

## CALIFORNIA COASTAL COMMISSION

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# Items W 7-9

**Staff:** Andrew Willis-LB  
**Staff Report:** April 25, 2008  
**Hearing Date:** May 7, 2008

## STAFF RECOMMENDATIONS AND FINDINGS FOR CEASE AND DESIST AND RESTORATION ORDERS

<b>CONSENT CEASE AND DESIST ORDER TO RANCHO DE LAS PULGAS, INC. AND BARRY MAITEN:</b>	CCC-08-CD-05
<b>CEASE AND DESIST ORDER TO HOLCOMB ENGINEERING CONTRACTORS INC. AND ROBERT HOLCOMB:</b>	CCC-08-CD-06
<b>CONSENT RESTORATION ORDER TO RANCHO DE LAS PULGAS, INC. AND BARRY MAITEN:</b>	CCC-08-RO-02
<b>RELATED VIOLATION FILE:</b>	V-5-03-173
<b>DESCRIPTION OF PROPERTY:</b>	16421 Pacific Coast Highway, Pacific Palisades; City and County of Los Angeles; Assessor's Parcel No. 4414-018-002
<b>PROPERTY OWNER:</b>	Rancho De Las Pulgas, Inc.
<b>PERSONS SUBJECT TO THESE ORDERS:</b>	1. Rancho De Las Pulgas, Inc., 2. Barry Maiten, 3. Holcomb Engineering Contractors, Inc., and 4. Robert Holcomb
<b>VIOLATION DESCRIPTION:</b>	Dumping of fill material, including, but not limited to, concrete rubble, construction debris, and dirt, in a blue line stream and environmentally-sensitive riparian and coastal sage scrub habitat, and removal of major vegetation without a permit and in violation of

an existing permit.

**SUBSTANTIVE FILE DOCUMENTS:**

- 1) Coastal Development Permit 5-98-301
- 2) Coastal Development Permit 5-01-423
- 3) Public files contained in violation files for Cease and Desist and Restoration Orders CCC-08-CD-05, CCC-08-CD-06, and CCC-08-RO-02
- 4) Exhibits 1-13

**CEQA STATUS:** Exempt (CEQA Guidelines (CG) §§ 15060(c)(2) and (3)) and Categorically Exempt (CG §§ 15061(b)(2), 15307, 15308 and 15321).

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## **I. SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission approve Cease and Desist and Restoration Orders (“Orders,” as described below) to 1) cease any further development on the property at issue unless (a) authorized pursuant to the permitting provisions of the Coastal Act and consistent with any and all existing permits, or (b) specifically required under these Orders to effectuate the terms and conditions of these Orders, and 2) restore the area in and around the area of the subject property disturbed by the unpermitted development. The unpermitted development on the subject property that is the focus of this report and is addressed by the proposed Orders includes dumping of concrete rubble, construction debris and dirt in a blue line stream and environmentally-sensitive riparian and coastal sage scrub habitat, and consequent destruction and removal of major vegetation, on multiple occasions. The unpermitted dumping altered the bed of a blue line stream, negatively impacted the water quality of a stream and coastal waters, smothered major vegetation, and disturbed ESHA, as more fully discussed herein<sup>1</sup>. In addition to being unpermitted, the “fill” was placed in an area that was previously restored and vegetated with native plants by the property owner, Rancho De Las Pulgas, Inc. (“Rancho Pulgas”), pursuant to Coastal Development Permit (“CDP”) No. 5-98-301 (**Exhibit #11**). The placement of the fill was both unpermitted and in direct conflict with the terms and conditions of CDP No. 5-98-301.

The landowner, Rancho Pulgas, through its president, Barry Maiten, has agreed to settle this matter through Consent Cease and Desist and Restoration Orders, as described in the attached Orders, and Rancho Pulgas is cooperating and will be voluntarily remedying the violation by restoring areas that were disturbed when the materials were placed in a riparian area and stream in order to shore up a private road on Rancho Pulgas property and, paying a fine so as to settle

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<sup>1</sup> See Section IV, E, iii, herein.

the matter altogether.<sup>2</sup> Holcomb Engineering Contractors, Inc. (“Holcomb Engineering”), the contractor that undertook the unpermitted development including dumping materials, including those apparently intended to shore up the private road on Rancho Pulgas property, has not settled this matter or agreed to a consent order. Therefore, staff is recommending issuance of a regular Cease and Desist Order against the non-settling parties, Holcomb Engineering and Robert Holcomb.<sup>3</sup>

## **Background**

The subject property is a 27-acre parcel that encompasses most of lower Las Pulgas Canyon; the lower portion of the canyon lies between Sunset Boulevard and Pacific Coast Highway (**Exhibit #1**). Las Pulgas Canyon extends from the ridges of the Santa Monica Mountains to the coastline; the canyon walls range from 150 to 200 feet in height (**Exhibit #2**). The steep slopes and canyon bottom support dense chaparral and coastal sage scrub intermixed with non-native vegetation. Las Pulgas Creek, a blue line stream, as mapped by the U.S. Geological Survey, runs through the canyon bottom and is lined by willows, sycamores, and riparian vegetation. The Commission found the riparian area and stream to be an environmentally sensitive habitat area (“ESHA”) in prior coastal development permits related to the site. In the vicinity of the area disturbed by the unpermitted development, the creek is naturally soft-bottomed but scattered with concrete deposited in the creek by an upcreek, collapsing spillway that predates the Coastal Act.

The rims of the canyon are developed with single-family residences along both the east and west sides of the canyon. Development in the canyon includes a one-story residential structure near the mouth of the canyon (near Pacific Coast Highway) and a private road, which is paved at the mouth of the canyon, but becomes dirt as it trends from Pacific Coast Highway up through the canyon and past the site of the unpermitted dumping. The road is cut into the canyon slope thirty to forty feet above the creek. Above the area of creek and canyon slope where the unpermitted fill material was dumped, the dirt road crosses an area of artificial fill (“land bridge”) placed across the mouth of a tributary canyon entering from the east. The original construction of the land bridge predates the Coastal Act.

A locked gate at the mouth of the canyon at Pacific Coast Highway restricts access to the canyon. Rancho Pulgas and Mr. Maiten maintain the lock and control access to the canyon. Rancho Pulgas provided Robert Holcomb and Holcomb Engineering with keys and lock combinations to the canyon gate.

In response to reports from canyon rim residents, staff contacted Robert Holcomb on July 18, 2003, regarding dumping of dirt and debris in the riparian area at the subject property. Mr.

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<sup>2</sup> In addition to owning the property, Rancho Pulgas and Mr. Maiten control the locked gate and road on the property and, accordingly, were responsible for allowing Holcomb Engineering and Mr. Holcomb onto the property to dump the fill materials at issue, including those apparently used to shore up the road.

<sup>3</sup>Robert Holcomb previously admitted to dumping fill on the property that he had hauled away from a property in Malibu. Mr. Holcomb hauled the fill from the property in Malibu in his capacity with Holcomb Engineering. Therefore, these Orders are directed to both parties.

Holcomb confirmed that he had placed fill material on the canyon slope and the stream bank below the road in order to armor the road against the erosive action of the creek. **(Exhibit #3)** Mr. Holcomb indicated that the source of the dumped construction material was a construction project located in Malibu. **(Exhibit #4)** Mr. Holcomb identified that Malibu construction project, and Commission staff records show that this project involved the removal and disposal of construction debris, including concrete rubble, from that property. In connection with that project, Holcomb Engineering and the owners of two lots on Pacific Coast Highway in Malibu entered into a contract for demolition and removal of all gunite, shrubs and debris necessary to complete the work. As quoted in a letter from the representative of the properties in Malibu, the contract specifically states that Holcomb Engineering Contractors, Inc., will “legally dispose of debris” and “any material from our demolition work becomes the property of Holcomb Engineering Contractors Inc.” **(Exhibit #12)** That Malibu construction project was underway at the same time the construction debris was dumped in Las Pulgas Creek.

Commission staff visited the Las Pulgas site on October 8, 2003, with Mr. Holcomb, who attended the meeting at the direction of Rancho Pulgas, and confirmed the presence of the unpermitted fill in the riparian area.

After correspondence and discussions with staff during 2004 and 2005, Rancho Pulgas stated in a letter dated April 15, 2005, that it was willing to prepare a plan to restore the impacted area. Subsequently, Rancho Pulgas agreed to pay a fine for violating the Coastal Act and permit as well. Staff sent a Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings and to Record a Notice of Violation of the Coastal Act to Rancho Pulgas on August 5, 2005. **(Exhibit #7)** A Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings was also sent to Robert Holcomb and Holcomb Engineering on August 12, 2005. **(Exhibit #8)**

After two years of meetings and correspondence between staff and Rancho Pulgas’s representatives to discuss restoration of the site and resolution of the violation, on February 26, 2008, Rancho Pulgas agreed to remedy the violation and agreed to a monetary settlement amount of \$40,000. Despite staff’s attempts to reach a settlement agreement with Robert Holcomb and Holcomb Engineering, Mr. Holcomb and Holcomb Engineering have not agreed to the issuance of a cease and desist order.

### **Legal Elements**

In order to issue a Cease and Desist Order under Section 30810 of the Coastal Act regarding an activity that has already occurred, the Commission must find that the activity that is the subject of the order has occurred either without a required coastal development permit (“CDP”) or in violation of a previously issued CDP. The activity that has occurred at the subject property constitutes development as defined in Section 30106 of the Coastal Act. The development was undertaken without a CDP, in violation of Section 30600 of the Coastal Act. In addition, the placement of fill material in the creek is directly inconsistent with the terms and conditions of

CDP No. 5-98-301. Thus, the Commission has the authority to issue a Cease and Desist Order in this matter.

In order to issue a Restoration Order under Section 30811 of the Coastal Act, the Commission must find that development 1) has occurred without a CDP, 2) is inconsistent with the Coastal Act, and 3) is causing continuing resource damage. The placement of fill material in a riparian area is inconsistent with Coastal Act Sections 30240 (protection of ESHA), 30231 (protection of Water Quality), and 30253 (Maintenance of Geologic Stability). The unpermitted development is also causing continuing resource damage, as defined by Section 13190 of the Commission's regulations. The unpermitted development remains in and adjacent to the riparian area and stream on the subject property and the continued presence of the unpermitted development will lead to further degradation of the water quality and habitat value of this ESHA, as well as continued erosion of the stream banks.

### **Jurisdiction**

The Coastal Commission has jurisdiction to take enforcement action to remedy this violation because the property is located within the coastal zone in the City of Los Angeles. Due to its proximity to a stream, the unpermitted development lies in an area known in the City of Los Angeles permit program as the "Dual Permit Jurisdiction" area. In addition, the violation involves development that is addressed by a CDP previously approved by the Commission.

### **The Orders and Staff Recommendation**

Commission staff has worked closely with the landowner to reach an agreement on Consent Cease and Desist Order CCC-08-CD-05 and Consent Restoration Order CCC-08-RO-02 to resolve these issues amicably. The landowner has agreed to restore the impacted riparian and coastal sage scrub habitats by removing concrete rubble from the canyon slope, planting the canyon slope with native plants, and, through a five-year monitoring and maintenance program, ensuring the ongoing success of the restoration program. Staff recommends approval of these Consent Orders in order to achieve full restoration of the site and enhancement of the native vegetation in this area, and to fully resolve this violation.

Although Commission staff was not able to reach a settlement with Mr. Holcomb and Holcomb Engineering, we recommend issuance of the Cease and Desist Order to these parties to ensure that they will cease and desist from further unpermitted activities at the site, and moreover, to ensure that they will not impede the important restoration work to be done under the Consent Orders.

## **II. HEARING PROCEDURES**

The procedures for a hearing on a Cease and Desist Order and Restoration Order are outlined in Title 14, Division 5.5, Section 13185 of the California Code of Regulations.

For a Cease and Desist Order and Restoration Order hearing, the Chair shall announce the matter and request that all parties or their representatives present at the hearing identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the proceeding including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, before the close of the hearing, any question(s) for any Commissioner, at his or her discretion, to ask of any other party. Staff shall then present the report and recommendation to the Commission, after which the alleged violator(s) or their representative(s) may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons after which time Staff typically responds to the testimony and to any new evidence introduced.

The Commission should receive, consider, and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in Title 14, California Code of Regulations Section 13186, incorporating by reference Section 13065. The Chair will close the public hearing after the presentations are completed. The Commissioners may ask questions to any speaker at any time during the hearing or deliberations, including, if any Commissioner chooses, any questions proposed by any speaker in the manner noted above. Finally, the Commission shall determine, by a majority vote of those present and voting, whether to issue the Cease and Desist Order and Restoration Order, either in the form recommended by the Executive Director, or as amended by the Commission. Passage of a motion, per Staff recommendation or as amended by the Commission, will result in issuance of the Cease and Desist Order and Restoration Order.

### **III. STAFF RECOMMENDATIONS**

Staff recommends that the Commission approve the following three motions:

Barry Maiten and Rancho De Las Pulgas, Inc.

#### **1(a) Motion**

*I move that the Commission issue Consent Cease and Desist Order No. CCC-08-CD-05 pursuant to the staff recommendation.*

#### **1(b) Staff Recommendation of Approval**

Staff recommends a **YES** vote. Passage of this motion will result in issuance of the Consent Cease and Desist Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

#### **1(c) Resolution to Issue Consent Cease and Desist Order**

The Commission hereby issues Consent Cease and Desist Order No. CCC-08-CD-05, as set forth below, and adopts the findings set forth below on grounds that development has occurred

without a coastal development permit and that development has occurred in non-compliance with the terms and conditions of CDP No. 5-98-301.

**2(a) Motion**

*I move that the Commission issue Consent Restoration Order No. CCC-08-RO-02 pursuant to the staff recommendation.*

**2(b) Staff Recommendation of Approval**

Staff recommends a **YES** vote. Passage of this motion will result in issuance of the Consent Restoration Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

**2(c) Resolution to Issue Consent Restoration Order**

The Commission hereby issues Consent Restoration Order number CCC-08-RO-02, as set forth below, and adopts the findings set forth below on the grounds that development has occurred without a coastal development permit, the development is inconsistent with the Coastal Act, and the development is causing continuing resource damage.

Robert Holcomb and Holcomb Engineering Contractors, Inc.

**3(a) Motion**

*I move that the Commission issue Cease and Desist Order No. CCC-08-CD-06 pursuant to the staff recommendation.*

**3(b) Staff Recommendation of Approval**

Staff recommends a **YES** vote. Passage of this motion will result in issuance of the Cease and Desist Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

**3(c) Resolution to Issue Cease and Desist Order**

The Commission hereby issues Cease and Desist Order No. CCC-08-CD-06, as set forth below, and adopts the findings set forth below on grounds that development has occurred without a coastal development permit and in non-compliance with the terms and conditions of CDP No. 5-98-301.

**IV. FINDINGS FOR CONSENT CEASE AND DESIST ORDER NO. CCC-08-CD-05, CEASE AND DESIST ORDER CCC-08-CD-06 AND CONSENT RESTORATION ORDER CCC-08-RO-02**

The Commission hereby adopts the following findings of fact in support of its action. These findings also hereby incorporate by reference Section I of the April 24, 2008 staff report (“Staff Recommendations and Findings for Cease and Desist and Restoration Orders”) in which these findings appear, which section is entitled “Summary of Staff Recommendation.”

**A. Description of Unpermitted Development**

The unpermitted development that is the subject of these Orders consists of the dumping of concrete rubble, construction debris and dirt, imported from other unrelated properties, directly into a blue line stream and into adjacent coastal sage scrub and riparian vegetation. The unpermitted dumping altered the bed of a blue line stream, smothered major vegetation, and disturbed ESHA. In addition, the unpermitted dumping occurred in an area vegetated by Rancho Pulgas with native plants pursuant to CDP No. 5-98-301 and is inconsistent with the terms and conditions of that permit.

**B. Background: Commission’s Actions and History of Violation on the Subject Property**

On December 15, 1999, the Commission issued Coastal Development Permit No. 5-98-301 to authorize Rancho Pulgas to undertake development including repair and replacement of an existing 7’10” fence and gate located at the mouth of Las Pulgas Canyon, clearing of vegetation from two segments of a concrete-lined flood control channel located on the subject property, and planting and maintenance of vegetation along portions of the creek bank. Barry Maiten signed the permit in his capacity of president of Rancho Pulgas, on December 29, 1999. The unpermitted dumping that is the subject of the instant Orders occurred in part on the canyon slope that was proposed to be planted and maintained by Rancho Pulgas in its application for CDP No. 5-98-301. The planting and maintenance of the creek bank was detailed in the Las Pulgas Canyon Basic Maintenance Program that the applicant proposed and that the Commission incorporated into the terms of CDP No. 5-98-301. The staff report for CDP No. 5-98-301 states that “the applicant is proposing an on-going maintenance program in order to minimize erosion and reduce the spread of non-native plants from uphill and from the surrounding development.” Item number 4 of the maintenance program states that “annual native plants may be seeded on a yearly basis or less often on sparsely vegetated slopes adjacent to riparian areas or roadways.” Pursuant to the maintenance program that was incorporated into CDP No. 5-98-301, the applicant planted and seeded the creek bank with rows of native plants on January 28, 1999. In March of the same year, the applicant’s ecologist reported that the native plants were established. **(Exhibit #13)**

In addition, Special Condition No. 1 of CDP No. 5-98-301 required the property owner to apply for a CDP before undertaking any future streambed alterations or vegetation removal within 50’

of the outside edge of the streambed. Also, by accepting Special Condition No. 3, Rancho Pulgas acknowledged that any change in use or alignment of the streambed requires an amendment to CDP No. 5-98-301. Rancho Pulgas did not apply for or obtain an additional CDP or an amendment to CDP No. 5-98-301 before undertaking the unpermitted development.

In early July 2003, Commission staff received a report that dumping of dirt and debris into a riparian area located at 16421 Pacific Coast Highway had recently occurred. On July 18, 2003, staff telephoned Robert Holcomb of Holcomb Engineering, regarding placement of fill on the site. Mr. Holcomb admitted to staff that he had placed fill on the road shoulder, allegedly to armor the road as the stream bank and canyon slope below the road eroded. Staff informed Mr. Holcomb that any future placement of fill on the subject property would constitute a knowing and intentional violation of the Coastal Act and asked Mr. Holcomb to contact staff the following week to discuss resolution of the violation. On August 13, 2003, a neighbor photographed a dump truck depositing additional imported fill materials at the site. Newly dumped mounds of dirt were observed on August 14<sup>th</sup> and September 24<sup>th</sup>. Staff visited the site on October 8, 2003 with Mr. Holcomb, who attended the meeting at the direction of the landowner, and confirmed the presence of fill on the canyon slope that descends into the riparian area below the road and in the riparian area itself. As discussed more fully in Section IV.E.iii. below, this unpermitted development altered the bed of a blue line stream, destroyed and removed major vegetation, and disturbed ESHA. While on site, staff informed Mr. Holcomb that restoration of the site was necessary.

**i. Enforcement efforts to reach a resolution with Rancho Pulgas and Barry Maiten**

In a Notice of Violation letter to Rancho Pulgas, dated May 17, 2004 (**Exhibit #5**) staff requested that Rancho Pulgas resolve the violation by submitting an application for a CDP to either: 1) authorize the development after-the-fact, 2) remove the unpermitted development and restore the site, or 3) restore the site and authorize an alternative mode of slope stabilization. On July 20, 2004, staff mailed a second Notice of Violation letter to Rancho Pulgas (**Exhibit #6**). Both Notice of Violation letters notified Rancho Pulgas of the potential for the Executive Director to record a Notice of Violation, pursuant to Coastal Act Section 30812, in this matter.

On January 18, 2005, Commission staff met with Rancho Pulgas' agent, Dr. Klaus Radtke, on the property, to discuss restoring the disturbed area. During a subsequent phone conference on January 21, 2005 with Dr. Radtke, staff discussed authorizing restoration of the site with a consent order. In a letter to Rancho Pulgas, dated April 6, 2005, staff elaborated on the possibility of resolving the violation with a consent order. Barry Maiten, president of Rancho Pulgas, responded in a letter received on April 19, 2005 that he was willing to remove unpermitted development and revegetate the site. Dr. Radtke prepared a plan for recommended restoration and submitted it to Commission staff on April 25, 2005.

On August 5, 2005, staff sent a Notice of Intent (NOI) to Commence Cease and Desist and Restoration Order Proceedings to Rancho Pulgas, as a first step towards securing Commission

issuance of such consent orders to authorize the work under the Coastal Act. The NOI stated the basis for issuance of the proposed Cease and Desist and Restoration Orders and provided the opportunity to respond to the allegations in the NOI with a Statement of Defense form, pursuant to the applicable Coastal Act regulations. Mr. Maiten requested an extension of the Statement of Defense deadline via facsimile on August 12, 2005 in order to allow Dr. Radtke, who was in the process of relocating outside the state, time to review the NOI. On August 15, 2005, Commission staff sent Rancho Pulgas a letter extending the deadline to October 3, 2005. Dr. Radtke informed staff on September 22, 2005, that Rancho Pulgas would not submit a Statement of Defense and agreed to work towards a consent order authorizing restoration of the site.

The August 5, 2005 NOI to Rancho Pulgas also notified Rancho Pulgas of the Executive Director's intent to record a Notice of Violation of the Coastal Act. Section 30812(d) of the Coastal Act provides that if the Commission determines, based on substantial evidence, that a violation has occurred on the subject property, a Notice of Violation can be recorded against the subject property to provide notice to any potential purchasers regarding the presence of the violation. Section 30812(b) authorizes the Executive Director to record such a notice based on an Executive Director determination of a violation if the property owner does not respond to the NOI within 20 days of the postmarked mailing of the NOI. If, on the other hand, the property owner responds to the NOI within the 20 days and objects to the recordation of such a notice, the Commission must hold a hearing on the matter. As of October 6, 2005, the Commission had not received a written objection to the recordation of the Notice of Violation. Los Angeles County recorded the Notice of Violation on October 6, 2005, as provided for under Section 30812 of the Coastal Act (**Exhibit #9**).<sup>4</sup>

In response to the claims of Rancho Pulgas that concrete rubble could not be removed safely from the canyon slope, staff visited the property on January 18, 2006, with the Mr. Maiten and Commission staff coastal engineer Lesley Ewing. Ms. Ewing opined that the concrete visible on the slope could in fact be removed, provided that adequate safety measures were taken. Staff also informed Mr. Maiten that the proposed restoration plan submitted on April 25, 2005 was deficient in several aspects. Staff elaborated on these deficiencies in a letter to Rancho Pulgas dated May 17, 2006. On November 27, 2006, Rancho Pulgas's new biological consultant, Compliance Biology, submitted a revised proposal for restoration in response to staff's comments (**Exhibit #10**). After staff ecologist Jonna Engel reviewed the newly revised proposal for restoration, staff provided further comments on July 31, 2007.

On January 30, 2008, staff discussed with Rancho Pulgas's representatives, Justin and Alan Block, a monetary settlement to resolve the penalty portion of this matter, so as to avoid the need any further proceedings altogether. On February 26, 2008, Rancho Pulgas agreed to a monetary settlement amount of \$40,000.

**ii. Enforcement efforts to reach a resolution with Holcomb Engineering and Robert Holcomb**

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<sup>4</sup> It should be noted that, pursuant to section 30812 of the Coastal Act, such notice will be rescinded after final resolution of the violations at issue.

In a Notice of Violation letter to Holcomb Engineering, dated August, 4 2005, staff requested that Holcomb Engineering resolve the violation by assisting Rancho Pulgas in submission of a complete restoration plan and agreeing to pay participate in the other elements of the settlement, so as to fully resolve the matter. Holcomb Engineering's attorney responded in a letter dated August 12, 2005, that Holcomb Engineering would not agree to assist in the restoration of the site or to pay settlement monies. On August 12, 2005, Commission staff sent a NOI to Commence Cease and Desist and Restoration Order Proceedings to Holcomb Engineering. The NOI stated the basis for issuance of the proposed Cease and Desist and Restoration Orders and provided the opportunity to respond to the allegations in the NOI with a Statement of Defense form. Holcomb Engineering did not return the Statement of Defense by the September 12, 2005 deadline set in the NOI. As of the date of this report, Holcomb Engineering has not submitted a Statement of Defense.

In an effort to settle this matter consensually, staff mailed a draft consent cease and desist and restoration order to Holcomb Engineering on December 16, 2005. Holcomb Engineering declined to agree to the consent order. On June 6, 2006 staff met with Mr. Holcomb to discuss his past involvement with the property. Contrary to his admission to staff in 2003 that he had dumped the fill on the canyon slope and creek bed to shore up the road, Mr. Holcomb then denied responsibility for the dumping of dirt and debris that is the subject of these Orders. He stated that he had an agreement with the property owner to grade the road and clear weeds. According to Mr. Holcomb in June of 2006, on a few occasions, he pushed piles of dirt that had been placed on the road into the creek and also cleared a concrete-lined section of the creek with a tractor and excavator. On one occasion, according to Mr. Holcomb, he dumped 40 to 50 cubic yards of soil on the road shoulder across the road from the site of the subject unpermitted development. He stated that he performed these activities in exchange for parking on the site.

In a July 12, 2006 telephone call, Staff requested that Mr. Holcomb settle this matter by agreeing to issuance of a cease and desist order. Mr. Holcomb did not agree to settle. In a April 7, 2008 letter, staff again requested that Mr. Holcomb agree to issuance of a cease and desist order, but Mr. Holcomb has continued to refuse to do so.

### **C. Legal Standard for Issuance of Cease and Desist Order**

The statutory authority for issuance of this Cease and Desist Order is provided in Section 30810 of the Coastal Act, which states, in relevant part:

- a) *If the commission, after public hearing, determines that any person...has undertaken, or is threatening to undertake, any activity that 1) requires a permit from the commission without securing the permit or 2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person...to cease and desist. . . .*
- b) *The cease and desist order may be subject to such terms and conditions*

*as the commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material...*

**D. Legal Standard for Issuance of Restoration Order**

The statutory authority for issuance of this Restoration Order is provided in Section 30811 of the Coastal Act, which states, in relevant part:

*In addition to any other authority to order restoration, the commission... may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission ... , the development is inconsistent with this division [the Coastal Act], and the development is causing continuing resource damage.*

**E. Bases for Issuance of Cease and Desist and Restoration Orders**

The following paragraphs set forth the basis for the issuance of the Cease and Desist and Restoration Orders by providing substantial evidence that the development meets all of the required grounds listed in Section 30810 and 30811 for the Commission to issue a Cease and Desist Order and Restoration Order.

**i. Development has Occurred without a Coastal Development Permit**

The development activity that has occurred on the subject property meets the definition of “development” set forth in Section 30106 of the Coastal Act. This definition includes but is not limited to: “the placement or erection of any solid material or structure...; discharge or disposal of any...waste;...and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations...” In this case, the placement of dirt, debris and rubble and the smothering of native vegetation are “development” as defined by Section 30106. In burying native vegetation, the fill destroyed the vegetation and blocked sunlight necessary for plant survival, and thus, effectively removed major vegetation by killing it. Section 30600(a) of the Coastal Act requires that any person wishing to undertake “development” must obtain a coastal development permit. No coastal development permit has been applied for or issued for the subject unpermitted development.

The unpermitted development is also not exempt from the Coastal Act’s permitting requirements under Section 30610 of the Coastal Act and Sections 13250-13253, California Code of Regulations, Title 14, or under any other provision of the Coastal Act or the Commission’s regulations. Section 30610 of the Coastal Act provides that certain types of development are exempt from the coastal development permit requirements, but the subject activities do not fall under any of those exemptions. Even if the subject activities constituted repair and maintenance, which they do not, pursuant to Sections 13252 (a)(3)(A) and (a)(3)(B) of the Commission’s regulations, the activity would not be exempt because it involves a risk of substantial adverse environmental impact. Section 13252 (a)(3)(A) requires a coastal development permit for repair

and maintenance activities involving the placement of solid material within 50 feet of ESHA or within 20 feet of a stream. Section 13252 (a)(3)(B) requires a coastal development permit for repair and maintenance activities involving the presence of mechanized equipment within 50 feet of ESHA. The subject activities meet both criteria.

The development is not exempt and was undertaken without a coastal development permit, in violation of Coastal Act Section 30600. Therefore, the Commission has the authority to issue a Cease and Desist Order, with respect to the unpermitted development at issue, under Section 30810 of the Coastal Act.

## **ii. Inconsistency with Terms and Conditions of Previously Issued Permit**

The unpermitted development is also inconsistent with the terms and conditions of a previously approved CDP. On June 11, 1999, the Commission approved CDP No. 5-98-301 (**Exhibit #11**) to authorize Rancho Pulgas to undertake a number of activities, including repairing and replacing an existing fence and gate, realigning and dedicating a hiking trail, clearing vegetation from two segments of a concrete-lined flood control channel, trimming a partially fallen willow tree and planting and maintaining an area of the creek bank. The creek bank area that was planted as proposed by Rancho Pulgas in its application for CDP No. 5-98-301 was impacted by the unpermitted development at issue here. The Commission attached seven special conditions to the permit to ensure that the development approved pursuant to the permit would be undertaken in conformity with the policies of Chapter 3 of the Coastal Act. The unpermitted development at issue in this matter is inconsistent with at least three provisions of the permit.

### **1. Special Condition 1**

Special Condition 1 attached to CDP No. 5-98-301 addresses development that may constitute streambed alteration, such as use of heavy equipment and vegetation removal within 50 feet of the streambed, and reads as follows:

*By accepting this permit, the applicant agrees before undertaking any such development to apply for a Coastal Development Permit for any use of heavy equipment, future streambed alterations and any vegetation removal within 50' of the outside edge of the streambed including the channelized streambed.*

### **2. Special Condition 3**

Also, Special Condition 3 states:

*With the acceptance of this permit, the applicant acknowledges that any change in use or alignment of the streambed, as approved by this permit, will require an amendment to this permit.*

The unpermitted dumping of dirt, debris and rubble into Las Pulgas Creek and riparian area buried the natural stream bank, affected the flow of the stream, and smothered vegetation within 50' of the creek. Therefore, the deposition of fill was not in compliance with the terms and conditions of CDP No. 5-98-301, including Special Conditions 1 and 3, and was not authorized by an amendment to the permit.

### **3. Incorporated Maintenance Plan**

Furthermore, the unpermitted deposition of fill does not conform to the on-going maintenance program for the subject property that Rancho Pulgas proposed in its application for CDP No. 5-98-301 and which the Commission accepted and incorporated into the terms of the permit issued to Rancho Pulgas. The Las Pulgas Canyon Basic Maintenance Program, signed by Mr. Maiten as the president of Rancho Pulgas states:

*No work shall be performed in the still-functioning riparian areas of the canyon, such as riparian areas where native plants are still present alone or in conjunction with non-native species and any areas where the channel is not concrete-lined or not channeled through storm drains, unless requested by Flood Control or other agencies having jurisdiction over the area and subject to a permit from the Department of Fish & Game or a letter of exemption stating that no permit is needed for such work.*

The dumping at issue occurred in an area where riparian vegetation was present and where the creek is not concrete lined or channelized, and is therefore inconsistent with the terms of the approved maintenance program, which was part of CDP No. 5-98-301.

### **iii. The Unpermitted Development is Inconsistent with the Coastal Act**

The unpermitted development meets the definition of “development” which requires a coastal development permit. A coastal development permit may be approved only when development is consistent with the resource protection policies contained in Chapter 3 of the Coastal Act. The unpermitted development is not consistent with the following Chapter 3 policies of the Coastal Act (described in detail below): Sections 30231, 30240, and 30253.

#### **Section 30231 - Water Quality**

Coastal Act Section 30231 states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining*

*natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.* (emphasis added)

The unpermitted placement of dirt, debris and rubble into Las Pulgas Creek has altered the stream and negatively impacted the quality of coastal waters. The dirt dumped directly into the creek inevitably diminished the stream's water quality by increasing the turbidity of the creek and smothering the stream's natural vegetative buffer. The dumping into the riparian area may also have had, and may be continuing to have, long term effects on the creek's water quality, as well as the water quality of nearshore waters during heavy flows. Concrete rubble introduced into Las Pulgas Creek along with the dirt could armor the stream bank and bed. The accelerated stream flow of an armored stream exacerbates erosion, and, consequently, further undercuts the creek's vegetative buffer. The loss of surface vegetation, ground cover, and subsurface rootstock and the increase in areas of bare soil facilitates the movement of sediment into the creek and, ultimately, the ocean, and thus, increases the turbidity of the stream and nearshore waters. Increased sedimentation and turbidity diminish the biological productivity of a water body by reducing water clarity and increasing water temperature. Excessive sedimentation due to construction has cumulatively resulted in the loss of rocky bottom habitat and kelp beds off shore of Los Angeles County. During heavy flows (a low-flow diversion is installed at the mouth of the creek) Las Pulgas Creek flows into the Santa Monica Bay in close proximity to the rocky bottom habitat present at the terminus of Sunset Boulevard.

The unpermitted development also adversely impacted the habitat value of the stream and riparian area, as discussed below in the ESHA section, and thus reduced the biological productivity of the creek. Since the unpermitted development negatively impacts the quality of coastal waters and lowered the biological productivity of Las Pulgas Creek and nearshore waters, it is not consistent with Section 30231 of the Coastal Act.

### **Section 30240 - Environmentally Sensitive Habitat Areas**

Environmentally Sensitive Habitat Areas (ESHA) are defined by Coastal Act Section 30107.5 as:

*... area[s] in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

In CDP No.s 5-98-301 and 5-01-423, the Commission already specifically found Las Pulgas Creek and the riparian habitat it supports to be ESHA. Riparian areas are a complex habitat type, containing a highly diverse community of plants and animals. Las Pulgas Creek and the riparian habitat it supports were directly impacted by the dumping, which partially filled the canyon containing this drainage. Las Pulgas Creek runs along the canyon bottom and is lined by willows, sycamores, and riparian vegetation, as well as non-native plants, for much of its length. The canyon slopes support dense areas of coastal sage scrub and chaparral vegetation. On January 28, 1999, pursuant to maintenance plan submitted in conjunction with CDP No. 5-98-301, the area that would later be impacted by the unpermitted development was seeded with a

native seed mix. In March of the same year, the applicant's ecologist reported that the native plants were established.

Coastal Act Section 30240(a) states:

*Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

The unpermitted development disrupted habitat values by introducing increased amounts of concrete rubble and sediment into Las Pulgas Creek. The concrete rubble on the canyon slope will continue to slide into and impact the stream if it is not removed or otherwise prevented from doing so. The concrete will eventually settle in the creek, hardening the natural composition of the creek bottom and bank habitat. Armoring a creek bed accelerates degradation of habitat by altering natural stream flows. The dumped dirt also negatively impacts the habitat value of the stream. Increased sediments in a natural creek cover pebbly substrates and aquatic vegetation, thus eliminating habitat and food sources for wildlife in riparian areas. Further, the deposited dirt smothered native vegetation that comprised valuable habitat along the stream banks and provided cooling shade for the creek. In addition to impacting vegetation already present at the site, disturbance created by introduction of a large amount of soil foreign to the site discourages the regeneration of native vegetation and invites the invasion of non-native plants into a sensitive riparian area. Recognizing this, Rancho Pulgas, in its proposal to plant the stream bank which would ultimately be the site of the unpermitted development, stated that native cover, once established, will slow down and reduce the spread of non-native species. The dumping of fill into the riparian area and Las Pulgas Creek disturbed this ESHA. Therefore, the unpermitted development is inconsistent with Section 30240 of the Coastal Act.

Furthermore, the terms and conditions of CDP No. 5-98-301, including the planting plan proposed by Rancho Pulgas, were designed to minimize impacts to ESHA. As discussed above, the deposition of fill was not in compliance with the terms and conditions of CDP No. 5-98-301.

Coastal Act Section 30240(b) states:

*Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The unpermitted development was placed in ESHA and on the slopes of the canyon, immediately adjacent to ESHA. Since the dirt and rubble was not consolidated, the dirt and rubble eroded and traveled from the upper slopes of the canyon into the riparian area, thus causing negative impacts to sensitive riparian and stream habitat, as explained above. Therefore, the unpermitted development is also inconsistent with Section 30240(b) of the Coastal Act.

### **Section 30253 – Minimization of Adverse Impacts**

The unpermitted development is inconsistent with Coastal Act Section 30253, which provides in relevant part:

*New development shall:*

*(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...*

The dumping and consequent vegetation removal left substantial areas of bare soil and debris on a steep slope. Such bare areas and the armoring effect of debris upon the creek banks and bed will contribute significantly to the erosion at the site and downstream. Further, due to increased erosion caused by loss of vegetative cover on the stream banks and canyon slope above and the armoring effect of concrete rubble on a stream, the structural integrity of the stream banks will be degraded. Therefore, the unpermitted development is not consistent with Section 30253 of the Coastal Act.

In summary, the unpermitted development is inconsistent with the Coastal Act in that it degraded water quality inconsistent with Section 30231, it disturbed sensitive riparian and stream habitat inconsistent with Section 30240, and contributed significantly to erosion inconsistent with Section 30253.

The proposed Orders will require removal of concrete rubble from the canyon slope and riparian area and revegetation of the impacted area with native plants. The work required by the Orders would protect the habitat value of the canyon slope and riparian area, enhance water quality, and contribute to the stability of the canyon slope and stream banks. Therefore the Orders will restore, to the extent feasible, the resources impacted by the unpermitted development and protected under the Coastal Act and, as recommended, are consistent with Sections 30240, 30231, and 30253 of the Coastal Act.

#### **iv. Unpermitted Development is Causing Continuing Resource Damage**

The unpermitted development is causing continuing resource damage. As defined in Section 13190 of the Commission's regulations:

Section 13190(a) of the Commission's regulations defines the term "resource" as it is used in Section 30811 of the Coastal Act as follows:

*'Resource' means any resource which is afforded protection under the policies of Chapter 3 of the Coastal Act, including but not limited to public access, marine and other*

*aquatic resources, environmentally sensitive wildlife habitat, and the visual quality of coastal areas.*

The term “damage” in the context of Restoration Order proceedings is defined in Section 13190(b) as follows:

*‘Damage’ means any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development.*

Here, the resource damage is degradation of ESHA, the water quality of Las Pulgas Creek, the structural integrity of the canyon slope and stream banks, caused by the presence of unpermitted fill material.

*‘Continuing’, when used to describe ‘resource damage’, means such damage which continues to occur as of the date of issuance of the Restoration Order.*

The unpermitted development remains on the subject property. As described in the resource sections above, the unpermitted development is causing damage to resources protected by the Coastal Act that continue to occur as of the date of this proceeding.

The unpermitted development is causing the ongoing adverse impacts to coastal resources that are described above. For the time that the unpermitted development remains on the subject property, continuing resource damage will continue to occur. Thus, continuing resource damage is occurring, and the Commission has the authority to issue a Restoration Order under Coastal Act Section 30811.

**E. Orders are Consistent with Chapter 3 of the Coastal Act**

The Orders attached to this staff report are consistent with the resource protection policies found in Chapter 3 of the Coastal Act. The Orders require Respondents to cease and desist from maintaining unpermitted development and from conducting further unpermitted development on the subject property. In addition, the Orders require and authorize Respondents to restore the riparian and coastal sage scrub habitats that were impacted by the unpermitted activity by removing concrete rubble and by planting the area with plant species native to southern California riparian and coastal sage scrub habitats. Therefore, the Consent Orders are consistent with the Chapter 3 policies of the Coastal Act.

**F. California Environmental Quality Act (CEQA)**

The Commission finds that issuance of Cease and Desist and Restoration Orders to compel the removal of concrete rubble and restoration of the property is exempt and categorically exempt from the requirements of the California Environmental Quality Act, Cal. Pub. Res. Code §§ 21000 *et seq.*, (CEQA) and will not have significant adverse effects on the environment,

within the meaning of CEQA. The Cease and Desist Orders and Restoration Order are exempt based on Sections 15060(c)(2) and (3), 15061(b)(2), 15307, 15308 and 15321 of CEQA Guidelines (in Title 14 of the California Code of Regulations).

**G. Summary of Findings of Fact**

1. Rancho De Las Pulgas, Inc. is the owner of 16421 Pacific Coast Highway, Pacific Palisades, City and County of Los Angeles, identified as APN 4414-018-002 (“Subject property”).
2. Barry Maiten is the president and representative of Rancho De Las Pulgas, Inc.
3. On December 15, 1999, the Commission issued CDP No. 5-98-301 to authorize Rancho De Las Pulgas, Inc. to undertake development including repair and replacement of an existing 7’10” fence and gate located at the mouth of Las Pulgas Canyon, clearing of vegetation from two segments of a concrete-lined flood control channel located on the subject property, and planting and maintenance of vegetation along portions of the creek bank. The permit included conditions that restricted future streambed alterations, vegetation removal within 50 feet of the stream, and future development within the streambed.
4. A locked gate at the mouth of the canyon at Pacific Coast Highway restricts access to the canyon. Rancho De Las Pulgas Inc. and Mr. Maiten maintain the lock and control access to the canyon.
5. Rancho De Las Pulgas Inc. provided Robert Holcomb and Holcomb Engineering Contractor’s Inc. with keys and lock combinations to the canyon gate.
6. Rancho De Las Pulgas Inc., Barry Maiten, Robert Holcomb and Holcomb Engineering Contractors, Inc. have undertaken development, as defined by Coastal Act Section 30106, at the subject property, consisting of the placement of fill material, including, but not limited to dirt, concrete rubble, and construction debris, imported from other unrelated properties, in coastal sage scrub and a riparian area containing a blue line stream.
7. No coastal development permit or amendment to a previous coastal development permit was issued for the development described in the preceding paragraph.
8. No exemption from the permit requirements of the Coastal Act applies to the unpermitted development on the subject property.
9. The unpermitted development is a violation of the Coastal Act.
10. The unpermitted development violates Special Conditions #1 and #3 Coastal Development Permit No. 5-98-301 and is, therefore, inconsistent with this CDP.

11. On August 5, 2005 Commission staff informed Rancho De Las Pulgas and Barry Maiten that pursuant to Title 14, California Code of Regulations, Section 13191(a), the Commission intended to initiate cease and desist and restoration order proceedings against them, and outlined steps in the cease and desist and restoration order process.
12. On August 12, 2005 Commission staff informed Robert Holcomb and Holcomb Engineering that pursuant to Title 14, California Code of Regulations, Section 13191(a), the Commission intended to initiate cease and desist and restoration order proceedings against them, and outlined steps in the cease and desist and restoration order process.
13. The unpermitted development is inconsistent with the policies set forth in Sections 30240, 30231 and 30253 of the Coastal Act.
14. The unpermitted development is causing “ongoing resource damage” within the meaning of Section 30811 of the Coastal Act and Section 13190, Title 14, California Code of Regulations.
15. A Notice of Violation of the Coastal Act has been recorded against the subject property.

#### **H. Respondents’ Defenses**

Mr. Maiten, the president of Rancho Pulgas, has offered to settle this matter amicably with the Commission, and has signed a Consent Cease and Desist Order and Consent Restoration Order. Therefore, this section does not apply to Mr. Maiten or Rancho Pulgas. Rancho Pulgas agreed to Consent Cease and Desist and Restoration Orders whereby they agreed to not contest the issuance and enforceability of the Consent Orders.

Robert Holcomb and Holcomb Engineering did not agree to settle, nor did they sign a consent order. Section 13181(a) of the Commissions Regulations states, in part:

*“The notice of intent shall be accompanied by a ‘statement of defense form’ that conforms to the format attached to these regulations as Appendix A. The person(s) to whom such notice is given shall complete and return the statement of defense form to the Commission by the date specified therein, which date shall be no earlier than 20 days from transmittal of the notice of intent.”*

Holcomb Engineering was provided the opportunity to identify its defenses to issuance of the Orders in a written Statement of Defense (“SOD”), as provided in the Commission’s regulations, but has failed to do so. As of the date of this report, Holcomb Engineering has not responded to the allegations as set forth in the August 12, 2005 NOI. The final date for submittal of the SOD was September 12, 2005. Holcomb Engineering did not submit the SOD by the September 12, 2005 deadline, did not request additional time to do so, and did not submit even an untimely defense statement since that time. The SOD is required by the Coastal Act regulations so as to

enable the Executive Director to prepare a recommendation to the Commission as required by Section 13183 of the Commission's Regulations that includes rebuttal evidence to matters raised in the SOD and summarizes any unresolved issues. The completion of Section 13181's statement of defense form is mandatory. Since Holcomb Engineering did not submit an SOD, Holcomb Engineering has waived its right to present defenses for the Commission's consideration in this matter.

Although Holcomb Engineering did not submit an SOD at all, as required by the regulations, as a courtesy, Commission staff has nonetheless responded to statements made by Holcomb Engineering in August 12, 2005 and December 29, 2005 letters. The following paragraphs present statements made by Holcomb Engineering and the Commission's responses to those statements.

#### **1. Holcomb Engineering's Defense**

**“Trucks belonging to Holcomb Engineering Contractors, Inc., did travel across the Las Pulgas property to access Mr. Pizzuli's property, but no trucks of Holcomb Engineering Contractors dumped concrete or sand on the Las Pulgas site.”**

#### **CCC Response:**

This statement in an August 12, 2005 letter directly contradicts an admission made by Mr. Holcomb soon after the unpermitted development subject to these Orders occurred that he dumped fill on the property hauled from a construction project in Malibu by Holcomb Engineering. Steve Hudson, then the Coastal Commission's Southern California Enforcement Supervisor, contacted Mr. Holcomb by telephone regarding this issue on July 18, 2003. During that conversation, Mr. Holcomb stated that he had placed fill on the road shoulder and canyon slope to shore up the road as the stream bank below eroded.

#### **2. Holcomb Engineering's Defense**

**“In the past, Holcomb Engineering Contractors has parked trucks on the site and has done road grating [sic] and maintenance of the property, but this was several years ago. There has been no work of any nature done by Holcomb Engineering Contractors that would have involved dumping concrete rubble or dirt fill on the property.”**

#### **CCC Response:**

This statement appears to be implying that dumping did not occur in conjunction with any other work on the property. However, even if the dumping was not associated with any other work on the property, isolated dumping would still constitute unpermitted development and development in violation of the existing permit. It does not matter, for example, whether the unpermitted fill

originated on the subject property or was brought onto the property; many development projects require the exportation of fill, and some require the importation of fill.

In fact, when the unpermitted development occurred, Holcomb Engineering had recently contracted with a property owner in Malibu to remove gunite from that property and dispose of it. The materials dumped at the subject site could have come from the Malibu site and been associated with that project. Finally, to the extent this statement is a general denial of any dumping on the property, the Commission's response to point 1 applies here and is hereby incorporated as if set forth in full here as a response to this point.

### **3. Holcomb Engineering's Defense**

**“Several times when visiting the property, Mr. Holcomb saw that the lock was broken and other vehicles had traversed the dirt road, as was evidenced by the tire marks.”**

#### **CCC Response:**

Rancho Pulgas has indicated to the Commission that in an effort to maintain the security of the canyon, it installed a new locked fence at the mouth of the canyon in 1996. Rancho Pulgas stated that it continually maintains the fence and gate and considers the canyon to be very secure.

Regardless of the state of the gate, the amount of fill dumped at the site indicates use of the site for a large-scale operation, not a covert attempt to break-in and scatter a load of dirt, as Holcomb Engineering seems to imply might be the case. Numerous trucks were witnessed openly dumping dirt at the subject site in daylight. These trucks traveled several hundred yards up the canyon before dumping their loads. Also, the large amount of fill placed precisely at the point at which Las Pulgas Creek is eroding the canyon road suggests that the dirt was dumped with the objective of armoring the access road, which would not be the objective of a trespasser seeking to simply dispose of unwanted dirt. Most significantly though, as noted above, in response to point 1, which response is hereby incorporated as if set forth in full here, Mr. Holcomb admitted dumping fill on the canyon slope and creek.

### **4. Holcomb Engineering's Defense**

**“Whatever Robert Holcomb may or may not have done at the subject site, it was done by Robert Holcomb as an individual, and not as a representative of Holcomb Engineering Contractors.”**

#### **CCC Response:**

When Robert Holcomb admitted his involvement in the unpermitted activity to staff in 2003, he indicated that the source of the dumped construction material was a construction project located

on Pacific Coast Highway in Malibu. Commission records show that this project involved the removal of construction debris, including concrete rubble, from the property. Moreover, Holcomb Engineering and the owners of 2 properties on Pacific Coast Highway entered a contract for demolition and removal of all gunite, shrubs and debris necessary to complete the work. The contract specifically states that Holcomb Engineering Contractors, Inc., will “legally dispose of debris” and “any material from our demolition work becomes the property of Holcomb Engineering Contractors Inc.” This project was underway at the same time the construction debris was dumped in Las Pulgas Creek.

Commission records also indicate that Mr. Holcomb signs documents on behalf of Holcomb Engineering and that Mr. Holcomb provides the corporate address and phone number as his personal contact information. In conversations with staff, Mr. Holcomb has stated that he was speaking to us on behalf of both the corporation and himself as an individual.

Staff recommends that the Commission issue the following Consent Cease and Desist and Restoration Order to Rancho Pulgas and Cease and Desist Order to Robert Holcomb and Holcomb Engineering.

**CONSENT CEASE AND DESIST ORDER CCC-08-CD-05 AND  
CONSENT RESTORATION ORDER CCC-08-RO-02**

**1.0 CONSENT CEASE AND DESIST ORDER CCC-08-CD-05**

Pursuant to its authority under Public Resources Code § 30810, the California Coastal Commission (“Commission”) hereby authorizes and orders Barry Maiten, in his capacity as President of Rancho De Las Pulgas, Inc, and Rancho De Las Pulgas, Inc., all their successors, assigns, employees, agents, and contractors; and any persons acting in concert with any of the foregoing (“Respondents”) to: 1) cease and desist from engaging in any further development on the property identified in Section 6.0, below (“subject property”), unless authorized pursuant to the Coastal Act or specifically required under the Consent Orders to effectuate the terms and conditions of these Consent Orders, and 2) to remove the unpermitted development at issue in this matter, as described in Section 7.0 and in the document entitled “Notice of Intent to Commence Proceedings Under the Coastal Act, consisting of fill placed within and adjacent to environmentally-sensitive riparian and coastal sage scrub habitat, in accordance with the procedures set forth in Section 3 below. Through the execution of Consent Cease and Desist Order No CCC-08-CD-05, Respondents agree to comply with its terms and conditions.

**2.0 CONSENT RESTORATION ORDER CCC-08-RO-02**

Pursuant to its authority under Public Resource Code §30811, the Commission hereby orders and authorizes Respondents to restore the subject property as described in Section 3.0, below. Through the execution of Consent Restoration Order CCC-08-RO-02, Respondents agree to comply with its terms and conditions.

**3.0 TERMS AND CONDITIONS**

3.1 Within 30 days of issuance of these Consent Orders, Respondents shall submit, according to the procedure set forth under Section 3.4, for the review and approval of the Executive Director of the Commission (“Executive Director”) a Restoration Plan (“Restoration Plan”). Respondents and Commission staff agree to continue working cooperatively, with the assistance of Compliance Biology, Inc., to complete and approve a Restoration Plan that complies with the terms and conditions of these Consent Orders. The Restoration Plan will contain a removal plan and a revegetation plan, which will outline the removal of the cited unpermitted development and the restoration and revegetation of a natural riparian and coastal sage scrub ecosystem on the subject property where the unpermitted activity occurred. The Restoration Plan shall include the following components and satisfy the following criteria:

A. General Terms and Conditions

1. The Restoration Plan shall outline all removal, restoration, and revegetation, in accordance with sections 3.1.B and C below, of the riparian and coastal sage scrub

habitat on the subject property that was impacted by the unpermitted activities that are the subject of these Consent Orders.

2. The Restoration Plan shall be prepared by a qualified restoration ecologist(s) or resource specialist(s) (“Specialist”), and shall include a description of the education, training, and experience of said Specialist. A qualified Specialist for this project shall have experience successfully completing restoration or revegetation (using California native plant species) of riparian and coastal sage scrub habitats, preferably in the Pacific Palisades region of Los Angeles County.

3. The Restoration Plan shall include a schedule/timeline of restoration activities and identification of the parties who will be conducting the activities. The Restoration procedures included in the final Restoration Plan (prepared by the Specialist), and as approved by the Executive Director, shall be utilized. If these procedures require planting to occur at a certain time of year beyond the deadlines set forth herein, the Executive Director may, at the written request of Respondents, extend the deadlines as set forth in Section 13.0 of the Consent Orders in order to achieve optimal growth of the vegetation.

4. The Restoration Plan shall include a detailed description of all equipment to be used. Hand tools shall be utilized unless the Specialist demonstrates to the satisfaction of the Executive Director that mechanized equipment is needed and will not significantly impact resources protected under the Coastal Act. The Restoration Plan shall designate areas for staging of any construction equipment and materials, including receptacles and temporary stockpiles of graded materials, all of which shall be covered on a daily basis. The Restoration Plan shall include the hours of operation for all equipment and a contingency plan that addresses: 1) impacts from equipment use, including disruption of areas where revegetation occurs and responses thereto; 2) potential spills of fuel or other hazardous releases that may result from the use of mechanized equipment and responses thereto; and 3) any water quality concerns.

5. The Restoration Plan shall identify the location of the disposal site(s) for the disposal of all materials removed from the site and all waste generated during restoration activities pursuant to the Consent Orders. If a disposal site is located in the Coastal Zone and is not an existing sanitary landfill, a Coastal Development Permit is required. All hazardous waste must be disposed of at a suitable licensed disposal facility.

#### B. Removal Plan

1. Respondents shall submit a Removal Plan prepared by a Specialist to remove all unpermitted development at issue in this matter, as described in Section 7.0 and in the document entitled “Notice of Intent to Commence Proceedings Under the Coastal Act.”

2. The Removal Plan shall provide for removal of all the unauthorized development described in Section 7.0. The Plan shall include a site plan showing all existing concrete rubble at the site and all rubble to be removed. If Respondents assert that it is not feasible to remove some of the concrete rubble, the Plan shall include an analysis and

determination of a licensed engineer regarding such assertion. Such assertions will be subject to the review and approval of the Executive Director, and the Plan must include removal of all unauthorized development identified in Section 5.1, except for any concrete rubble that the Executive Director agrees cannot feasibly be removed.

3. Removal activities shall not disturb areas surrounding the planting area or disturb native vegetation within the planting area.

### C. Revegetation Plan

1. Respondents shall submit a Revegetation Plan. The Revegetation Plan shall include detailed descriptions, including graphic representations, narrative reports, and photographic evidence as necessary, of the vegetation on the subject property prior to any unpermitted activities undertaken on the subject property, and the current state of the subject property. The Revegetation Plan shall demonstrate that the areas impacted by the unpermitted development on the subject property will be restored using planting of species endemic to and appropriate for this site, including riparian and coastal sage scrub species where appropriate.

2. The Revegetation Plan shall show all existing vegetation. The vegetation planted on the subject property shall consist only of native, non-invasive plants endemic to southern California riparian and coastal sage scrub communities. All plantings used shall consist of native plants that were propagated from plants as close as possible to the subject property, in order to preserve the genetic integrity of the flora in and adjacent to the planting area.

3. The Revegetation Plan shall identify the natural habitat type that is the model for the restoration and describe the desired relative abundance of particular species in each vegetation layer. Based on these goals, the plan shall identify the species that are to be planted (plant "palette"), and provide a rationale for and describe the size and number of container plants and the rate and method of seed application. The Revegetation Plan shall indicate that plant propagules should come from local native stock. If plants, cuttings, or seed are obtained from a nursery, the nursery must certify that they are of local origin and are not cultivars and the Revegetation Plan shall provide specifications for preparation of nursery stock (e.g., container size & shape to develop proper root form, hardening techniques, watering regime, etc.). Technical details of planting methods (e.g., spacing, micorrhizal inoculation, etc.) shall also be included.

4. The Revegetation Plan shall address all areas impacted by the unpermitted development listed in Section 7.0 on the subject property (hereinafter "Planting Area"). The Revegetation Plan shall include a detailed description of the methods that shall be utilized to restore the habitat on the subject property to that which existed prior to the unpermitted development, and demonstrate that these methods will result in riparian and coastal sage scrub vegetation on the subject property with a similar plant density, total cover and species composition as that typical of an undisturbed riparian and coastal sage scrub area in the surrounding area within five years from the initiation of revegetation activities. This section shall include a detailed description of reference site(s) including

rationale for selection, location, and species composition. The reference sites shall be located as close as possible to the restoration areas, shall be similar in all relevant respects, and shall provide the standard for measuring success of the restoration under the Consent Orders.

5. The Revegetation Plan shall include a map showing the type, size, and location of all plant materials that will be planted in the Planting Area; the location of all invasive and non-native plants to be removed from the Planting Area; the topography of the site all other landscape features; the location of reference sites; and the location of photograph sites, which will provide reliable photographic evidence for monitoring reports.

6. The Revegetation Plan shall include a schedule for installation of plants and removal of invasive and/or non-native plants and a detailed explanation of the performance standards that will be utilized to determine the success of the restoration. The performance standards shall identify that “x” native species appropriate to the habitat should be present, each with at least “y” percent cover or with a density of at least “y” / square meter. The description of restoration success analysis shall be described in sufficient detail to enable an independent specialist to duplicate it.

7. Respondents shall not employ invasive plant species, which could supplant native plant species, on the subject property. The Revegetation Plan shall demonstrate that all non-native vegetation within the areas subject to revegetation and those areas that are identified as being subject to disturbance as a result of the restoration and revegetation activities will be eradicated. The Revegetation Plan shall indicate that all non-native plant species will be removed from the Planting Area prior to any revegetation activities on the subject property.

8. The Revegetation Plan shall describe the proposed use of artificial inputs, such as watering or fertilization, including the full range of amounts of the inputs that may be utilized. The minimum amount necessary to support the establishment of the plantings for successful restoration shall be utilized. No permanent irrigation system is allowed on the subject property. Temporary above ground irrigation to provide for the establishment of the plantings is allowed for a maximum of three years or until the revegetation has become established, whichever occurs first. If, after the three-year time limit, the revegetation has not established itself, the Executive Director may allow for the continued use of the temporary irrigation system until such time as the revegetation is established.

9. Revegetation of the Planting Area shall be undertaken using accepted planting procedures required by the restoration ecologist or resource specialist. Such planting procedures may suggest that planting would best occur during a certain time of the year. If so, and if this necessitates a change in the planting schedule, the deadline to implement the Revegetation Plan may be extended as provided for under the provisions of Section 13.0, herein.

10. The Restoration Plan shall specify the methods to be used during and after restoration to stabilize the soil and make it capable of supporting native vegetation. Such methods shall not include the placement of retaining walls or other permanent structures, grout, geogrid or similar materials. Any soil stabilizers identified for erosion control shall be compatible with native plant recruitment and establishment. The Revegetation Plan shall specify the type and location of erosion control measures that shall be installed on the subject property and maintained until the impacted areas have been revegetated to minimize erosion and transport of sediment. Such measures shall be provided at all times of the year for at least three years or until the plantings have been established, whichever occurs first, and then shall be removed or eliminated by Respondents.

11. The Revegetation Plan shall describe the monitoring and maintenance methodology and shall include the following provisions:

a. The Restoration Plan shall include maintenance and monitoring methodology, including sampling procedures, sampling frequency, and contingency plans to address potential problems with restoration activities or unsuccessful restoration of the area. Monitoring and maintenance activities shall be conducted in a way that does not impact the sensitive resources on the subject property or on adjacent properties. Any impacts shall be remedied by the Respondents to ensure successful restoration.

b. Respondents shall submit, according to the procedure set forth under Section 3.4, on an annual basis for a period of five years (no later than December 31<sup>st</sup> of each year) a written report, for the review and approval of the Executive Director, prepared by a qualified Specialist, evaluating compliance with the approved Revegetation Plan. The annual reports shall include further recommendations and requirements for additional restoration activities, as necessary, in order for the project to meet the objectives of the Revegetation Plan. These reports shall also include photographs taken annually from the same pre-designated locations (as identified on the map submitted pursuant to Section 3.C.4) indicating the progress of recovery in the Planting Area.

c. At the end of the five-year period, Respondents shall submit, according to the procedure set forth under Section 3.4, a final detailed report prepared by a qualified Specialist for the review and approval of the Executive Director. If this report indicates that the restoration project has in part, or in whole, been unsuccessful, based on the approved Restoration Plan, Respondents shall submit a revised or supplemental plan to compensate for those portions of the original program that were not successful. The Executive Director shall determine if the revised or supplemental restoration plan must be processed as a CDP, a new Restoration Order, or a modification of these Consent Orders. Respondents shall implement the approved plan.

3.2 Upon approval of the Restoration Plan (including the Removal and Revegetation Plans) by the Executive Director, Respondents shall fully implement each plan pursuant to the approved schedule, with all restoration to be completed as early as possible pursuant to recommendations by the consulting Specialist. Unless the approved Restoration Plan provides otherwise, the restoration work shall be completed no later than 45 days after

the approval of the Restoration Plan. The Executive Director may extend this deadline or modify the approved schedule for good cause pursuant to Section 13.0 of the Consent Orders.

3.3 Within 30 days of the completion of the work described in the Removal Plan (Section 3.1B), Respondents shall submit to the Executive Director, according to the procedure set forth under Section 3.4, a report documenting the removal work on the subject property. This report shall include a summary of dates when work was performed and photographs that show implementation of the Removal Plan, as well as photographs of the subject property before and after the concrete removal required by the Removal Plan was completed.

3.4 All plans, reports, photographs and any other materials required by these Consent Orders shall be sent to:

California Coastal Commission  
Attn: Andrew Willis  
200 Oceangate, 10<sup>th</sup> Floor  
Long Beach, CA 90802  
Phone: (562) 590-5071, Facsimile (562) 590-5084

3.5 All work to be performed under the Consent Orders shall be done in compliance with all applicable laws.

#### 4.0 REVISIONS OF DELIVERABLES

If the Executive Director determines that revisions to deliverables required under these Consent Orders are necessary, the Respondents shall revise the deliverables consistent with the Executive Director's specifications, and resubmit them for further review and approval by the Executive Director. All submittals of revised deliverables shall be made within ten days of receipt of a modification request from the Executive Director. The Executive Director may extend the time for these submittals upon a written request and a showing of good cause, pursuant to Section 13.0 of the Consent Orders.

#### 5.0 PERSONS SUBJECT TO THE CONSENT ORDERS

Barry Maiten, as President of Rancho De Las Pulgas, Inc., and Rancho De Las Pulgas Inc., all their successors, assigns, employees, agents, and contractors, and any persons acting in concert with any of the foregoing are jointly and severally subject to all the requirements of these Consent Orders, and shall undertake the work required herein.

#### 6.0 IDENTIFICATION OF THE SUBJECT PROPERTY

The property that is subject to these Consent Orders is described as follows:

16421 Pacific Coast Highway, Pacific Palisades, City and County of Los Angeles,  
Assessor's Parcel Number 4414-018-002.

#### 7.0 DESCRIPTION OF ALLEGED COASTAL ACT VIOLATION

Unpermitted development, as described in Section 7.0 and in the document entitled “Notice of Intent to Commence Proceedings Under the Coastal Act, which consists of the placement of imported fill material, including, but not limited to concrete rubble, construction debris, and dirt in environmentally-sensitive riparian and coastal sage scrub habitat.

#### 8.0 COMMISSION JURISDICTION

The Commission has jurisdiction over resolution of this alleged Coastal Act violation pursuant to Public Resources Code Sections 30810 and 30811. Respondents shall not contest the Commission’s jurisdiction to issue and enforce these Orders.

#### 9.0 NONSUBMISSION OF STATEMENT OF DEFENSE

In light of the intent of the parties to resolve these matters in settlement, and without an admission of wrongdoing, Respondents have not submitted a “Statement of Defense” form as provided for in Section 13181 and 13191 of Title 14 of the California Code of Regulations and have agreed not to contest the legal and factual bases and the terms and issuance of these Consent Orders, including the allegations of Coastal Act violations contained in the Notice of Intent to issue a Cease and Desist Order and Restoration Order August 5, 2005 (NOI). Specifically, Respondents have agreed not to contest the issuance or enforcement of these Consent Orders at a public hearing or any other proceeding. Respondents have also agreed that all jurisdictional elements have been met for the issuance of these Consent Orders.

#### 10.0 EFFECTIVE DATE AND TERMS OF THE CONSENT ORDERS

The effective date of these Consent Orders is the date these Consent Orders are issued by the Commission. The Consent Orders shall remain in effect permanently unless and until rescinded by the Commission.

#### 11.0 FINDINGS

These Consent Orders are issued on the basis of the findings adopted by the Commission, as set forth in the document entitled “Findings for Consent Cease and Desist and Restoration Orders.” The activities authorized and required in these Consent Orders are consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act. The Commission has authorized the activities required in these Consent Orders as being consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act.

#### 12.0 SETTLEMENT/COMPLIANCE OBLIGATION

- 12.1 In light of the intent of the parties to resolve these matters in settlement, Respondents shall pay a monetary settlement in the amount of \$40,002 in bi-annual payments of \$6,667 over 3 years. The settlement monies shall be deposited in the Violation Remediation Account of the California Coastal Conservancy Fund (see Public Resources Code Section 30823). Respondents shall submit the first settlement payment within 30

days of issuance of these Consent Orders to the attention of Andrew Willis of the Commission, payable to the California Coastal Commission/Coastal Conservancy Violation Remediation Account.

- 12.2 Strict compliance with these Consent Orders by all parties subject thereto is required. Failure to comply with any term or condition of these Consent Orders, including any deadline contained in these Consent Orders, unless the Executive Director grants an extension under Section 13.0, will constitute a violation of these Consent Orders and shall result in Respondents being liable for stipulated penalties in the amount of \$250 per day per violation. Respondents shall pay stipulated penalties within 15 days of receipt of written demand by the Commission for such penalties, regardless of whether Respondents have subsequently complied. If Respondents violate these Consent Orders, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including the imposition of civil penalties and other remedies pursuant to Public Resources Code Sections 30821.6, 30822 and 30820 as a result of the lack of compliance with the Consent Orders and for the underlying Coastal Act violations as described herein.

### 13.0 DEADLINES

Prior to the expiration of the deadlines established by these Consent Orders, Respondents may request from the Executive Director an extension of the deadlines contained herein. Such a request shall be made in writing at least 10 days in advance of the deadline and directed to Andrew Willis in the Commission's Long Beach office. The Executive Director shall grant an extension of deadlines upon a showing of good cause, if the Executive Director determines that Respondents have diligently worked to comply with their obligations under these Consent Orders, but cannot meet deadlines due to unforeseen circumstances beyond their control.

### 14.0 SITE ACCESS

Respondents shall provide access to the subject property at all reasonable times to Commission staff and any agency having jurisdiction over the work being performed under these Consent Orders. Nothing in these Consent Orders is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Commission staff may enter and move freely about the portions of the subject property on which the violations are located, and on adjacent areas of the property to view the areas where development is being performed pursuant to the requirements of the Consent Orders for purposes including but not limited to inspecting records, operating logs, and contracts relating to the site and overseeing, inspecting and reviewing the progress of Respondents in carrying out the terms of these Consent Orders.

### 15.0 GOVERNMENT LIABILITIES

Neither the State of California, the Commission, nor its employees shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents in carrying out activities pursuant to these Consent Orders, nor shall the

State of California, the Commission or its employees be held as a party to any contract entered into by Respondents or their agents in carrying out activities pursuant to these Consent Orders.

16.0 WAIVER OF RIGHT TO APPEAL AND SEEK STAY

Persons against whom the Commission issues a Cease and Desist and/or Restoration Order have the right pursuant to Section 30803(b) of the Coastal Act to seek a stay of the Order. However, pursuant to the agreement of the parties as set forth in these Consent Orders, Respondents hereby waive whatever right they may have to seek a stay or to challenge the issuance and enforceability of these Consent Orders in a court of law.

17.0 SETTLEMENT OF CLAIMS

The Commission and Respondents agree that these Consent Orders settle the Commission's monetary claims for relief for those violations of the Coastal Act alleged in the NOI occurring prior to the date of the NOI, (specifically including claims for civil penalties, fines, or damages under the Coastal Act, including under Public Resources Code Sections 30805, 30820, and 30822), with the exception that, if Respondents fail to comply with any term or condition of these Consent Orders, the Commission may seek monetary or other claims for both the underlying violations of the Coastal Act and for the violation of these Consent Orders. In addition, these Consent Orders do not limit the Commission from taking enforcement action due to Coastal Act violations at the subject property other than those that are the subject of the NOI or these Consent Orders.

18.0 SUCCESSORS AND ASSIGNS

These Consent Orders shall run with the land, binding Respondents and all successors in interest, heirs, assigns, and future owners of the subject property. Respondents shall provide notice to all successors, assigns, and potential purchasers of the subject property of any remaining obligations under these Consent Orders.

19.0 MODIFICATIONS AND AMENDMENTS

Except as provided in Section 13.0, these Consent Orders may be amended or modified only in accordance with the standards and procedures set forth in Section 13188(b) of the Commission's administrative regulations.

20.0 GOVERNMENTAL JURISDICTION

These Consent Orders shall be interpreted, construed, governed and enforced under and pursuant to the laws of the State of California.

**21.0 LIMITATION OF AUTHORITY**

**21.1** Except as expressly provided herein, nothing in these Consent Orders shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with these Consent Orders.

**21.2** Correspondingly, Respondents have entered into these Consent Orders and waived their right to contest the factual and legal bases for issuance of these Consent Orders, and the enforcement thereof according to its terms. Respondents have agreed not to contest the Commission's jurisdiction to issue and enforce these Consent Orders.

**22.0 INTEGRATION**

These Consent Orders constitute the entire agreement between the parties and may not be amended, supplemented, or modified except as provided for in these Consent Orders.

**23.0 STIPULATION**

Respondents and their representatives attest that they have reviewed the terms of these Consent Orders and understand that their consent is final and stipulate to its issuance by the Commission.

**IT IS SO STIPULATED AND AGREED:**  
On behalf of Respondents:

*Barry Malten*

Barry Malten - PRESIDENT  
RANCHO DE LAS PULGAS INC.

04-24-2008

Date

*Barry Malten*

Rancho De Las Pulgas, Inc.  
BARRY MALTEN - PRESIDENT

04-24-2008

Date

Executed in Marina Del Rey, California on behalf of the California Coastal Commission:

\_\_\_\_\_  
Peter Douglas, Executive Director

\_\_\_\_\_  
Date

**CEASE AND DESIST ORDER NO. CCC-08-CD-06**  
**(Holcomb Engineering Contractors, Inc. and Robert Holcomb)**

1.0 **GENERAL**

Pursuant to its authority under Public Resources Code § 30810, the California Coastal Commission (“Commission”) hereby authorizes and orders Holcomb Engineering Contractors Inc., Robert Holcomb, and their employees, agents, and contractors; and any persons acting in concert with any of the foregoing (“Respondents”) to take all actions required by Cease and Desist Order No. CCC-07-CD-08 (“Order”) by complying with the following conditions:

- 1.1. Cease and desist from engaging in any further development on the property identified in Section 3.0, below (“subject property”), unless authorized pursuant to the Coastal Act or specifically required under Cease and Desist Order No. CCC-08-CD-05 and Restoration Order CCC-08-RO-02, as issued to Barry Maiten and Rancho De Las Pulgas, Inc. and attached as Appendix A, to effectuate the terms and conditions of the Consent Orders;
- 1.2. Avoid impeding the ability of Rancho De Las Pulgas, Inc. and/or Barry Maiten to perform and carry out the approved Restoration Plan prepared pursuant to CCC-08-CD-05 and CCC-08-RO-02;
- 1.3. Cooperate, if necessary, with the implementation of the Restoration Plan prepared pursuant to CCC-08-CD-05 and CCC-08-RO-02.

2.0 **PERSONS SUBJECT TO THIS ORDER**

Robert Holcomb and Holcomb Engineering Contractors, Inc., their employees, agents, and contractors, and any persons acting in concert with any of the foregoing are jointly and severally subject to all the requirements of this Order, and shall abide by the terms and conditions set forth herein.

3.0 **IDENTIFICATION OF THE SUBJECT PROPERTY**

The property that is subject to this Order is owned by Rancho De Las Pulgas, Inc. and is described as follows:

16421 Pacific Coast Highway, Pacific Palisades, City and County of Los Angeles,  
Assessor’s Parcel Number 4414-018-002.

4.0 **DESCRIPTION OF ALLEGED COASTAL ACT VIOLATION**

Placement of imported fill material, including, but not limited to, dirt, concrete rubble, and construction debris, in environmentally-sensitive riparian and coastal sage scrub habitat.

5.0 **COMMISSION JURISDICTION**

The Commission has jurisdiction over resolution of this alleged Coastal Act violation pursuant to Public Resources Code Section 30810.

#### 6.0 EFFECTIVE DATE AND TERMS OF THIS ORDER

The effective date of this Order is the date this Order is issued by the Commission. The Order shall remain in effect permanently unless and until rescinded by the Commission.

#### 7.0 FINDINGS

This Order is issued on the basis of the findings adopted by the Commission at its May 2008 hearing, as set forth in the document entitled "Findings for Cease and Desist and Restoration Orders." The activities authorized and required in this Order are consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act.

#### 8.0 COMPLIANCE OBLIGATION

Strict compliance with this Order by all parties subject hereto is required. Public Resources Code Sections 30803 and 30805 authorize the Commission to initiate litigation to seek injunctive relief and an award of civil penalties, respectively, in response to any violation of the Coastal Act. Section 30820(a) provides for civil liability of \$500 to \$30,000 to be imposed on anyone who undertakes development that is inconsistent with a previously issued CDP or is performed without a CDP. Section 30820(b) provides that additional civil liability may be imposed on any person who knowingly and intentionally undertakes development that is inconsistent with a previously issued CDP or is performed without a CDP. Penalties under Section 30820(b) range from \$1,000 to \$15,000 per day for each day in which the violation persists. Pursuant to Section 30821.6, if it is determined that an order issued by the Commission has been violated, the violator may be liable for penalties of up to \$6,000 per day for every day the violation of the order continues. Section 30822 allows a court to award exemplary penalties when it is determined that additional deterrence is necessary to ensure compliance with the Coastal Act.

#### 9.0 GOVERNMENT LIABILITIES

Neither the State of California, the Commission, nor its employees shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents in carrying out activities pursuant to this Order, nor shall the State of California, the Commission or its employees be held as a party to any contract entered into by Respondents or their agents in carrying out activities pursuant to this Order.

#### 10.0 APPEAL AND ORDER ENFORCEMENT

Pursuant to Public Resources Code Section 30803(b), any person or entity against whom this Order is issued may file a petition with the Superior Court for a stay of this Order. Pursuant to Public Resources Code Section 30803(a), any person may maintain an action

for declaratory and equitable relief to restrain any violation of the Coastal Act or of a cease and desist order issued thereunder.

11.0 MODIFICATIONS AND AMENDMENTS

Except as provided in Section 9.0, this Order may be amended or modified only in accordance with the standards and procedures set forth in Section 13188(b) of the Commission's administrative regulations.

12.0 GOVERNMENTAL JURISDICTION

This Order shall be interpreted, construed, governed and enforced under and pursuant to the laws of the State of California.

13.0 LIMITATION OF AUTHORITY

Except as expressly provided herein, nothing in this Order shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with this Order.

14.0 INTEGRATION

This Order constitutes the entire agreement between the parties and may not be amended, supplemented, or modified except as provided for in Section 13.0 of this Order.

IT IS SO ORDERED:

On behalf of Respondents:

\_\_\_\_\_  
Holcomb Engineering Contractors, Inc.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Robert Holcomb

\_\_\_\_\_  
Date

Executed in Marina Del Rey, California on behalf of the California Coastal Commission:

\_\_\_\_\_  
Peter Douglas, Executive Director

\_\_\_\_\_  
Date

**CCC-08-CD-05, CCC-08-RO-02, and CCC-08-CD-06  
Exhibit List**

**Exhibit  
Number**

**Description**

1. Site Map and Location.
2. Aerial Photograph of Site Location
3. Photograph of Unpermitted Fill in Canyon
4. Photograph of Concrete Rubble and Invasive Plants on Slope
5. Notice of Violation Letter to Rancho Pulgas dated May 17, 2004
6. Notice of Violation Letter to Rancho Pulgas dated July 20, 2004
7. Notice of Intent to Record a Notice of Violation and to Commence Restoration Order Proceedings from Executive Director to Rancho Pulgas, dated August 5, 2005
8. Notice of Intent to Commence Restoration Order Proceedings from Executive Director to Robert Holcomb and Holcomb Engineering dated August 12, 2005
9. Notice of Violation of the Coastal Act, recorded at Los Angeles County Recorder's Office on October 6, 2005
10. Restoration Plan Prepared by Compliance Biology dated September 5, 2006
11. Coastal Development Permit 5-98-301
12. Letter from Representative of Malibu Landowner regarding Contract with Holcomb Engineering to Remove Concrete Rubble dated March 17, 2006
13. Evidence of Compliance with the Las Pulgas Canyon Basic Maintenance Agreement submitted to staff on March 7, 1999

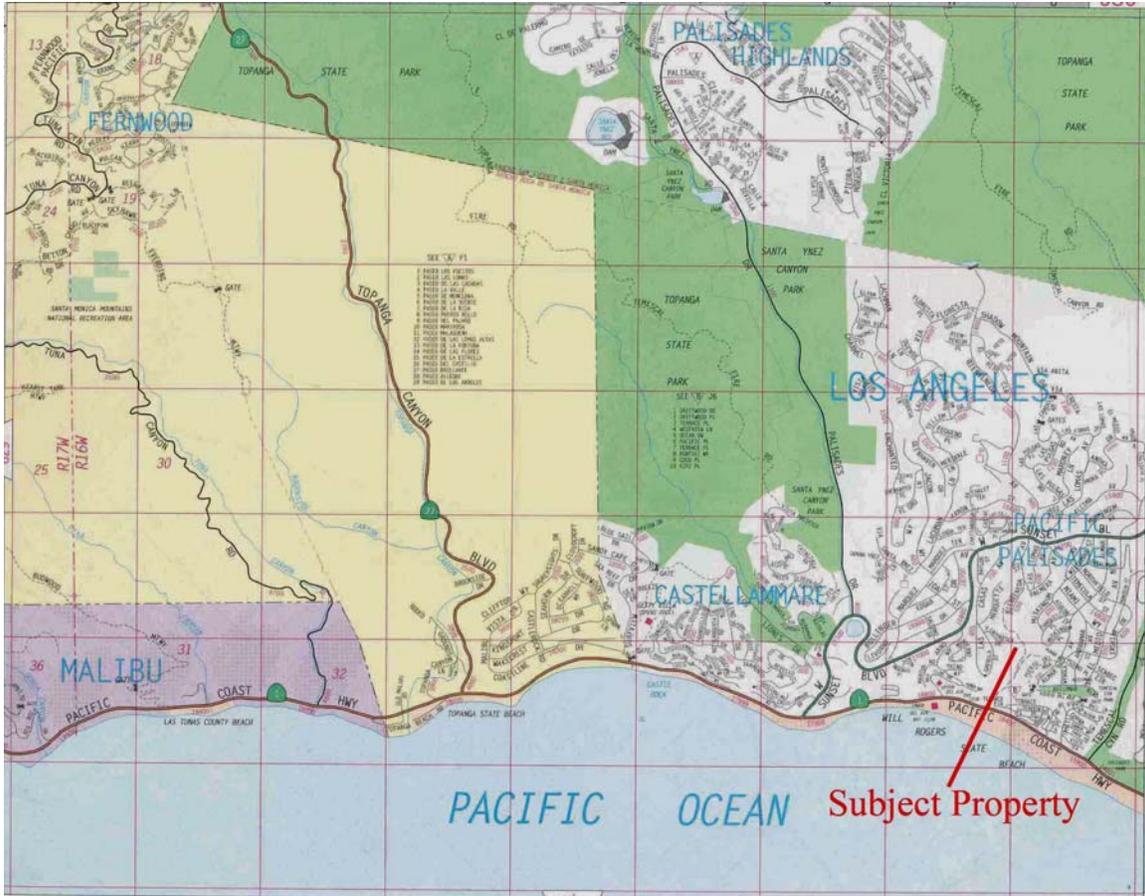
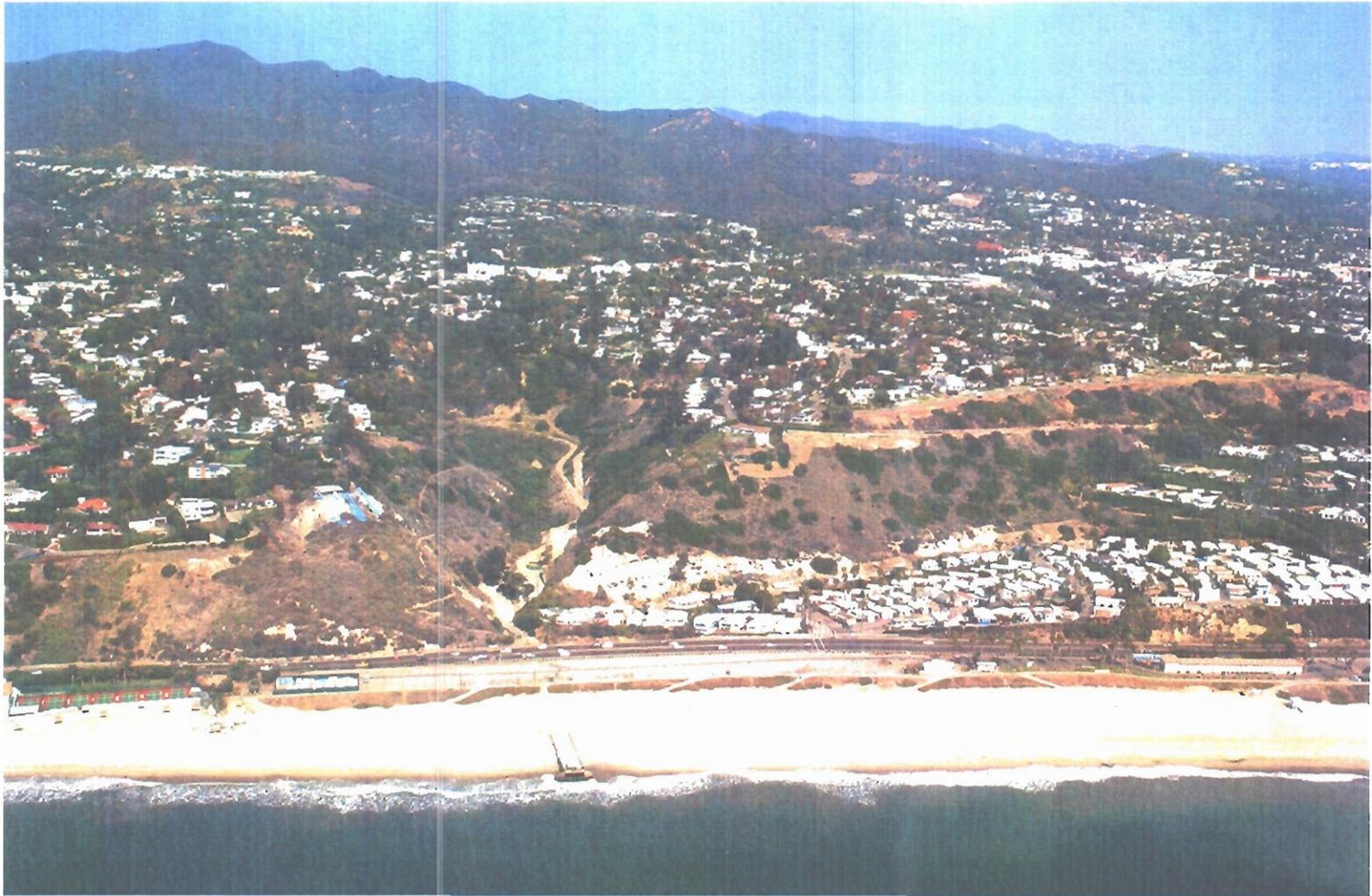
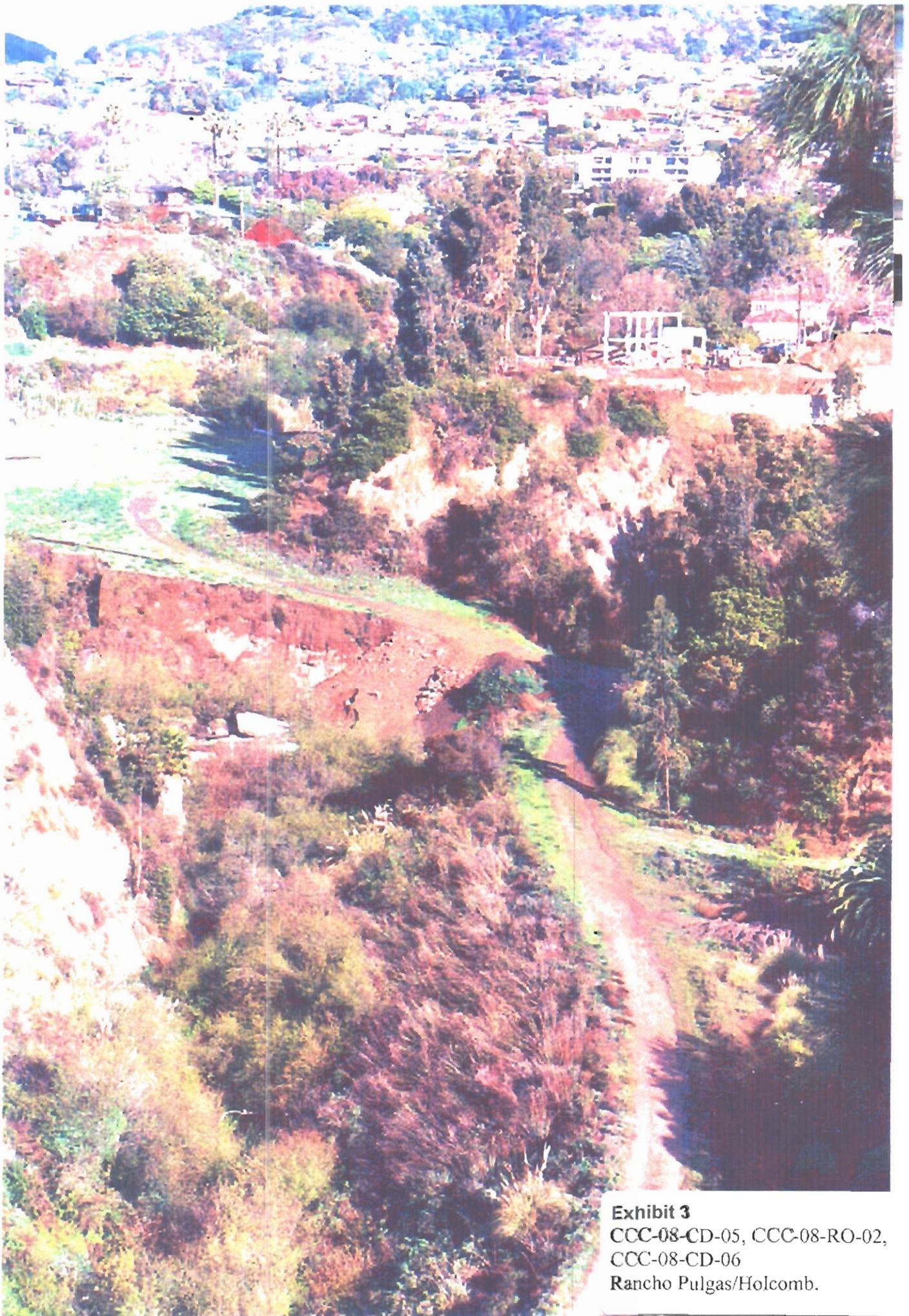


Exhibit 1: Map of Property Location

Exhibit 1  
CCC-08-CD-05;-06;  
CCC-08-RO-02  
Rancho Pulgas/Holcomb



**Exhibit 2**  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb.



**Exhibit 3**  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb.



**Exhibit 4**  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb.

**CALIFORNIA COASTAL COMMISSION**

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

**NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT  
REGULAR AND CERTIFIED MAIL**

May 17, 2004

Rancho De Las Pulgas Inc.  
11693 San Vicente Boulevard, #904  
Los Angeles, CA 90049

Violation File Number: V-5-03-173

Property location: 16421 Pacific Coast Highway, Pacific Palisades, Los Angeles, CA

Violation: Unpermitted deposition of fill material in a riparian area

Dear Rancho De Las Pulgas Inc.:

Our staff has confirmed that development consisting of the unpermitted deposition of fill material on the stream bank adjacent to an existing access road has occurred on your property, which is located within the Coastal Zone. Commission staff has researched our permit files and concluded that no coastal development permits have been issued for the above development. Deposition of fill material constitutes "development" under the Coastal Act. Pursuant to Section 30600 (a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. "Development" is defined by Section 30106 of the Coastal Act as

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

The above mentioned unpermitted placement of fill constitutes development under the Coastal Act and, therefore, is subject to all coastal development permit requirements. Any development activity conducted in the Coastal Zone without a valid coastal development permit constitutes a violation of the Coastal Act. Our staff has confirmed that no coastal development permit has been issued for the above referenced development. Any

**Exhibit 5 --- Page 1 of 3**

CCC-08-CD-05, CCC-08-RO-02,

CCC-08-CD-06

Rancho Pulgas/Holcomb.

**V-5-03-173 (Las Pulgas Canyon)**  
**Page 2 of 3**

development activity conducted in the coastal zone without a valid Coastal Development Permit constitutes a violation of the Coastal Act.

In most cases, violations involving unpermitted development may be resolved administratively by obtaining a coastal development permit to either: (1) authorize the development "after-the-fact", (2) remove the unpermitted development and restore the site to its previous condition or (3) a combination of the two actions which may include removal of some or all fill and authorization of an alternative form or method of slope stabilization. In order to resolve this matter administratively and to avoid further enforcement action, please promptly submit a complete coastal development permit application.

In order to resolve this matter in a timely manner and avoid the possibility of a monetary penalty or fine, we are requesting that you submit a complete coastal development permit application by **June 21, 2004**, to either: (1) authorize the development "after-the-fact", (2) remove the unpermitted development and restore the site to its previous condition or (3) a combination of the two actions which may include removal of some or all fill and authorization of an alternative form or method of slope stabilization. For your convenience, a coastal development permit application has been enclosed. Please contact me by no later than **June 7, 2004**, regarding how you intend to resolve this violation.

Coastal Act Section 30809 states that if the Executive Director of the Commission determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, the Executive Director may issue an order directing that person to cease and desist. Coastal Act section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. A violation of a cease and desist order can result in civil fines of up to \$6,000 for each day in which the violation persists.

In addition, we remind you that Sections 30803 and 30805 of the Coastal Act authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a)(1) of the Coastal Act provides that any person who violates any provision of the Coastal Act may be subject to a penalty amount that shall not exceed \$30,000 and shall not be less than \$500. Coastal Act section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 for each day in which the violation persists.

Finally, the Executive Director is authorized, after providing notice and the opportunity for a hearing as provided for in Section 30812 of the Coastal Act, to record a Notice of Violation against your property.

**V-5-03-173 (Las Pulgas Canyon)**  
**Page 3 of 3**

We appreciate your willingness to work toward resolution of this violation and we hope that we can continue to work together cooperatively in the future. If you have any questions, please feel free to contact me at 562-590-5071.

Sincerely,

Tessa Kerr  
Assistant Enforcement Officer

Enclosures: Coastal Development Permit Application

cc: **Steve Hudson, Enforcement Supervisor, Southern Districts, CCC**  
**Teresa Henry, District Manager, South Coast District, CCC**  
**Pam Emerson, Los Angeles County Supervisor, CCC**  
**Al Padilla, Coastal Program Analyst, CCC**

**Exhibit 5 --- Page 3 of 3**  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb

**CALIFORNIA COASTAL COMMISSION**

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

**NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT  
REGULAR AND CERTIFIED MAIL**

July 20, 2004

Rancho De Las Pulgas Inc.  
11693 San Vicente Boulevard, #904  
Los Angeles, CA 90049

Violation File Number: V-5-03-173  
Property location: 16421 Pacific Coast Highway, Pacific Palisades, Los Angeles, CA  
Violation: Unpermitted deposition of fill material in a riparian area

Dear Rancho De Las Pulgas Inc.:

We have verified that you are in receipt of our letter to you dated May 17, 2004, which informed you that: (1) unpermitted development has occurred on your property and (2) in order to resolve this matter administratively and avoid the possibility of court-imposed fines and penalties, the deadline for you to submit a complete Coastal Development Permit Application to either authorize the as-built development or remove the unpermitted development and restore the site was June 21, 2004. As of this date, our office has not received an application for the above unpermitted development.

As previously stated, the unpermitted development consisting of: unpermitted placement of fill on your property, which is located in the Coastal Zone, requires a coastal development permit. Section 30600(a) of the Coastal Act states that in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the Coastal Zone must obtain a coastal development permit. Any development performed without a coastal development permit constitutes a violation of the California Coastal Act.

In most cases, violations involving unpermitted development may be resolved administratively, avoiding the possibility of court-imposed fines and penalties, by obtaining a coastal development permit to either: (1) authorize the development "after-the-fact", (2) remove the unpermitted development and restore the site to its previous condition or (3) a combination of the two actions which may include removal of some or all fill and authorization of an alternative form or method of slope stabilization. In order to resolve this matter administratively and to avoid further enforcement action, please promptly submit a complete coastal development permit application.

In order to resolve this matter administratively, you were previously requested to submit an application by June 21, 2004, to either: (1) authorize the development "after-the-fact", (2) remove the unpermitted development and restore the site to its previous condition or (3) a combination of the two actions which may include removal of some or all fill and authorization of an alternative form or method of slope stabilization. However, as of this date, you have still not submitted an application. If you intend to resolve this matter administratively, please submit your application by no later than **August 24, 2004**. For your convenience, a coastal development permit application has been enclosed. Although we would still prefer to resolve this matter administratively, if we are unable to do so within a timely manner, you will be subject to further enforcement action.

**Exhibit 6 ---- Page 1 or 2**  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb.

**V-5-03-173 (Las Pulgas Canyon)**

**Page 2 of 3**

Coastal Act Section 30809 states that if the Executive Director of the Commission determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, the Executive Director may issue an order directing that person to cease and desist. Coastal Act section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. A violation of a cease and desist order can result in civil fines of up to \$6,000 for each day in which the violation persists.

In addition, we remind you that Sections 30803 and 30805 of the Coastal Act authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a)(1) of the Coastal Act provides that any person who violates any provision of the Coastal Act may be subject to a penalty amount that shall not exceed \$30,000 and shall not be less than \$500. Coastal Act section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 for each day in which the violation persists.

Finally, the Executive Director is authorized, after providing notice and the opportunity for a hearing as provided for in Section 30812 of the Coastal Act, to record a Notice of Violation against your property.

Please contact me by no later than August 10, 2004 regarding how you intend to resolve this violation. We hope that you will choose to cooperate in resolving this violation by submitting a permit application by August 24, 2004. If you do not, we will consider pursuing additional enforcement action against you.

Thank you for your attention to this matter. If you have any questions regarding this letter or the pending enforcement case, please feel free to contact me.

Sincerely,

Tessa Kerr  
Assistant Enforcement Officer

cc: **Steve Hudson, Enforcement Supervisor**  
**Teresa Henry, District Manager, South Coast District, CCC**  
**Pam Emerson, Los Angeles County Supervisor, CCC**  
**Al Padilla, Coastal Program Analyst, CCC**

**Enclosures: Coastal Development Permit Application**

**Exhibit 6 --- Page 2 of 2**  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb.

**CALIFORNIA COASTAL COMMISSION**

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



**NOTICE OF INTENT TO COMMENCE PROCEEDINGS UNDER THE COASTAL ACT  
VIA CERTIFIED and REGULAR MAIL  
(7004 1160 0003 4567 7502)**

August 5, 2005

Barry Maiten, President  
Rancho De Las Pulgas Inc.  
11693 San Vicente Boulevard, #802  
Los Angeles, CA 90049

Violation File Number: V-5-03-173

Property location: 16421 Pacific Coast Highway, Pacific Palisades; Los Angeles County; Assessors Parcel No. 4414-018-002

Violation: Unpermitted placement of fill material including, but not limited to dirt, concrete rubble, and construction debris, in a riparian area

Dear Mr. Maiten:

The purpose of this letter is to notify you of my intent, as the Executive Director of the California Coastal Commission ("Commission"), to commence proceedings for issuance of a Cease and Desist and Restoration Order to you and Rancho De Las Pulgas, Inc. ("Rancho Pulgas"), to order and authorize the removal of unpermitted development and the restoration of the site, and also to record a Notice of Violation of the Coastal Act. This letter follows up the discussions you have been having with Andrew Willis of my staff, regarding your desire to resolve this violation.

The unpermitted development consists of the placement of fill material in a riparian area that is located at 16421 Pacific Coast Highway, Pacific Palisades, Los Angeles County, APN 4414-018-002 ("subject property"), which is owned by Rancho Pulgas. The fill material appears to be dirt, concrete rubble, and construction debris imported from other, unrelated properties. The specific location on the subject property of the unpermitted fill is the point on the eastern flank of Las Pulgas Canyon where a land bridge crosses the mouth of a tributary canyon that enters from the east. Access to the subject property and consequently to the location of the unpermitted development is controlled by a locked gate to which you control both the key and lock combination.

**Exhibit 7 --- Page 1 of 8**  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb

The purpose of these enforcement proceedings is to address unpermitted development at the subject property and to obtain a resolution of the situation and restoration of the site via a Cease and Desist and Restoration Order directing and authorizing you to: 1) cease and desist from constructing and/or maintaining all unpermitted development, 2) remove the unpermitted development, and 3) restore the impacted areas to their pre-violation condition.

The Commission may issue a *unilateral* Cease and Desist Order that requires actions to remedy the unpermitted development at your property. If the Commission issues a unilateral Cease and Desist Order to obtain restoration of the property, this matter may also be referred to the Office of the Attorney General for filing of litigation against Rancho Pulgas to seek civil penalties for Coastal Act violations.

Alternatively, the Commission staff is willing to discuss a negotiated Consent Cease and Desist Order that the Commission would issue with the agreement and consent of Rancho Pulgas. A Consent Cease and Desist Order is similar to a settlement agreement and would provide for Rancho Pulgas to agree to its issuance by the Commission prior to the public hearing. A Consent Order would provide you with an opportunity to have input into the process and timing of the implementation of the remediation plan and would allow you to negotiate a monetary settlement amount with Commission staff, so as to settle the matter of restoration and penalties as well as avoid litigation over this issue. I understand that Commission staff has already received a restoration plan from your agent and is eager to work with you on an agreement for Commission approval that would authorize this restoration through a Consent Order.

The proposed Cease and Desist and Restoration Orders are discussed in more detail in the following sections of this letter, and, as we have indicated to you, we are more than willing to discuss the process and the most efficient means to resolve the violations.

In addition, the Commission seeks to record a Notice of Violation in this matter pursuant to Section 30812 of the Coastal Act.

#### **Permit History**

On June 11, 1999, the Commission approved Coastal Development Permit ("CDP") No. 5-98-301 ("the permit") to authorize Rancho De Las Pulgas, Inc to clear vegetation from two segments of a concrete-lined flood control channel located on the subject property and plant/maintain some of the creek bank area outside of the concrete-lined flood control channel. The Commission attached seven special conditions to the permit to ensure that the development approved pursuant to the permit would be undertaken in conformity with the policies of Chapter 3 of the Coastal Act.

Special Condition 1 attached to CDP No. 5-98-301 reads as follows:

1. **Future Streambed Alterations**

*By accepting this permit, the applicant agrees before undertaking any such development to apply for a Coastal Development Permit for any use of heavy equipment, future streambed alterations and any vegetation removal within 50' of the outside edge of the streambed including the channelized streambed.*

Also, Special Condition 3 states:

3. **Future Development**

*With the acceptance of this permit, the applicant acknowledges that any change in use or alignment of the streambed, as approved by this permit, will require an amendment to this permit.*

The unpermitted deposition of fill into the riparian area altered the streambed and smothered vegetation within 50' of the creek. Therefore, the deposition of fill was not in compliance with the terms and conditions of CDP No. 5-98-301.

Furthermore, the unpermitted deposition of fill does not conform to the on-going maintenance program for the subject property that Rancho Pulgas proposed in its application for CDP No. 5-98-30 and which the Commission accepted and incorporated into the permit issued to Rancho Pulgas. The Las Pulgas Canyon Basic Maintenance Program, signed by you in your capacity of president of Rancho Pulgas states:

2. *No work shall be performed in the still-functioning riparian areas of the canyon, such as riparian areas where native plants are still present alone or in conjunction with non-native species and any areas where the channel is not concrete-lined or not channeled through storm drains, unless requested by Flood Control or other agencies having jurisdiction over the area and subject to a permit from the Department of Fish & Game or a letter of exemption stating that no permit is needed for such work.*

**Violation History**

In early July 2003, staff learned that deposition of fill, including but not limited to dirt, concrete rubble, and construction debris imported from other, unrelated properties, into the above-referenced riparian area had recently occurred. On July 18, 2003, staff spoke with Robert Holcomb regarding placement of fill on the site. You stated in a letter to staff dated April 15, 2005, that you provided Mr. Holcomb with keys and lock combinations to allow Mr. Holcomb to access the canyon in order for him to perform maintenance work on surrounding properties that are not owned by Rancho Pulgas. Mr. Holcomb told staff that he had placed fill on the road shoulder to shore up the road as the stream bank eroded. On July 18, 2003, Commission Staff informed Mr. Holcomb that any future placement of fill on the subject property would constitute

a knowing and intentional violation of the Coastal Act. On August 13, 2003, a neighbor photographed more deposition of dirt imported from off the property in the riparian area and on August 14, observed another dump truck depositing imported dirt at the site.

Commission staff confirmed the presence of the unpermitted fill on October 8, 2003. While on site, staff informed Mr. Holcomb that restoration of the site was necessary. In "Notice of Violation" letters to you regarding this situation, dated May 17, 2004, and July 20, 2004, staff requested that you resolve the violation by submitting a plan detailing restoration of the site. On January 18, 2005 staff met with your agent, Dr. Klaus Radtke, on site to discuss restoring the site. Pursuant to that meeting, a subsequent phone conference on January 21, 2005 with Dr. Radtke, and a letter to you dated April 6, 2005, Dr. Radtke prepared a plan for recommended restoration and submitted it to Commission staff on April 19, 2005. Commission staff has reviewed this plan and found the goals of the plan to be consistent with the restoration measures staff requested of you in order to resolve this violation. Staff will contact you and Dr. Radtke in a subsequent letter to identify details necessary to complete the plan.

#### **Cease and Desist Order**

The Commission's authority to issue Cease and Desist Orders is set forth in Section 30810(a) of the Coastal Act, which states the following:

*If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist.*

I am issuing this notice of intent to commence Cease and Desist Order proceedings to order and authorize removal of the above-referenced unpermitted development on the subject property.

Placement of fill material constitutes "development" as defined in Section 30106 of the Coastal Act. Pursuant to Section 30600(a) of the Coastal Act, any person wishing to perform or undertake development in the coastal zone must obtain a coastal development permit, in addition to any other permit required by law. The site of the unpermitted development is within the coastal zone area of the City of Los Angeles. Section 30600(b) of the Coastal Act allowed the City of Los Angeles, or in other areas, the appropriate local government, to assume permit authority prior to certification of a local coastal program. Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the "Dual Permit Jurisdiction" area, the Coastal Act requires that the development receive a permit from both the Commission and local government. Section 30601 requires a coastal development permit from the Commission on all lands located (1) between the sea and the first public road, (2) within 300 feet of the inland extent of a beach, or the sea where there is no beach, (3) on tidelands or submerged lands, (4) on lands located within 100 feet of a wetland or stream, (5) on lands located within 300 feet of the top of the seaward face of a coastal bluff, or (6) any development

which constitutes a major public works project. The unpermitted fill is located within 100 feet of Las Pulgas Creek.

Commission staff has confirmed that no coastal development permit, from either the City of Los Angeles or the Commission, has been issued for placement of fill on the subject property. Additionally, even if you had applied for authorization, I note that staff could not recommend approval of a CDP to authorize placement of fill in a riparian area because the development is inconsistent with the policies of Chapter 3 of the Coastal Act. Further, this deposition of fill is not in compliance with the terms and conditions of CDP No. 5-98-301. Any development conducted in the coastal zone without a valid coastal development permit or that is not in compliance with a previously approved permit constitutes a violation of the Coastal Act.

Based on Section 30810(b) of the Coastal Act, the Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act, including immediate removal of any development or material.

#### **Restoration Order**

Section 30811 of the Coastal Act authorizes the Commission to order restoration of a site as follows:

*In addition to any other authority to order restoration, the commission...may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission...the development is inconsistent with this division, and the development is causing continuing resource damage.*

I have determined that the specified activities meet the criteria of Section 30811 of the Coastal Act, based on the following:

- 1) Development consisting of placement of fill material, including, but not limited to, dirt, concrete rubble, and construction debris imported from other, unrelated properties, in a riparian area has occurred on the subject property without a CDP.
- 2) The unpermitted development is inconsistent with the resource protection policies of the Coastal Act, including, but not limited to, Sections 30231 (Biological productivity; water quality), 30240 (Environmentally sensitive habitat areas), 30251 (Scenic and visual qualities) and 30253 (insure stability).

The unpermitted development is located on the banks and in the bed of a blue-line stream, as mapped by the U.S. Geological Survey. Most blue line streams are considered environmentally sensitive habitat areas; they can support sensitive riparian habitat, which, in turn, supports a myriad of vertebrate and invertebrate species. The deposition of fill degraded the habitat value of the riparian area both at the site of the fill and downstream

through increased sedimentation. Further, the fill disturbed native vegetation on the canyon slope and creek bed. The presence of the fill on the canyon slope and creek bed diminishes the scenic and visual qualities of the riparian area. Also, the stability and structural integrity of the unpermitted development was not assured.

- 3) The unpermitted development is causing continuing resource damage, as defined by Section 13190 of the Commission's regulations. The unpermitted development has impacted the resources listed in the previous paragraph (item number two). Such impacts meet the definition of damage provided in Section 13190(b): "any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development." The unpermitted development is still present, and the impacts of the unpermitted development at the subject property have not been remedied; therefore, the damage that the development is causing to resources protected by the Coastal Act is continuing.

For the reasons stated above, I have decided to commence a Restoration Order proceeding before the Commission. The procedures for the issuance of Restoration Orders are described in Sections 13190 through 13197 of the Commission's regulations. Section 13196(e) of the Commission's regulations states the following:

*Any term or condition that the commission may impose which requires removal of any development or material shall be for the purpose of restoring the property affected by the violation to the condition it was in before the violation occurred.*

Accordingly, any Restoration Order that the Commission may issue will have as its purpose the restoration of the subject property to the conditions that existed prior to the occurrence of the unpermitted development described above.

#### **Notice of Violation**

The Commission's authority to record a Notice of Violation is set forth in Section 30812 of the Coastal Act, which states the following:

*Whenever the executive director of the Commission has determined, based on substantial evidence, that real property has been developed in violation of this division, the executive director may cause a notification of intention to record a notice of violation to be mailed by regular and certified mail to the owner of the real property at issue, describing the real property, identifying the nature of the violation, naming the owners thereof, and stating that if the owner objects to the filing of a notice of violation, an opportunity will be given to the owner to present evidence on the issue of whether a violation has occurred.*

I am issuing this Notice of Intent to record a Notice of Violation because, as discussed above, unpermitted development has occurred at the subject property, in violation of the Coastal Act. This is an interim measure, and under the provision of 30182(f) of the Coastal Act, a Notice of Violation will be rescinded after the violation has been resolved. Section 30812 of the Coastal Act allows me, as the Executive Director, after providing notice and opportunity for a hearing, to record a Notice of Violation of the Coastal Act against your property, unless you object in writing as per 30812 within 20 days of the date of mailing of this letter.

An alternative to addressing the Notice of Violation at a public hearing is to include in the terms of the Consent Order an agreement to record a Notice of Violation and later rescind that notice after restoration of the site is complete. Only in the event that we do not reach an agreement through a Consent Order, would a hearing on the Notice of Violation be held at the same hearing as the standard Commission orders. Accordingly, a Notice of Violation will be recorded after issuance of the Order. No later than 30 days after staff determines that you have fully complied with this Order, I shall record a notice of rescission of the Notice of Violation, pursuant to Section 30812(f). The notice of rescission shall have the same effect of a withdrawal or expungement under Section 405.61 of the Code of Civil Procedure.

**If you object to the recordation of a Notice of Violation in this matter and wish to present evidence on the issue of whether a violation has occurred, you must respond in writing, to the attention of Andrew Willis using the address provided on the letterhead, no later than August 30, 2005. Please include the evidence you wish to present to the Coastal Commission in your written response and identify any issues you would like us to consider.**

#### **Additional Procedures**

In addition to the procedures for proposing and issuing enforcement orders that are discussed in this letter, please be advised that Coastal Act Sections 30803 and 30805 authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil penalties in response to any violation of the Coastal Act. Coastal Act Section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed \$30,000. Further, Section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs any development in violation of the Coastal Act can be subject to a civil penalty of up to \$15,000 for each day in which the violation persists. Additional penalties of up to \$6,000 per day can be imposed if a cease and desist or restoration order is violated. Section 30822 further provides that exemplary damages may also be imposed for knowing and intentional violations of the Coastal Act or of any orders issued pursuant to the Coastal Act.

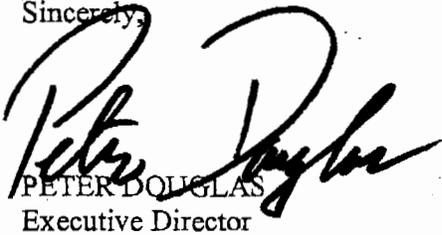
We are more than willing to resolve these issues through settlement and we would be happy to discuss a mutually agreeable settlement amount for the above-listed violations. As part of your settlement of this matter, please send, after reviewing the above-listed penalty amounts, a settlement proposal to our Long Beach office. In your settlement proposal, please include a formal offer of monetary settlement.

Barry Maiten  
August 5, 2005  
Page 8 of 8

In accordance with Section 13181(a) and 13191(a) of the Commission's regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this notice of intent to commence Cease and Desist Order and Restoration Order proceedings by completing the enclosed Statement of Defense form. **The Statement of Defense form must be returned to the Commission's Long Beach office, directed to the attention of Andrew Willis, no later than August 30, 2005.** The filing of the Statement of Defense form is unnecessary if we have agreed on the terms of a Consent Order to resolve this matter. If such agreement were reached, you would be required to stipulate to the facts of the case.

Commission staff has tentatively scheduled the hearing for the proposed Cease and Desist and Restoration Order during the October 12-14, 2005 Commission meeting in San Diego. Again, we appreciate your cooperation thus far and look forward to further discussions with you. We would like to resolve this amicably if possible and are willing to work with you to do so. If you have any questions regarding this letter or the enforcement case, please call Andrew Willis at (562) 590-5071 or send correspondence to his attention using the address provided on the letterhead.

Sincerely,



PETER DOUGLAS  
Executive Director

Enclosure:                      **Statement of Defense Form for Cease and Desist and Restoration Orders**

cc: w/out enc.                      **Lisa Haage, Chief of Enforcement**  
**Sandy Goldberg, Staff Counsel**  
**Pat Veasart, Southern California Enforcement Team Leader**  
**Andrew Willis, District Enforcement Analyst**

**Exhibit 7 ---- Page 8 or 8**  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb.

**CALIFORNIA COASTAL COMMISSION**

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

**NOTICE OF INTENT TO COMMENCE PROCEEDINGS UNDER THE COASTAL ACT  
VIA CERTIFIED and REGULAR MAIL**

August 12, 2005

Robert Holcomb  
Holcomb Engineering Contractors, Inc.  
5100 Calmview Ave.  
Baldwin Park, CA 91706

Violation File Number: V-5-03-173

Property location: 16421 Pacific Coast Highway, Pacific Palisades, Los Angeles; Los Angeles County; APN 4414-018-002

Violation: Unpermitted placement of imported fill material, including, but not limited to dirt, concrete rubble, and construction debris, in a riparian area

Dear Mr. Holcomb:

The purpose of this letter is to notify you of my intent, as the Executive Director of the California Coastal Commission ("Commission"), to commence proceedings for issuance of a Cease and Desist and Restoration Order to order and authorize the removal of unpermitted development and the restoration of the site. The unpermitted development consists of the placement of fill material in a riparian area that is located at 16421 Pacific Coast Highway, Pacific Palisades, Los Angeles County, APN 4414-018-002 ("subject property"), which is owned by Rancho De Las Pulgas, Inc ("Rancho Pulgas"). The fill material appears to be dirt, concrete rubble, and construction debris imported from other, unrelated properties. The specific location on the subject property of the unpermitted fill is the point on the eastern flank of Las Pulgas Canyon where a land bridge crosses the mouth of a tributary canyon that enters from the east. Access to the subject property and consequently to the location of the unpermitted development is controlled by a locked gate to which you possess both the key and lock combination.

The purpose of these enforcement proceedings is to address unpermitted development at the subject property and to obtain a resolution of the situation and restoration of the site via a Cease and Desist and Restoration Order directing and authorizing you to: 1) cease and desist from constructing and/or maintaining all unpermitted development, 2) remove the unpermitted development, and 3) restore the impacted areas to their pre-violation condition. The Commission may issue a *unilateral* Cease and Desist Order that requires actions to remedy the unpermitted development at the subject property. If the Commission issues a unilateral Cease and Desist Order to obtain restoration of the property, this matter may also be referred to the Office of the

Attorney General for filing of litigation against you to seek civil penalties for Coastal Act violations.

Alternatively, the Commission staff is willing to discuss a negotiated Consent Cease and Desist/Restoration Order that the Commission would issue with your agreement and consent. A Consent Cease and Desist/Restoration Order is similar to a settlement agreement and would provide you with an opportunity to agree to its issuance by the Commission prior to the public hearing. A Consent Order would direct you to assist with the implementation of the restoration plan and, in order to settle the matter of penalties, as well as avoid litigation over this issue, would allow you to negotiate a monetary settlement amount with Commission staff.

The proposed Cease and Desist and Restoration Orders are discussed in more detail in the following sections of this letter, and, as we have indicated to you, we are willing to discuss the process and the most efficient means to resolve the violations.

### **Violation History**

It is staff's understanding that you were provided keys and lock combinations to the subject property in order to perform maintenance work on surrounding properties. Moreover, few individuals possess these keys or lock combinations, none of whom are likely to deposit fill in the riparian area. In early July 2003, staff learned that deposition of fill material, including but not limited to, dirt, concrete rubble, and construction debris imported from other, unrelated properties, in the above-referenced riparian area had recently occurred. On July 18, 2003, staff spoke with you regarding placement of fill on the site. You told staff that you had placed fill on the road shoulder to shore up the road as the stream bank eroded. Commission staff informed you that this was a violation of the Coastal Act, and that any future placement of fill on the subject property would constitute a knowing and intentional violation of the Coastal Act. On August 13, 2003, a neighbor photographed more deposition of dirt imported from off the property in the riparian area and on August 14, observed another dump truck depositing imported dirt at the site.

On July 18, 2003, staff directed you to schedule a visit to the site with staff and discuss resolution of the matter. On October 8, 2003, Commission staff met with you at the site and confirmed the presence of the unpermitted fill in the riparian area. While on site, staff informed you that restoration of the impacted riparian area was necessary. Staff mailed to you a "Notice of Violation" letter regarding this situation on August 4, 2005, that requested you to resolve the violation by 1) assisting the property owner in the submission of a complete restoration plan of the site and in removing the material and restoring the site, and 2) agreeing to pay settlement monies to avoid litigation seeking court-imposed penalties for repeated knowing and intentional violations of the Coastal Act.

### **Cease and Desist Order**

The Commission's authority to issue Cease and Desist Orders is set forth in Section 30810(a) of the Coastal Act, which states the following:

*If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from*

*the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist.*

I am issuing this notice of intent to commence Cease and Desist Order proceedings to order and authorize removal of the above-referenced unpermitted development on the subject property.

You have undertaken placement of fill material, which constitutes "development" as defined in Section 30106 of the Coastal Act. "Development" is defined by Section 30106 of the Coastal Act as

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

The above-referenced unpermitted placement of fill constitutes development under the Coastal Act, and, therefore, is subject to all coastal development permit requirements. Pursuant to Section 30600(a) of the Coastal Act, any person wishing to perform or undertake development in the coastal zone must obtain a coastal development permit, in addition to any other permit required by law. The site of the unpermitted development is within the coastal zone area of the City of Los Angeles. Section 30600(b) of the Coastal Act allowed the City of Los Angeles, or in other areas, the appropriate local government, to assume permit authority prior to certification of a local coastal program. Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the "Dual Permit Jurisdiction" area, the Coastal Act requires that the development receive a permit from both the Commission and local government. Section 30601 requires a coastal development permit from the Commission on all lands located (1) between the sea and the first public road, (2) within 300 feet of the inland extent of a beach, or the sea where there is no beach, (3) on tidelands or submerged lands, (4) on lands located within 100 feet of a wetland or stream, (5) on lands located within 300 feet of the top of the seaward face of a coastal bluff, or (6) any development which constitutes a major public works project. The unpermitted fill is located within 100 feet of Las Pulgas Creek.

Commission staff has confirmed that no coastal development permit, from either the City of Los Angeles or the Commission, has been issued for placement of fill on the subject property. Additionally, even if you had applied for authorization, I note that staff could not recommend approval of a CDP to authorize placement of fill in a riparian area because the development is inconsistent with the policies of Chapter 3 of the Coastal Act. Further, this deposition of fill is not in compliance with the terms and conditions of CDP No. 5-98-301. On June 11, 1999, the Commission approved CDP No. 5-98-301 to authorize Rancho Pulgas to clear vegetation from two segments of a concrete-lined flood control channel located on the subject property and plant/maintain some of the creek bank area outside of the concrete-lined flood control channel.

Any development conducted in the coastal zone without a valid coastal development permit or that is not in compliance with a previously approved permit constitutes a violation of the Coastal Act.

Based on Section 30810(b) of the Coastal Act, the Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act, including immediate removal of any development or material.

### **Restoration Order**

Section 30811 of the Coastal Act authorizes the Commission to order restoration of a site as follows:

*In addition to any other authority to order restoration, the commission...may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission...the development is inconsistent with this division, and the development is causing continuing resource damage.*

I have determined that the specified activities meet the criteria of Section 30811 of the Coastal Act, based on the following:

- 1) Development consisting of placement of fill material, including, but not limited to dirt, concrete rubble, and construction debris imported from other, unrelated properties, in a riparian area has occurred on the subject property without a CDP.
- 2) The unpermitted development is inconsistent with the resource protection policies of the Coastal Act, including, but not limited to Sections 30231 (Biological productivity; water quality), 30240 (Environmentally sensitive habitat areas), 30251 and 30253 (insure stability).

The unpermitted development is located on the banks and in the bed of a blue-line stream, as mapped by the U.S. Geological Survey. Most blue line streams are considered environmentally sensitive habitat areas; they can support sensitive riparian habitat, which, in turn, supports a myriad of vertebrate and invertebrate species. The deposition of fill degraded the habitat value of the riparian area both at the site of the fill and downstream through increased sedimentation. Further, the fill disturbed native vegetation on the canyon slope and creek bed. Also, the stability and structural integrity of the unpermitted development was not assured.

- 3) The unpermitted development is causing continuing resource damage, as defined by Section 13190 of the Commission's regulations. The unpermitted development has impacted the resources listed in the previous paragraph (item number two). Such impacts meet the definition of damage provided in Section 13190(b): "any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development." The unpermitted development is still present, and the impacts of the unpermitted development at the subject property have not been remedied;

therefore, the damage that the development is causing to resources protected by the Coastal Act is continuing.

For the reasons stated above, I have decided to commence a Restoration Order proceeding before the Commission. The procedures for the issuance of Restoration Orders are described in Sections 13190 through 13197 of the Commission's regulations. Section 13196(e) of the Commission's regulations states the following:

*Any term or condition that the commission may impose which requires removal of any development or material shall be for the purpose of restoring the property affected by the violation to the condition it was in before the violation occurred.*

Accordingly, any Restoration Order that the Commission may issue will have as its purpose the restoration of the subject property to the conditions that existed prior to the occurrence of the unpermitted development described above.

#### **Additional Procedures**

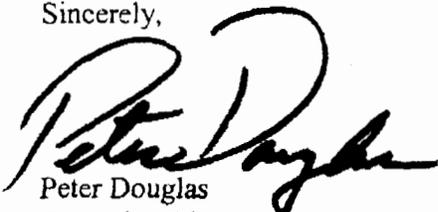
In addition to the procedures for proposing and issuing enforcement orders that are discussed in this letter, please be advised that Coastal Act Sections 30803 and 30805 authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil penalties in response to any violation of the Coastal Act. Coastal Act Section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed \$30,000 for each violation. Further, Section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs any development in violation of the Coastal Act can be subject to a civil penalty of up to \$15,000 for each day in which each violation persists. Additional penalties of up to \$6,000 per day can be imposed if a cease and desist or restoration order is violated. Section 30822 further provides that exemplary damages may also be imposed for knowing and intentional violations of the Coastal Act or of any orders issued pursuant to the Coastal Act. We are willing to resolve these issues through settlement and we would like to discuss a mutually agreeable settlement amount for the above-listed violations. Staff will contact you to negotiate a monetary penalty as part of the resolution of this matter.

In accordance with Section 13181(a) and 13191(a) of the Commission's regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this notice of intent to commence Cease and Desist Order and Restoration Order proceedings by completing the enclosed Statement of Defense form. **The Statement of Defense form must be returned to the Commission's Long Beach office, directed to the attention of Andrew Willis, no later than September 12, 2005.** The filing of the Statement of Defense form is unnecessary if we have agreed on the terms of a Consent Order to resolve this matter. If such agreement were reached, you would be required to stipulate to the facts of the case.

Robert Holcomb  
August 12, 2005  
Page 6 of 6

Commission staff has tentatively scheduled the hearing for the proposed Cease and Desist and Restoration Order during the November 16-18, 2005 Commission meeting in Los Angeles. We would like to resolve this amicably if possible and are willing to work with you to do so. If you have any questions regarding this letter or the enforcement case, please call Andrew Willis at (562) 590-5071 or send correspondence to his attention using the address provided on the letterhead.

Sincerely,



Peter Douglas  
Executive Director

**Enclosure: Statement of Defense Form for Cease and Desist and Restoration Orders**

**cc: w/out enc. Lisa Haage, Chief of Enforcement  
Sandy Goldberg, Staff Counsel  
Pat Veesart, Southern California Enforcement Team Leader  
Andrew Willis, District Enforcement Analyst**

**Exhibit 8 --- Page 6 of 6**  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb

COPY

RECORDING REQUESTED BY:  
California Coastal Commission

WHEN RECORDED MAIL TO:

California Coastal Commission  
200 Oceangate, 10<sup>th</sup> Floor  
Long Beach, CA 90802  
Attention: Andrew Willis

RECEIVED  
COUNTY OF LOS ANGELES

2005 OCT 6 09 12 27

RECORDED BY CLK  
DOUGLAS L. B. B. B.  
RECORDING SECTION

[Exempt from recording fee pursuant to Gov. Code § 27383]

DOCUMENT TITLE:

NOTICE OF VIOLATION OF THE COASTAL ACT

Re: Assessor Parcel Number 4414-018-002, Los Angeles County

Property Owner:

Rancho De Las Pulgas, Inc.

Exhibit 9 --- Page 1 of 4  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

CALIFORNIA COASTAL COMMISSION  
200 OCEANGATE, 10<sup>th</sup> FLOOR  
LONG BEACH, CA 90802  
ATTENTION: ANDREW WILLIS

STATE OF CALIFORNIA OFFICIAL BUSINESS  
Document entitled to free recordation  
Pursuant to Government Code §27383

NOTICE OF VIOLATION OF THE COASTAL ACT  
(Public Resources Code Section 30812)

I, Peter Douglas, declare:

1. I am the Executive Director of the California Coastal Commission.
2. A violation of the California Coastal Act of 1976 (Public Resources Code §30000, et. seq.) has occurred involving the parcel of real property situated in the County of Los Angeles, State of California, more particularly described as follows:  
  
**16421 W. Pacific Coast Highway, Pacific Palisades area of Los Angeles, Los Angeles County [Assessor Parcel Number 4414-018-002 (27.27 acres)].**
3. The real property is located within the Coastal Zone as that term is defined in Coastal Act Section 30103.
4. The record owner of said real property is Rancho De Las Pulgas, Inc.
5. The violation of the Coastal Act (Violation No. V-5-03-173) consists of unpermitted placement of fill material including, but not limited to, dirt, concrete rubble, and construction debris, in a riparian area. These activities constitute "development" as defined in Section 30106 of the Coastal Act, and, as such, require a Coastal Development Permit ("CDP") under Section 30600 (a) of the Coastal Act. There have been no CDPs applied for or obtained to authorize the placement of fill material including, but not limited to, dirt, concrete rubble, and construction debris, in a riparian area.

In addition, the unpermitted fill is a violation of Special Conditions #1 and #3 of CDP 5-98-301 issued to Rancho De Las Pulgas, Inc. for other work on this parcel, as described in paragraph 2 above. CDP 5-98-301 authorized the Rancho De La Pulgas, Inc. to clear vegetation from two segments of a concrete-lined flood control channel located on the property subject to this notice. Development inconsistent with permits and conditions included therein are also violations of the Coastal Act. Special Condition #1 of the permit states as follows:

**Future Streambed Alterations**

*By accepting this permit, the applicant agrees before undertaking any such development to apply for a Coastal Development Permit for any use of heavy equipment, future streambed alterations and any vegetation removal within 50' of the outside edge of the streambed including the channelized streambed.*

Special Condition #3 of the permit states as follows:

**Future Development**

*With the acceptance of this permit, the applicant acknowledges that any change in use or alignment of the streambed, as approved by this permit, will require an amendment to this permit.*

The unpermitted placement of fill violates the Coastal Act because it is not authorized by a Coastal Development Permit and is inconsistent with the terms and conditions of Coastal Development Permit 5-98-301.

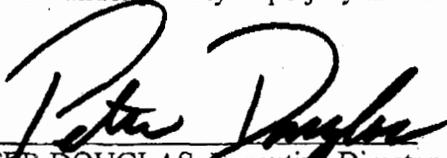
6. The Commission staff is working with the property owners to get the property into compliance over a period of time. Because it is not known when complete resolution of this violation will occur, I am recording this Notice.
7. The requirements set forth in Section 30812 for notice and recordation of this Notice of Violation have been complied with. Recording this notice is authorized under Section 30812 of the California Public Resources Code.
8. I notified the record owner, Rancho De Las Pulgas, Inc., of my intent to record a Notice of Violation in a letter dated August 5, 2005.
9. As of this date, the Commission has not received a written objection to the recordation of the Notice of Violation. Therefore, I am recording the Notice of Violation as provided for under Section 30812 of the Coastal Act.

9. As stated under Section 30812 of the California Coastal Act:

*"(f) Within 30 days after the final resolution of a violation that is the subject of a recorded notice of violation, the executive director shall mail a clearance letter to the owner of the real property and shall record a notice of rescission in the office of each county recorder in which the notice of violation was filed, indicating that the notice of violation is no longer valid. The notice of rescission shall have the same effect of a withdrawal or expungement under Section 405.61 of the Code of Civil Procedure."*

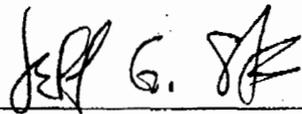
Executed in San Francisco, California, on Oct 5, 2005

I declare under penalty of perjury that the following is true and correct.

  
PETER DOUGLAS, Executive Director

STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

On this 05 day of October in the year 2005, before me the undersigned Notary Public, personally appeared Peter Douglas, personally known to me to be the person who executed this instrument as Executive Director of the California Coastal Commission and acknowledged to me that the California Coastal Commission executed it.



Notary Public in and for Said State and County





September 5, 2006

Mr. Barry Maiten, President  
Rancho De Las Pulgas, Inc.  
11693 San Vicente Blvd.  
PMB 802  
Los Angeles, California 90049

**RECEIVED**  
South Coast Region

FEB 13 2006

CALIFORNIA  
COASTAL COMMISSION

Dear Mr. Maiten,

The purpose of this letter is to provide Rancho De Las Pulgas, Inc. (RDLP) and the California Coastal Commission (CCC) with a summary of and amendment to the restoration plan prepared by Dr. Klaus Radtke of Geo Safety, Inc. (Attachment A) to satisfy permit conditions for Coastal Violation V-5-03-173. Compliance Biology, Inc. has been retained to continue with this project as Dr. Radtke has retired.

#### BACKGROUND

After submittal of the restoration plan to the CCC, a response letter prepared by Mr. Andrew Willis of the CCC was received by RDLP. Included with that response, Mr. Willis provided the CCC Draft Restoration Order and noted that the restoration plan submitted was generally consistent with the goals of the CCC, but lacked a few items required by the Draft Restoration Order. Specifically, it was noted that Section 2.6 of the order included the requirement of removal of non-native vegetation from the restoration site. This letter provides a summary of the original restoration plan and proposed actions that will fulfill all requirements of the Draft Restoration Order.

#### ORIGINAL PLAN SUMMARY

Pursuant to provisions of the Draft Restoration Order, the restoration plan shall consist of two components; a Landscaping Plan and an Erosion Control Plan.

The first section of the original restoration plan included a site evaluation. The evaluation included a summary of the events that led to the violation (i.e. non-permitted placement of fill).

The second section of the plan provides restoration recommendations and noted that the implementation could not proceed until the City of Los Angeles had completed their sewer line project that would occur in and adjacent to the subject restoration area. As explained by Mr. Maiten, President of Rancho De Las Pulgas Inc. very heavy equipment was brought in and utilized by the City of Los Angeles and their contractors, along that area, and many other areas along the roads, and additional stress cracks now occur in those various areas.

The restoration recommendations include the following:

1. Removal of exposed concrete pieces dumped along the slope below the "land bridge" that were the impetus of the subject violation
2. Heavily over seed the impacted area with a dryland native seed mix as follows

<i>Adenosoma fasciculatum</i>	Chamise	0.5 lb
<i>Artemisia californica</i>	CA sagebrush	2 lbs
<i>Eriogonum confertiflorum</i>	Golden yarrow	3 lbs
<i>Eriogonum fasciculatum</i>	CA buckwheat	20 lbs
<i>Eriogonum cinereum</i>	Coastal buckwheat	20 lbs
<i>Helianthemum scoparium</i>	Rock-rose	3 lbs
<i>Helianthus gracilentus</i>	Slender sunflower	2 lbs
<i>Mimulus longiflorus</i>	Southern monkeyflower	3 lbs
<i>Lotus scoparius</i>	Deerweed	50 lbs
<i>Salvia leucophylla</i>	Purple sage	0.5 lbs
<i>Salvia mellifera</i>	Black sage	0.5 lbs
<i>Venegazia carpesioides</i>	Canyon sunflower	5 lbs
<i>Vulpia microstachys</i>	Small fescue	20 lbs

The third section of the plan described the required performance standards and maintenance for the restoration. Performance standards include:

1. Excess of 30 percent ground cover by the end of the first growing season after seeding and 75 percent ground cover by the end of the third season.

With regard to maintenance, Dr. Radtke suggests that the steepness of the slope within and near the restoration site would prohibit physical maintenance of the restored area and prescribed maintenance activities should be limited to repeated over-seeding of the site, with the native plant mix, during the following rainy season if performance standards are not met.

#### AMENDED PLAN

The following provides an amended Restoration Plan consistent with all required provisions of the CCC Draft Restoration Order. The proposed amended actions would be implemented in conjunction with the original plan, unless otherwise stated.

#### A. Landscaping Plan

The restoration site occurs in the northern portion of the subject property, on the south side of the existing "land bridge," above the on-site drainage course (Exhibit 1). The restoration site includes the specific area of the recorded violation and a small adjacent border such that all areas impacted from the cited violation are restored. Exhibit 2 provides a more close-up view of the

Exhibit 1

**Exhibit 10--- Page 3 of 15**  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb



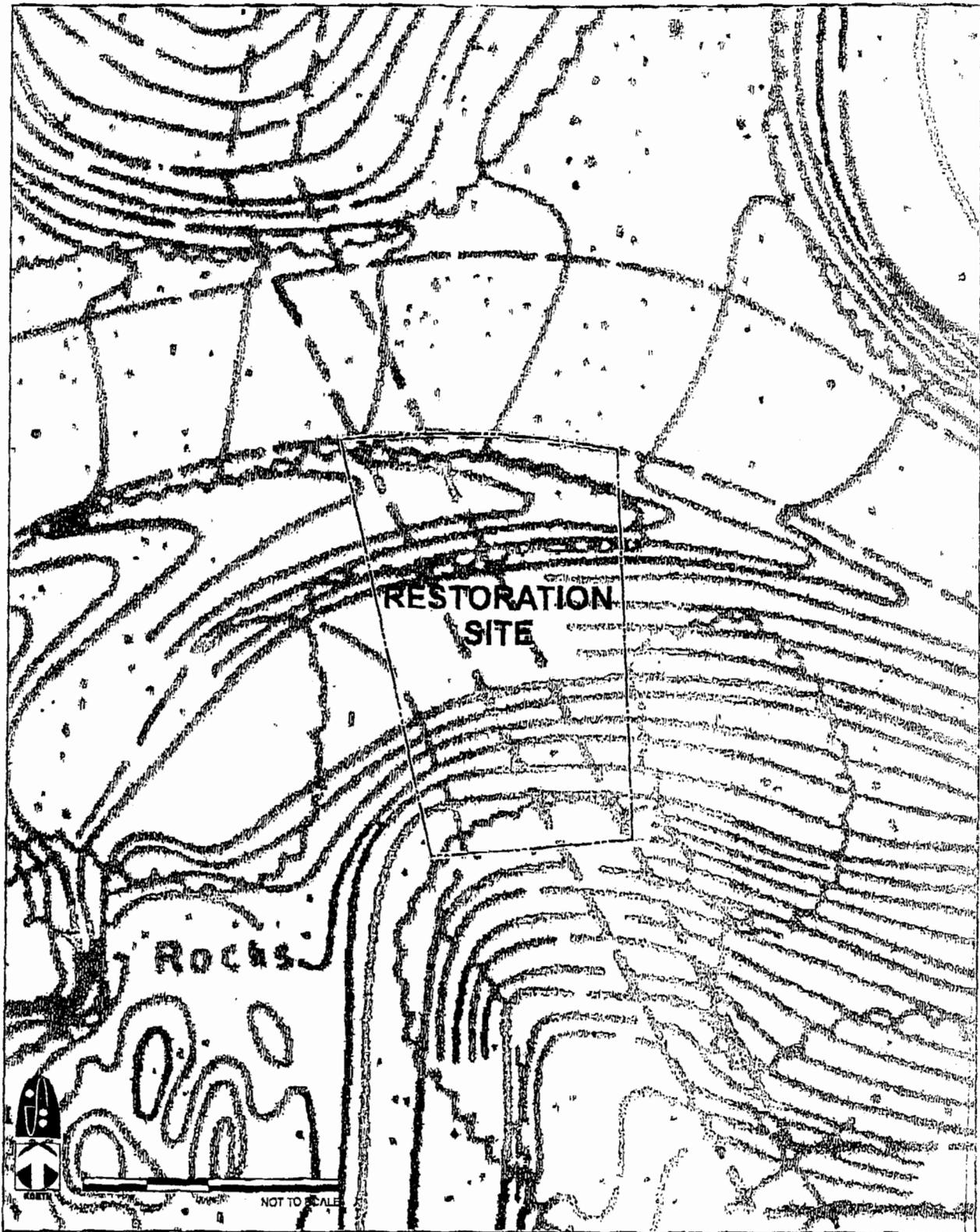


Exhibit 10--- Page 4 of 15  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb

exhibit 10  
RESTORATION SITE

Exhibit 2

**Exhibit 10--- Page 5 of 15**  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb



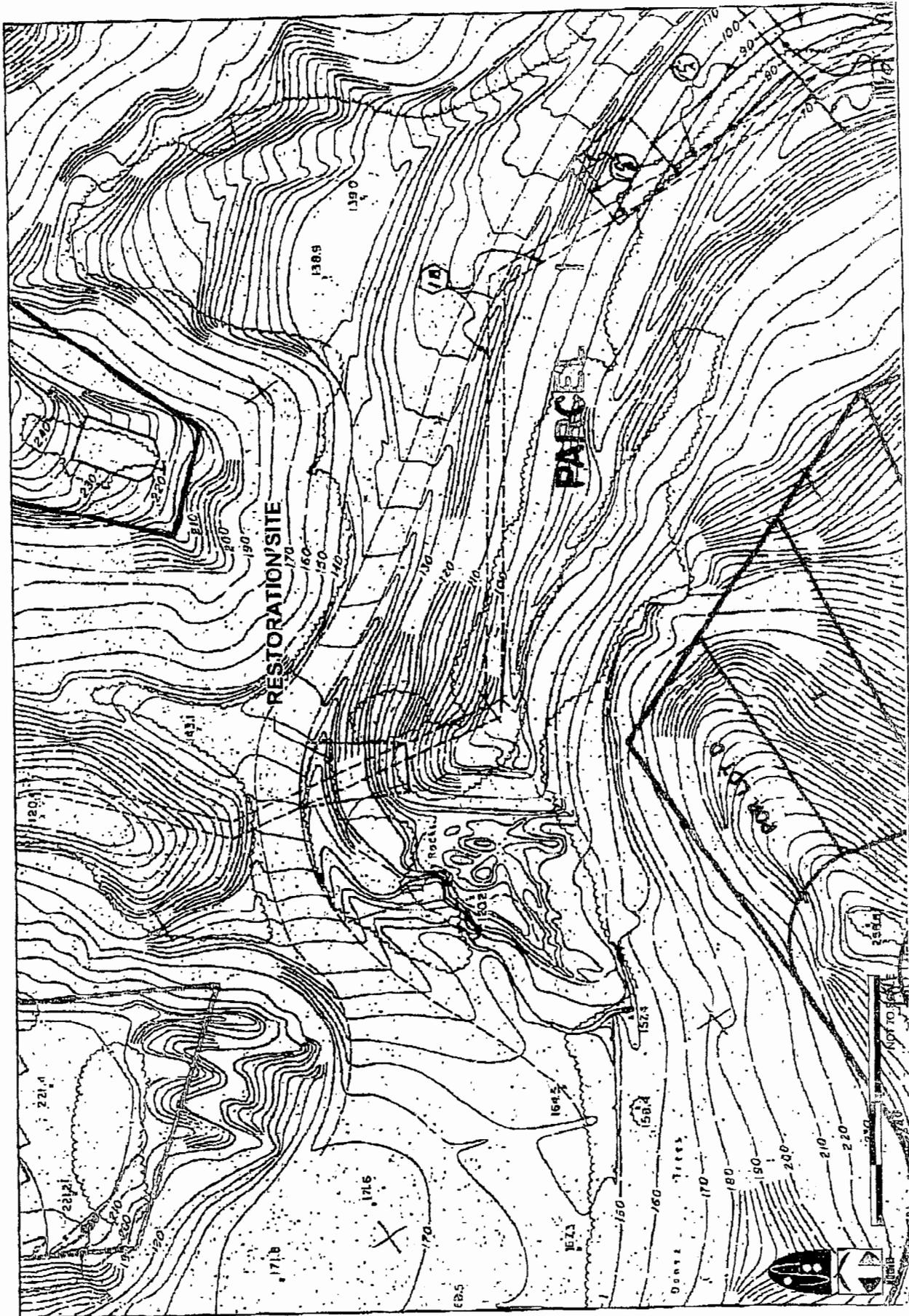


exhibit 1  
 RESTORATION SITE INFORMATION

Exhibit 10--- Page 6 of 15  
 CCC-08-CD-05, CCC-08-RO-02,  
 CCC-08-CD-06  
 Rancho Pulgas/Holcomb

restoration site. Please note that the illustrated topography is not necessarily consistent with existing conditions due to the age of the original topographic survey. The purpose of these exhibits is only to illustrate the location and approximate boundaries of the restoration area.

**1. Site Preparation**

It will be necessary to remove the non-native and invasive vegetation that has since established itself within the restoration area. Although the slope is extremely steep, it will be possible to remove the non-native vegetation from the slope utilizing appropriate safety gear (e.g. ropes and safety harnesses). All removed vegetation will be properly removed and disposed of in a legal dump site outside of the Coastal Zone.

Following vegetation removal, the exposed pieces of concrete debris on the slope surface will be removed from the site, either manually, or by the most appropriate safe mechanical means that will not result in further impacts to native vegetation. The removed debris will be trucked from the site to a legal dump site, outside of the Coastal Zone. As most of the subject slope already consists of old pre-existing concrete debris and other old pre-existing fill, no additional excavation of concrete or other fill materials should occur as it could possibly result in slope failure.

**2. Planting**

In mid to late fall, prior to the rainy season, the delineated restoration area would be heavily seeded with the upland native species mix described in the original restoration plan. The entire slope will be covered with jute netting (or suitable biodegradable substitute) to provide stabilization for the seeds during seasonal rain events.

Irrigation will be limited to periodic light watering by hose or other temporary means, not installed or otherwise affixed to the ground within or immediately adjacent to the restoration site. Regular deep watering could possibly contribute to destabilization of the slope. If timed appropriately with the rainy season, watering may not be required at all.

**3. Monitoring**

Annually, for a period of five years, the restoration area will be monitored by a qualified biologist or resource specialist. Monitoring activities will include photographic documentation of the site, evaluation of native plant versus non-native plant coverage, and evaluation of the overall condition of the restoration area with respect to slope stability and other edaphic factors that may affect the success of the plan.

**4. Success Criteria**

As outlined in the original plan, success criteria will include greater than 30 percent coverage of native plants at the end of the first year, and at least 75 percent coverage at the end of three years and for the remaining years of the monitoring plan.



Rancho De Las Pulgas  
Restoration Plan

**Exhibit 10--- Page 7 of 15**

CCC-08-CD-05, CCC-08-RO-02,

CCC-08-CD-06

Rancho Pulgas/Holcomb

The required coverage rates may be amended by the monitor if appropriate. That is, if the plan appears to have met the overall objective of restoring the site to a more native condition. Numerous natural environmental factors could contribute to a lesser result in coverage. Such factors include solar aspect (the site is a south-facing slope) and soil chemistry (most of the site is fill). Any such suggested success criteria amendments would be proposed to the CCC for approval.

#### 5. Reporting

A detailed report including a description and photographs (from pre-designated locations) of existing conditions will be prepared by the monitoring biologist and submitted to CCC annually (no later than December 31<sup>st</sup> of each year). The report shall also include any further recommendations or requirements necessary to meet the objectives of the success criteria.

#### B. Erosion Control Plan

To prevent erosion of the restored slope, a row of sandbags shall be placed along the top of the slope, at the southern edge of the road. The sandbag row should extend at least 50 feet east and west beyond the boundaries of the restoration area. Additionally, as previously discussed, jute netting or other appropriate biodegradable material shall be placed over the entire restoration area to further stabilize surface soils.

Please feel free to contact me if you have any questions regarding this plan.

Sincerely,

*Dave Crawford*

Dave Crawford  
President/Principal Biologist

Exhibit 10--- Page 8 of 15  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb



**ATTACHMENT A**

**Recommended Restorations for 16421 Pacific Coast Highway  
Geo Safety, Inc.; Dr. Klaus Radtke, April 22, 2005**

**Exhibit 10--- Page 9 of 15  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb**



compliance-biology

*Rancho De Las Pulgas  
Restoration Plan*



# GEO SAFETY, INC.

1462 Lachman Lane Pacific Palisades, California 90272 U.S.A. (310) 459-9453 Fax (310) 459-6187

April 22, 2005

RECEIVED  
South Coast Region

APR 25 2005

Klaus Radtke, Ph.D.  
Wildland Resource Sciences

CALIFORNIA  
COASTAL COMMISSION

Recommended Restorations  
for  
16421 Pacific Coast Highway, Pacific Palisades  
(Las Pulgas Canyon)

pertaining to

V-5-03-173  
("Nonpermitted placement of fill in a riparian zone")

## Site Evaluation

This author is familiar with the site where the violation alleged by Coastal staff occurred because he prepared a restoration plan in 1998 that included an extensive study of Las Pulgas Canyon and did subsequent follow-up evaluations. A more complete analysis as to the geology and stability of the canyon can be obtained from the owner's geologist.<sup>1</sup>

As indicated on Photographs 1 and 2, the site where the nonpermitted placement of fill apparently took place that is addressed in this report is just downstream of a collapsed concrete retaining wall built in the 1950's - 1960's to retain fill used to fill the upper canyon when it was used as a dump site. The previous collapse of the retaining wall has exposed almost vertical cliffs of partially compacted fill that are receding on a yearly basis due to weathering, sending tons of debris into the creekbed below on a regular basis. Adjacent to this vertical 'cliff' is a steep slope supporting a narrow path into the upper canyon, termed the "land bridge." It has become narrower in size and debris was apparently dumped onto the slope to shore it up.

Several inspections of the canyon by this author in relation to V-5-03-173, the most recent being a meeting with the client and his geologist John Byer on 4-21-2005, have attempted to address the violation to find a meaningful solution.

As indicated on Photo 2, concrete debris, apparently stemming from the violation, is still found sideslope along this steep slope below the "land bridge." Large tension cracks as indicated in Photos 3 - 6 are visible along the road at the edge of the berm overlooking the steep slope. These large cracks start along the edge of the berm and then extend up to approximately five feet into the road.

Exhibit 10--- Page 10 of 15  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06

Rancho Pulgas/Holcomb

<sup>1</sup> John W. Byer, President The J. Byer Group, Inc. (818) 549-9959

1/3 -- Restoration Plan (V-5-03-173) for 16421 Pacific Coast Highway, Pacific Palisades

The City of Los Angeles, through its subcontractors, is presently in the process of installing new sewer lines within the canyon and is planning to possibly elevate or suspend them in some manner within the unstable "land bridge" location. Presently work has apparently halted as the City is in the process of reevaluating how to proceed in this area because of the unstable conditions. As related to this author, one of the recommendations to stabilize the area and continue to provide access to the rear of the canyon for vital public services and the owner would be to install soldier piles encased in concrete and interlock them.

#### Restoration Recommendations to Cure V-5-03-173

It is recommended that exposed concrete pieces apparently dumped along the slope below the "land bridge" as part of this violation be removed and the area heavily overseeded with a dryland native seed mix such as shown in Appendix 1. Because of the steep, unstable slope it is not recommended that restoration crews physically step on the slope during the seeding operation unless the slopes are further stabilized during the installation of the sewer lines.

This said, it should be realized that there is no ongoing resource damage occurring by the sideslope-suspended concrete debris. Concrete rubble will rest sideslope a while longer while dirt dumped apparently with it has largely dissipated into the creek bed (if not already washed downstream) and is indistinguishable from the mountains of old debris dumped well over thirty years ago to fill the canyon that collapsed during last winter's record rainy season as the fill cliff kept receding.

Presently of priority is an understanding of how and when the City of Los Angeles will proceed in extending the new sewer lines past the unstable "land bridge" area (dumping of debris does little to stabilize the area and it is also not permissible nor recommended from an environmental viewpoint). The restoration project can not proceed until the City has completed laying the new sewer line past this area. The property owner shall therefore follow up with the City to procure such reports in a timely manner and provide them to the Coastal Commission. However, removing the debris (and delivering it to a dump site outside the Coastal Zone, or, if within the Coastal Zone, to a project with legal permits that can accept such debris) should be completed before the onset of the winter rains or by November 15, 2005. The native plant seeds could then be seeded in conjunction with the winter rains.

#### Performance Standards, Maintenance

The seeded plants should provide in excess of 30% groundcover by the end of the first growing season after seeding and 75% groundcover by the end of the third season. However, this cover depends how and if the area is stabilized after the sewer line project has been completed and how and if the slope is stabilized to reduce the chances of slides occurring in the future within the restoration area.

This is a project where maintenance can not be done physically as even weeds are a welcome sight on such steep, unstable slopes and are found throughout the canyon. Additional work should therefore concentrate on overseeding the slopes again during the 2006-07 rainy season if performance standards are not met or a slide has occurred.

**Exhibit 10--- Page 11 of 15**  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb

Appendix 1

Recommended Restoration Dry-Site Seed Mix

<u>Adenostoma fasciculatum</u>	Chamise	½ lbs.
Artemisia californica	Sagebrush	2 lbs.
<u>Eriogonum confertiflorum</u>	Golden Yarrow	3 lbs.
<u>Eriogonum fasciculatum</u>	California Buckwheat	20 lbs.
Coastal buckheat	Eriogonum cinereum	20 lbs.
<u>Helianthemum scoparium</u>	Rock-Rose	3 lbs.
<u>Helianthus gracilentus</u>	Slender Sunflower	2 lbs.
<u>Mimulus longiflorus</u>	Southern Monkeyflower	3 lbs.
Lotus scoparius	Deerweed	50 lbs.
<u>Salvia leucophylla</u>	Purple Sage	½ lbs.
<u>Salvia mellifera</u>	Black Sage	½ lbs.
<u>Venegazia carpesioides</u>	Canyon Sunflower	5 lbs.
<u>Vulpia microstachys</u>	Small Fescue	20 lbs.

**Exhibit 10--- Page 12 of 15**  
CCC-08-CD-05, CCC-08-RO-02,  
CCC-08-CD-06  
Rancho Pulgas/Holcomb



**Photo 1-** Rubble from the collapsed concrete dam is littering the bottom of the creek, which exposed the almost vertical cliffs composed of partially compacted fill within the upper canyon. During the winter storms of 2004-2005, another approximately ten feet of the concrete debris channel gave way ( ). This also caused at least an additional ten feet of a section of the cliff face to collapse as indicated by the horizontal red arrow.

Dirt and rubble was apparently dumped previously over the slope shown on the right as indicated by the downhill-pointing blue arrow which shows the location of this violation (V-5-03-173). See Photo 2 for further details. marks the spot from which Photo 2 was taken.



**Photo 2** - The steep rubble-strewn slope (red arrows) supporting the narrow “land bridge” is the location of this violation which alleges that “unpermitted fill material was deposited in a riparian area” over this slope (apparently to shore up the land bridge).



Photo 3



Photo 4



Photo 5



Photo 6

**Photos 3 -- 6** – Tension cracks along the “land bridge” road at the top of the slope indicate that the hillside is unstable and moving towards the creek.

**CALIFORNIA COASTAL COMMISSION**

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

Page 1 of 3

Date: December 13, 1999

Permit No. 5-98-301



RECEIVED

**COASTAL DEVELOPMENT PERMIT** 5 2000

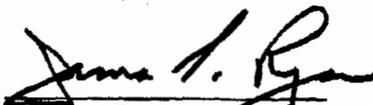
CALIFORNIA  
COASTAL COMMISSION

On **11 June 1999**, the California Coastal Commission granted to **Rancho de las Pulgas, Inc.** Coastal Development Permit **5-98-301**, subject to the attached Standard and Special Conditions, for development consisting of: Repair and replace an existing 7'10" chain link fence and gate, realign and dedicate to the Santa Monica Mountains Conservancy a ten foot wide hiking trail, clear vegetation from two segments of a concrete-lined flood control channel located in Las Pulgas Creek, trim a partially fallen multi-trunk willow tree and plant/maintain creek bank area outside of the concrete-lined portions of the flood control channel. More specifically described in the application file in the Commission offices.

The development is within the coastal zone in Los Angeles County at 16421 Pacific Coast Highway, Pacific Palisades.

Issued on behalf of the California Coastal Commission on December 13, 1999.

**PETER DOUGLAS**  
Executive Director

By:   
Title: Coastal Program Analyst

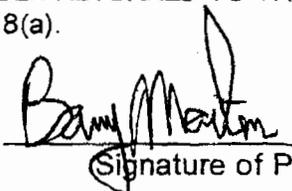
**ACKNOWLEDGMENT**

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance . . . of any permit . . ." applies to the issuance of this permit.

**IMPORTANT:** THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 CAL. ADMIN. CODE SECTION 13158(a).

12-29-99  
Date

  
Signature of Permittee

**BARRY MAITEN**  
RANCHO DE LAS PULGAS, INC.  
- PRESIDENT -

Please sign and return one copy of this form to the Commission office at the above address.

# COASTAL DEVELOPMENT PERMIT

No. 5-98-301

Page 2 of 3

## STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance.** All development must occur in strict compliance with the proposal set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## SPECIAL CONDITIONS:

### 1. **Future Streambed Alterations**

By accepting this permit, the applicant agrees before undertaking any such development to apply for a Coastal Development Permit for any use of heavy equipment, future streambed alterations and any vegetation removal within 50' of the outside edge of the streambed including the channelized streambed.

### 2. **Public Rights**

The Commissions' approval of this permit shall not constitute a waiver of any public rights which may exist on the property. The permittee or property owner shall not use this permit as evidence of a waiver of any public rights that may exist on the property.

**Exhibit 11--- Page 2 of 3**  
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Rancho Pulgas/Holcomb

# **NOTICE OF INTENT TO ISSUE PERMIT**

Permit Application No. 5-98-301

Page 3 of 3

3. **Future Development**

With the acceptance of this permit, the applicant acknowledges that any change in use or alignment of streambed, as approved by this permit, will require an amendment to this permit.

4. **California Department of Fish and Game Streambed Alteration Agreement**

By accepting this permit, the applicant agrees to apply to the California Department of Fish and Game for a Streambed Alteration Permit for any future development located in both the natural streambed and the concrete-lined portions of the channel.

5. **Condition Compliance**

Within 60 days of Commission action on this Coastal Development Permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

6. **Agreement to Comply**

Within 60 days of Commission action on this Coastal Development Permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall agree in writing to carry out conditions 5 & 7 within the time limits set forth below.

7. **Evidence of Trail Acceptance by the Santa Monica Mountains Conservancy**

Within 60 days of Commission action on this Coastal Development Permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall submit evidence the Santa Monica Mountains Conservancy has accepted the trail for public use.

JLR:

G:\PERMITS\5-98-301 rancho pulgas permit.doc

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Rancho Pulgas/Holcomb

**JMBM** | Jeffer Mangels  
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Ref: 61909-0010

March 17, 2006

VIA E-MAIL AND FACSIMILE

Mr. Patrick Vecsart  
Mr. Andrew Willis  
California Coastal Commission  
South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, California 90802-5084

**RECEIVED**  
South Coast Area Office

MAR 17 2006

CALIFORNIA  
COASTAL COMMISSION

Re: Letter of Adequate Assurances  
[REDACTED]

Dear Mr. Vecsart and Mr. Willis:

As discussed, it is the intention of [REDACTED] to cooperate fully with the California Coastal Commission in its investigation and potential prosecution of Mr. Robert Holcomb and Holcomb Engineering Contractors Inc. ("Holcomb") for the alleged disposal of gunite and other material into a creek in the Pacific Palisades, so long as the Coastal Commission provides adequate assurances that [REDACTED] is not a target of investigation in this matter. At your request, a letter memorializing our understanding is enclosed herein for your review and signature. As soon as we receive the letter acknowledged by the Coastal Commission, [REDACTED] agrees to provide you with the contract for engineering and contracting services with Holcomb, and any additional reasonable and relevant documents or information.

We appreciate that during our telephone calls, you have indicated that [REDACTED] is not the subject of any Coastal Commission investigation. This stance is consistent with the Commission's legal ability to pursue Holcomb exclusively, without any involvement of the [REDACTED]. The California Coastal Act (the "Coastal Act") permits investigation and prosecution of Holcomb without determining whether or not the alleged dumped gunite was removed from the [REDACTED] former property at [REDACTED] Pacific Coast Highway, Malibu, California (the "Property"). Section 30810 of the Coastal Act authorizes the issuance of a cease and desist order if the Coastal Commission determines that "any person . . . has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing a permit." The alleged dumping site is located in a creek in Pacific Palisades, which is within the area governed by the Coastal Act. This would have required a coastal development

[REDACTED]

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Mr. Patrick Veesart  
Mr. Andrew Willis  
March 17, 2006  
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permit to approve the dumping of gunite and other materials. Therefore, the Coastal Commission may seek a cease and desist order and civil penalties solely against Holcomb.

In addition, it bears repeating that [REDACTED] has no knowledge of the alleged dumping and has no role in or responsibility for the actions of Holcomb. The contract between Holcomb and [REDACTED] clearly provides that Holcomb is directly responsible for the proper disposal of the gunite removed from the Property. The general conditions of the contract specifically state that "[a]ny material from our demolition work becomes the property of Holcomb Engineering Contractors Inc." Item 1 of the scope of work requires demolition of and removal of all gunite, shrubs and debris necessary to complete the work, and it specifically provides that Holcomb Engineering Contractors Inc. will "legally dispose of debris." Therefore, even if it could be shown that the gunite found in the Pacific Palisades creek was in fact removed from the Property, such removal was the sole responsibility of Holcomb and the gunite itself was the sole property of Holcomb.

We believe that, in light of the complete lack of involvement by the [REDACTED] and the exclusive responsibility borne by Holcomb, the attached letter is appropriate so [REDACTED] may fully cooperate with the Coastal Commission.

Please return the enclosed letter as soon as possible and we look forward to cooperating with the Coastal Commission to resolve their pursuit of Holcomb. We look forward to resolving this matter as promptly and efficiently as possible.

Respectfully submitted,

Paul Anderson<sup>SLB</sup>

PAUL C. ANDERSON  
Jeffer, Mangels, Butler & Marmaro LLP  
[REDACTED]

Encl.  
SLB:slb

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Rancho Pulgas/Holcomb

### Seeding With Native Plants

The Las Pulgas Canyon Basic Maintenance Agreement for lower Las Pulgas Canyon signed by Barry Maiten, president of Rancho de Las Pulgas, Inc. for 16421 Pacific Coast Highway (lower Las Pulgas Canyon) states "annual native plant species may be seeded on a yearly basis or less often, on sparsely vegetated slopes adjacent to riparian areas or roadways."

Exhibit 1 identifies these areas where in future years maintenance with native plants may be done on the westerly facing creekbanks along the access road into the canyon and adjacent areas. The seeding will not be done as part of a restoration plan but on a maintenance basis. Barley contouring may also be incorporated into the ongoing seeding/maintenance project in areas where quick surface erosion control cover is desirable.

It is recognized that in drought years such maintenance seeding may not take hold because of limited rainfall but that maintenance seeding with native plant species on steep, harsh slopes adjacent to the creek will provide increased native cover over time. Such native cover, once established, will also slow down and reduce the spread of non-native species from the uphill and surrounding hilltop ornamental landscaping.





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 Rancho Pulgas/Holcomb



**I. FENCE & GATE INSTALLATION**  
 (Replacement of Existing Fences & Gate)

**II. COASTAL ACCESS TRAIL**  
 (Realigned Granda Viewsite to PCH Trail)

**III.A. REMOVAL OF WILLOW TREE**  
 (Removal of partially fallen multi-trunked tree potentially blocking stream-flow & culvert inlet under PCH)

**III-B & C. CLEANING CONCRETE FLOOD CHANNELS**  
 (Clearing of dirt & vegetation from two concrete flood channels measuring 235 feet and 220 feet in length and 14 to 23 feet in width, respectively)



Photo 1 - Looking across the mouth of Las Pulgas Canyon and Pacific Coast Highway towards the ocean from the Las Casas/Grenolo Trail (January 28, 1999).



Photo 2 - Contour rows of native plants alternating with contour rows of barley were established on this section of slope overlooking the creek. The slope was also seeded with seed mix #2 before and after contour seeding (January 28, 1999).