

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071



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Commission Action: 11/16/06

**M8a.****STAFF REPORT: Request for Revocation****APPLICATION NUMBER:** R5-06-042**APPLICANT:** Pacific Jewish Center**PROJECT LOCATION:** Existing light poles and 19 lifeguard sign-poles at street ends on beach and at Ocean Front Walk between Seaside Terrace, Santa Monica and Via Marina, Venice, in the Cities of Santa Monica and Los Angeles.**PROJECT DESCRIPTION (Approved on November 16, 2006):** Attach 20-foot high 1<sup>5/8</sup> inch diameter galvanized metal pole extenders to County information signs at 19 locations at unpaved street ends/beach on Ocean Front Walk between Catamaran Street and Via Marina, Venice, and then to the entry channel fence; The applicant will then stretch 200 lb. test monofilament line (fishing line) between existing street lights from Seaside Terrace, in Santa Monica, to Catamaran Street; in Venice, attach the line to the pole extenders between Catamaran Street and Topsail Street, and then to existing light poles along Ocean Front Walk south of Topsail Street, to Via Marina, Venice, and then to a 14-foot pole at the entry channel fence. The applicant will install 1" by 6" streamers on the line in vicinity of Least Tern nesting area (between Hurricane and Via Marina) to increase visibility for birds; conduct weekly inspections, remove downed line and repair breaks as required.**PERSON REQUESTING REVOCATION:** Marina Peninsula Neighborhood Association (Diana Spielberger) and CLEAN (Marcia Hanscom); and the Los Angeles Audubon Society.**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends that the Commission **deny** the request for revocation on the basis that no grounds exist for revocation under Section 13105 (a) or (b) of the Commission's regulations.

ROCEDURAL NOTE: The California Code of Regulations, Title 14, Division 5.5, Section 13105 states that the grounds for the revocation of a coastal development permit (or permit amendment) are as follows:

Grounds for revocation of a permit shall be:

- a) Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the Commission finds that accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny an application;
- b) Failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions on a permit or deny an application (14 Cal. Code of Regulations Section 13105).

**REQUESTOR'S CONTENTIONS:**

The request for revocation contends that grounds for revocation in Section 13105(a) and (b) exist because inaccurate, erroneous or incomplete information was submitted to the Commission in the coastal development permit application; and there was failure to comply with the notice provisions of the Commission's regulations (see Exhibit No. 1, 2 and 3). The contentions raised by the request include the following:

1. Applicant provided an incomplete and erroneous project description regarding the location of the signs and existence of light poles.
2. Applicant did not provide complete information to the County on the weight of the proposed poles.
3. Permit was not obtained from the County.
4. Project is inconsistent with Los Angeles County Code Section 17.12.210.
5. Project description is incomplete and does not comport with the exhibits submitted by the applicant.
6. Project is inconsistent with City of Los Angeles Municipal Code Section 67.02(a) and 67.29(d)
7. The project does not adequately describe the installation of streamers.
8. The extent of the construction, the amount of construction and the exact proximity of the construction to ESHA (Environmentally Sensitive Habitat Area) and to the Ballona Valley and wetlands was not clearly demarcated in the materials provided in the application (Los Angeles Audubon Society)
9. Applicants did not disclose bird strike and visual impact issues associated with an eruv constructed in Oak Park.
10. Project was inadequately noticed.

**I. STAFF RECOMMENDATION ON REVOCATION**

The staff recommends that the Commission determine that no grounds exist for revocation.

**MOTION:** *I move that the Commission grant revocation of Coastal Development Permit No. 5-06-042.*

**STAFF RECOMMENDATION**

The staff recommends a **NO** vote on the motion. Failure of this motion will result in denial of the request for revocation and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

**RESOLUTION TO DENY REVOCATION:**

The Commission hereby denies the request for revocation of the Commission's decision on Coastal Development Permit No. 5-06-042 on the grounds that:

- a) There was no Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the Commission finds that accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny an application.
- b) There was no failure to comply with the notice provisions of Section 13054 where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions on a permit or deny an application (14 Cal. Code of Regulations Section 13105).

**II. Findings and Declarations**

The Commission hereby finds and declares as follows:

**A. Project Description and Background**

On November 16, 2006, the Commission approved, with conditions, Coastal Development Permit No. 5-06-042 for the attachment of 20-foot high 1<sup>5/8</sup> inch diameter galvanized metal pole extenders to County information signs at 19 locations at unpaved street ends/beach on Ocean Front Walk between Catamaran Street and Via Marina, Venice, and then to the entry channel fence; the applicant will then stretch 200 lb. test monofilament line (fishing line) between existing street lights from Seaside Terrace, in Santa Monica, to Catamaran Street; in Venice, attach the line to the pole extenders between Catamaran Street and Topsail Street, and then to existing light poles along Ocean Front Walk south of Topsail

Street, to Via Marina, Venice, and then to a 14-foot pole at the entry channel fence. The applicant will install 1" by 6" streamers on the line in vicinity of Least Tern nesting area (between Hurricane and Via Marina) to increase visibility for birds; conduct weekly inspections, remove downed line and repair breaks as required.

Installation of 20-foot high extender poles on the beachfront lifeguard signs, which are presently 8 feet high, and located on both paved and unpaved (sand) portions of Ocean Front Walk triggers the need for a coastal permit, as does extension of a monofilament line by a private entity between the poles and between the existing light poles, because such activities constitute development as that term is defined in the Coastal Act (30106).<sup>1</sup> The development requires a coastal development permit pursuant to Section 30600(a) because it will occur in the Coastal Zone, as defined in the Coastal Act (30103), and specifically because of its location on a public beach, and in the case of the extender poles, on a sandy beach. Exemptions available to property owners and to public entities do not apply in this case.

The purpose of the line is to create a physical perimeter (known as an "eruv") to surround a defined area so that members of the Pacific Jewish Center may carry objects within its perimeter as they walk to synagogue on the Sabbath without violating rules to which they adhere for religious reasons. Outside the beach areas of Venice and Santa Monica, the center proposes to string the line on existing fences and light poles.

The Commission approved the project with five special conditions, which included: 1) term limit; 2) visual mitigation; 3) pole and line monitoring; 4) Department of Fish and Game and the United States Fish and Wildlife Service continuous approval; and 5) bird monitoring.

## **B. Grounds for Revocation**

Pursuant to Title 14 of the California Code of Regulations ("14 C.C.R. ") Section 13108(d), the Commission has the discretion to grant or deny a request to revoke a coastal development permit if it finds that either of the grounds listed in 14 C.C.R. Section 13105 (meaning all of the elements listed in either subsection of 13105) exist. 14 C.C.R. Section 13105 states, in part, that the grounds for revoking the permit shall be as follows: (a) that the permit application intentionally included inaccurate, erroneous, or incomplete information where accurate and complete information would have caused the Commission to act differently; and (b) that there was a failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to act differently.

The South Coast District office received a written request for revocation of the subject coastal development permit on May 9, 2007 from Marina Peninsula Neighborhood Association (MPNA) and CLEAN (supplemental letter dated June 7, 2007), and on June 11, 2007 from the Los Angeles Audubon Society. The requests are based on Section 13105 (a) that the

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<sup>1</sup> The Coastal Act is codified at California Public Resources Code ("PRC") sections 30000 to 30900. All references herein to numbers in the 30000s are to sections of the PRC, and thus, to the Coastal Act.

permit application intentionally included inaccurate, erroneous, or incomplete information where accurate and complete information would have caused the Commission to act differently and; (b) that there was a failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to act differently.

Revocation is only appropriate under Section 13105(a) if the following three essential elements or tests are met:

**13105(a)**

- a. The permit application included inaccurate, erroneous, or incomplete information;
- b. The applicant intentionally included this inaccurate, erroneous, or incomplete information in the application; (emphasis added) and
- c. The accurate and complete information would have caused the Commission to require additional or different conditions or to deny the application.

As indicated above, this standard consists, in part, of the intentional inclusion of inaccurate, erroneous, or incomplete information in connection with the coastal development permit application. The revocation request contends that the applicant omitted accurate information or submitted erroneous information and included incomplete information which would have caused the Commission to require additional or different conditions or deny the application. The request for revocation of the permit addresses a number of issues which the opponents feel are grounds for revocation. Below is a list of all contentions made in the submitted letters. Following each contention is staff's response.

**ISSUE ANALYSIS**

**1. Contention:** Applicant provided an incomplete and erroneous project description regarding the location of the signs and existence of light poles. MPNA and CLEAN state that there are only ten pole locations that can be used for pole extension and wire placement, as opposed to the 19 described in the applicant's project description, and there is no existing sign or pole at the entry channel fence. Therefore, the applicant would need to relocate or place new sign posts.

**Staff Response:** Although the project description describes attaching 20-foot high poles at 19 street end locations and to a 14 foot pole at the entry channel fence, there are street ends with no signs or poles; therefore, the applicant intends to extend the line to the next street end where there is either an existing sign or light pole. In the area between Catamaran and Via Marina, where there are no light poles or signs, the applicant will use the existing light poles within the adjacent parking lot. Consistent with the permit, the applicant will either use existing sign posts or light poles and will not add any additional posts or light poles. At the southern end of the promenade where the monofilament line will transition to the existing seawall and railing, an extension pole will be installed.

Although it is not clear in the project description on page no. 1 of the staff report as to whether the 14-foot pole at the end of Via Marina is a new pole, the detailed project description of the staff report, and photographs provided by the applicant, indicate that a new extension pole will be added in this location.

Furthermore, in the event that the applicant will need to place a new post or new extension pole where there is no post or utility pole to attach the line to, the applicant will be required to submit an amendment or apply for a new permit, as such placement of a new post or pole would be inconsistent with the existing permit. The opponents have not provided any new information that would indicate that the applicant intentionally provided inaccurate, erroneous, or incomplete information where accurate and complete information would have caused the Commission to act differently.

**2. Contention:** Applicant provided an incomplete project description regarding the weight of the pole extensions and the ability of the existing County signs to support the poles.

**Staff Response:** The opponents state that information regarding the weight of the pole extensions was not provided to the County. The opponents raise an issue that is directed to the local government. What was presented to the County and what information the County required for review and approval of the project at the local level is not within the Commission's purview. Although the Commission was concerned with maintenance and public safety, and as a condition of the permit required immediate repair or replacement of any downed poles or lines, the weight of the poles and engineering principals of the pole extensions was not required information and was not an issue before the Commission. Therefore, the application did not include intentionally inaccurate, erroneous, or incomplete information where accurate and complete information would have caused the Commission to act differently.

**3. Contention:** Applicant did not obtain permits from the County.

**Staff Response:** It is unclear as to what type of County permits MPNA and CLEAN are referring to. The applicant submitted a letter of approval of the project from the County for use of the County beach signs, which are on City property but are operated and maintained by the County. The applicant may be required by the County to obtain additional approvals or permits; however, the local permit procedures is a local government issue and the Commission does not base its coastal development permit decisions on extraneous non-Coastal Act issues. Therefore, the application did not include intentionally inaccurate, erroneous, or incomplete information where accurate and complete information would have caused the Commission to act differently.

**4. Contention:** Attaching anything to County signs is a violation of Los Angeles County Code Section 17.12.210:

Section 17.12.210 states in part:

*A person, other than a duly authorized beach employee in the performance of his duties, shall not:*

*A. Cut, break, injure, deface or disturb any rock, building, cage, pen, monument, sign, fence, bench, structure, apparatus, equipment, or property on a beach, or any portion thereof;*

*B. Mark or place thereon or on any portion thereof, any mark, writing or printing;*

*C. Attach thereto any sign, card, display or other similar device. (Ord. 9767 Art. 3 § 38, 1969.)*

**Staff Response:** Enforcement of the County's code is not within the Commission's purview and the Commission does not base its coastal development permit decisions on extraneous non-Coastal Act issues. As stated earlier, the applicant submitted a letter of approval of the project from the County for use of the County beach signs and light poles. Therefore, the application did not include intentionally inaccurate, erroneous, or incomplete information where accurate and complete information would have caused the Commission to act differently.

**5. Contention:** The project description is incomplete and does not comport with the exhibits submitted by the applicant.

**Staff Response:** The approved permit is for the specific area [City of Santa Monica and City of Los Angeles (Venice)] as described in the report. Exhibit No. 1 showed the proposed area as described, as well as a general location for the entire eruv boundary, including the approximate location of the planned eruv within the County's permit jurisdiction within Marina del Rey, and areas outside of the coastal zone.

Since the County has a certified Local Coastal Plan for Marina del Rey, the County is responsible for issuing permits for development within the boundaries of Marina del Rey. Therefore, the applicant was not required to include with this permit application the portion of the eruv that is planned to go through Marina del Rey. Furthermore, any other area within the coastal zone not included in this permit and outside of Marina del Rey that may include a portion of the eruv and constitute development, will require an amendment to this permit or a new separate permit. Therefore, the application did not include intentionally inaccurate, erroneous, or incomplete information where accurate and complete information would have caused the Commission to act differently.

**6. Contention:** Stringing wires between light poles in the City violates Los Angeles Municipal Code Sections 67.02(a) and 67.29(d).

Section 67.02(a)

*No person shall erect, construct, or maintain or cause or permit to be erected or constructed or maintained any outdoor advertising structure, accessory sign, post sign or advertising statuary or any other sign or sign device upon any sidewalk, street, alley or other public place or to paint, paste, print, nail, tack or otherwise fasten any card, banner, handbill, sign, poster or advertisement or notice of any kind, or cause the same to be done on any curbstone, lamppost, pole, hydrant, bridge wall or tree upon any public sidewalk,*

*street, alley or other public place, or upon any private property without the lawful permission of the property owner or authorized agent, except as may be permitted or required by ordinance or law. (Par. designated (a) by Ord. No. 152,930, Eff. 10/19/79.)*

*Section 67.29(d)*

*Signs or Structures Over Streets. No person shall erect, construct, suspend or maintain, any sign or structure across, over or above any street or sidewalk or any portion thereof, except as otherwise allowed by this section. Nothing in this section shall be deemed or construed to prohibit, upon the issuance of the permits required by this section, the erection, construction, suspension or maintenance of any such sign or structure within this City or at the recognized boundary of any local community of said City, across, over or above any such street or any portion thereof, if such sign or structure bears exclusively the name of such local community, or words or figures commemorating an historical, cultural, or artistic event or location, without the addition of any advertising whatsoever. (Amended by Ord. No. 109,896, Eff. 9/28/57.)*

**Staff Response:** The City of Los Angeles' Bureau of Street Lighting reviewed the project and granted written permission for the use of the City's light poles. However, enforcement of the City's municipal code is not within the Commission's purview and the Commission does not base its coastal development permit decisions on extraneous non-Coastal Act issues. Therefore, the application did not include intentionally inaccurate, erroneous, or incomplete information where accurate and complete information would have caused the Commission to act differently.

**7. Contention:** The applicant did not adequately describe the project with regards to the proposed streamers with regards to views and bird impacts.

**Staff Response:** MPNA and CLEAN are arguing that the number of streamers needed to deter bird strikes will adversely impact the view corridors, and will have an adverse impact on birds. The use of streamers and their potential impact on views and as bird strike deterrents, as well as their proximity to the Least tern nesting area and Ballona wetlands were addressed in the staff report and by the Commission during the public hearing. Furthermore, the issue of the streamers was raised by CLEAN and MPNA at the hearing during public testimony. Therefore, the applicant did not include intentionally inaccurate, erroneous, or incomplete information where accurate and complete information would have caused the Commission to act differently.

**8. Contention:** The extent of the construction, the amount of construction and the exact proximity of the construction to ESHA (Environmentally Sensitive Habitat Area) and to the Ballona Valley and wetlands was not clearly demarcated in the materials provided in the application (Los Angeles Audubon Society).

**Staff Response:** The staff report described the location of the proposed project and type of construction for the area in which the permit was applied for, and the exhibits attached to the staff report showed the location of the project and the surrounding areas. The staff report indicated that the project would pass along the nesting site of the Least tern and the

Venice Canals and Ballona Lagoon, which were identified in the staff report as environmentally sensitive habitat areas. Furthermore, during the hearing, there was Commission discussion on the location of the project in relation to the Venice Canals and Lagoon. Therefore, the Commission was aware of the project's location with respect to the Least tern nesting area, canals and Ballona lagoon.

The Audubon Society states that the applicant did not provide this information in the application. Grounds for revocation is that the applicant intentionally included inaccurate, erroneous, or incomplete information where accurate and complete information would have caused the Commission to act differently. There is no indication that the applicant intentionally included inaccurate, erroneous, or incomplete information regarding the construction and location of the project in relation to ESHAs. This information was included in the staff report and discussed by the Commission at the hearing, and since this information was in the written staff report, including the exhibits, and discussed at the hearing, this is not information that would have caused the Commission to act differently.

**9. Contention:** In a supplemental letter submitted by the Marina Peninsula Neighborhood Association and CLEAN, the requestor's also claim that the applicant misled the Commission because it did not disclose information about allegations that an eruv in Oak Park caused bird strikes and led to complaints from the community regarding visual impacts.

**Staff Response:** As discussed in response to contention 8, above, the staff report included an analysis of potential impacts to bird species. Moreover, the Commission discussed the potential for bird strikes at the hearing and added a special condition requiring that a bird monitoring plan be established prior to construction of the eruv. The Commission also ensured that the Executive Director would have the discretion to require the removal of the eruv should bird species be impacted by its construction. There is therefore no evidence that had the applicant included information about the Oak Park eruv in its application, the Commission would have required different or additional conditions on the permit.

The staff report also thoroughly described the potential visual impacts of the eruv and the Commission discussed these concerns at the hearing. Thus, once again, the applicant's inclusion of information regarding the Oak Park eruv would not have caused the Commission to deny the permit or add different or additional conditions.

### **Noticing Requirements. 13105(b)**

**10. Contention:** The second alleged ground for revocation of the permit is that the applicant did not provide a list and notify all property owners within 100 feet of the project site, including interested parties, as required by Section 13054.

**Staff Response:** The essential question the Commission must consider is whether or not there was "failure to comply with the notice provisions of Section 13054, where the views

of the person(s) not notified were not otherwise made known to the commission and could have caused the Commission to require additional or different conditions on a permit or deny an application". This second alleged grounds for revocation under Section 13105(b) contains three essential elements or tests which the Commission must consider:

- a. Did the applicant fail to comply with the notice provisions of Section 13054?
- b. The views of the person(s) not notified were not otherwise made known to the Commission?
- c. Had the Commission been made aware of those views, could they have caused the Commission to require additional or different conditions on the permit or to deny the application entirely?

1. Did the Applicant Fail to Comply with the Notice Provisions of Section 13054?

Section 13054 of the Commission's regulations requires, in relevant part, that (1) the applicant shall provide a list of addresses of all residences and owners of parcels within 100 feet (excluding roads) of the perimeter of the parcel on which the development is proposed, (2) provide a list of names and addresses of all persons known to the applicant to be interested in the application, (3) provide stamped envelopes for all addresses provided pursuant to the prior two requirements, and (4) post a notice, provided by the Commission, in a conspicuous location on the project site that describes the nature of the project and states that an application for a permit for the proposed project has been submitted to the Commission.

Section 13063(b), however, allows applicants, in-lieu of mailing notifications per Section 13054, to substitute notice in one or more newspapers if the executive director determines that: (1) It is reasonable to expect adequate or better notice to interested parties through publication; and (2) Written notice to individuals would be unreasonably burdensome to the applicant in view of the overall cost and type of project involved. In this case, due to the large coverage area of the project and the community interest that such a project may generate outside of the immediate area of the project site, it was determined that newspaper notification would be appropriate.

The applicant published the public hearing notice in three newspapers (The Argonaut, The Santa Monica Daily Press, and the Santa Monica Mirror) prior to the February 2006 hearing in which the project was postponed, and prior to the November 2006 hearing. In addition to the newspaper noticing the applicant provided a list of names and addresses of all persons known to the applicant to be interested in the application, consistent with Section 13054(2). Prior to each of the scheduled hearings, Commission staff mailed notices to the known interested parties.

Therefore, the applicant complied with the noticing requirements of Section 13054 and 13063(b). However, even if there was inadequate notice, inadequate notice by itself is not adequate grounds for revocation.

2. Were MPNA and CLEAN views otherwise made known to the Commission?

The second question asked is whether the views of persons that were not notified were otherwise made known to the Commission. Under Section 13054, the question asked is whether their views were made present at the Commission hearing prior to any action taken on the permit application?

Both MPNA and CLEAN were aware of the hearings, and both had representatives at the hearing who testified during the public hearing regarding these issues. The concerns raised by MPNA and CLEAN were addressed in the staff report that was provided to the Commissioner's prior to the hearing and during the public hearing. Therefore, the Commission knew of the issues regarding potential visual and bird impacts prior to acting on the permit.

Therefore, the revocation letter does not present evidence that views of any persons not notified were not made known to the Commission. Therefore, the second element in deciding whether there was failure in the notice requirement is not met, and since all three elements must be met for the Commission to grant revocation, revocation must be denied.

3. Had the Commission been made aware of those views, could they have caused the Commission to require additional or different conditions on the permit or to deny the application entirely?

Lastly, the third question asked regarding the revocation of a permit due to failure to comply with the notice requirement is whether, had the Commission been aware of the views that were not made known to the Commission, it could have caused the Commission to require additional or different conditions or deny the permit. The letter from MPNA and CLEAN addressed the issues relative to visual and bird impacts (Exhibit No. 1). The Commission was made aware of such issues prior to taking action on the permit. In fact, because of Commission concerns regarding bird impacts, the Commission included a special condition for monitoring of potential impacts.

Moreover, because the Commission was aware of the issues related to development adjacent to and on the beach, and adjacent to habitat resources, the letter from MPNA and CLEAN has not raised any new issues. Thus, the Commission finds that, by definition, knowledge of these views could not have altered the Commission's actions. Any views that may have been raised with respect to such issues could not have caused the Commission to either require additional or different conditions or deny the permit application. Therefore, the third element in deciding whether there was a failure in the notice requirement is not met, and the request for revocation must be denied.

The staff report has analyzed each of these contentions. The information does not constitute views that could have caused the Commission to require additional or different conditions on the permit or to deny the permit application. Therefore, since there is no

evidence supporting the three necessary elements for satisfaction of Section 13105(b), the Commission finds that the basis for revocation has not been met.

**C. Conclusion**

For the reasons set forth above, the Commission finds that the request for revocation does not meet the requirements contained in Section 13105(a) or (b). Therefore, the Commission finds that the revocation request must be denied on the basis that no grounds exist because there is no evidence that the applicant included intentionally inaccurate, erroneous, or incomplete information where accurate and complete information would have caused the Commission to act differently or the notice provisions of Section 13054 were not complied with where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions on a permit or deny an application.

LB office copy

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5-06-42

MARINA PENINSULA NEIGHBORHOOD ASSOC.  
578 Washington Blvd., #102  
Marina del Rey, CA 90292  
(310)

Received at Commission Meeting  
MAY 09 2007  
From: \_\_\_\_\_

CLEAN  
322 Culver Blvd., Suite 317  
Playa del Rey, CA 90293

May 8, 2007

Mr. Peter Douglas, Executive Director  
Mr. Jack Ainsworth, Deputy Director  
COASTAL COMMISSION OF THE STATE OF CALIFORNIA

Re: Permit Application No. 5-06-042 - Applicant Pacific Jewish Center

This letter is a formal request for revocation of the above-referenced coastal development permit approved November 16, 2006, pursuant to California Code of Regulations, Title 14, Section 13105(a) and (b). We believe the issuance of this permit is in violation of the Coastal Act, as well as Los Angeles County and Municipal ordinances. The CDP allows a 200-lb test fishing line to be strung between light poles down Ocean Front Walk in Venice, and between 20 foot pole extenders strapped to county signs down the beach in front of homes on the Marina Peninsula, past the Least Tern nesting area, and down to the jetty.

Pursuant to Section 13105, subsection (a), grounds for revocation of a permit are: "intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the commission finds that accurate and complete information would have caused the commission to require additional or different conditions on a permit or deny an application."

Throughout the permitting process, the applicant provided erroneous and incomplete information to the Commission and the County. The project description does not comport with the physical reality of the structures which exist on the Marina Peninsula, nor did the Applicant give accurate and complete information concerning the weight of the pole extenders and the location of streamers along the wire.

INCOMPLETE AND ERRONEOUS PROJECT DESCRIPTION - LOCATION OF COUNTY SIGNS

EXHIBIT NO. 1
APPLICATION NO. R5-06-042
MPNA Letter
 California Coastal Commission

Permit Revocation Request  
Page Two  
May 8, 2007

PROJECT DESCRIPTION

"Attach 20 foot high 1 5/8 inch diameter galvanized metal pole extenders to County information signs at 19 locations at unpaved street ends/beach on Ocean Front Walk between Catamaran Street and Via Marina, Venice . . . and then to a 14 foot pole at the entry channel fence. . . "

REALITY:

Only 10 theoretically usable county information signs exist at street ends between Catamaran and Via Marina. At Catamaran, Driftwood, Jib, Mast and Spinnaker there are NO SIGNS AT ALL. (Photo of beach at Catamaran submitted herewith) At Ketch and Lighthouse the existing signs are NOT USABLE as they are to the East of the building faces. The 19<sup>th</sup> location is at the fence at Via Marina - at the jetty walkway. There is no existing sign or pole at the entry channel fence.

ARGUMENT:

The applicant obtained initial approval of the project based on its argument that it would use pole extenders on 19 existing county information signs between Catamaran Street and Via Marina, and therefore would not be adding any poles or posts to the beach. However, nine of the signs allegedly located at street ends between Catamaran and Via Marina are either non-existent or are unusable. In order to construct the project as described, the applicant will have to move two of the county signs from their present locations east of the building faces, and relocate them to the sand, west of the building faces, and will have to put up seven additional signposts in the sand in order to strap pole extenders to them. In addition, the applicant will have to install a new pole at Via Marina as there is no sign or pole at all at that location.

INCOMPLETE AND ERRONEOUS PROJECT DESCRIPTION - NO LIGHT POLES FROM THE WASHINGTON TO CATAMARAN STRETCH WHERE APPLICANT CLAIMS IT WILL STRING WIRE BETWEEN EXISTING STREET LIGHTS

PROJECT DESCRIPTION CONTINUED:

"The applicant will then stretch 200 lb. test monofilament line (fishing line) between existing street lights from Seaside Terrace, in Santa Monica, to Catamaran Street, in Venice . . . "

REALITY:

There are no existing street lights between Washington Street and Catamaran Street. There are only palm trees. Washington Street is three blocks before Catamaran Street, going South from Seaside Terrace in Santa Monica. Accordingly, no street lights exist in a three-block stretch where the applicant claims it will string monofilament between "existing" street lights.

ARGUMENT:

The applicant intentionally provided erroneous and incomplete information. There are neither county signs nor light posts in this three-block area south of Washington Street to Catamaran Street - (photo submitted herewith). The Commission granted the permit based on applicant's representation throughout its papers that no new poles would be added. Rather, it would string the line between existing street lights between Washington and Catamaran, where in fact no streetlights whatsoever exist. Had the Commission been aware of the fact that the applicant would not be using existing street lights, we submit it would not have approved the application.

INCOMPLETE PROJECT DESCRIPTION - EXTENDER POLE WEIGHT TOO MUCH FOR EXISTING COUNTY SIGN POST FOUNDATIONS IN SAND: NO PERMIT OBTAINED FROM THE COUNTY; ATTACHING ANYTHING TO COUNTY SIGNS VIOLATES L.A. COUNTY CODE SECTION 17.12.210

It would appear that the applicant intentionally misrepresented to the County that the pole extenders weigh 15 pounds and that had they stated the true weight, the County would not have allowed the pole extenders to be added to County signs. Moreover, a review of the file does not indicate the County gave its permission to do this. In any event, L.A. County Code section 17.12.210, provides:

- A person, other than a duly authorized beach employee, in the performance of his duties, shall not:
- A. Cut, break, injure, deface or disturb any rock, . . . sign, . . . structure, apparatus, equipment or property on a beach or any portion thereof;
  - B. Mark or place thereon or on any portion thereof, any mark, writing or printing;
  - C. Attach thereto any sign, card, display or other similar device. (Ord. 9767 Art. 3 §38, 1969.

Not only is the proposed project in violation of the County Code, but there is evidence that the existing county sign poles cannot withstand the additional weight of the pole extenders to be strapped to them. MPNA has spoken with the manufacturer of these perforated sign poles, which average 9'3" in height. To extend them to 20' high a 12' extender 1.75" X 1.75" would be required. The 2" base pole weighs 2.44 pounds per foot. The 1.75" extender pole weighs 2.09 pounds per foot. Therefore, the 12' extender will add 25 pounds to the existing poles. With a sign mounted and wire added, the effective loading with maximum wind (50 knots) would be 3X or 75 pounds. Adding the additional weight to existing sign poles would create a dangerous condition to both the public and to nearby buildings.

Permit Revocation Request

Page Four

May 8, 2007

Pole extensions have not worked at sheltered Mother's Beach in Marina del Rey, where, the applicant has pointed out, monofilament is attached to pole extenders and is currently being used "to deter birds from landing there and polluting the sand." (See applicant's Ex. 5, ¶3 ) Submitted herewith are photographs of pole extenders attached to county sign poles at Mother's Beach, with what the applicant claims is monofilament strung between them. These poles are the same height and appear to be the same type of pole extenders the applicant intends to strap to county signs from Catamaran to Topsail Street. Even the poles at Mother's Beach are toppling over by virtue of the additional weight which their foundations were not engineered to withstand. On the open beach, where the wind blows hard, these signs and poles are sure to come crashing down with the additional weight of the pole extenders. On top of the danger, the entire installation is extremely unsightly to an extent the Commission no doubt had not envisioned - (see photographs submitted herewith). None of the photos previously submitted to the Commission show how the project will really look.

ARGUMENT

Had the applicant fully and accurately described the project to the County, and had the County been aware that permission could not be granted pursuant to County Code, the County would not have given permission to strap extender poles to any signs. Accordingly, we submit that the Commission would not have approved the application, which would have required the applicant to specify that its plans required the removal and relocation of some existing poles, as well as the placement of numerous additional (and new) poles between Catamaran and Via Marina along the beach to support the wire. Moreover, the Commission likely would have required the applicant to undertake an engineering study to determine whether the existing county signs can support the additional weight of the 25 pound pole extenders for the protection of the public. If the existing county signs could not support the weight of the pole extenders, or if the project had initially required moving existing signs, or placing new poles in the sand, we submit that the Commission would not have approved the application.

THE PROJECT DESCRIPTION IS INCOMPLETE AND DOES NOT COMPORT WITH THE EXHIBITS SUBMITTED BY THE APPLICANT

Exhibit 1 to the application is a map which purports to show where monofilament will be located. Although the applicant plans to continue with monofilament around Marina del Rey, for which permission from the County and the Coastal Commission will presumably be required, the applicant has not mentioned this additional stretch of monofilament, and the fact that it passes by the Ballona Wetlands. The applicant

Permit Revocation Request  
Page Five  
May 8, 2007

should not be allowed to obtain approvals and present its project in a piecemeal fashion. This alone is ground for revocation of the permit insofar as the project description was incomplete and piecemeal.

**STRINGING WIRES BETWEEN LIGHT POLES IN THE CITY VIOLATES L.A. MUNICIPAL CODE SECTIONS 67.02(a) and 67.29(d).**

The entire project is illegal and cannot be allowed. L.A.M.C. Section 67.02(a) provides, in pertinent part, as follows:

No person shall erect, construct, or maintain or cause or permit to be erected or constructed or maintained any . . . sign or sign device upon any sidewalk, street, alley or other public place or to . . . fasten any . . . notice of any kind or cause the same to be done on any . . . lamppost, pole . . . upon any public sidewalk, street . . . or other public place, . . . except as may be permitted or required by ordinance or law.

L.A.M.C. Section 67.29(d) "Signs or Structures Over Streets" provides that "[n]o person shall erect, construct, suspend or maintain, any sign or structure across, over or above any street or sidewalk or any portion thereof, except as otherwise allowed by this section. . . ."

The project is in violation of both County and City ordinances and cannot be allowed on that basis alone.

**THE PROJECT DESCRIPTION IS NOT ADEQUATELY DESCRIBED AND IS INTENTIONALLY INCOMPLETE VIS-A-VIS THE INSTALLATION OF STREAMERS**

**PROJECT DESCRIPTION:**

"The applicant will install 1" X 6" streamers on the line in vicinity of Least Tern nesting area (between Hurricane and Via Marina) to increase visibility for birds . . ."

**ARGUMENT:**

The applicant intentionally failed to adequately describe the project in order to obscure the fact that the multitude of streamers required to avoid bird impact will necessarily destroy the view corridors. Fishing line strung on top of 20' high poles does not belong at the beach at all, and particularly not in close proximity to two ESHAs where numerous species of federally and state protected and endangered birds live. MPNA and CLEAN have the support of both the Sierra Club and the Audubon Society that this fishing line cannot be tolerated. Further, there is evidence that in order to even attempt to avoid bird strikes, the fishing line must be made very visible - streamers must

be placed no further apart than at 1 ½ foot intervals - all along the line, from Washington down to Via Marina. (Even without streamers, it is visible as an eyesore and glints in the sun.)

The Commission was originally concerned with bird strikes and at the same time with the view shed problem posed by placing streamers along the line, stating that "as proposed, the line, with its reflective streamers, will be visible from the Ocean Front Walk, the beach, and street ends, posing potential issues of impacts on the visual quality of a relatively undeveloped stretch of beach. . . ." In response, the applicant indicated that it would minimize the number of streamers by limiting their installation to the street ends, which are the likely bird passages, instead of "every 10 feet as originally proposed." This is an unacceptable mitigation, in that compromising the number of streamers will virtually ensure bird strikes. (For example, in Oak Park three red-tailed hawks met their deaths on the eruv monofilament wires.) Even if the streamers are every 10 feet apart, the interval between streamers is inadequate. It is unclear now where the streamers will be, and whether DFG and USFWS gave approval based on streamers every 10 feet. If the applicant is now planning to place streamers only at street ends west of Washington, it is an entirely inadequate mitigation for bird strikes. Streamers placed every 10 feet still is inadequate with the added problem that the appearance will be unsightly and impermissibly affect view corridors.

If the applicant had disclosed the required distance between streamers in its project description, the Commission would have been compelled to deny the application due to its adverse affect on view sheds. At the very least, had the applicant originally described the project as placing streamers on the line every 100 feet or so (at street ends only), the Commission would have required the applicant to submit a study by a qualified ornithologist to determine the proper distance between streamers. There is some authority for the position that streamers must be placed on the line at intervals of no more than 1 ½ feet the entire length of the wire - from Seaside Terrace all the way down past the Least Tern nesting area - in order to avoid bird impacts. Everything must be done to ensure that not one bird, particularly not one individual of an endangered species such as the Least Tern, can be put in harm's way by virtue of this project. Anything to the contrary is in violation of the Coastal Act.

#### LACK OF NOTICE OF PROJECT

MPNA/CLEAN also request revocation of the permit pursuant to Section 13105(b), which provides that a permit will be revoked for "[f]ailure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the commission and could have caused the commission to require additional or different conditions on a permit or deny an application."



Section 13054 requires the applicant to provide the commission with a list of (1) "the addresses of all residences, including each residence within an apartment or condominium complex, located within one hundred feet (not including roads) of the perimeter of the parcel of real property of record on which the development is proposed"; (2) the addresses of all property owners of record within 100 feet of the parcel or real property on which the development is proposed, "based upon the most recent equalized assessment role," and (3) "the names and addresses of all persons known to the applicant to be interested in the application . . . ." The applicant is also required to provide the commission with stamped envelopes for all addresses on the list prepared.

It appears that the applicant has not complied with this section. We see no lists in the file of affected residents and owners submitted by the applicant, despite the fact that a wire with streamers is proposed to be run right past their homes and down the public beach. In addition, the Sierra Club, Audubon Society, MPNA and CLEAN were not sent notices nor were numerous other interested parties. The applicant knew or should have known that residents, owners, and organizations were interested in its application affecting, as it does, endangered species of birds, the Least Terns, and running along the beach between two ESHAs in front of beautiful homes. Further, the applicant entirely circumvented the Venice Neighborhood Council, the sanctioned neighborhood association involved and failed to consult with any other interested parties before making its application. Further, while Audubon Society attempted to discuss the project with the applicant, the applicant refused to participate in discussions with the Society. (See Audubon letter and Sierra Club letter submitted herewith). The Commission is respectfully requested to consider them.

THE COMMISSION SHOULD ACT ON THIS REQUEST AND SET A HEARING  
AT THE NEXT REGULARLY SCHEDULED MEETING PURSUANT TO SECTION  
13108

There are too many problems with the project. (1) The project description does not comport with the reality. (2) The project violates Section 30240 of the Coastal Act due to impermissible impact on federally-protected endangered species, the Least Tern. The wire runs within 100 feet or so of the Least Tern nesting area (an ESHA), encroaching into the birds' airspace/habitat, squeezing them further towards the inhabited beach. The line cuts off 15-20 feet of what was formerly completely open space along the ESHA, for nearly one mile! Civilization cannot be allowed to encroach more toward the ESHA, in violation of Section 30240, which requires that developments near ESHA's "shall be sited and designed to prevent impacts which would significantly

Permit Revocation Request  
Page Eight  
May 8, 2007

degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas." This wire brings civilization 15 to 30 feet closer to the Least Tern ESHA. The impact of this significantly degrades the area. These are federally protected endangered species - the kind where the slightest possible chance this wire may kill or injure a bird requires the Commission to deny a permit. (3) The project will cause birds to impact with the wire unless the wires are made very visible. (4) The project mandates numerous fluttering streamers along the length of the entire project which will destroy the view sheds and view corridors and would completely and utterly alter the experience of a day at the beach in violation of Section 30251. (5) The project wire adversely interferes with public access to recreational opportunities at the beach in violation of Section 30211 of the Coastal Act. Kites get hung up on wires at Mother's Beach (see photo of kite in wires at Mother's Beach) and will get hung up on the wires all down the beach into Marina del Rey. These beaches are popular places to fly kites. (6) The project is untenable given the weight of the 25 pound pole extenders onto the existing poles. (7) The project violates provisions of the Los Angeles County Code as well as the Los Angeles Municipal Code.

The Commission's approval of this project is a complete surprise, to say the least. As far as we know from exhaustive research, no other group has ever been allowed to build such a construction along the beach in the Commission's jurisdiction, especially given the negative impacts to a federally-protected and endangered species. Wires have no place at beaches and in open spaces.

Your consideration of this letter will be greatly appreciated. Please set a permit revocation hearing for the next regularly scheduled meeting.

Very truly yours,

Diana Spielberger, of Marina Peninsula  
Neighborhood Association and,

Marcia Hanscom, of CLEAN

MARINA PENINSULA NEIGHBORHOOD ASSOC.  
578 Washington Blvd., #102  
Marina del Rey, CA 90292

CLEAN  
322 Culver Blvd., Suite 317  
Playa del Rey, CA 90293

June 7, 2007

Peter Douglas, Executive Director (Via Federal Express – San Francisco Office)  
Jack Ainsworth, Deputy Director (Via Federal Express – Ventura Office)  
California Coastal Commission  
200 Oceangate, 10<sup>th</sup> Floor  
Long Beach, CA 90802-4416

Re: Supplemental Letter Re Revocation Request  
Permit No. 5-06-042 – Hearing July 19, 2007

Dear Messrs. Douglas and Ainsworth:

This letter will supplement MPNA's and CLEAN's permit revocation request dated May 8, 2007 (the "Request").

**THE COMMISSION WAS MISLED REGARDING THE BONA FIDES OF THE APPLICANT'S CONTRACTOR AND THE LOCATION OF THE WIRE – WHICH WILL BE THE ONLY WIRE WEST OF THE BUILDING FACES ALONG THE ENTIRE BEACH FRONT FOR 4 MILES!**

The same contractor, Howard Shapiro, who is responsible for the Oak Park eruv which was dismantled for, inter alia, inadequate workmanship, is the contractor for the instant project. (See enclosed announcement from Ventura County Supervisor Linda Parks and Conejo eruv committee member Eli Eisenberg re the dismantling of the Oak Park eruv (Ex. 1), and article dated February 2, 2007, from the Jewish Journal ([www.jewishjournal.com](http://www.jewishjournal.com)) re the Oak Park eruv discussing and quoting Mr. Shapiro. (Ex. 2))

As set forth in Supervisor Parks' letter, the line drew complaints from Oak Park residents, in part because it was installed in an intrusive and unsightly manner: "... we were not only taken aback, but also saddened to see the poor quality of the work that was done by our contractor. Consequently we have ordered the monofilament line to be removed in Oak Park." As discussed more fully in Exhibit 2, the consultant responsible for that poor workmanship is the same consultant/contractor who is constructing the eruv here:

EXHIBIT NO. 2
APPLICATION NO. R5-06-042
MPNA Supple- mental Letter
 California Coastal Commission

MARINA PENINSULA NEIGHBORHOOD ASSOC.  
578 Washington Blvd., #102  
Marina del Rey, CA 90292

CLEAN  
322 Culver Blvd., Suite 317  
Playa del Rey, CA 90293

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200 Ocean Gate, 10<sup>th</sup> Floor  
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"Consultant Howard Shapiro . . . was contracted by the [Agoura Eruv] committee to design the Agoura Eruv . . . Construction on the Agoura Eruv began during the last week of December 2006. Shapiro hired a contractor who installed the eruv, giving the contractor's name as Rafael Farias of Coast to Coast Installation, and saying he had worked with Farias on four previous eruvs. In Oak Park, where the utilities are buried underground and only light poles edge the roads, additional 20-foot poles, called lechim, had to be erected to string the monofilament line. Residents objected to the obtrusive appearance of the poles . . . Plus several poles were placed on private property without prior permission and others were attached to street signs. Residents also felt the line itself, in an area with few overhead wires, was unsightly and hazardous. Shapiro attributed part of what he called the 'lynch mob' reaction of many residents to a clash of cultures. 'This is a different community,' Shapiro said. 'In L.A., there are overhead wires everywhere. No one's going to care. Here it's very noticeable. . . Shapiro [understands] the need to proceed slowly, obtain all the necessary permits and elicit strong community support."

The proposed eruv, based on consultant-contractor Shapiro's plan, will be just as unsightly as the Oak Park eruv, as confirmed by the pictures submitted by the applicant in the Commission's file, and as depicted in the photographs of the pole extenders in use at Mother's Beach. (See photographs submitted with the Request.) While Mr. Shapiro claims that "In L.A. there are overhead wires everywhere. No one's going to care," here, at the beach, as in Oak Park, there are **NO** overhead wires west of the building faces - the Ocean Front Walk and beach area is presently open space, and nearly **EVERYONE CARES**. Along the Ocean Front Walk where the wire will run, and down the sand in front of the homes on the Marina Peninsula, there are **NO** overhead wires and the only wires will be those of the applicant, which falsely claimed that "there are, currently, . . . some electrical lines between light poles on Ocean Front Walk." (Ex. 5 to 9/20/06 staff report, ¶12.) One of MPNA's major goals is to have all the utilities on the Marina Peninsula undergrounded - we do not want **ANY** overhead wires, which we believe are unsightly and dangerous. Just as Mr. Shapiro admitted that in Oak Park where there are not overhead wires everyone, "it's very noticeable" - here too, at the beach where there are not overhead wires everywhere, it will be very noticeable.

With respect to the Marina Peninsula, the applicant's argument that there are wires and lines on Speedway east of the buildings and east of the Ocean Front Walk is entirely irrelevant to the location of the wire proposed in this project, which will be west of the Ocean Front Walk, **ON THE BEACH ITSELF!** Nor should the Commission buy the rationale that since "the beach cannot be characterized as a pristine view corridor . . . the incremental visual effect from the addition of a total of 19 20-foot poles placed upon *existing* signs, nearly invisible monofilament, and visible streamers would not result in a substantial change to the visual character of the beach." (Ex. 8, p. 4, 10/26/06 Staff Report). As set forth in the Request, there are **NOT 19** existing signs - there are only 10.

Secondly, just because the beach (or any other environment) is not "pristine" does not justify piling on more wires, poles and signs. This installation is a clear violation of the Coastal Act.

In his appearance before the Commission on November 16, 2006, Mr. Shapiro mentioned that he "constructed eruv in San Diego, Long Beach and Irvine." He failed to inform the Commission of his connection with the Conejo Valley eruv which was dismantled due to sub-standard workmanship for which Mr. Shapiro was responsible, and there is no reason to believe this eruv will be any different. The applicant misled the Commission by claiming that no one will notice the eruv because it is located in Los Angeles, "where there are overhead wires everywhere," and that there are wires on Speedway and even between light posts on the Ocean Front Walk. The fact is that this wire will run for 4 MILES above what was formerly open space – it is not running along with other overhead wires – the only overhead wires along the beach, and above it, (other than the phone or other wire that runs out to the lifeguard towers on the sand) will belong to the applicant!

Clearly neither the cities of Santa Monica nor Venice, nor the Commission itself realized that the project involves stretching the 200 lb. fishing test for 4 miles down the coast, from Santa Monica Pier all the way down to the Marina del Rey jetty. And for the entire distance, the fishing line is virtually the only line west of the building fronts (with the exception of telephone or power lines running down to the lifeguard stations). Indeed, in Santa Monica, the line will run between approximately 30-40 foot light poles (contrary to the application, the lights along the beach are, for the most part, NOT of the gooseneck variety – so presumably the wire will wrap around the posts or lights). Near the Santa Monica pier, the light standards change from one side of Ocean Front Walk to the other, which will cause the wire to cross above Ocean Front Walk 3 or 4 times. Thereafter, the wire continues South along the bike path to the west of several parking lots which are approximately 300 feet deep. The wire is the ONLY wire along the entire route; it also crosses the bike path where Venice and Santa Monica meet – the distance between light standards at the city lines is at least 300 feet! (See pictures of location of eruv in Santa Monica, attached hereto as Exhibit 3) What if the wire should sag at that point and some hapless bikerider get decapitated? The height of the unmarked wire, being the ONLY wire along the beach, presents a clear hazard to birds flying inland from the beach and those which perch atop the lights. The applicant never even suggested that streamers be placed on these lines which will clearly snag birds due to the height and invisibility of the wire 30-40 feet up in the sky, parallel to the beach, nor is there anything in the application regarding the posting of phone numbers to call in the event of bird strikes.

The wire will continue running down the Boardwalk in Venice on 35 foot high light standards along Ocean Front Walk. Many of the buildings opposite the light standards are much lower than the light standards, and in the area of the

park at the end of Windward, the light standards are around 30 feet from the buildings. At the park at Windward, sea birds fly inland from the ocean and people feed pigeons and seagulls in the area immediately beneath where the eruv will run. Impact with the wire is a certainty here. In addition, to the south of the parking lot at Venice Blvd., along the Ocean Front Walk, there are large numbers of palm trees between the light standards, which the eruv wire will touch and run through, snagging the birds that make the palm trees their home. (See photos attached as Exhibit 4) Palm trees are between light standards on other parts of the eruv route as well.

### FEASIBLE MITIGATION ALTERNATIVES

At the November 16, 2006 Coastal Commission meeting, the Commission was exploring feasible alternatives to the eruv going down the Marina Peninsula past the Least Tern Nesting area. Rabbi Geiger stated that "With regards to alternatives, for example, one was mentioned of ending the eruv at Washington Boulevard or before we would get to the vicinity of the least tern nesting ground. For the viability of this project, and to create the entirety of the eruv those possibilities were considered, Howard Shapiro and myself spent months traveling around the area, and there was no alternative that was found to be viable that would actually work better for environmental concerns . . ." Certainly NOT running the eruv down the Peninsula would work better for environmental concerns! Executive Director Douglas stated that "the other thing that I was going to suggest is that looking at the configuration of the eruv there – and we haven't discussed this with the applicant, to my knowledge, the possibility of just ending it [the eruv] at before that finger that goes out on the peninsula that goes right next to the nesting site . . . But that, if you were inclined to think about that, I think my suggestion would be to continue the matter so that we could discuss it with them." In response to this line of inquiry, Rabbi Geiger objected that "it would eliminate, for example, that family that I spoke about with the young child, and that would be, for us, a detrimental aspect of that recommendation," and apparently no one explored this mitigation alternative further.

While we and everyone involved is sympathetic to the problem of Rabbi Geiger's congregant, perhaps another solution could be found. Perhaps Rabbi Levi Yitzchak Halperin should be consulted. He is the "go-to-guy" for many observant Jews around the world, a man who "reconciles the demands of ancient religious strictures with the mind-boggling gadgetry of the modern world." (See article attached as Exhibit 5, titled "In a high-tech world, Rabbi advises observant Jews how to stay kosher.") There must be another solution to address the applicant's problem of the family on the Marina Peninsula that needs the eruv to attend synagogue – one that does not require running 200 lb. test fishing wire down the Marina Peninsula beach on top of 20 foot pole extenders that are both a hazard and unsightly. How about a laser eruv? With some ingenuity, it is respectfully submitted, the applicant could find another way to accomplish its

purpose that does not fly in the face of the Coastal Act. The PJC has existed on the Venice boardwalk for 60 years without an eruv.

### THE UNSPOKEN ISSUE

The Commission purports to take no position with respect to the religious basis for the application, yet it appears the only reason it has approved the permit, which is in clear contravention of the Coastal Act, is exactly because of its religious nature. It is clear from the November 16, 2006 transcript, that the Commission has bent over backwards to accommodate the applicant and to grant this permit despite overwhelming evidence that the wire is dangerous and the installation will be unsightly. Executive Director Douglas explained, "when we have a Coastal Development Permit, or an action pending before the Commission that involves a community of faith, or the practice of a particular religion or faith, we exercise discretion and try to be as accommodating and flexible as possible to accommodate that faith, or that practice." The Commission has gone too far – in attempting to accommodate the applicant, it has turned its back on its solemn duty to uphold the Coastal Act.

As Commissioner Shallenberger pointed out at the November 16, 2006 hearing, there is no question that this project is not in keeping with the Coastal Act, and had the instant project been, say, a school project to run a filament around a particular neighborhood, for any reason whatsoever, the commission would not have entertained it positively. And while the applicant is indulged in its explanation of the arcane laws surrounding requirements for an eruv, somehow opponents of the project are left feeling awkward discussing alternatives or even questioning such things as how many members of the synagogue even live on the Marina del Rey Peninsula who would take advantage of the eruv. We know of one family. If the Commission does not revoke this permit, it will find itself in an extremely difficult position when another religious group comes along and asks to construct something similar on the beach. The Commission is setting an extremely bad precedent (e.g., certain religious groups will be granted CDPs that violate the Coastal Act – but others won't). This permit should never have been issued. The Commission now has the opportunity to correct its mistake before all parties spend even more time, money and energy in connection with this ill-advised project.

### THE APPLICANT DOES NOT HAVE A PERMIT FROM THE COUNTY TO STRAP THE POLE EXTENDERS TO THE COUNTY SIGNS ON THE BEACH AND OTHERWISE MISREPRESENTED THE PROJECT TO THE COUNTY

Presumably the applicant needs to obtain a permit from the County to strap the pole extenders to signs on the beach, particularly in light of L.A. County Code Section 17.12.210, to which we have referred in the Request. While the applicant had dealt with a Mr. Joe Chesler at County Beaches and Harbors, Mr. Chesler is no longer there. When Diana Spielberger attempted to talk to the

individual who took Mr. Chesler's place, she was directed to Michael Rodriguez, senior real property agent, who indicated he is "working" on a permit. When Ms. Spielberg attempted to obtain further information, and to discuss with Mr. Rodriguez the fact that the 20 foot pole extenders weigh 25 lbs. and not 15 lbs., as the applicant had represented, Mr. Rodriguez' non-response was that the County had approval over the materials to be used. When it was pointed out to Mr. Rodriguez that the project would violate the County Code (see Request), Mr. Rodriguez stated, without citation to authority, that it would not violate the County Code if he gave permission. Mr. Rodriguez did not give any indication as to what the permit was that the County was issuing, when it would be issued, or any other information and has refused to take any further calls from Ms. Spielberg. It is unclear whether the applicant is relying on the Coastal Commission's approval of the use of the pole extenders or whether the applicant will be required to obtain a permit from the County to do this.

Clearly, the applicant has not obtained all necessary permissions to construct the project, but the Commission has not required that such permit from the County be a condition to issuance of the CDP. The only written permission from the County that the Commission has required is permission to attach writing to the existing signs on the beach informing people of a 24-hour number to call. But what about signs informing people of the 24-hour number to call along the rest of the project between Santa Monica Pier and Washington Street? The permit should be revoked by virtue of the applicant's failure to obtain permission from the County for the project.

One final comment concerning the applicant's dealings with the County – and perhaps others, is that it appears the applicant may not have been forthright in explaining that it is only certain orthodox Jews, and not all members of the Jewish faith, who believe their activities are limited on the Sabbath vis a vis carrying and pushing outside the home. In fact, it is only certain orthodox Jews who believe this and whose lives are made easier by having an eruv; not the vast majority of the Jewish population in the affected area and otherwise. This distinction was lost on Joseph Chesler, then Chief, Planning Division, Dept. of Beaches & Harbors, as evidenced by letters he wrote to third parties. (Exhibits 27 and 28 to 1/17/06 Staff Report) Mr. Chesler's letters refer to the fact that "Jewish people are prohibited . . ." and "[an eruv] is a physical perimeter that will allow people of the Jewish faith to transport personal items. . ." The point is, that it is only a very small number of people who will benefit from this project, which will be detrimental in many ways to all the other members of the general public, including the vast majority of those of the Jewish faith.

THE APPLICANT HAS MISLED THE DEPARTMENT OF FISH AND GAME AND THE US FISH AND WILDLIFE SERVICE WITH RESPECT TO THE DETAILS OF THE PROJECT

Apparently the applicant had a preliminary discussion with the DFG and/or USFWS on June 6, 2005, before it even filed its application on March 29, 2006, as evidenced by a "record" of this phone conference prepared by the applicant's agent, H. Shapiro. (Ex. 5 to 10/20/06 Staff Report) There is no indication who was on the conference call, and the statements made by the applicant were inaccurate, erroneous and misleading as discussed below. Further, it is unknown how the project was described to DFG & USFWS, although it is clear it was not described completely or accurately. It is impossible to discern from the Coastal Commission's file what the DFG and USFWS approved, and what measures they required. Ex. 6 to the 10/26/06 Staff Report is an email dated 3/28/06 from Mr. Ken Corey of the USFWS, indicating that "the Service does not anticipate any take in the form of harm or harassment to occur to the California least tern from the Coastal eruv based on the minimization measures proposed below in the attachment." Since there is no attachment in the file, it is impossible to determine what minimization measures USFWS and DFG required, and whether these measures are carried into the final plans. Worse yet, there is no record of what was presented to these agencies to begin with, and whether they understood the breadth of the project and its location – 4 miles down the coast to the west of the building faces, where no other wires exist.

The various Staff Reports indicate the applicant first planned to place 10" to 14" streamers along the wire "in the vicinity of the Least Tern Nesting area" every 10 feet. Perhaps this is what the DFG and USFWS approved; yet now, in the final plans, it appears the streamers will be 1" X 6" and will only be located every 200 feet – clearly inadequate to protect birds – and an obvious and unacceptable compromise made in response to objections to the project because of its effect on coastal views.

The June 6, 2005 representations made by the applicant to DFG and USFWS (set forth in Ex. 5 to 10/20/06 Staff Report) are misleading and erroneous. While the DFG & USFWS purportedly only referred to their concern that "the monofilament line, on the beach between light poles, will create a flying hazard to birds" the applicant's response, "addressing the issue" was that "the monofilament line on the beach is close enough and/or low enough to the buildings along Ocean Front Walk as not to be a hazard to birds." It is clear that the DFG and USFWS were entirely unaware of the fact that the line runs 4 miles from Santa Monica down the Ocean Front Walk and, at places, is far from the buildings (or there are no buildings at all – as in Santa Monica). Moreover, the wire is often higher than the buildings opposite such that it is clearly a hazard to all birds.

The applicant further "addressed" the DFG's and USFWS' concern that the monofilament line, on the beach, would create a flying hazard to birds by stating the completely and utterly irrelevant fact that "there are, currently, overhead lines in the alley behind Ocean Front Walk (Speedway)." Since the proposed line is to the west of Ocean Front Walk – not behind the buildings to

the east, this statement was blatantly misleading. Moreover, contrary to applicant's statement (Ex. 5, #2) there are not "some electrical lines between light poles on Ocean Front Walk." Indeed, the only relevance this would even have is if the nearly invisible monofilament ran along with electrical lines such that birds would see (and avoid) the electrical lines and thus also avoid the monofilament.

If DFG and USFWS were convinced that there would be no hazard to the Least Terns down the Marina Peninsula because "the monofilament line on the beach is close enough and/or low enough to the buildings along Ocean Front Walk as not to be a hazard to birds" then a fortiori, if they knew the location of the wire and light standards in Santa Monica and on Ocean Front walk near Windward they would be forced to conclude that the line will create a hazard to other birds in those areas.

Another misrepresentation made by the applicant in that June phone conversation in response to the agencies' concern that the monofilament line would create a flying hazard to birds was that "Monofilament is currently used on Mother's Beach (near the Marina) to deter birds from landing there and polluting the sand." Pictures of Mother's Beach were previously submitted with the May 8, 2007 Request. The line in use at Mother's Beach is NOT monofilament, contrary to the statement made by the applicant to DFG and USFWS to put their minds to rest, and to justify their assertion that the monofilament line in the project will not create a flying hazard to birds. This was a blatant misrepresentation made to obtain approval of the project.

All in all, it is impossible to determine what the DFG and USFWS required of the applicant, or what plans the applicant submitted and whether these plans were approved. However, it is clear that the applicant supplied the DFG and USFWS with erroneous and incorrect information in connection with obtaining permission from those agencies. Ms. Spielberger has been trying to contact the DFG and USFWS to ascertain what they knew of the project and what they approved and will report back to the Commission at the earliest opportunity. However, Mr. Ken Corey of USFWS is not returning calls; Ms. Terri Stewart of DFG will review her file and indicated she would get back to Ms. Spielberger. Ms. Stewart's recollection was that she believed that the eruv wire would be running along with other wires most of the way down the Ocean Front (which is not the case). She herself is unfamiliar with the site of the project. The permit should be revoked for the applicant's failure to provide accurate and complete information to DFG and USFWS in connection with this project.

#### LACK OF NOTICE

While Mr. Shapiro claimed to understand the need to elicit strong community support for this project (see article, Ex. 2) the applicant utterly avoided involving the public at all, as discussed in the May 8, 2007 request for

revocation of the permit. Not only did the applicant fail to give notice of the project as required by Section 13054, including failure to notify the Venice Neighborhood Council (the official neighborhood council in whose area the majority of this project is being constructed) but the applicant also refused to discuss the bird monitoring program with Audubon, as set forth in Audubon's May 7, 2007 letter submitted in connection with the May 8, 2007 Request.

CONCLUSION

For all the foregoing reasons, the Commission should vote to revoke the permit given to the applicant.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Diana Spielberg', written over the typed name.

DIANA SPIELBERGER  
MARINA PENINSULA  
NEIGHBORHOOD ASS'N

MARCIA HANSCOM  
CLEAN

attachments



County of Ventura  
SUPERVISOR LINDA PARKS

---

**FOR IMMEDIATE RELEASE**

**CONTACT:** Ventura County Supervisor Linda Parks, (805) 373-2564  
Eli Eisenberg, Agoura Eruv Project, (818) 706-0504

**Supervisor Linda Parks & Eli Eisenberg Announce  
REMOVAL OF OAK PARK ERUV**

*Monofilament Fishing Line Installed Above Streets in Oak Park had Caused Complaints*

**OAK PARK, CA (JANUARY 19, 2007)**- Ventura County Supervisor Linda Parks and Conejo Eruv Committee member Eli Eisenberg announced this afternoon that the monofilament line making up an Eruv in Oak Park will be removed. An Eruv is a religious demarcation of an area that allows observant Jewish families to carry items within that perimeter on the Sabbath.

The line, which has been successfully installed in other areas of the region, drew complaints from Oak Park residents because it was installed in an intrusive and unsightly manner. Mr. Eisenberg, who helped organize fundraising efforts for the Eruv, expressed his dismay with the poor quality of the Eruv's installation:

"The Eruv is a blessing to observant Jewish families, and so we were not only taken aback, but also saddened to see the poor quality of work that was done by our contractor. Consequently we have ordered the monofilament line to be removed in Oak Park. We are sorry if our project has upset anyone in the community."

Representatives of the Conejo Eruv Committee met with Supervisor Parks earlier in the day where they agreed to remove the line. In the future the Eruv Committee members promised to work closely with the community and its representatives.

Supervisor Parks represents Ventura County's 2<sup>nd</sup> District, which includes the communities of Thousand Oaks, Newbury Park, Westlake Village, Lynn Ranch, Oak Park, Santa Rosa Valley, Bell Canyon, Hidden Valley, Lake Sherwood, Malibu- Yerba Buena, as well as portions of the Oxnard Plain.

###

EX 1  
//

# JEWISH JOURNAL.com

2007-02-02

## After Agoura eruv dismantled, residents ask 'What's up with that?'

By Jane Ulman, Contributing Writer

Construction of an eruv in the Conejo Valley was nearly complete last month when area residents began complaining to public officials about aesthetics and safety concerns as well as a lack of proper permits. Last week the eruv's organizers ordered all remaining portions along the enclosure's 5-mile perimeter be dismantled.

"We are sorry that mistakes were made and that the eruv was put up in an incorrect way," Eruv Committee spokesman Eli Eisenberg told a hostile crowd of about 60 Conejo residents during the Oak Park Municipal Advisory Council (MAC) meeting on Jan. 23.

The Agoura Eruv, a project conceived by a small group of local Chabad congregants, covered portions of Agoura Hills and Oak Park, as well as a small sliver of Westlake Village. The Oak Park segment of the eruv had been taken down prior to the Jan. 23 meeting, and on Jan. 25 the Eruv Committee officially ordered the elements in Agoura Hills and Westlake Village dismantled.

Emotions have died down considerably since the removal of the eruv, a project that took three years of planning and cost at least \$25,000. Still, questions linger about how such a commitment of time, money and expertise could have ended so badly. And after the Oak Park MAC meeting, many Conejo residents are wondering whether the Eruv Committee will try again.

"I'm happy now that it's down," said Tom Hughes, president of Morrison Estates Owners' Association, representing a development of 360 luxury homes in Oak Park. "Nobody liked it," he added, calling it a "blight" and questioning its safety.

An eruv, which literally means "blending" in Hebrew, uses a monofilament line strung across utility poles as well as existing boundaries, such as mountains and freeway walls, to transform a public space into a symbolic private one.

Observant Jews put up eruvs to allow themselves boundaries in which they can carry children and keys, for example, or push strollers and wheelchairs without violating the laws of Shabbat.

Consultant Howard Shapiro, who served as project manager of the 50-mile Los Angeles Eruv and consulted on three others, was contracted by the committee to design the Agoura Eruv. Shapiro used existing boundaries whenever possible and noted that up to 70 percent was contained by such borders.

Construction on the Agoura Eruv began during the last week of December 2006. Shapiro hired a contractor who installed the eruv, giving the contractor's name as Rafael Farias of Coast to Coast Installation, and saying he had worked with Farias on four previous eruvs.

In Oak Park, where the utilities are buried underground and only light poles edge the roads, additional 20-foot poles, called lechim, had to be erected to string the monofilament line. Residents objected to the obtrusive appearance of the poles, especially along Jacobs Court near Lindero Canyon Road. Plus, several poles were placed on private property without prior permission and others were attached to street signs. Residents also felt the line itself, in an area

with few overhead wires, was unsightly and hazardous.

Shapiro attributed part of what he called the "lynch mob" reaction of many residents to a clash of cultures.

"This is a different community," Shapiro said. "In L.A., there are overhead wires everywhere. No one's going to care. Here it's very noticeable."

Shapiro also said that he thought Tom Block, an Agoura Hills resident who initiated the eruv and organized the committee, understood how the finished eruv would look, having toured the area several times together.

"But it's one thing to talk and another to see," said Shapiro, who maintains that the eruv was installed correctly.

Block, a formerly secular Jew who has become more religiously observant over the past 15 years, admitted that in hindsight he didn't really understand what a "lechi," or pole, was.

But perhaps most problematic were the permits. Block submitted permit applications to the cities of Agoura Hills and Westlake Village, both in Los Angeles County, and, for Oak Park, to the Ventura County Transportation Commission.

He also submitted a plan to Southern California Edison, which has jurisdiction over all the light poles that would be affected, with a detailed map of the entire area to be enclosed by the eruv. On the permit itself, however, only the city of Agoura Hills was listed, with Oak Park and Westlake Village left off.

"Everyone was on the same page and knew it was for the whole area I had mapped out," Block said, calling it an "accidental omission." But when a few vocal neighbors in Oak Park started making a fuss, Ventura County revoked the permit, saying it had been contingent on Southern California Edison's permission.

Some residents were also upset that three red-tailed hawks, which are protected by the Migratory Bird Act, had been downed, one fatally, by injuries that could be consistent with flying into a wire. The birds were discovered between Dec. 28 and Jan. 7, according to Oak Park resident Peggy Abate, which correspond to eruv construction dates.

"To me, it's not an issue of whose fault it is. There were mistakes made by everyone involved," Block said. "I'm willing to take responsibility."

The Agoura Eruv would have served the bulk of families who attend Shabbat services at Chabad of Agoura Hills and Chabad of Oak Park, both part of Chabad of the Conejo. But committee spokesman Eisenberg emphasized that construction of the eruv was not a Chabad undertaking.

"Rabbi [Moshe] Bryski made it clear from the very start that he would only support the eruv if it is done outside of Chabad as a community-based effort," said, referring to Chabad of the Conejo's executive director.

Since the Eruv Committee never officially incorporated, Bryski agreed to lend Chabad's name to the permit and insurance applications and to provide rabbinic advice as needed.

Eruvs are not new to Los Angeles. In addition to the Los Angeles Eruv, which comprises a large portion of the San Fernando Valley, smaller ones exist. Also, after four years of negotiation, an eruv was recently approved for the Venice area, extending along the coastline. In the West San Fernando Valley, an eruv enclosing a 25-square-mile area is expected to be completed in late

February.

But not everyone agrees that eruvs are required for Jews to lead an observant lifestyle.

"An eruv, in my opinion, is not a necessity for Jewish people," said Eisenberg, pointing out that the large Chabad Lubavitch communities of Crown Heights and Flatbush do not have one.

Bryski agreed, saying, "We've grown our community beautifully for two decades without an eruv. We can continue to do so."

He estimates that about 150 families in the Conejo Valley daven weekly at Chabad centers, but that thousands of others are involved in study and other Chabad activities.

At this point, the Eruv Committee is taking a breather. For Block, it's been "all eruv, all the time" for more than a month, leaving no time for his real estate job. And while \$25,000 of the \$35,000 he raised has been spent, he's relieved that eruv supporters aren't requesting their money be returned. "No one's too upset," Block said.

Block and Shapiro have already discussed an alternate path for the eruv, one much less obtrusive, but they understand the need to proceed slowly, obtain all the necessary permits and elicit strong community support.

For Carol Rosenberg, a 25-year resident of Agoura Hills and a member of the Westside Jewish Renewal congregation B'nai Horin, that would be a tough sell. Rosenberg sees the eruv as a threat to wildlife as well as an un-neighborly imposition of religious rituals on a community.

"The eruv is disrespectful to all life," she said. "There is no way that this would work."

Abate, on the other hand, a non-Jewish Oak Park resident who called attention to the injured red-tailed hawks, has asked to join the Eruv Committee in an attempt to encourage the use of more natural barriers and protect wildlife, perhaps even developing a model for future eruvs.

"Any time anybody can share their culture with other people, I think it's a blessing for the whole community," she said.

Santa Monica, south of S.M. Pier  
Wire will zigzag above Ocean  
Front Walk



EX3  
15

Santa Monica - along bike path  
birds perch on lights



Santa Monica - no wires between  
light standards



City border - 300ft. between last light in  
Santa Monica and 1st light in Venice.  
Wire crosses bike path

3-2

17

Venice, near Windward



Light standards much higher than roofs -  
not gooseneck variety - no other wires  
west of building faces

EX 4  
18

Venice, South of Windward along  
Ocean Front Walk



Light standards much higher than  
buildings opposite - not gooseneck variety light

4-  
19

Ocean Front Walk, Venice - south of  
Windward, north of Washington



Light standards not goose neck variety -  
wire will go through + around palm trees -  
no other wire west of building faces  
lights as high or higher than buildings  
on site

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**In a high-tech world, Rabbi advises observant Jews how to stay kosher**

By CRAIG NELSON  
Cox News Service  
Sunday, January 07, 2007

JERUSALEM — His offices are cramped, dilapidated and dark, with bare light bulbs dangling from the ceiling. He shuns the efficiency of computers, preferring to write longhand with a ballpoint pen on sheets of white photocopy paper.

"I still want my head to work. I don't want the computer to do the work for me," the white-bearded man says.

Yet make no mistake: Rabbi Lavi Yitzchak Halperin is the go-to guy for many observant Jews around the world, for he is the man who reconciles the demands of ancient religious strictures with the mind-boggling gadgetry of the modern world.

Need to take an elevator on the Sabbath? Have to use the telephone? Yearn to be an astronaut? Halperin and his team of 23 religious scholars, scientists and technicians have figured out how you can stay kosher.

Halperin makes no claims to infallibility. He says he is too open to criticism and fears making mistakes too much to boss that. Still, the 73-year-old executive director of the Institute for Science and Halacha, or Jewish law, in Jerusalem is proud of the rulings he has issued over months, sometimes years, of consulting scientists and studying Jewish texts.

"To date, no one has showed me that what I've written is wrong. In principle, if anybody were to come here and show me that I've made a mistake, I'd be happy to accept it," Halperin said. "But I don't remember anyone showing me that I have."

An estimated 35 percent of Israel's 5.4 million Jews observe the Sabbath, and their clamor for advice on how to deal with all types of technology has intensified in recent years.

The Talmud - the 24 books of Hebrew scripture plus the verbal explanations of the laws that God is said to have given to Moses at Mt. Sinai - prohibits Jews from 39 forms of "melachah," or creative work, on the Jewish day of rest, which stretches from sundown Friday to sundown Saturday.

Many quandaries posed by Sabbath observance today stem from the Talmud's prohibition on lighting a fire, which Orthodox Jews interpret as a ban on completing an electrical circuit. Thus starting a car, dialing a phone, or pressing an elevator button on the Sabbath is taboo, as is flicking on a light or a coffee maker.

Yet by examining scripture on the one hand and how today's devices work on the other, Halperin and his colleagues have arrived at ways how modern technology can be used without violating the Sabbath. Some searches for solutions were driven by the biblical mandate to preserve life above all else, others by convenience.

How can you use an elevator? After years of examining how different elevators work, the institute pioneered the development of elevator cars that stopped automatically on each floor without pushing a button while operating without breaking other Sabbath regulations.

How can observant soldiers carry out their duties without taking down orders? Under Jewish law, writing is barred on the Sabbath, yet it is only writing if the ink used is permanent. The answer was a pen with ink that disappeared after several days.

How can observant doctors and nurses use the telephone in emergencies? The answer, based partly on Halperin's groundbreaking 1978 treatise on direct and indirect action in Jewish law, was the so-called "grama switch" and a Shabbat telephone that could be dialed without completing a circuit.

The issues addressed by Halperin's organization, as well as the Zomet Institute in the Israeli-occupied West Bank, are not always so predictable or commonplace.

The late Ilan Ramon, Israel's first astronaut, sought advice on how he could observe the Sabbath as he circled the earth and experienced a sunset and sunrise every 90 minutes. Halperin advised Ramon, who was killed in the 2003 Challenger disaster, to time his Sabbath observance with the clock at Cape Canaveral, where the spacecraft was launched.

Last year, El Al Airlines asked the institute to help it address the problem of transporting dead bodies. Kohanim, a class of priestly Jews, are banned under Jewish law from drawing too near the dead.

After some Orthodox Jews threatened to boycott the airline over the issue, Halperin and the institute proposed wrapping the caskets in cardboard in the shape of a house. This makeshift enclosure prevented ritual defilement and made it permissible for the Kohanim to fly on the same plane, the institute said. A boycott was averted.

One reason that issues of religion and technology have become more pressing and more society-wide is the loss of Palestinian labor, once a mainstay in Israel. Now, with security tighter, few Palestinians are allowed to work inside Israel. Some Israelis are hoping technology can help fill the breach.

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EX

2/

Another cause of the rise in religion-technology conundrums is the simple fact of Israeli statehood. The modern nation-state requires hospitals, armies and other institutions around-the-clock, which poses a challenge to observant Jews who have lived most of their history as a minority communities dispersed across the globe.

Harmonizing religious law that originated in an agrarian society 3,300 years ago with the demands of the modern nation-state has proved anything but simple.

The latest example is Israel's national electrical company, which is poised in the next few months to reach agreement with the government on a plan to ensure that electricity is not generated in violation of Sabbath rules.

Members of the ultra-Orthodox community have complained that the company is breaking Sabbath rules, and to express their displeasure, droves have purchased portable generators, taking with them valuable revenue. The firm turned to Halperin.

The plan he has helped cobble together and implement calls for automating some jobs at coal-burning plants and turning to non-Jewish labor for other essential jobs.

Israeli Movshovitch, director of marketing for the Israel Electric Company, is cautiously optimistic that the ultra-Orthodox community will approve the plan.

"All the rabbis will sit together and we hope they'll accept it," Movshovitch said. "But there are always religious arguments about what is allowed and what isn't."

Sitting at his desk with loose sheets of paper strewn in front of him and bookshelves lined with volumes of the Talmud behind him, Halperin rejected allegations that he and his colleagues are engaged in theological monkey business.

He has heard other Israelis call his group the "Institute for Finding Loopholes" and the "Institute for Ticking God." He has heard himself described as "Flexi-dox," as opposed to "Orthodox."

He dismissed the talk. "Using the loophole is the highest level of belief because God created it," said the learned man, who is a product entirely of Jewish religious schools, or yeshivas - he has no college or university degree in science.

For him, the eternal truths he learned at those schools - and what he has taught himself since - suffice.

"The Torah is like the light of the sun. If the window of a room is tinted blue, the sunlight will appear blue. If the window is tinted red, it will appear red. But the sunlight, like the Torah, is the same. Only the window - in this case, modern technology - is different."

Craig Nelson is a freelance journalist on assignment for Cox Newspapers.

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Website: www.LAAudubon.org E-mail: LAAS@LAAudubon.org

May 29, 2007

Coastal Commission  
Attn: Mr. Jack Ainsworth  
200 OceanGate, 10th Floor  
Long Beach, CA 90802-4416

RE: Revocation of permit for eruv - SUPPORT

Dear Coastal Commission:

Los Angeles Audubon is a California non-profit 501(c)(3) corporation established in 1911. The mission of Los Angeles Audubon is to promote the enjoyment and protection of birds and other wildlife through recreation, education, conservation and restoration.

Los Angeles Audubon supports the revocation of the permit for construction of an eruv granted to Pacific Jewish Center on the grounds that the extent of the construction, the amount of construction and the exact proximity of the construction to ESHA (Environmentally Sensitive Habitat Area) and to the Ballona Valley and wetlands was not clearly demarcated in the materials provided in the application on which the permit was granted.

The entire Ballona Valley including the wetlands area as well as Coastal Commission designated Environmentally Sensitive Habitat Areas are an Audubon California Important Bird Area, one of ten coastal Important Bird Areas in Southern California. Accordingly, we take special interest in this area and it is a high priority for protection by Los Angeles Audubon and Audubon California.

This habitat is "one of the largest remaining expanses of Los Angeles Basin-floor habitat, and the most significant coastal wetland in Los Angeles County, being the only natural saltmarsh between Point Mugu in Ventura County and Los Cerritos Marsh on the Orange/Los Angeles County border (both IBAs). Associated with the mouth of now-channelized Ballona creek, the valley's habitats have developed in a low-lying portion of the coast behind a nearly-extinct dune system that extended the length of Santa Monica Bay. The area's habitats include coastal (largely-muted) saltmarsh with salt pans, freshwater marsh (including a new 20-acre constructed freshwater wetland/water treatment lagoon), dune remnants, grassland, riparian thickets, and along the south edge, coastal sage and coastal bluff scrub. Though most of the habitat is located on the south side of Ballona Creek ("Playa del Rey"), significant pieces near Marina del Rey include the 16-acre restored Ballona Lagoon<sup>1</sup> and the fenced and guarded Least Tern colony<sup>2</sup> along the beach."<sup>3</sup>

Thank you for the opportunity to comment on this revocation action.

Sincerely,

  
Garry George  
Executive Director  
GG:sc

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EXHIBIT NO. 3
APPLICATION NO. R-5-06-042
Letter from L.A. Audubon
 California Coastal Commission

<sup>1</sup> A Coastal Commission designated Environmentally Sensitive Habitat Area (ESHA) in the Venice Local Coastal Program (LCP)  
<sup>2</sup> A Coastal Commission designated Environmentally Sensitive Habitat Area (ESHA) in the Venice Local Coastal Program (LCP).  
<sup>3</sup> Cooper, Daniel S., IMPORTANT BIRD AREAS OF CALIFORNIA, 2004, Audubon California., p. 45