement is to establish the Trust and to appoint the foundation as its Trustee. This Agreement outlines the terms under which the Foundation shall exercise this function.

15. The purpose of the Trust is to receive, manage and disburse funds, in accordance with the direction of the NRT Council through their designated representative(s), for certain Restoration Projects to Restore Natural Resources injured as a result of an oil spill at Avila Beach, for the benefit of the people of the State of California.

III. SETTLOR

16. The Settlor, Union Oil Company of California, shall fund this Trust pursuant to a requirement in the Settlement Agreement. With the exception of the obligation to establish and fund this Trust, Settlor shall have

no rights, duties, obligations, or fiduciary responsibilities of any kind in connection with this Trust. Without limiting the foregoing, Settlor shall have no rights, duties, obligations, or fiduciary responsibilities with respect to the management of this Trust, the use of funds held in this Trust, property acquired with Trust funds, or Natural Resource Restoration Projects funded by the Trust. This Trust is irrevocable and Settlor retains no interest whatsoever in the corpus or proceeds of this Trust.

IV. TRUSTEE

17. The Foundation shall be Trustee of the Trust.
18. The Court shall have the power to appoint a replacement Trustee if the office of the Trustee becomes vacant.
19. The Court shall have the power to remove the Trustee if at any time it determines that the Trustee is not performing its duties in a manner that is consistent with the purposes of the Trust. The State shall have the right to ask the Court to remove the Trustee or to terminate the Trust.
20. In addition to the powers expressly granted to the Trustee by this Agreement, the Trustee shall have all other powers granted to Trustees under the laws of the State of California, except as otherwise provided in this Agreement.
21. The Foundation submits to the jurisdiction of the Superior Court of the State of California for the County of San Luis Obispo for purposes of enforcement, administration, and supervision of the Trust.
22. Unless otherwise agreed by the NRT Council, the Foundation shall not hold an interest in any real or personal property acquired with Settlement Funds nor shall it acquire, manage or dispose of such property.

V. BENEFICIARIES

23. The people of the State of California are the beneficiaries of the Trust.

VI. DUTIES OF TRUSTEE

24. The Trustee shall maintain funds subject to the Trust in a Segregated Account separate from all other Foundation accounts.

25. All funds held in the Segregated Account shall be invested as directed by the NRT Council and, in the absence of specific instructions, shall be invested in U.S. Treasury Bills and notes. Interest and earnings accruing to the Segregated Account shall be reinvested in the Segregated Account and used to carry out the purposes of the Trust.

26. The Trustee is authorized and obliged to make disbursements of the funds from the Segregated Account pursuant to paragraphs 33 and 36 below.

27. The Foundation shall appoint an individual, the Foundation Representative, who will represent the Foundation in carrying out its obligations as Trustee under this Agreement. The Foundation shall identify to the NRT Council, in writing, the identity, mailing address, and phone number of the Foundation Representative. Any change in the Foundation Representative shall be communicated to the NRT Council within 10 business days of the change.

28. The Trustee shall fund, subject to paragraph 36 below, Restoration Projects as directed by the NRT Council.

29. The Trustee shall solicit bids for implementation of the Restoration Projects as directed by the NRT Council.

30. The Trustee shall submit to the NRT Council an annual report, by December 15 of each year, which itemizes all funds maintained, deposited, accrued, and disbursed from the Segregated Account.

VII. SELECTION OF AUTHORIZED PROJECTS

31. The NRT Council shall, pursuant to the MOU, select Restoration projects to be funded by the Trust.

32. The NRT Council shall appoint a representative ("NRT Council Representative") for purposes of communicating with the Foundation regarding management of the Trust, soliciting bids for the Restoration Projects, and disbursements from the Trust to facilitate Restoration Projects selected by the

NRT Council. The NRT Council shall give the Foundation Representative written notice of the name, address, and telephone number of the NRT Council Representative. Any action taken by the Trustee in strict accordance with this Trust Agreement and instructions from the NRT Council Representative shall be considered authorized by the State.

33. The Trustee shall make disbursements from the Trust only when the NRT Council Representative has submitted to the Trustee a written authorization for the disbursements approved by the Natural Resource Trustee Council.

VIII. PAYMENT OF TRUST EXPENSES AND DISBURSEMENT OF FUNDS

34. The Trustee shall receive, at the time funds are transferred to the Trust, an administrative overhead reimbursement equal to three percent (3%) of the total funds transferred to the Segregated Account. The uses of these funds include expenses for day to day management of the Trust, initial bank charges for establishment of the Trust and charges for the first year, and for personnel time for tracking, managing, and making disbursement from the Trust. This reimbursement shall be made against the corpus of the Trust. There shall be no liability for payment by the Settlor beyond the \$950,000, plus interest accrued thereon for restoration of natural resources required to be paid pursuant the Settlement Agreement. The Trustee shall make no charge against the Settlor for the establishment of this Trust, and except as provided in paragraph 35, no additional charges or deductions shall be made against the corpus of the Trust in connection with the administration of the Trust.

35. The Trustee will be reimbursed for all other reasonable and actual expenses incurred in connection with the satisfaction of its obligations under this Agreement, provided however, that such expenses must be approved in writing as reasonable by the NRT Council. Such expenses would generally be for extraordinary expenses not contemplated to be incurred as part of normal management of the Trust, as set forth in paragraph 34. Bank charges for the Trust after the first year may be paid from interest collected on the Trust, and to the extent not covered by accrued interest, shall be paid pursuant to this paragraph.

36. Upon receipt of written approval by the NRT Council to fund Restoration Project(s) pursuant to paragraph 33 above, the Trustee is authorized and obliged to disburse funds in the Segregated Account as directed by the NRT Council Representative.

37. Nothing in this Agreement shall create any right or benefit, substantive or procedural, enforceable at law by a party against the Foundation, its officers, employees, or any other person.

IX. AMENDMENTS

38. This Agreement may be amended only by written agreement of the Foundation and all of the Natural Resource Trustees, and with the approval of the Court.

X. NOTICES

39. Notices under this Agreement shall be made in writing and may be given by delivery in person, by mail or by telecopy (fax).

40. Notices to the State shall be sent to:

Administrator, California Office of
Oil Spill Prevention and Response
1700 K Street, Suite 250
Sacramento, CA 95814

41. Notices to the Foundation shall be sent to:

Whitney C. Tilt
National Fish and Wildlife Foundation
1120 Connecticut Ave., NW
Washington, DC 20036
Phone: (202) 857-0166
Fax: (202) 857-0162

XI. EFFECTIVE DATE

42. The Trust shall become effective upon transfer of settlement proceeds to the Trustee pursuant to the Settlement Agreement.

XII. TERMINATION

43. The Trust shall terminate when all funds subject to the Trust have been disbursed and the parties agree to termination in writing.

XIII. SIGNATURES

Dated: _____

SETTLOR:

Dated: _____

CALIFORNIA
DEPARTMENT OF
FISH AND GAME:

Dated: _____

STATE LANDS
COMMISSION:

Dated: _____

NATIONAL FISH AND
WILDLIFE FOUNDATION

Avila Beach Trust

ATTACHMENT 2

MONTEREY BAY AQUARIUM
SEA OTTER RESEARCH AND CONSERVATION PROGRAM
30 JANUARY 1995

- Primary program goal: To care for orphaned, injured or ill sea otters and, when appropriate, to rehabilitate orphaned pups and reintroduce them back into the California population. Detailed program goals and program guidelines attached in Appendix 1.

- Program resources:

	Non-Salary Costs	Salary Costs	Total
1993	\$28,711	\$97,797	\$126,508
1994	52,475	135,304	187,779
1995	60,714	339,782	400,496

- 1995 resources include the merging of the aquarium's sea otter research and stranding programs into a new program, Sea Otter Research and Conservation.
- 10-year acquisition totals, 1983-1993 (details in Appendix 2):
 - Acquired: 95
 - Released: 32
- 1994 acquisition totals (details in Appendix 3):
 - Acquired: 10
 - Released: 1
 - In Program: 2
- Goals for 1995 and beyond
 - ⇒ Hire Sea Otter Research and Conservation Program Manager to direct new Sea Otter Research and Conservation Program
 - ⇒ Take better advantage of research opportunities provided by our captive sea otters
 - ⇒ Ensure that the knowledge, experience and success of the SORAC program are shared with other institutions and agencies concerned with sea otter conservation.
 - ⇒ Broaden the impact of MBA's sea otter program to larger sea otter conservation issues and efforts
- Use of Avila Beach spill settlement funds: Funds would be used to support the new directions of the Sea Otter Research and Conservation Program at the aquarium. Declining attendance in 1994 and 1995, coupled with increased capital costs and expenses associated with the aquarium's Outer Bay Wing exhibit initiative, require aggressive pursuit of outside funds to maintain current as well as future program goals.

APPENDIX 1

SEA OTTER RESCUE AND CARE PROGRAM
GOALS AND GUIDELINES

SEA OTTER RESCUE AND CARE PROGRAM GOALS AND POLICY

30 DECEMBER 1993

Background

The Sea Otter Rescue and Care (SORAC) Program arose from the aquarium's interest in rehabilitating and returning orphaned and injured California sea otters (*Enhydra lutris nereis*) to their natural habitat and in developing an educational sea otter exhibit and research program. In cooperation with the U.S. Fish and Wildlife Service (USFWS), aquarium staff rescued and nursed back to health stranded and dying orphaned sea otter pups which were then maintained in the aquarium's sea otter exhibit. Once the aquarium had reached its maximum capacity of four sea otters and had developed the skills and knowledge necessary to nurse back to health orphaned sea otter pups, the public as well as the USFWS continued to bring orphaned pups to the aquarium. Because California sea otters are listed as a threatened population under the Endangered Species Act, steps must be taken to return all sea otters removed from the population back into their natural habitat, if feasible. SORAC staff developed techniques to teach the animals the survival skills needed to return to their native habitat. At the present time the Monterey Bay Aquarium is the only institution in the world with the staff expertise, facilities and appropriate geographic location necessary for raising orphaned pups and successfully releasing them back into their natural habitat. The goals of the SORAC program are pursued in cooperation with USFWS, the agency responsible for managing the California sea otter population.

Primary Program Goal

To care for orphaned, injured or ill sea otters and, when appropriate, to rehabilitate orphaned pups and reintroduce them back into the California population.

Additional Program Goals

1. Increase our knowledge and success in rehabilitating, raising and releasing sea otters to insure adequate response in the event of a large-scale environmental catastrophe or decline of the population.
2. Gain basic knowledge of sea otter biology and behavior, and integrate research projects into the SORAC program when possible.
3. Continue to develop veterinary expertise specific to sea otters.
4. Pursue our mission to promote stewardship of all living resources in Monterey Bay.
5. Establish exhibit and/or potential breeding populations at other qualified institutions throughout the world.

- Determine if captive-born pups can survive when reintroduced into the wild from reserve breeding populations.

SORAC Program Policies and Procedures

Whenever practical, injured, ill or potentially orphaned sea otters should be observed by qualified MBA or USFWS staff to determine if the sea otters would benefit from veterinary care or rehabilitation efforts at the aquarium. Only after such a determination is made and if space and staff are available will sea otters be brought to the MBA. Adult or juvenile sea otters requiring short-term care will be cared for here and released upon recovery. If space and staff are not available to adequately care for adult or juvenile sea otters, the animals will be transferred to another facility qualified to care for sea otters (e.g., the Marine Mammal Rescue Center) if judged transferrable by MBA or USFWS biologists or, in the event of a permanent or terminal medical disability, be euthanized by a veterinarian after receiving permission from the USFWS. Sea otter pups will be cared for at the MBA.

To achieve our primary goal of re-introducing orphaned sea otter pups into the wild population, it is essential that pups develop the skills necessary for foraging and coping with the rigors of the ocean environment. Thus, MBA staff must spend a substantial amount of time helping the pups to develop critical skills, and particularly the ability to forage on their own. These skills are acquired in the aquarium's "raise for release" program.

Pups with a medical disability or impaired development of its survival skills will be considered unsuitable candidates for successful release. These animals will be raised as captive animals and transferred to a qualified institution for exhibit, or in the event of a permanent or terminal medical disability, be euthanized by a veterinarian.

The raise-for-release program requires considerable staff and volunteer time in addition to the availability of nursery facilities, outdoor holding tank space and the tidal basin during various phases of the pup's rehabilitation process. The presence of more than two sea otter pups in the raise-for-release program at any given time will overcrowd our facilities and seriously compromise the goals of the program. In the event that the facilities are at capacity, it will be necessary to remove one or more pups from the program to ensure the success of raising and releasing pups under our care. If a pup cannot be accommodated in the raise-for-release program at the MBA, it will be raised as a captive animal at MBA and transferred to another institution qualified to maintain sea otters. More than two sea otters may be in the program if one or more are near the end of the program and ready for release.

The selection of which pup or pups to remove from the program will be a joint decision between SORAC staff, research staff and the aquarium veterinarian, and requires final approval of the Director of Life Sciences of MBA and the USFWS. The MBA Public Relations Department will be involved in discussions preceding such decisions to insure the provision of factually accurate public information.

Sea otters are social animals and many otters may suffer stress when kept alone in captivity. Therefore, if it becomes necessary to permanently transfer a sea otter from our program to another aquarium, we will require that the receiving aquarium obtain at least one other sea otter as a companion for the transferred sea otter, either from their own collection or from existing collections at other institutions. In the event that no

other options exist for obtaining a companion animal, MBA will transfer to the receiving institution the next available sea otter that is unreleasable.

Once a sea otter has been transferred to another institution, it is the responsibility of that institution to provide adequate holding facilities and medical care to ensure the health and well-being of the animal.

(SEA OTTER PROGRAM\SORACI.DOC)

ATTACHMENT 3

PROPOSED RESTORATION PROJECTS FOR SAN LUIS OBISPO CREEK

EXHIBIT 3

The following is a list of projects that have been evaluated by the trustees for suitability in the overall restoration scheme. Each project has a title and brief description. The trustees believe that all of these projects must be completed to compensate for the types and levels of services that were lost as a result of the Unocal oil spill at Avila Beach.

The trustees reserve the right to adjust priorities or fund similar restoration projects designed to provide comparable types and levels of services if new cost or feasibility information warrants such action.

1. ESTUARY FLATS

Total Area: 1.5 acres

The objective of this project is to revegetate a stretch of shoreline approximately 1,000' long with a width of 65'. We propose to restore and improve this vegetation in a crescent-shaped region along the shoreline to provide shade over the creek and nesting habitat and cover for birds.

2. GOLF NARROWS

Total Area: 1.9 acres

The project has two components related to two contiguous parcels of land. The objective is to revegetate both parcels and additionally to stabilize the shoreline along the narrows where banks succumb to constant erosion.

WEST END "POCKET" - 1 acre. The shoreline in front of this section is about 450' long. The objective is to plant shrubs and trees to create a transition zone between the nearby hills and the wetland bordering the creek. The landowner, has agreed to relocate the golf cart washing station and the golf cart path away from this parcel to eliminate direct wash runoff into the wetlands/pocket area and to reduce the disturbance to wildlife caused by golf cart traffic.

NARROWS BANK STABILIZATION - 750' of creek bank. The first objective of this project will be to design and implement a mechanism for preventing further erosion of the creek bank. After the shoreline stabilization project is installed, the top of the bank will need to be revegetated and the golf cart path relocated away from the bank. The landowner has agreed to move the pathway along the 17th fairway and regrade a strip of land about 50' wide (totaling about 0.9 acres) bordering the creek to improve drainage before

planting. Financial assurances for project completion are similar to those for the West End Pocket.

3. BIG BEND

Total area: 1.8 acres

The objective of this project is to stabilize a rapidly eroding bank along the south side of the creek for a distance of 800'. Following bank stabilization, an area approximately 100' wide, extending between the shoreline and the golf cart path, will be replanted.

4. FLOODWAY

Total area: 3.0 acres

For various reasons, we have focused the project to revegetation along one section that is considered to be degraded and in need of restoration/revegetation. We believe that the landowner will allow a conservation easement and is in favor of restoring the riparian corridor through vegetation and cattle exclusion (fencing).

5. HIGUERA STREET BRIDGE

Total Area: 13 acres

The objective of this project is to revegetate the bank along 3,900' of creek, with both sides of the creek needing restoration. This project can be divided into two parts based on the need for more extensive revegetation along one stretch of 3,300' and limited revegetation along a second stretch of 600'. The scope of this project is contingent upon details of acquiring a conservation easement.

The first and lower reach, about 3,300' long, extends from the Higuera Street Bridge (near the northbound on ramp to Highway 101) to the old, abandoned bridge.

The second and upper reach, about 600' long, extends from the old bridge to the city limits. This reach has recovered well during the last few years and only needs limited restoration at selected sites. This would primarily

include the introduction of large trees within the existing understory. This would not involve a wide area for restoration (the area extent is based on an estimate of a 25' width).

6. FISH BARRIERS

The objective of this project is to

of the San Luis Creek and its tributaries to fish for spawning and rearing (nursery). Additional details are available for each of the barrier sub-projects. For purposes of this document, information is restricted to barrier locations. The cost of modifying or removing each of these barriers would include expenses for engineering and design, permitting, construction, and oversight of work. Two barriers, Prefumo Creek at Highway 101 and the Marre Dam, are more substantial than the others and are likely to require more engineering design and materials.

- 1) Marre Dam (modification to fish ladder)
- 2) Prefumo Creek (at Highway 101)
- 3) Stenner Creek (upstream of railroad trestle)
- 4) Prefumo Creek (Dalidio Agricultural Crossing)
- 5) Prefumo Creek (check dams and upstream rip rap above Laguna Lake)
- 6) Stenner Creek (between Stenner Glen and Mustang Village)
- 7) Stenner Creek (behind Woodside Apartments)
- 8) Stenner Creek (CalPoly Agricultural Dam)
- 9) Stenner Creek (CalPoly Agricultural concrete apron under bridge)
- 10) San Luis Obispo Creek (at Cuesta Park)

7. **SEA OTTER ENHANCEMENT**

The objective of this project is to provide funds to the Monterey Bay Aquarium to raise stranded sea otter pups and monitor the health of these otters including disease and immune system functioning.

8. **RECREATION/PORT AREA AND BEACH ENHANCEMENT**

The objective of this project is to alleviate the sand shoaling problem that exists at the Port San Luis shoreline facilities near Harford Pier and to replenish nearby beaches.

D:\Avila\exhibit.3

PROOF OF SERVICE BY MAILING

I, Marilen Iliscupides, declare:

I am over the age of 18 and not a party to the within action.

I am employed by the office of United States Attorney, Central District of California. My business address is 300 North Los Angeles Street, Suite 7516, Los Angeles, California 90012.

On March 21, 1996, I served a copy of: **CONSENT DECREE** on each person or entity named below by enclosing a copy in an envelope addressed as shown below and placing the envelope for collection and mailing on the date and at the place shown below following our ordinary office practices. I am readily familiar with the practice of this office for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

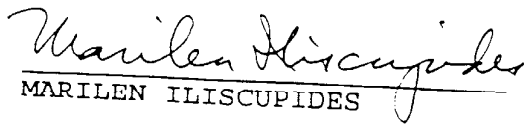
Date of mailing: March 21, 1996. Place of mailing: Los Angeles, California.

Addressed to: SEE ATTACHED SERVICE LIST

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on March 21, 1996 at Los Angeles, California.


MARILEN ILISCUPIDES

SERVICE LIST

1
2
3 Ellen A. Whelan
4 Assistant Counsel
5 Unocal Corporation
6 1201 West 5th Street
7 P.O. Box 7600
8 Los Angeles, CA 90051

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William A. Shaffer
Manager, Environmental Affairs
Unocal
201 S. Broadway
Orcutt, CA- 93455