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STATE OF CALIFORNIA
COASTAL COMMISSION

ORIGINAL

MALIBU VALLEY FARMS, INC.)
SANTA MONICA MOUNTAINS)
COUNTY OF LOS ANGELES)

Application No. 4-06-163

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Monday, July 9, 2007
Agenda Item No. 13.e.

Embassy Suites Hotel
333 Madonna Road
San Luis Obispo, California

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Transcript from 7/9/07
Commission Hearing

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Brian Baird, Resources Agency

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Peter Douglas, Executive Director
Chris Pederson, Staff Counsel
Jack Ainsworth, District Director
Jamee Jordan Patterson, Deputy Attorney General

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1 California Coastal Commission

2 July 9, 2007

3 Malibu Valley Farms, Inc. -- Application No. 4-06-163

4 * * * * *

5 4:35 p.m.

6 **CHAIR KRUER:** We are going to go ahead and start
7 again, on 13.e. and before we get going, I just would like to
8 make an announcement. We have just been handed a lot of
9 speaker slips, on this particular item, and so we will go
10 over the time periods, but the people from the general
11 public, and the people here in favor or opposition, we are
12 going to have an organized presentation by the applicant, an
13 organized presentation by the opposition, and then all other
14 speakers will be given 2 minutes.

15 I would ask some of the people, there are a lot of
16 people here, and we do appreciate you coming, on Malibu
17 Farms, but there are a lot of people here with many, many
18 speaker slips, so you don't have to use your 2 minutes, and
19 if you can do it less, it is very helpful to the Commission,
20 so we can get to our deliberation.

21 So, with that in mind, I'll go to staff, and we
22 will start the hearing.

23 **DISTRICT DIRECTOR AINSWORTH:** If I could have the
24 Power Point for Item 13.e. up and running, please.

25 I will need a few minutes to walk through the

1 staff presentation. This is, obviously, a very controversial
2 item, and I'll be taking a little extra time.

3 This is Item 13.e. and the applicant is Malibu
4 Valley Farms, Inc. and they are requesting an after-the-fact
5 approval for an equestrian facility that is used for both the
6 breeding, raising, training, stabling, exercising, rehabilit-
7 ation and boarding horses.

8 The subject property is an, approximately, 31-acre
9 parcel, located at the northeast corner of Mulholland Highway
10 and Stokes Canyon Road in the Santa Monica Mountains.

11 And, this thing is not working, video support
12 folks, the wireless mouse doesn't seem to be working.

13 [Pause in proceedings.]

14 Okay, here we go, we are back on.

15 Like I said, it is a 31-acre parcel located at the
16 northeast corner of Mulholland Highway and Stokes Canyon Road
17 in the Santa Monica Mountains, an unincorporated area of Los
18 Angeles County. The site is immediately north of the former
19 campus of Soka University, which is now a public park land,
20 scattered rural and residential development are located west
21 and south of the project site, and an undeveloped hillside
22 containing primary chaparral habitat is located to the east
23 of the property.

24 The southern, approximately, 28 acres of the
25 parcel is located within the coastal zone. Stokes Canyon

1 Creek, a stream designated by United States geological survey
2 as an intermittent blue line stream runs in a southwesterly
3 direction through the western half of the parcel. Stokes
4 Canyon Creek, and its associated riparian canopy, are
5 designated as inland ESHA in the certified Malibu Santa
6 Mountains Land Use Plan.

7 In addition, the Commission staff biologist Dr.
8 John Dixon visited the site on August 22, 2005, and has
9 confirmed that Stokes Creek, and its associated riparian
10 woodland habitat, on site, meet the definition of ESHA
11 pursuant to the Coastal Act.

12 The areas west and south of the creek are level,
13 and contain, approximately, 6 acres of unpermitted --
14 currently unpermitted equestrian facility, which is the
15 subject of this application.

16 The area located to the east of the creek,
17 consists of mountainous terrain, containing chaparral, oak
18 woodland, and annual grassland habitat, and is also confirmed
19 by Dr. Dixon to meet the definition of environmentally
20 sensitive habitat. This area, of the parcel, is,
21 approximately, 23 acres in size, and is enclosed by
22 unpermitted perimeter livestock fencing -- 3 acres, in size,
23 I am sorry.

24 This is a biological resources map of the site,
25 and this is Stokes Creek, shown here. This is riparian

1 corridor. This area up here is a portion of the chaparral
2 ESHA, and this polygon here is the oak woodland habitat, and
3 the rest are annual grasses.

4 Stokes Creek has been placed on the State of
5 California's list of impaired water bodies, in both 2002 and
6 2006 due to its high chloroform bacteria count. Stokes Creek
7 enters Las Virgenes Creek, just above the stream's confluence
8 with Malibu Creek in Malibu Creek State Park.

9 Las Virgenes Creek and Malibu Creek are also
10 listed as impaired water bodies by the Los Angeles Regional
11 Water Quality Control Board. Malibu Creek outlets into
12 Malibu Lagoon, and Surfrider Beach, which is consistently one
13 of the most polluted beaches within the Santa Monica Bay.

14 The applicant requests after-the-fact approval for
15 the construction and operation of, approximately, 6-acre
16 equestrian facility on the subject parcel.

17 The proposed equestrian facility can be divided
18 into two areas. The northern area, located here, on which
19 the applicant proposes an as-built riding arena, removal of
20 various as-built pipe corrals, storage shelters, cross-tie
21 areas, tack rooms, and construction of some new covered
22 pipes, barns, two shelters, a manure storage area, three tack
23 rooms, and they are also proposing to provide a 50-foot
24 setback from the top of the stream bank, and a vegetated
25 swale system, and riparian restoration are also proposed in

1 this area.

2 To the south of Stokes Creek, between the stream
3 and Mulholland Highway, the applicant proposes an as-built
4 mare motel shelter, manure storage area, parking lot, riding
5 arena, fenced paddock, and a barn. The fenced paddock is
6 proposed to be reduced in size. In addition, the applicant
7 has proposed a vegetated swale and velocity reduced in this
8 area, as well as a bio-retention facility, located right
9 adjacent to the creek.

10 The applicant has recently proposed to remove --
11 it is my understanding -- these two structures, and maybe
12 more, that they will clarify in their presentation, I
13 imagine.

14 The northern and southern portions of the facility
15 will be linked by two at-grade stream crossings through
16 Stokes Creek, which are shown here on this slide. The
17 applicant is proposing to retain these crossings through this
18 permit. And, the proposed project also includes livestock
19 fencing, again, enclosing the area to the east of Stokes
20 Creek, which contains the oak woodland chaparral ESHA.

21 The applicant has not provided any information
22 regarding the actual number of horses they are intending to
23 be maintained on the project site; however, a March 2005
24 draft Environmentally Impact Report prepared for the proposed
25 Malibu Valley Inn and Spa, which was to be developed by the

1 applicant on a site nearby here, estimated that an average of
2 50 horses were stabled on the subject site at that time.
3 Based on the existing proposed site facility, staff is
4 estimating, approximately, 70 horses could be accommodated on
5 this site.

6 The applicant has also submitted a site management
7 plan, and storm water runoff plan, as part of the
8 application. The plan includes design details, and
9 implementation guidance for the proposed best management
10 practices to be utilized by the facility regarding erosion
11 control, water quality runoff mitigation, general
12 housekeeping management, and an emergency preparedness and
13 fire safety plan.

14 The polluted runoff erosion control measures
15 include two vegetated swales, totaling 1400-linear feet, and
16 they are situated between the creek and the developed
17 portions of the site, in order to convey and treat runoff
18 from the site prior to discharge into the creek. And, they
19 are also proposing a bio-retention basin, located in the
20 south side of the site. These structures are located less
21 than 20 feet from the stream's riparian canopy, and in
22 addition, the applicant is proposing to restore and increase
23 the riparian buffer in certain areas adjacent to the creek,
24 totally about a half acre.

25 The Commission has not previously approved any

1 Coastal Development Permits for any development on this site;
2 however, the Commission has taken several other actions that
3 relate to the project site, including denial of the
4 applicant's claim of vested rights, and approval of a Cease
5 and Desist and Restoration Orders, approved in November of
6 last year.

7 In the denial of the vested rights claim, the
8 Commission found that the evidence provided by the applicant
9 did not substantiate the claim of vested rights for any of
10 the development on the site.

11 In approving the Cease and Desist Order, and
12 Restoration Order, the Commission found that development on
13 the site meets the definition of development that is subject
14 to the permit requirements of the *Coastal Act*, and that no
15 permit had been approved for this development.

16 The Commission further found that the unpermitted
17 development is inconsistent with the applicable Chapter 3
18 policies of the Act. It was found that Stokes Creek, and its
19 associated riparian woodland on the project site, meet the
20 definition of ESHA under the *Coastal Act*.

21 The Commission also found that the unpermitted
22 development on the site is located within and adjacent to
23 riparian ESHA, does not protect the ESHA from significant
24 disruption of habitat values, and has not been sited or
25 designed to prevent impacts that would significantly damage

1 the ESHA -- that would significantly damage the ESHA, I am
2 sorry -- inconsistent with Section 30240 of the *Coastal Act*.

3 The Commission further found that the existing
4 confined animal facility does not provide an adequate setback
5 from Stokes Creek, resulting in the degradation of water
6 quality, inconsistent with the requirements of the LUP and
7 Section 30231 of the *Coastal Act*.

8 Additionally, the at-grade dirt crossings through
9 Stokes Creek on the project site requires alteration of the
10 stream, but is not one of the three permissible uses detailed
11 under Section 30236 of the *Coastal Act*. The Commission also
12 found that the development is not consistent with Section
13 30251 of the *Coastal Act*, does not minimize alterations of
14 land forms, is not sited or designed to protect the scenic
15 and visual characteristics of the surrounding area, and that
16 it contributes to a cumulative adverse impact of increased
17 development along Stokes Creek and adjacent upland areas.

18 Finally, the Commission found that the unpermitted
19 development is causing continuing resource damage. The order
20 did provide that the applicant could submit a Coastal
21 Development Permit to retain some or all of the unpermitted
22 development on the site, and that is what the applicant is
23 proposing under this permit.

24 The applicant is now proposing to retain the
25 majority of the development on the site, and construct some

1 new facilities, and provide a 50-foot setback as measured
2 from the top of the stream bank. The applicant is proposing
3 some new development within the 50-foot setback area, which
4 includes the removal of 32 pipe corrals, and several covered
5 corrals across the area, and several storage containers, and
6 tack rooms, as you can see here, in this slide.

7 However, the actual riparian corridor extends
8 beyond the top of the stream bank at several locations on the
9 property. On the northern portion of the site, a development
10 will be situated, approximately, 30 feet from the edge of the
11 riparian corridor, at its closest point, and, approximately,
12 10 feet from the riparian corridor in the southern portion of
13 the property. Portions of the dirt access road network that
14 circles the proposed structures and arenas, on the site, are
15 situated immediately adjacent to the edge of the riparian
16 corridor.

17 And, on this plan, you can see here, the riparian
18 corridor is outlined in red, here, 50-foot setback in this
19 blue or purple color, and then 100-foot setback from the
20 riparian corridor is in this green. And, as you can see
21 here, where as measured from the riparian corridor, the
22 50-foot setback is catching some of this development, and
23 also is catching the roads that are surrounding this
24 development. So, we do consider the road part of the
25 development, and is not set back 50 feet, even from the edge

1 of the stream bank.

2 The proposed vegetated swales in the northern
3 portion of the site extend within 20 feet, or less, of the
4 edge of the riparian canopy, as can be seen on this slide.
5 This is the creek, and this is the vegetated swale here.

6 On the southern portion of the site, this is the
7 vegetated swale, and it is hard up against the edge of the
8 creek in this location, and the bio-retention facility is
9 also right up against the creek. There is no setback here,
10 whatsoever.

11 And, finally, there are those two at-grade stream
12 crossings that traverse right through the middle of Stokes
13 Creek in this riparian ESHA. Through permit actions in the
14 Santa Monica Mountains, the Commission has required a minimum
15 100-foot setback from the outer limit of riparian ESHA, in
16 order to protect the biological integrity of ESHA, provide
17 space for transitional vegetation -- or transitional
18 vegetated buffers, to minimize human intrusion, including
19 noise and lighting impacts, and to provide for infiltration
20 and filtration of runoff from development sites.

21 In addition, the 1986 certified Malibu Santa
22 Monica Land Use Plan, which is used as guidance by the
23 Commission, clearly requires a minimum development setback of
24 100 feet from the ESHA, as measured from the outer limit of
25 the riparian tree canopies.

1 Approvals of this permit would set an adverse
2 precedent regarding buffers and setbacks from ESHA in the
3 Santa Monica Mountains, and from staff perspective, would
4 prejudice the county's ability to prepare an LCP consistent
5 with the Chapter 3 policies of the Coastal Act.

6 The proposed project is a large scaled horse
7 facility adjacent to an impaired water body, as designated by
8 the Regional Water Quality Control Board. This type of
9 confined animal facility will produce a large amount of
10 organic and chemical waste, which will result in highly
11 compacted soils, and no matter how well this property is
12 maintained, horse wastes contain organic matter, nutrients
13 such as phosphorus and nitrogen, as well a microbial
14 pathogens such as chloroform bacteria, which can cause
15 putrefaction and decreases in oxygen levels in streams,
16 resulting in the clouding, algae blooms, and other impacts
17 which adversely impact the biological productivity of coastal
18 waters.

19 Therefore, the minimum required 100-foot setback
20 from the stream is critical in this case, would allow for the
21 infiltration and absorption of nutrients, sediments, and
22 pollutants, within the buffer before they reach the stream.

23 Although, the applicant is proposing vegetated
24 swales and bio-retention facilities, these are located within
25 20 to zero feet of the riparian corridor, and are hard up

1 against the edge of the creek.

2 The bio-retention basin is at the very edge of the
3 stream bank, and will flow directly into the stream. Large
4 storm events will overwhelm these bio-filtration facilities,
5 and swales, and polluted runoff will be directed directly
6 into the stream without any infiltration, or filtration
7 buffer, between those facilities.

8 The Commission's water quality staff, and staff
9 biologist, are of the opinion that given the intense
10 development proposed here, and the potential for adverse
11 impacts and water quality that will likely result from the
12 development, a buffer of 100 feet is clearly the bare minimum
13 that should be provided in this case, to insure protection of
14 the riparian ESHA, and the water quality of the creek.

15 In staff's opinion, the proposed development will
16 significantly degrade the riparian woodland ESHA by
17 increasing human and equine activity and its intended
18 impacts, including noise, light, irrigation, erosion and
19 introduction of animal wastes and other pollutants into
20 Stokes Creek.

21 Section 30231 and 30234 of the *Coastal Act* require
22 a natural vegetation buffer area to protect riparian
23 habitats. A 100-foot buffer from the riparian woodland ESHA,
24 and the oak woodland ESHA is necessary to prevent impacts
25 that would significantly degrade this ESHA.

1 Because the proposed development is set back less
2 than 50 feet from the riparian ESHA, and will not provide an
3 adequate and natural buffer, vegetated buffer, to protect
4 this riparian habitat and the water quality here in the
5 stream, the proposed development, in our view, is
6 inconsistent with Section 30240 and Section 30231 of the
7 *Coastal Act* and its associated standards that are provided in
8 the Malibu Santa Monica Mountains Land Use Plan.

9 In addition, the proposed livestock fencing in the
10 oak woodland area east of the stream, the proposed two stream
11 crossings through the riparian ESHA, are also inconsistent,
12 in our view, with Section 30240 of the *Coastal Act*.

13 The two at-grade stream crossings will
14 significantly disrupt habitat values in Stokes Creek by
15 reducing the stream bed to a compacted bare soil, which will
16 result in the sedimentation of Stokes Creek, and vehicle and
17 horse traffic through the creek will directly introduce
18 pollutants into the creek. The sedimentation and pollution
19 resulting from these stream crossings will adversely impact
20 the biological productivity of Stokes Creek, and will result
21 in significant disruption of habitat values, which is not
22 consistent with the ESHA and water quality policies of the
23 *Coastal Act*.

24 In addition, under Section 30236 of the *Coastal*
25 *Act*, the substantial alteration of streams is limited to:

1 one, necessary water supply projects; two, flood control
2 projects; and three development to improve fish and wildlife
3 habitat. Clearly, the proposed at-grade road crossings to
4 the stream are not an allowed use in a stream, pursuant to
5 Section 30236 of the Act.

6 There are on-site siting and design alternatives
7 to the proposed project that would be consistent with the
8 Chapter 3 policies of the Act, and the applicable policies of
9 the LUP. Although, application of the 100-foot setback would
10 significantly reduce the amount of area available for
11 development on the lower portion of the property -- the upper
12 and lower portion of the property -- it does allow for two
13 areas, an approximately 40,000 area adjacent to Stokes Canyon
14 Road -- in this location -- and a 20,000-square foot area
15 adjacent to Mulholland Highway, which could be utilized for
16 development on the site. These two areas could accommodate
17 some of the proposed structural development, including
18 covered corrals, barns, tack rooms, mare motel, storage
19 buildings, and some of the other buildings; although, these
20 areas could not accommodate the large riding arenas and
21 pastures that are proposed in this application.

22 However, there are already equestrian facilities
23 on this site, which include two riding rings, in the far
24 northern portion of the site, which is outside of the coastal
25 zone, up here in this location.

1 Another feasible alternative would be the
2 construction of a single family residence in the approximate
3 -ly 40,000-square foot area adjacent to Stokes Canyon Road,
4 which would also provide for reasonable economic use of this
5 property, and also could be developed consistent with the
6 Chapter 3 policies of the Coastal Act and the certified LUP.

7 This property is designated an LUP for residential
8 use, however, an equestrian use would also be appropriate on
9 this site, if they could meet the setback requirements.

10 There are also potential siting alternatives off
11 site. Brian Boudreau, president of the Malibu Valley Farms,
12 Incorporated, has at least an interest in several other
13 properties in the project vicinity that appear to contain
14 suitable areas for equestrian facilities that are not
15 adjacent, located in or adjacent to stream courses, and these
16 parcels contain gently sloping to level areas, that appear to
17 be suitable for equestrian uses, and these are designated
18 here on this aerial photos, by these stars.

19 Lastly, the as-built development, replaced
20 riparian habitat, and oak woodland chaparral and coastal sage
21 scrub, vegetated communities of many structures, fencing,
22 access roads, including dirt road crossings through Stokes
23 Creek, that are visible along the scenic highway, Mulholland
24 Highway, and trails in the area, including Backbone Las
25 Virgenes view trail above the subject property, as such the

1 proposed development is not consistent, in our view, with the
2 visual resource policies of the *Coastal Act*, because it is
3 not sited or designed to protect these important scenic and
4 visual characteristics of the area.

5 In summary, the applicant's proposal would allow
6 intensive equestrian related development and livestock use
7 within and adjacent to a riparian oak woodland and chaparral
8 ESHA, and is therefore inconsistent with the *Coastal Act*
9 policies for the protection of environmentally sensitive
10 habitat, water quality, and visual resource policies of the
11 *Coastal Act*, and the certified LUP.

12 Furthermore, in our view, there are environment-
13 ally preferred development alternatives available for the
14 applicant that would be consistent with the *Coastal Act* and
15 ESHA policies; therefore, staff is recommending denial of
16 this subject application.

17 And, really, the bottom line for us is that this
18 is not an issue with regard to whether the Commission is pro-
19 equine or pro-agriculture, or anti-agriculture, this is a
20 setback issue, as far as we are concerned. We do believe
21 equestrian facilities are appropriate uses on properties
22 within the Santa Monica Mountains, because that is the
23 tradition in the Santa Monica Mountains, is an equestrian
24 tradition, and we have secured more trails in the Santa
25 Monica Mountains for equestrian uses than any other agency in

1 this area. So, the notion that we are, somehow, anti-
2 equestrian is just not true.

3 In your addendum packet there are letters from the
4 Las Virgenes Homeowners Association, Heal the Bay, Save our
5 Open Space, the Resource Conservation Districts, and others
6 supporting the staff recommendation.

7 Also, in the addendum, includes sample of letters
8 of approximately 250 letters we have received supporting the
9 applicant's proposal, and supporting approval of the permit
10 in this case.

11 The applicant's attorney has also handed out a
12 late handout, which you should have in front of you, and that
13 concludes staff's presentation.

14 **CHAIR KRUER:** Thank you, Mr. Ainsworth.
15 Director Douglas.

16 **EXECUTIVE DIRECTOR DOUGLAS:** Yes, I just want to
17 make some concluding comments.

18 As Mr. Ainsworth pointed out, this Commission has
19 historically been very supportive of equestrian uses, and
20 supportive of equestrian use facilities. The issue here is
21 that much of the development that is at issue is illegal. It
22 was never permitted, and it is not consistent with the law,
23 and the Commission has so found in the past, both by denying
24 the vested right, and approving the Cease and Desist and
25 Restoration Order.

1 So, the question here is, now after the fact, they
2 are coming in and asking you to approve development that was
3 not permitted, and in our view is not consistent with the
4 law, even though there are alternatives here.

5 So, that is the simple essence of what it is that
6 is before you. It isn't whether you are for or against
7 horses. It is whether or not the development is legal under
8 the law.

9 **CHAIR KRUER:** Thank you, Director Douglas.

10 And, with that, I will turn to the Commission, my
11 colleagues, for deliberation, but first we will take the ex
12 partes -- not deliberations, but ex partes. Starting on my
13 left.

14 Commissioner Potter.

15 **COMMISSIONER POTTER:** Thank you, Mr. Chair.

16 I had a discussion on Saturday with Don Schmitz
17 regarding his concerns for the fact that he felt that the
18 comprehensive management plan, and the emergency preparedness
19 plan, and a variety of environmental remediations that were
20 being done, were going under-recognized, and also that the
21 environmental review board had the authority to, on a case-
22 by-case, to make individual ESHA setback determinations.

23 I had a short conversation with him earlier this
24 afternoon, where he stated that he would, obviously, prefer
25 to see this project approved, and mentioned some appropriate

1 conditions, and special conditions. The standard conditions
2 dealt with notice of receipt and acknowledgement, expiration
3 and interpretation of assignment, in terms of conditions that
4 would run with the land, all standard conditions.

5 And, special conditions were conformance to an
6 attached site plan he presented me; an agricultural easement;
7 mitigation monitoring program; standard assumption of risk;
8 waiver and liability, indemnifications, and a deed
9 restriction that would run with the property.

10 Thank you.

11 **CHAIR KRUER:** Thank you, Commissioner Potter.
12 Commissioner Achadjian.

13 **COMMISSIONER ACHADJIAN:** Thank you, Mr. Chair.

14 On July 6, 11:30 a.m. in my office I met with
15 Dustin Wormer, Bret Palmer, Brian Boudreau from Malibu Valley
16 Farms. Also, in the meeting was Don Schmitz, developing
17 consultant, and Sean Doherty, Sr. and it was similar
18 information that Mr. Potter just spoke of.

19 **CHAIR KRUER:** Thank you.
20 Commissioner Kinsey.

21 **COMMISSIONER KINSEY:** Yes, on July 2, I met with
22 Brian Boudreau, Sean Doherty, Bret Palmer and Don Schmitz, to
23 discuss the project.

24 They briefly explained the history of the permit
25 application, reinforced their belief that the equestrian use

1 was an historic agricultural use, and they presented the
2 modifications that they would be recommending at today's
3 hearing.

4 **CHAIR KRUER:** Thank you, Commissioner Kinsey.
5 Commissioner Lowenthal.

6 **COMMISSIONER LOWENTHAL:** Thank you.

7 I had a meeting scheduled earlier today with Mr.
8 Boudreau, but was not able to make it, and just had a brief
9 conversation regarding the logistics on not being able to
10 keep the appointment, but it will be on my staff calendar, so
11 I just wanted to report that.

12 **CHAIR KRUER:** Thank you, Commissioner Lowenthal.
13 Vice Chair Neely.

14 **VICE CHAIR NEELY:** Thank you, Mr. Chairman, my ex
15 partes are on file.

16 **CHAIR KRUER:** I had an ex parte today as I walked
17 in to check in at the hotel at 11:45, and I met with Don
18 Schmitz and Mr. Wolmer and Brian Boudreau, and they discussed
19 the history of the farm, and the dimension of the existing
20 development, how it works, and discussed the landscaping that
21 created the riparian habitat, and the proposed drainage
22 mitigation. That was about it.

23 Yes, Commissioner Secord.

24 **COMMISSIONER SECORD:** Thank you, Mr. Chair, on the
25 6th of July, 2007, I met with Brian Boudreau, Justin Wolmer,

1 Mike Stoker, Beth Palmer, and Sean Doherty. They reviewed
2 the history of the farm, the purchase, the time of purchase
3 being about 1978. We talked about the vested right issue.

4 The talked about the way the creek had been moved
5 when the government moved Stokes Road back in the '50s. They
6 talked about their environmental management program, their
7 best management practice, what they were doing now,
8 essentially, was the grazing and raising of thoroughbred race
9 horses.

10 They talked about the borings, going down into the
11 soil and seeking -- getting cultures, trying to understand
12 whether their operations was polluting the creek.

13 My question -- which they answered, I think -- was
14 if you crafted a project that would avoid all of these touchy
15 spots, what was left? And, there are pictures in the staff
16 report that answer that question. Let's see, there was
17 discussion about the offsite alternatives on other property,
18 and project alternatives in general.

19 Thanks, very much.

20 **CHAIR KRUER:** Thank you, Commissioner Secord.

21 Commissioner Blank.

22 **COMMISSIONER BLANK:** On Sunday, July 8, at 10:13 I
23 got an email from Mark Massara of the Sierra Club, giving me
24 his opinion on Malibu Farms. He stated this should be an
25 enforcement item, but, it is being considered as a

1 development matter.

2 He agreed with staff, and said the development
3 offsite was in direct violation of ESHA, riparian, and stream
4 protection policies.

5 He said, most importantly to the Sierra Club, this
6 is the headwaters of Malibu Creek, and numerous other park
7 and public lands running all the way to the Malibu Lagoon and
8 State Beach, and believes it is an important environmental
9 key spot. He also enclosed a letter from Sierra Cluber Dave
10 Brown, which is also in the packet.

11 And, then, 3:00 o'clock the same day, Sunday, July
12 8th, I met with Don Schmitz, Brian Boudreau, Beth Palmer, and
13 Jean Sinineau, and Sharon Doherty arrived just as the meeting
14 ended. Our discussion topics were the same as other ex
15 partes. They presented a detailed history of the farm, from
16 1944 through today. They talked about the LCP policies for
17 riparian corridors, and stream protection, and stated that
18 the Commission has discretion to approve project at less than
19 100 feet.

20 We talked about whether equestrian activities were
21 agriculture, and we talked about the mitigation measures that
22 Malibu Farms is proposing in conjunction with their proposed
23 reduce setback.

24 That's it.

25 **CHAIR KRUER:** Thank you, Commissioner Blank.

1 Commissioner Burke.

2 **COMMISSIONER BURKE:** Today, during one of our
3 breaks I approached Don Schmitz, and asked him where Los
4 Angeles County was on this project, and he indicated to me
5 that Supervisor from the third district was in full support,
6 and his staff had been out and reviewed the project.

7 Also, I stopped one of the proponents in the
8 hallway, and asked them a question, as it related to the
9 development of the project, and obviously, they were very
10 much in favor and indicated that it was a community project.

11 So, those were my only ex partes.

12 **CHAIR KRUER:** Commissioner Gonzalez.

13 **COMMISSIONER GONZALEZ:** Yes, I spoke briefly this
14 afternoon with Marcia Hanscom, who just reflected to me that
15 she was in complete support of the staff's recommendation.

16 **CHAIR KRUER:** Thank you, Commissioner.

17 With that, I will open the public hearing and call
18 up first, Don Schmitz. Mr. Schmitz, how much time are you
19 requesting, sir?

20 **MR. SCHMITZ:** Fifteen minutes, Chair Kruer.

21 **CHAIR KRUER:** Okay, and you are going to save five
22 minutes for rebuttal, and some of that you are going to give
23 to Fred Gaines, correct?

24 **MR. SCHMITZ:** Yes, sir, 15 minutes, and then after
25 that 5 minutes for the rebuttal.

1 **CHAIR KRUER:** Okay.

2 **MR. SCHMITZ:** And, before you start the clock, the
3 room was loud. I want to clarify my ex parte with
4 Commissioner Burke. It was an impromptu, and actually what I
5 discussed with him was that the supervisor's office had
6 provided us the Moon Over Management Plan Award, and that the
7 Department of Regional Planning had approved the project.

8 **CHAIR KRUER:** Okay, so ready to go then?

9 **MR. SCHMITZ:** Yes, sir.

10 **CHAIR KRUER:** Fifteen minutes.

11 **MR. SCHMITZ:** Commissioners, good afternoon, my
12 name is Don Schmitz. I am proud to be before you today to
13 represent Malibu Valley Farms.

14 Suffice it to say, that we disagree vehemently
15 with many of the assertions in the staff presentation, and in
16 the staff report. There is a lengthy history with the Malibu
17 Valley Farms, and as you can see, it is a very well
18 established equestrian center. It has been recognized as the
19 32nd best thoroughbred breeding ranch in the United States of
20 America, and it is No. 1 in the State of California. This is
21 not an inconsequential little operation. The deliberations
22 today will have implications for a \$7 billion equestrian
23 industry in the State of California.

24 The site history befor Malibu Valley Farms is
25 lengthy. It has been a farm for at least over 70 years, as

1 documented through receipts and invoices. My client's
2 father, actually, bought the property in the early 1970s, but
3 well before then it was a property that was used extensively
4 for agriculture.

5 You can see Stokes Creek, located thus. These are
6 the property boundaries. This is Mulholland Highway. Stokes
7 Canyon Road, the original alignment, you can see that there
8 was crop production on the photos that have been passed out
9 to you. You can see the actual furrowing of the land.

10 And, then there was open grazing of livestock to
11 the property to the east, which goes on today, which your
12 staff is calling an oak woodland ESHA, although it is not
13 mapped thus in the Land Use Plan. In 1952, the County of Los
14 Angeles came in and they graded not only Stokes Canyon Road,
15 but all of the area where the subject farm is located right
16 now.

17 And, I want to bring to your attention that the
18 precedence that the staff cites in their staff report, for
19 where you have require 100-foot setback from drainages, have
20 been from natural drainages. The county came out here is
21 1952 graded the entire area, and then asked the farmers to go
22 out with a backhoe and grade and realign the Stokes Canyon
23 drainage, which is an intermittent stream, Commissioners, as
24 cited on pages 5 and 15 of the staff report. There is rarely
25 water within this creek.

1 This is 1962, a decade after that grading job.
2 You can see the furrows from the disking and from the oak
3 production. You can see the access roads going across the
4 creek, and that it was heavily and extensively grades.

5 In 1972, again, you can see the drainage, and I
6 point out to you, where do you see the riparian canopy that
7 staff suggests should be utilized to push our development
8 back even further -- it doesn't exist. And, the reason it
9 doesn't exist is because it was created by the farmers. They
10 are the ones that went out and planted the trees along that
11 drainage.

12 So, Malibu Valley Farms, I think, has been a very
13 good steward of the property for at least 30 years. This is
14 a 1979 photograph. You can see the farm here, and this is
15 the drainage that is Stokes Creek, no trees, no riparian
16 vegetation whatsoever.

17 This is a picture of the trees now. This is what
18 staff is calling the environmentally sensitive habitat area,
19 and suggesting that you should utilize to, essentially, close
20 this farm down.

21 Here is an aerial photograph. We think it looks
22 much better than when it was taken over by the present
23 owners.

24 We host the annual recreational equestrian
25 coalition rides. We host the Compton Junior Posse, including

1 sleepovers. The kids come out from Compton, they ride the
2 horses, they stay there. We host the Princess Riding Club,
3 they are in Montevideo Valley. We are host to the Corral 36
4 Pony Club. We are the local evacuation center and certified
5 staff with the California Department of Forestry. This is a
6 critical equestrian facility in an equestrian area.

7 This is a thriving business, as you can see from
8 all of the pictures in front of you. We produce,
9 approximately, 20 beautiful fousls per annum, and we have won
10 many, many, many awards. This is not grandstanding. This is
11 one of the best premier equestrian centers in the State of
12 California.

13 Now, in 1996, a fire destroyed the farm, why?
14 because the personnel on the farm took all of the dozens and
15 dozens of horses that the neighbors brought over when the
16 fire storm came through, and they managed the horses, and
17 they saved the horses' lives, and allowed their facility to
18 burn to the ground. An exemption request -- and it is still
19 utilized. It is the designated evacuation center for the
20 area.

21 So, in 1998, the Coastal Commission staff issued a
22 exemption under 30610 for the replacement of structures which
23 were destroyed by the fire. But, shortly thereafter, when a
24 neighbor complained, the Coastal Commission staff revoked the
25 exemption.

1 So, a vesting application was submitted, and yes,
2 in November that application for the vesting was before this
3 Commission, and it was denied -- we will agree to disagree on
4 that. But, the reason we are before here today is because
5 the Commission unanimously, and in a very atypical fashion,
6 put the Cease and Desist and Restoration Order on hold, and
7 directed us to come back with the application before you
8 today.

9 Now, this application is very comprehensive. It
10 has been thoroughly reviewed and approved by multiple
11 agencies. It has a comprehensive management plan, including
12 the bio-swale. We received a number of different agency
13 approvals for this: the Fire Department, the Environmental
14 Review Board, which is critically important, because what
15 staff doesn't have in their staff report is that in Table 1,
16 which they cite requiring a 100-foot setback, they don't give
17 you the whole story, Commissioners. Table 1 in the Land Use
18 Plan, specifies that the county Environmental Review Board
19 can, on a case-by-case basis, recommend a reduced setback,
20 and the county Environmental Review Board did just that.
21 They found this project consistent after suggested
22 modifications, of which was our bio-swale incorporation, and
23 that we would direct all lights on the property downward, and
24 we are in total agreement with that.

25 Then, Regional Planning approval, and the

1 Department of Fish and Game approval, including retention of
2 the two dirt trails which go through the drainage, which you
3 can see on the old photographs have been there since time
4 immemorial. And, we have State Water Resources Control Board
5 approval.

6 We have a comprehensive management plan that has,
7 basically, four layers: the manure management plan, the open
8 pipe corrals to be converted to enclosed structures, the bio-
9 swale retention pond, and an increased riparian buffer. We
10 created the riparian habitat in the first place. We planted
11 thousands of trees there, over 1000 trees, and we are going
12 to expand that further.

13 We have won the manure management award from the
14 County of Los Angeles, out of 700 equestrian facilities in
15 the County of Los Angeles, we were deemed the very best.
16 And, the county is using our manure management plan as a
17 template to incorporate in their Local Coastal Program which
18 they hope to be bringing before you in the next couple of
19 months.

20 We will include dust control. We will maintain
21 all ditches, crossings and culverts, and the bio-swale free
22 of all debris, and we will reduce the amount of chemicals and
23 pesticide, et cetera, to an inconsequential level.

24 And, I have to take an issue with staff's
25 presentation. They keep asserting that it will not be

1 enough, that it will not be adequate -- where is the
2 contravening evidence? I have brought scientists here that
3 designed it, the engineers, the biologists, Joe Decrenerus is
4 here. He was the county biologist at the time this was heard
5 before the Environmental Review Board, and they have all
6 stated conclusively that the analysis substantiates that with
7 the bio-swale, and with the increased riparian habitat
8 buffer, there will not be deleterious impacts to this creek.

9 Staff says otherwise, but they provide absolutely
10 no supplemental expertise in testimony, or reports to
11 contradict our experts.

12 Now, the existing conditions, coastal zone
13 boundary bisects the property, you have got the pipe corrals,
14 the arenas, and existing structures -- and very little time,
15 so I am going to move very fast here, Commissioners, I am
16 sorry. Dr. Decrenerus is here and --

17 **CHAIR KRUER:** Mr. Schmitz, speaking of that for
18 Mr. Decrenerus, if you are going to save some time, then we
19 need to stop --

20 **MR. SCHMITZ:** -- well, I --

21 **CHAIR KRUER:** -- as part of the organized
22 presentation?

23 **MR. SCHMITZ:** I am sorry, Mr. Chair, I didn't mean
24 to speak over you. I am, obviously, moving fast here. I
25 will bring Joe to the podium if I have time, otherwise, he

1 will just have to be available to answer questions.

2 **CHAIR KRUER:** That's fine, continue.

3 **MR. SCHMITZ:** So, the existing conditions will be
4 modified. We have a representative cross-section here. This
5 is Stokes Creek. You have the existing pipe corral open
6 facilities. Rainwater falls on the property and does, in
7 fact, have the potential to flow into the creek.

8 We are going to replace the pipe corrals. We are
9 going to remove those that are closest to the creek. These
10 will be contained structures. The bio-swale will be located
11 thus. We will increase the riparian buffer. There will be
12 an access road that will be covered with a special sand that
13 does not generate dust, and in fact provides additional
14 filtration abilities. And, what this means is that the
15 rainfall will fall down and go into the bio-swale and off of
16 the property, and not into the creek.

17 These are the replacement structures, and this is
18 what we will be removing.

19 That is a picture of the bio-swale, a cross-
20 section, and this is the riparian area, and how we will
21 expand it.

22 On the south side we will remove the pasture which
23 is close to the creek. There are a number of very old
24 structures that we will remove. We will have erosion control
25 devices, again, the bio-swale. And we are, in addition, now

1 proposing to eliminate the oldest barn on the ranch, which is
2 located thus, to further increase the setbacks from the
3 creek.

4 In conclusion, the project is consistent with the
5 *Coastal Act*. It has been designed to be an environmental
6 standard for these types of projects. There are, in fact,
7 unique qualities and aspects to this, which are atypical.

8 Staff's recommendation of a 100-foot setback will,
9 in fact, eliminate Malibu Valley Farms. I have a great deal
10 of respect for your staff, but they are not equestrian
11 experts, and for them to assert that the remaining areas,
12 which they would allow available to us, would allow us to
13 operate the farm is just not founded on true equestrian
14 business practices.

15 There is a lot that is not in the *Coastal Act*, by
16 the way -- excuse me, it is in the *Coastal Act*, but not in
17 the staff report. Section 30241 specifies that the maximum
18 amount of prime agricultural land shall be maintained in
19 agricultural production to assure the protection of the
20 agricultural economy.

21 It specifies under 30242 that all land suitable
22 for agricultural uses shall not be converted to non-
23 agricultural uses. Policy 12 of the Land Use Plan, specifies
24 that you shall create an incentive program that would
25 encourage landowners to make lands available for public

1 recreational uses, perhaps like the rec ride, or the Compton
2 Posse.

3 And, the Table 1 does, in fact, allow variations
4 from the 100-foot setback, even though that is not in the
5 staff report. There are other *Coastal Act* policies which are
6 not part of our Power Point presentation, that pertain to
7 recreation, that pertain to access.

8 This Coastal Commission has required, for
9 instance, single family homes to have adequate off-street
10 parking, because that is an access issue. If people are
11 parking on the street, then people will not be able to park
12 on the street, the general public, to access coastal zone
13 resources. How, then, can we say that the destruction of
14 this farm will not degrade the ability of the public to
15 access the coastal zone. Very clearly, it will.

16 Section 30322 of the *Coastal Act* specifies that
17 recreational opportunities shall be enhanced. These are all
18 coastal resources. Sometimes in these hearings, we fall into
19 a little bit of a trap. We just talk about a water quality
20 issue, or ESHA, important, critically important, but as
21 defined by the *Coastal Act*, Commissioners, access,
22 recreational opportunities, agriculture, those are all
23 critically important *Coastal Act* resources, as well, which is
24 illustrated by Section 30001.5 of the *Coastal Act* which pulls
25 it all together and specifies that maximum public access to

1 and along the coast, and maximum public recreational
2 opportunities in the coastal zone, consistent with sound
3 resource conservation principles and Constitutionally
4 protected rights of property owners, will be the goal and
5 objective of this Commission.

6 What that specifies is that there must be a
7 balanced approach. The staff report, and the staff present-
8 ation is not balanced. All it says is 100-foot setback, it
9 has all got to go, 100-foot setback. It does not take into
10 account the science as applied in the design, and it has
11 absolutely no findings as it pertains to the agricultural
12 aspects, the recreational aspects, and the access, all
13 important resources under the *Coastal Act*.

14 So, if you will stop the clock, in just a second,
15 I have a little bit of time, and I would ask Mr. Decrenerus
16 to come on up to the podium.

17 **CHAIR KRUER:** That's fine.

18 Yes, sir, and would you state your name for the
19 record, and there are 2 minutes left.

20 **MR. DECRENERUS:** My name is Joe Decrenerus,
21 consultant biologist with Impact Science, Pasadena.

22 And, to reiterate what Don just said, yes, I was
23 the county biologist at the time that this project went to
24 the ERB in 2003, and the minutes of that meeting, summarized,
25 basically, ERB's only concerns were with an erosion problem

1 along the stream, which the applicant has gone to some length
2 to address in their design. And, the exterior night
3 lighting, that that be minimized and down cast. And, the
4 county's staff recommendation was that they provide us their
5 our manure management plan.

6 Otherwise, in terms of being within the 100-foot
7 setback area, ERB and county staff, both found the project to
8 be consistent with the coastal plan, they had no issue with
9 that.

10 CHAIR KRUER: Okay.

11 MR. DECRENERUS: And, that is all that I have,
12 thank you.

13 CHAIR KRUER: Thank you, sir.

14 Mr. Schmitz.

15 MR. SCHMITZ: Thank you, Chair Kruer.

16 In conclusion of my presentation, I would also
17 like to draw the Commission's attention to Section 30004 of
18 the *Coastal Act*, that specifies reliance on the local
19 government.

20 "Legislature finds and declares, (a), to
21 achieve the maximum responsiveness to local
22 conditions, accountability, and public
23 accessibility, it is necessary to rely
24 heavily on local government, and local
25 land use planning procedures and enforcement."

1 The county convened the Environmental Review
2 Board, which has biologists from the National Park Service,
3 and State Parks. They are historically extremely aggressive
4 in regards to environmental protection. They found our
5 project consistent with the Land Use Plan, and we would ask
6 you, also, to do so.

7 And, with that, I will save the remainder of my
8 comments for rebuttal, unless you have any questions.

9 **CHAIR KRUER:** No, sir, that is fine. Thank you,
10 very much.

11 With that, we will ask Mary Hubbard for her
12 organized presentation -- Mary Hubbard? And, we talked, Ms.
13 Hubbard, and you requested 15 minutes, and you represent
14 several groups.

15 **MS. HUBBARD:** Yes.

16 **CHAIR KRUER:** Is that correct?

17 **MS. HUBBARD:** Yes, it is.

18 My name is Mary Hubbard. I live 5411 Ruth Wood in
19 Calabassas. I am -- I don't know who I am representing, SOS,
20 Preserve Calabassas, Westside Coalition, Las Virgenes
21 Homeowners Federation -- who else did I say on there?

22 **CHAIR KRUER:** I think you got most of them in.

23 **MS. HUBBARD:** Okay.

24 [Pause]

25 **CHAIR KRUER:** Malibu Canyon Community Association.

1 **MS. HUBBARD:** Community Association, yes.

2 The issue, really is very simple. It is not an
3 equestrian issue, it is about clean water, about respect for
4 the existing environmental zoning laws that protect the
5 public and the private land investments in the area. The
6 problem is not the horses, the problem is horses that are
7 housed within just a few feet of the stream.

8 We don't need to debate whether or not horses
9 affect water quality in streams, we don't need to work out a
10 best practices manure management plan for Mr. Boudreau.
11 Those are not the issues this Commission needs to address
12 today. The agenda item is very simple.

13 There are three questions to answer: is Mr.
14 Boudreau's CDP application complete? if it is not, it
15 defaults to the cease and desist order already approved, and
16 the Commission should spend its efforts making sure that
17 enforcement of that order proceeds with all possible haste.

18 No. 2, are there any compelling findings to
19 justify deviating from Coastal staff's recommendation for
20 denial? if not, there is no reason to grant approval or a
21 variance.

22 And, No. 3, does Mr. Boudreau have viable
23 alternatives? if so CEQA dictates that they be utilized.

24 Regarding his application, we don't believe that
25 it is complete. While he thought he was outsmarting the

1 system by taking four years to complete his CDP application,
2 submitting an average of one required document per year, his
3 L.A. County approvals have now expired. Those approvals,
4 which are required components of the CDP application, and
5 which they were just bragging about, expired in February of
6 2006, and January 2005. Before the March 2006 deadline that
7 he finally -- March 2006 date, when he finally submitted the
8 last document, that finally allowed the Coastal Commission to
9 proceed with agendizing this item, an item for a public
10 hearing.

11 [Pause]

12 I am just waiting to see if anybody is with me
13 here.

14 **CHAIR KRUER:** Yes, everybody is listening to you.
15 Just keep going, we are trying to --

16 **MS. HUBBARD:** He has been on the Coastal
17 Commission agenda twice last summer, but postponed his first
18 hearing, and then withdrew it a second time. I have copies
19 of those L.A. County approvals that they are bragging about,
20 and the approval, in concept, says that this approval is for
21 private equestrian use, not commercial use, not approved for
22 boarding of horses. It states it right on this document,
23 which I will get copies for you, because it doesn't appear
24 that the specifics are a part of this report.

25 It also says that such approval shall not be

1 construed to permit the violation of any provision of any
2 county ordinance or state law. Our local Land Use Plan says
3 100-foot setbacks.

4 It also says that it is only good for two years,
5 and those two years have expired, so his application is no
6 longer complete, through no fault of the Coastal Commission,
7 but through his own delays and stalling tactics. That
8 approval in concept also does not indicate the CEQA status
9 for this, and it says that this is simply a site plan review,
10 and it doesn't talk about any variances.

11 As this drags on and on, it starts to lose some of
12 the institutional memory that is so critical in situations
13 like these, that I think brings a little bit of perspective
14 as to who this person is, and how he operates -- maybe that
15 is what he is banking on. We have been through 3 coastal
16 staff members since managing this now.

17 There is wider knowledge available, only by
18 community members, who have been engaged in this struggle
19 with him, such as his knowledge of the Coastal Act, since he
20 filed for and was denied a coastal boundary line
21 determination as far back as 1987, to try to move all of this
22 development out of the coastal zone.

23 Two clean hands waivers that were denied from L.A.
24 County, because of the numerous violations on the property,
25 for not only illegally boarding, but for putting up buildings

1 without the benefit of permits, all the while, he continues
2 his operation, including putting up a new illegal barn next
3 to the old illegal barn in the coastal zone.

4 Horses are rotated in and out of the barn that was
5 completed in the face of three stop-work orders by L.A.
6 County Building and Safety, and finally completed on Martin
7 Luther King's weekend, where he wouldn't be caught by anyone.
8 He uses the buildings until they notice him for violations,
9 and moves the horses out for a little while, and then he
10 starts filling up the facilities again.

11 I guess we can count on this, with all of the
12 promises that they are making about how wonderfully they will
13 be running their facilities if you grant these approvals.

14 Regarding the findings that would be necessary for
15 this board to approve this, the *Coastal Act*, as you are all
16 infinitely aware, requires that proposed development
17 maintains, enhances, or restores marine resources by
18 controlling polluted runoff, maintaining natural vegetation
19 buffer areas, and minimizing alterations of natural stream
20 banks, and to do anything less would be a violation of the
21 public trust.

22 The Santa Monica Mountains Land Use Plan limits
23 use of adjacent to important waterways to residential uses,
24 that have a minimum of 100-foot setback from the stream. LUP
25 regulations need to be consistent with the *Coastal Act* and

1 the Coastal Commission cannot approve development that
2 conflicts with the LUP.

3 In 1995, the Malibu Creek Watershed Council, made
4 up of stakeholders including local cities, agencies, non-
5 profits, and concerned citizens, approved the Malibu Creek
6 Watershed Natural Resources Plan, one of 44 action items seen
7 as critically important and subscribed to by all stake-
8 holders is to, quote, unquote, develop and maintain specific
9 buffer zones for sensitive areas.

10 You are going to hear a lot of testimony from
11 people today. You heard it in November at the vested rights
12 claim hearing, also. I want you to consider who these people
13 are, many of them are relatives and employees -- what else
14 would you expect them to say but that they have a vested
15 interest in the outcome here? Many of them were bussed in at
16 the applicant's expense, members of REC, the Recreation and
17 Equestrian Coalition who may or may not be members of the
18 community -- ask them -- and may know little about the
19 property in question, or the applicant, but join ranks to
20 expand horse operations anywhere, even if they are
21 destructive to the environment and are illegal.

22 Other testimony comes from people who are
23 themselves engaged in unpermitted activities on their own
24 properties in the area, or who are using Boudreau's illegally
25 operating facilities, as they bragged about what they were

1 doing to with community, the question is was it legal for
2 them to be doing those things. For those people who are here
3 too, with their unclean hands, and if they tell you they are
4 using his facilities, please take down the details so that
5 they can be used in the enforcement proceedings -- illegal.
6 If the tell you they aren't using his facilities, ask them
7 where they do board their horses, and you will find that
8 there are other boarding facilities, and riding arenas in the
9 area, for this property is not of critical importance in that
10 way, either.

11 This is not an anti-equestrian issue. This is
12 years of slick expensive tricks by the developer, however,
13 flagrant violations of L.A. County building codes, and local
14 and coastal zoning laws. This is degradation of our streams.
15 This is a man who sues people if they speak out against his
16 urban development plans in the Santa Monica Mountains -- I am
17 one of those people. This is a man looking for profit,
18 whether it from the 81-home tract of mansions that he is
19 currently recording and building, or the 400,000-square foot
20 convention center he proposed two years ago, and sued me
21 personally for, for speaking out against. Or, the 8 estate
22 lots at the end of the street that have been graded and
23 openly eroding for years now -- this is some information that
24 you need to know about the applicant today.

25 There is a reason that he has spent more money and

1 time in pursuing this then it would have taken to just comply
2 with the law and move the facilities away from the stream. I
3 don't know what that is yet, but I am sure we will find out
4 soon enough if this gets approved, afterall, part of the
5 reason his 400,000-square foot convention center was shot
6 down, because we were able to show that the facility upon
7 which it depended for its alleged equestrian component was
8 operating illegally and would not likely ever be approved in
9 its present location.

10 An approval or variance today, then, could be far
11 more growth inducing then you might initially suspect from
12 all of the emotional ladened testimony that will be presented
13 to you. Allowing the builder to erect a large horse
14 operation in an illegal location, without the necessary
15 permits, allowing him to continue to operate, and then retro-
16 actively approving this development without any reper-
17 cussions, would be a devastating precedent to set -- maybe
18 that is how he plans on getting his convention center built,
19 just put it up and wait for somebody to get you.

20 We didn't pay for hotel rooms. We didn't bus
21 people in to testify in this. The people that I am
22 representing today are trusting that they don't have to keep
23 showing up for Mr. Boudreau's pony shows, for the laws to be
24 upheld, and finally enforced after so many years of continued
25 abuse, and so many years of our wasted time, and money from

1 private citizens and public agencies.

2 We concur completely with the detailed and
3 comprehensive staff report. What I did bring with me today
4 are letters and comments from public agencies, and community
5 organization who represent millions of people who use the
6 Santa Monica Mountains recreation area, into which Stokes
7 Creek drains.

8 I have a letter from Ron Shaffer, district
9 superintendent for State of California Parks and Recreation,
10 which I will read into the record, and provide you copies
11 with, because you don't have this yet. It was just completed
12 on July 7.

13 "Dear Honorable Commissioners, the California
14 Department of Parks and Recreation, Angeles
15 District, has reviewed the staff report for
16 the above referenced permit application for
17 an after-the-fact approval of extensive horse
18 facilities at Malibu Valley Farms. We concur
19 with the staff recommendation for denial. The
20 facilities are not in compliance with the Malibu
21 Santa Monica Mountains Land Use Plan, the principle
22 plan governing the land use of this site. The
23 unpermitted structures are located within the
24 100-foot setback of the Stokes Canyon Creek ESHA,
25 approval of variance for a 50-foot setback

1 would establish a precedent that would
2 encourage a future unpermitted construction
3 of facilities within ESHA buffer. Stokes
4 Canyon Creek, at this location, drains directly
5 into the wetlands, operated by the Santa Monica
6 Mountains Conservancy, California State Parks,
7 and National Park Service. These park agencies,
8 and many members of the public worked diligently
9 for many years to protect and acquire this site
10 as the centerpiece of the Santa Monica Mountains
11 National Recreation area. The Ranch, Stokes Creek
12 flows into Malibu Creek State Park, Malibu Creek,
13 and Malibu Lagoon State Beach, one of the very
14 few runs of the endangered southern steelhead
15 trout inhabits Malibu Creek.

16 "We urge you to follow your staff's recommendation
17 to deny this application, in order to protect
18 those substantial public expenditures that have
19 been made to preserve these outstanding natural
20 resources for the benefit of the public.

21 "Thank you for consideration of our comments."

22 I represent the more than 20 homeowners associations in
23 the area continue to oppose any development that goes against
24 the Malibu Santa Monica Mountains Land Use Plan, the Coastal
25 Act, or the North Area Plan, which governs the property north

1 of the coastal zone. Save Open Space, Preserve Calabassas,
2 the Westside Coalition, and the Malibu Canyon Community
3 Association go on record as being in opposition to the
4 proposed Coastal Development Permit and granting of any
5 variances.

6 Heal the Bay, Sierra Club, and CLEAN are all here
7 to speak for themselves, or have submitted comments that ask
8 for the same denial, and that there be no variances to
9 setback requirements. Those are minimum requirements. There
10 is much documentation saying that more is better.

11 The Malibu Creek Watershed Council and the
12 Resource Conservation District support minimum 100-foot
13 setback requirements and have gone on record in this case.
14 The California State Parks just did, I read their letter.

15 There has also been a significant investment by
16 the public in watershed restoration in the area. I want to
17 detail some of those investments that we have recently made,
18 and show you the trend that is happening in the area. Las
19 Virgenes Creek restoration, \$1,126,000 which is being funded
20 by the Santa Monica Bay Restoration Commission, Coastal
21 Conservancy, City of Calabassas, and other grantors.

22 The City of Calabassas has put in a new storm
23 water filtration system for another \$400,000. Other Malibu
24 Creek restoration projects that have happened since 2002,
25 when Mr. Boudreau first filed his CDP application,

1 incidentally, \$5 million. Another \$100 million in trout
2 habitat restoration. A \$210 million for open space
3 acquisition in the area, plus an additional \$500 million in
4 proposed projects from the Integrated Regional Watershed
5 Management Plan.

6 To undermine those efforts would be devastating at
7 this point. We are finally making progress with this
8 watershed, and finally getting people to be aware of what has
9 been happening, and what needs to be done to fix it.

10 The last question is: do viable alternative exist?
11 CEQA prohibits the proposed development from being approved
12 if there are alternatives --

13 CHAIR KRUEER: Miss, your time is up.

14 MS. HUBBARD: Okay.

15 CHAIR KRUEER: Thank you, very much.

16 MS. HUBBARD: Thank you.

17 CHAIR KRUEER: Now, we will go to, since we have
18 had the organized from the applicant and from the opposition,
19 we will now go to -- again, I report that we have over 45
20 speakers slips here, that we have granted 2 minutes to, and
21 if people cede their time if someone else has said something,
22 there are about 40 in favor and 5 opposed, we would
23 appreciate it, as it helps us get to deliberations faster.
24 But, we do want to hear from everybody who wants to talk.
25 So, again, I just make that point, and ask you if your

1 neighbor, the person sitting next to you, has already said
2 the same thing, maybe you just want to get up and say, "We
3 support it," or "We oppose it," or whatever, but you all will
4 be given 2 minutes.

5 With that, we will start with Mr. Sean Doherty,
6 then after Mr. Doherty, Laura Blank.

7 **MR. DOHERTY:** Commission, Chairman, thank you for
8 this opportunity to speak before you today. I am here on
9 behalf of the thoroughbred owners of California. Unfortunat-
10 ly, our president, Mr. Drew Catto was unavoidably detained.
11 He sends his regrets and apologies and asked me to speak on
12 behalf of the TOC.

13 The horse industry in California is a \$7 billion
14 industry -- let me repeat that, a \$7 billion industry. We
15 employ over 600,000 people up and down California, of all
16 races, creeds, breeds and economic status. We are one of the
17 largest employers, single employers, as far as an industry,
18 in the State of California.

19 The thoroughbred industry, and the horse racing
20 industry in particular, contributes a significant portion of
21 that \$7 billion into the California economy. As you can see
22 here today, Malibu Valley Farms is the premier horse
23 breeding, thoroughbred breeding operation in California, and
24 they have been nationally recognized as the No. 1 operation
25 in California.

1 I want to propose to you, Commissioners, that
2 should you decide to disapprove the application, what you
3 will be doing, as you can see here in the evidence, is
4 shutting down an operation that produces champion
5 thoroughbreds, and significantly contributes to the economy
6 of California.

7 So, before you is simply not a question of whether
8 or not the mitigation plan, which is truly state-of-the-art,
9 will, in fact, protect the creek. It is not whether or not
10 just the 100-foot setback should be upheld, but the ripple
11 effects of the economy. What is going to happen should you
12 shut down this particular operation?

13 And, I would pose to you, Commissioners, that the
14 ripple effects will reach up and down the state. That is why
15 the horse community is here in mass today. We are watching
16 this decision, from Eureka to San Diego, and in the halls of
17 the capitol, we are very concerned about what this Commission
18 does, and what actions you take today.

19 **CHAIR KRUER:** Can you wind up.

20 **MR. DOHERTY:** We ask that you consider all impacts
21 and I urge your "Aye" vote.

22 **CHAIR KRUER:** Thank you, sir.

23 Ms. Blank, and after Ms. Blank, Ms. Akhvar, and
24 after that Kathy Clark.

25 **MS. BLANK:** Hi, Chairman, and board of directors,

1 I am Laura Blank, the executive director of the Los Angeles
2 County Farm Bureau, and I am here today to read a letter from
3 our president.

4 "Dear Chairman and Board of Directors, the
5 Los Angeles County Farm Bureau is a non-profit
6 grass roots organization serving over 5400
7 members throughout L.A. County. California
8 is number 1 in the nation with agricultural
9 production, and Los Angeles County contributes
10 over \$25 million. The coastal areas of
11 California not only produce vegetables
12 consumed in our local grocery store, but are
13 also graze lands for livestock throughout
14 the state. The Los Angeles County Farm Bureau
15 strongly disagrees with the notion that horses
16 are not agriculture. As outlined in the *Food and*
17 *Agricultural Code Section 55701* livestock means
18 any cattle, sheep, swine, goat, or any horse,
19 mule, and other equine. In addition, the state's
20 Right to Farm Law, *Civil Code Section 3482.5*.
21 states, for purposes of this section, the term
22 agricultural activity, operation, or facility,
23 thereof, shall include but not limited to the
24 cultivation and tillage of the soil, during the
25 production, cultivation, growing and harvesting

1 of any agricultural commodity, including timber,
2 floraculture, agriculture, horticulture and
3 the raising of livestock, fur bearing animals,
4 fish, or poultry. It is important, not only
5 to our county, but to our State of California
6 that we maintain a strong agriculture economy.
7 Even the *Coastal Act Section 30241* states the
8 maximum amount of prime agricultural land
9 shall be maintained in agricultural production
10 to insure the protection of areas..." --

11 **CHAIR KRUER:** Ms. Blank.

12 **MS. BLANK:** Yes.

13 **CHAIR KRUER:** Your time is up.

14 **MS. BLANK:** Thank you.

15 **CHAIR KRUER:** Thank you, very much.

16 Ms. Akhvar, and then after that Ms. Kathy Clark,
17 and then Ms. Deborah Collins.

18 **MS. AKHVAR:** My name is Mayisha Akhvar. I am the
19 founder of the Compton Junior Posse, a nonprofit childrens
20 charity targeting at-risk youth, ages 5 to 19, who come from
21 toxic environments, filled with crimes, gangs, violence, and
22 little supervision.

23 Many youth have reached out for support, and the
24 Compton Junior Posse provided a home for hope. The majority
25 of our youth are young men, who came to us very angry. They

1 have learned through working with horses, to effectively
2 communicate without aggression or violence.

3 Managing, engaging and exposing our youth to
4 varied horse communities has been an overwhelming job. When
5 we reached out for support, folks like Malibu Valley Farms
6 opened their arms and facilities to us, when it was not
7 popular to invite inner-city youth to their community.

8 We believe horses are compatible with nature and
9 the environment. So, when our youth go back to their
10 community, they can encourage others to change their lives,
11 because they have been there, and they have done it.

12 Save Malibu Valley Farms, please. With the
13 setback and the recommendations that they make, it will be
14 far reaching to the community as Malibu Valley Farms extends
15 an inclusive embrace.

16 The results are these, we have our children, who
17 are inner-city youth who are winning blue ribbons. At our
18 last show in Malibu, our young men won first place in each of
19 the classes that they competed in. We could not have done
20 that without the help of Malibu Valley Farms.

21 Thank you, please accept their recommendations.

22 **CHAIR KRUER:** Thank you, Ma'am.

23 Ms. Clark.

24 **MS. CLARK:** I cede my time.

25 **CHAIR KRUER:** Okay, thank you, Ms. Clark.

1 And, now Ms. Collins, Deborah Collins, and then
2 after that Ruth Gerson.

3 **MS. COLLINS:** Hi, I am Deborah Collins. I am here
4 on behalf of the Arabian Horse Association.

5 I would like to read a portion of a letter from
6 our executive vice president.

7 "To Whom it May Concern, as executive vice
8 president of the Arabian Horse Association,
9 an organization with over 5,000 members in
10 California, I am writing this letter to show
11 our support for Malibu Valley Farms, and
12 request that the Coastal Commission approve
13 their Coastal Development application.
14 The 50-foot setback, and water runoff
15 mitigation plan they have offered, is more
16 than reasonable and addresses any concerns
17 the Commission may have with runoff or exposure,
18 as evidenced by water quality studies that have
19 been conducted at the farm."

20 And, that was written by Gary Zimmerman, executive
21 vice president of the Arabian Horse Association.

22 **CHAIR KRUER:** Thank you, Ma'am.

23 Ms. Gerson, again, everybody is 2 minutes.

24 **MS. GERSON:** Good evening, Commissioners, my name
25 is Ruth Gerson. I am president of the Recreation and

1 Equestrian Coalition. And, yes, it is a viable organization,
2 and yes, it is community based, and yes, we have been around
3 for almost 10 years, as opposed to some testimony you may
4 have heard before.

5 It is wonderful that the Coastal Act embodies the
6 important issues of trails, access, and especially of visitor
7 serving uses. Malibu Valley Farms is the ideal location for
8 promoting those goals of the Coastal Act, and in addition, it
9 provides a place for disaster, for inner-city youths as you
10 just heard from Mayisha, and for many other activities.

11 Has there been any scientific reports done on what
12 you hear about horse pollution? I don't know of any, and I
13 wonder if you do? or does staff? or has any been done? or is
14 it just a guesstimate? because they are a large animal, and
15 they are easy to put blame on for problems.

16 So, I think before you accept your staff's
17 recommendations, you need to find out if there really are any
18 viable, truthful, reports against what horses produce,
19 besides the enjoyment.

20 Thank you.

21 **CHAIR KRUER:** Thank you, Ms. Gerson.

22 Jeanne Wallace, and Ralph Holman, and Elizabeth
23 Schumann.

24 **MS. WALLACE:** My name is Jeanne Wallace. I live
25 at 1710 N. Corral Canyon Road, Calabassas. I am the

1 immediate past-president of Corral 36, the Monte Nido Area
2 Chapter of Equestrian Trails, incorporated. Our current
3 president was unable to attend this hearing today, but he
4 asked that I speak on his behalf.

5 We urge you to approve the application for Malibu
6 Valley Farms, to allow it to continue to operate as an
7 equestrian facility. Corral 36, and literally hundreds of
8 other equestrians in the Santa Monica Mountains, and
9 throughout the entire state rely heavily on the generosity
10 and presence of Malibu Valley Farms. Without that facility,
11 we will all suffer in our ability to continue the rich
12 history of horsemanship in the Santa Monica Mountains, and to
13 provide recreational activities, not only to the local
14 equestrians, but to others, such as the Junior Compton Posse.

15 We are very concerned about the pseudo science and
16 rank assumptions made all of those who oppose any horse
17 facilities within the coastal zone. We know that most of
18 those who oppose are well intentioned, but their conclusions
19 are based upon absolutely no evidence, no science.

20 If you look at the letter written by Heal the Bay,
21 an organization with tremendous resources, even in that
22 letter, the best Heal the Bay can charge is that the facility
23 is likely to contribute nutrients to the stream. "Likely to"
24 and not "our studies show that it does." Do you know why
25 they can't say that any studies show that the facilities

1 contribute nutrients to the stream? because there aren't any
2 such studies. There are no studies at all that show that
3 this, or any other horse facility, operated with best
4 management practices, adds to any water pollution.

5 In fact, the studies show that bird and human
6 wastes cause vast majority of the pollution. There are no
7 studies to show that the horse facility placed 50 feet from a
8 blue line stream can cause any greater negative effect than
9 one placed 100 feet -- not one study.

10 All those who oppose simply assume that it is so,
11 but it isn't so, yet they want to put out of business a well
12 run, community friendly, visitor serving, horse facility
13 based upon rank assumption.

14 CHAIR KRUER: Thank you, your time is up.

15 CHAIR WALLACE: That is wrong.

16 CHAIR KRUER: Your time is up, Ma'am.

17 CHAIR WALLACE: And, all of us could --

18 CHAIR KRUER: Ma'am, please --

19 CHAIR WALLACE: -- have driven ourselves here, but
20 we came on the bus because it made more sense.

21 CHAIR KRUER: Thank you.

22 Ralph Holman, Elizabeth Schumann, and Diane Odell.

23 CHAIR HOLMAN: My name is Ralph Holman, and I am
24 the president of the Caster Horseman's Club. I am a horse
25 trainer and also avid trail rider. I am here to support

1 Malibu Valley Farms. I feel it is important that they remain
2 a facility that offers access to public lands, and to trails,
3 and to all of the adventures that we now have.

4 I sincerely hope that you vote in favor of them,
5 thank you.

6 **CHAIR KRUER:** Thank you.

7 Ms. Schumann, then Diane Odell.

8 **MS. SCHUMANN:** I just recommend the project.

9 **CHAIR KRUER:** Okay, and thank you, very much.

10 Diane Odell, Michael Resnick.

11 [No Response]

12 Is Michael Resnick here?

13 **MR. RESNICK:** Yes.

14 **CHAIR KRUER:** Okay, and then after Michael, Dr.
15 Richard Stevens.

16 **MR. RESNICK:** Good afternoon, Commissioners, my
17 name is Michael Resnick. I am a a resident of Calabassas,
18 California. I am here today representing the California
19 Thoroughbred Breeders Association, which represents over 1600
20 thoroughbred breeders in the State of California.

21 I would like to read a letter written by Doug
22 Burch. He is the executive vice-president and general
23 manager. He has given me the authority to read it on his
24 behalf.

25 In an effort to save time, and to keep it under 2

1 minutes, I will read the first 2 paragraphs, and the full
2 letter was actually mailed to the Commission on April 2,
3 2007.

4 So, the letter states:

5 "On behalf of the California Thoroughbred
6 Breeders Association, an association with
7 over 1600 members in California, I am writing
8 this letter to show our support for Malibu
9 Valley Farms, and request that the Coastal
10 Commission approve their Coastal Development
11 application. The 50-foot setback, and water
12 runoff mitigation plan they have offered is
13 more than reasonable and addresses any concerns
14 the Commission may have with runoff or exposure,
15 as evidenced by the water quality studies that
16 have been conducted at the farm. Malibu
17 Valley Farms has been a part of the community
18 for over 25 years. They have proven time and
19 again to be an operation that cares for their
20 facilities, horses, community, and the
21 environment by going above and beyond what
22 is required to insure that there are no issues
23 with waste. They even won the award from
24 Los Angeles County for their best management
25 practices with regards to their waste

1 management. It would be a tragedy for
2 the area and the agricultural community
3 if they were shut down over erroneous
4 information and policy."

5 Thank you, for your time.

6 **CHAIR KRUER:** Thank you, sir.

7 Dr. Richard Stevens, Don Wallace, and then
8 Christine Baumgartner.

9 **MR. STEVENS:** Thank you for permission to speak.
10 My name is Dr Richard Stevens, and I have been an equine
11 veterinarian in this area for 27 years, and I am also the
12 regional disaster coordinator for the California Veterinarian
13 Medical Association.

14 One of the special features that Malibu Valley
15 Farms offers is a safe zone, and they have the green pastures
16 that have saved a lot of animals, and provides an escape
17 route for a lot of people. They have the reserve capacity to
18 suck up all of the horses in that area, and if that area was
19 excluded, they would no longer have that. So, I think, from
20 a regional standpoint that is vital.

21 And, a lot of people will speak to the special
22 features that they offer, but I think there is an implication
23 that if we don't follow these guidelines, that we are asking
24 for permission to pollute, and that is simply not the case.
25 As a scientist and a veterinarian, I a little bit concerned

1 about the information you have got, that it is all black and
2 white. I think the reason we have a Commission like this is
3 so you can put judgment, and to scale this thing, and to say
4 that because there is a road crossing there that is driven
5 across once a week, that that permanently degrades the
6 quality of the water. We know that that simply is not true.

7 And, I would like for you to put some reason into
8 this. They do outstanding manure management, they control
9 the runoff. There are some farms that shouldn't be within 5
10 miles of this creek. This one could be within 10 feet of
11 this creek and not degrade the qualities of the water.

12 And, my daughter and I, as a science fair project,
13 looked at e coli counts above and below horse facilities,
14 above and below urban areas, and I can tell you, it is not
15 the horse facilities that are doing it. If we really want to
16 talk about water quality, we should talk about septic tanks
17 and other things. This is not the fact that is causing the
18 Malibu Bay to degrade in quality.

19 Thank you.

20 **CHAIR KRUER:** Thank you, doctor.

21 Don Wallace.

22 **MR. WALLACE:** Honorable Chairman Kruer and
23 Commissioners, my name is Don Wallace, retired fire captain
24 and a 40-year community and environmental activist. I am a
25 former board member of both the Los Angeles League of

1 Conservation Voters, and the Coalition for Clean Air.
2 Despite Mary Hubbard's assertions, I am a long term community
3 member. I live very close to Malibu Valley Farms.

4 I am here to strongly urge that you approve Malibu
5 Valley Farms' application. I am here to advocate that you
6 use this opportunity to move Commission deliberations and
7 approvals from an arbitrary and capricious 100-foot setback
8 from seasonal streams to a performance based system, as
9 epitomized by Malibu Valley Farms' application.

10 You have the power to approve this sensible way to
11 protect our environment. I urge you to take it, thank you.

12 **CHAIR KRUER:** Thank you, sir.

13 Christine Baumgartner, and then Trina Lemus, and
14 the Ms. Cardiel, or Mr. Cardiel.

15 **MS. BAUMGARTNER:** Hello, I am Christine
16 Baumgartner, and I just want to start by saying that I was
17 not paid to come here, or anything like that. I was a
18 homeowner in the area for 10 years, to Malibu Valley Farms,
19 and I also was a surfer at Malibu Surfrider Beach, and I can
20 tell you that Malibu Valley Farms had nothing to do with our
21 contamination down there.

22 I would like to read a letter from Linda Palmer.
23 Just to let you know who she is, she was the past president
24 of Santa Monica Mountains Trails Council. She is on the
25 advisory board of the Santa Monica Mountains Conservancy, and

1 she is a strong supporter of trails, lands, and the Coastal
2 Commission.

3 She writes:

4 "Horses are one of our cleanest and safest
5 domestic animals. As quoted by the
6 veterinarian Dr. Elzer, Malibu Valley Farms
7 provides recreation, diversity, and scenic
8 resources, for the general public. It is
9 extremely important for the farm to remain as
10 it is."

11 Thank you, very much.

12 **CHAIR KRUEER:** Thank you.

13 Trina Lemus, thank you, sir.

14 **MR. LEMUS:** My name is Trina Lemus, and I have
15 been working for Malibu Valley Farms for 16 years. I love my
16 job. My family depends on my job. My family was born and
17 raised in the farm. Please don't take my job, please, thank
18 you.

19 **CHAIR KRUEER:** Thank you, sir.

20 Ms. Cardiel, and then Mark Cardiel, and then
21 Angelica Cardiel.

22 **MS. J. CARDIEL:** Good afternoon, my name is Juana
23 Cardiel. Malibu Valley Farms has been my home for almost 20
24 years, and it is very important that all of the facilities
25 remain as is.

1 This farm is taking the best of care of the creek
2 and lands, things which draws on the property. Please
3 approve the application. I have already lost my home in the
4 fire. Please do not take my job away, thank you.

5 **CHAIR KRUER:** Thank you.

6 Mark, yes, sir.

7 **MR. CARDIEL:** Good afternoon, my name is Mark
8 Cardiel. I live at 4131 Defender Drive in Agoura Hills. I
9 have been the farm manager for Malibu Valley Farms for over
10 20 years. Over the years, I have gained knowledge of
11 agriculture, its functions, and its necessary improvements.

12 All of the improvements at Malibu Valley Farms
13 have been a necessity to its horse operations. Caring for
14 horses requires special needs and appropriate facilities.

15 Yes, Malibu Valley Farms has green pastures for
16 horses to roam freely. I need those pastures. But, those
17 horses need to be cared for. We need to put them in these
18 confined areas, so that we can care for them in the best
19 possible manner.

20 The location in question, today is set up in a way
21 so that we can care for the needs for those horses. We can
22 see them at all times.

23 The facility has served as an evacuation center
24 for fires, floods, and earthquakes. The facility is located
25 in such a way that horses can be tended to safely, and in a

1 professional manner.

2 The farm has achieved a reputation to be one of
3 its kind in the Santa Monica Mountains. The staff constantly
4 works hard to maintain good appearance, and a clean environ-
5 ment. My staff and I take great pride for that. The farm
6 has been a significant part of my life.

7 And, I know that your decision today will not only
8 impact my and my family's life, but the communities and the
9 future generations to come. The 100-foot setback is going to
10 wipe me out. If you take this way, I have nothing. This
11 would make my farming operations impossible to function, and
12 I need to get a lot more of those, okay, I need more of
13 those, I am not done.

14 So, I am asking you to please grant this Coastal
15 Development Permit, thank you.

16 **CHAIR KRUER:** Thank you, sir.

17 Angelica Cardiel, and after than, Rochelle Abram
18 Dick, and then Valerie Godfrey.

19 **MS. A. CARDIEL:** Good afternoon, my name is
20 Angelica Cardiel. I say this with all of my heart.

21 I have been extremely lucky to be a part of Malibu
22 Valley Farms. I was born there and raised there. I will
23 never be able to forget about it. Because of my wonderful
24 experiences, I want to go to university and major in
25 veterinary medicine.

1 Over the years, I have seen countless events that
2 the farm has hosted. Not only do adults attend these
3 activities, but so do children. It is such a joy to see
4 their joy completely filled on their faces. I feel so proud
5 to be a part of something that gives the children an
6 opportunity such as this, an opportunity so special, that
7 teaches them to be responsible, to be careful, to be hard-
8 working, being able to work with these horses is an
9 incredible experience that can never be forgotten.

10 Most importantly, the kids are filled with the
11 love for the horses, and the outdoors. They will always
12 remember it. That is the same love and passion that fills
13 me, and that drives me to be the best that I can be.

14 Closing these doors will take away these
15 incredible opportunities, that are now available to the
16 community. It will not only be devastating, because it will
17 be hard for the farm to function, but it will deprive future
18 generations of unique and an unforgettable joy.

19 Thank you.

20 **CHAIR KRUER:** Thank you, very much.

21 Rochelle Abram Dick, and Valerie Godfrey, and then
22 Stephanie Green.

23 **MS. DICK:** First of all, I am not a relative or an
24 employee. My name is Rochelle. I live in Woodland Hills,
25 and I am a member of the ETI Corral 36.

1 I take riding lessons at Malibu Valley Farms. I
2 don't have any horse property, and if it were not for Malibu
3 Valley Farms I wouldn't have a place to ride my horse in an
4 arena, or access to the wonderful trails. Also, I just
5 joined this Corral, who does, obviously you know, all of the
6 fund raising events for worthy charities, like the Compton
7 Junior Posse, which we are still working on another one right
8 now, and they offer their facility for many, many, people.

9 And, also, I must repeat that emergency access is
10 extremely important, a place for people to put their horses.

11 Thank you.

12 **CHAIR KRUER:** Thank you.

13 Ms. Godfrey, Stephanie Green.

14 **UNIDENTIFIED SPEAKER:** Ms. Godfrey left.

15 **CHAIR KRUER:** Okay, Stephanie Green, and then
16 Karen Boudreau.

17 **MS. GREEN:** Greetings, Stephanie Green, from
18 Nipomo, California. I represent Ride Nipomo, Save Nipomo
19 Park, and Horse Emergency Evacuation Team.

20 Khatchik is my board of supervisors, he knows that
21 we are always fighting to keep horse property, horse trails,
22 anything related to horses. It is difficult.

23 The Coastal Commission has the duty to protect ag
24 land. The California State lists as agriculture, horses, and
25 I believe it listed as 5th in economic revenue impact.

1 Talk about filthy trashy groups, in fact,
2 polluting beaches and oceans are Save the Bay types, leaving
3 tons of debris after all of their events, they are the real
4 polluters of the beaches. Horse urine, primerin gave it to
5 women safely, so no problem there. Horse manure can be
6 composted to become money making manure, high grade compost.

7 This decision will have effect on all horse
8 keeping throughout the state. The most endangered species is
9 the urban equine. Every city, county, state, federal or
10 commission is forcing the demise of urban horses, forcing
11 equestrians to leave the state for more friendly states and
12 areas built for equestrians. The horse made this state, help
13 keep horses in this perpetual blacktopping era, you have the
14 power to do it.

15 Please support this, thank you.

16 **CHAIR KRUER:** Thank you.

17 Karen Boudreau, and then Mia Boudreau, and then
18 Laura Fisher.

19 **MS. BOUDREAU:** Hello, my name is Karen Boudreau.
20 I am a resident of Calabassas, and also a relative of Brian
21 Boudreau, which evidently means I have unclean hands.

22 I am reading on behalf of Carolyn Tice, president
23 of the California Dressage Society.

24 "Dear Commissioners, the California Dressage
25 Society with membership of more than 5,000

1 throughout California has a mission to
2 foster interest and participation in the
3 sport of dressage, and to more generally,
4 to support the continuing existence and
5 growth of equine activities.

6 "Many of our members participate in a
7 variety of equine activities, in addition
8 to dressage competitions. Unfortunately,
9 we continue to witness increasing pressure
10 to limit, or eliminate access to equine
11 related recreational opportunities in California.
12 Access to park and trail systems, which have
13 welcomed riders for years is being cut off,
14 or significantly curtailed. Zoning changes
15 are resulting in the closure of longstanding
16 facilities that have served the public, and
17 allowed people to experience one of the few
18 remaining prestigious forms of life before
19 motorized transportation.

20 "The current controversy over the closure of
21 Malibu Valley Farms is emblematic of this
22 trend. Although, similar situations are
23 occurring throughout the state. There is
24 no good reason why equine facilities and
25 equine activities cannot continue to coexist

1 with other uses, as they have for years.

2 "Recent scientific research indicates that
3 well managed equine operations do not result
4 in significant environmental hazards, and
5 the methods for minimizing environmental
6 impacts are well known, and accepted
7 throughout the industry.

8 "In that the California horse industry
9 produces services and goods in excess of
10 \$4.1 billion, and more than 54,000 full
11 time employment positions, where more than
12 300,000 Californians are involved as owners,
13 service providers, employees, and volunteers,
14 with an uncountable number of spectators, where
15 more than 698,000 horses live in California,
16 and more than 70 percent of those horses are
17 used for showing and recreation" --

18 **CHAIR KRUER:** Ma'am, your time is up.

19 **MS. BOUDREAU:** Oh, thank you, very much.

20 **CHAIR KRUER:** Thank you, very much.

21 Mia Boudreau, and then Laura Fisher, and then
22 Adriana Gonzalez.

23 **UNIDENTIFIED SPEAKER:** Mia wants to donate her
24 time to me.

25 **CHAIR KRUER:** Pardon?

1 **UNIDENTIFIED SPEAKER:** Mia is not going to speak,
2 and will donate her time to me.

3 **CHAIR KRUER:** Is Mia here?

4 [No Response]

5 Is she here?

6 **UNIDENTIFIED SPEAKER:** She is not, and she would
7 like to donate her 2 minutes.

8 **CHAIR KRUER:** I can't do that, I am sorry, she has
9 to be here to donate, thank you.

10 Laura Fisher.

11 [No Response]

12 Adriana Gonzalez, Carole Hansen.

13 **MS. GONZALEZ:** Hello, I am Adriana Gonzalez, and I
14 am just here to say that I strongly support Malibu Valley
15 Farms and the benefits it produces for our community.

16 Thank you.

17 **CHAIR KRUER:** Thank you, Ms. Gonzalez.

18 Again, Laura Fisher, Carole Hansen.

19 **MS. FISHER:** I want to donate my time.

20 **CHAIR KRUER:** And, your name?

21 **MS. FISHER:** Laura Fisher.

22 **CHAIR KRUER:** Laura Fisher, and you are donating
23 your 2 minutes to who?

24 **MS. FISHER:** To Don Schmitz.

25 **EXECUTIVE DIRECTOR DOUGLAS:** Don Schmitz, Mr.

1 Chairman.

2 **CHAIR KRUER:** Well, we can't give him more time.
3 We have already -- he is the last person we are going to give
4 more time, right now, okay. Anybody who wears boots and a
5 suit like that, I mean, so thank you, though.

6 Carole Hansen, Mike Harrison.

7 [No Response]

8 Is Mike here? okay.

9 **MR. HARRISON:** Good evening, Commissioners, I am
10 Mike Harrison from Diamond West Engineering. I worked with
11 the product team in development of the Comprehensive
12 Management Plan, and I must say that the BMPs, the best
13 management practices that were defined therein were done in
14 accordance with the standards of Los Angeles County standard
15 urban storm water mitigation plan.

16 Projects developed in accordance with that plan,
17 are in compliance with the national pollutants discharge
18 eliminate system permit, which is adopted by the Regional
19 Water Quality Control Board.

20 And, in terms of the 100-foot setback, in terms of
21 water quality, the required treated runoff would actually
22 travel more than 100 feet, as it travels through the swales.

23 Thank you.

24 **CHAIR KRUER:** Thank you, very much.

25 Mike Lynden, Kathi McEwan, then Lisa Newkirk.

1 **MR. LYNDON:** Michael Lyndon. I am a resident of
2 Simi, Ventura, California.

3 I had the good fortune to board at Malibu Valley
4 Farms for 5 years. I have been acquainted with the farm and
5 the farm operation for 17 years.

6 One of the earlier speakers, in the earlier
7 matters, talked about if something looks like a duck, maybe
8 it is not a duck. There is a lot of talk about this being a
9 creek, and a stream, and there is talk about the grade
10 crossings, and I rode my horse through both of those grade
11 crossings, day after day for 5 years, and he never got his
12 feet wet, because there is just no water running in that
13 creek.

14 [Audience Reaction]

15 **CHAIR KRUER:** We are going to ask everybody not to
16 applaud, or boo, or anything like that.

17 **MR. LYNDEN:** Well, I kind of liked it.

18 **CHAIR KRUER:** I know you did. It is probably the
19 only applause you have gotten in a long time, so, but go
20 ahead.

21 **MR. LYNDEN:** I failed to say I have been a lawyer
22 for 35 years, also.

23 The other point, staff said that there has got to
24 be 100-foot setback. They showed a lot of slides. You got a
25 good look at the actual ground, and that is some pretty dry,

1 miserable ground, that doesn't have any growth on it, and a
2 bio-swale that is required to be maintained with selected
3 plants to filter the water is going to be far more effective
4 than that bare ground at 100 feet.

5 Thank you.

6 **CHAIR KRUER:** Thank you, sir.

7 Kathi McEwen, Lisa Newkirk, and then Patty
8 Nottoli.

9 **MS. MC EWEN:** Hello, my name is Kathi McEwen, and
10 I am a resident of Paso Robles, and I just want to say I am
11 very much in support of Malibu Valley Farms.

12 As a retired officer here at the Sheriff's
13 Department, I can tell you how important it is to have a
14 horse evacuation site available. I, being one of them that
15 have used them in the past, and I hope that you do support
16 Malibu Valley Farms.

17 Thank you.

18 **CHAIR KRUER:** Thank you, Ma'am.

19 Lisa Newkirk, and again Patty Nottoli.

20 **MS. NEWKIRK:** Hi, I am Lisa Newkirk, from Lake
21 Pablo, California, and I am here in support of Malibu Valley
22 Farms, thank you.

23 **CHAIR KRUER:** Thank you, Ma'am.

24 Patty Nottoli.

25 **MS. NOTTOLI:** I am here in support of Malibu

1 Valley Farms.

2 **CHAIR KRUER:** You need to speak on the microphone,
3 I am sorry. Thank you for coming up, and state your name.

4 **MS. NOTTOLI:** I am Patty Nottoli. I am here in
5 support of Malibu Valley Farms. I am yielding my time.

6 **CHAIR KRUER:** Thank you, Ma'am.
7 Peggy Portanova -- can't quite read it, I
8 apologize.

9 **MS. PORTANOVA:** I cede my time.

10 **CHAIR KRUER:** Thank you.
11 Chris Rothaupt, and then after that, Robin
12 Schneider.

13 **MR. ROTHAUPT:** I am Chris Rothaupt, and I in here
14 support of the Malibu Valley Farms. I don't have any horses,
15 but I do have 2 young daughters that like to bring bags of
16 carrots and go over there and feed the horses, and thank Mark
17 for letting them do that any time they like.

18 **CHAIR KRUER:** Would you state your name for the
19 record, just so that we have it.

20 **MR. ROTHAUPT:** Chris Rothaupt.

21 **CHAIR KRUER:** Thank you, sir.

22 **MR. ROTHAUPT:** Thank you.

23 **CHAIR KRUER:** Robin Schneider.

24 **MS. SCHNEIDER:** Hello, my name is Robin Schneider.
25 I just want to say, I don't think it has been

1 mentioned, or probably has, but Malibu Valley Farms is pretty
2 much across the street from Malibu Creek State Park, which
3 has many, many riding trails, and in this day and age it is
4 just so hard to find a place that you can actually have
5 horses and ride out onto trails. So, this, I think, is a
6 very important factor, as well.

7 I want to thank Malibu Valley Farms for hosting
8 many of ETI 36's events, and thank you.

9 **CHAIR KRUER:** Thank you, very much.

10 Isabel Supteran, Karyne Ventris, and Tom Webb.

11 **MS. SUPTERAN:** Hi, I am Isabel Supteran, and I am
12 here in support of Malibu Valley Farms.

13 Thank you.

14 **CHAIR KRUER:** Thank you, Ma'am.

15 Karyne Ventris, and them Tom Webb, and then Wanda
16 Weir.

17 **MS. VENTRIS:** Hi, I am Karyne Ventris, and I am
18 here in support of Malibu Valley Farms. I have nothing to
19 gain from them. I don't want anything from them. Haven't
20 gotten anything from them.

21 I have lived in the area for 40 years, had a
22 50-horse boarding facility in the Santa Monica Mountains
23 until a few years ago, and I wish that I had known as much
24 about best management practices as the Boudreau's do now.

25 The thing we do know is they serve a good purpose,

1 that it is useful to the community, all of those things you
2 have heard. The things we don't know for sure is the damage
3 to the creek.

4 If you ride into Malibu Creek State Park, or any
5 of the national parks the horses, we swim in those creeks
6 that run into the same thing, the horses are permitted to
7 cross those creeks. The horses are constantly in the creeks
8 at Malibu Creek State Park, and in the national parks, so
9 apparently the parks don't think they have an adverse effect.
10 They swim in there, and they walk in there, so I think that
11 is a non-issue.

12 The thing that we don't know is that it actually
13 does any damage for the horses to be there at Malibu Valley
14 Farms.

15 Thank you.

16 **CHAIR KRUER:** Thank you, very much.

17 Tom Webb, Wanda Weir, and then Ms. West.

18 **MR. WEBB:** My name is Tom Webb. I come to this
19 hearing at my own expense, and I am here to support Malibu
20 Valley Farms, and I urge you to grant their permit.

21 Thank you.

22 **CHAIR KRUER:** Thank you, sir.

23 Wanda Weir, Donita West, after that.

24 **MS. WEIR:** Good afternoon, my name is Wanda Weir,
25 and I am the former vice president of the Southern California

1 American Saddle Bred Horse Association.

2 Riding horses, whether on well managed farm land
3 or whether it is on a spectacular Pacific Trail, or any
4 trail, is a real pleasure for many of our state residents.
5 California is second only to Texas in the number of horses
6 that people maintain.

7 I appreciate the effort of Malibu Valley Farms to
8 supervise the services that it does, and I hope it gets full
9 support from this Commission, thank you.

10 **CHAIR KRUER:** Thank you, very much.

11 Ms. West.

12 **MS. WEST:** I am Donita West, and I am here to
13 support Malibu Valley Farms, thank you.

14 **CHAIR KRUER:** Thank you, Ms. West.

15 I now go to some of the opponents, Lee Renger.

16 **MR. RENGER:** I am Lee Renger. I live in Stokes
17 Canyon. I have been there about 38 years, and I am a mile
18 and a quarter up from Mulholland.

19 We have always enjoyed the horse breeding
20 operation. We haven't enjoyed the illegal boarding.

21 Now, the staff report was excellent, and I have
22 read the whole thing. The 100-foot setback is not
23 capricious. Our local water district is now spending \$10
24 million to decrease the amount of nutrients that it puts out,
25 and if that doesn't work, then the state water quality agency

1 may require them to spend \$160 million. That is a lot of
2 money for something that size. The septic tank rules are
3 being tightened.

4 It is only reasonable that you not allow this form
5 of pollution to occur. Alternate siting is definitely viable
6 for the farm. People have been saying all afternoon, that if
7 you refuse this proposition that the farm will disappear.
8 That shouldn't be true. It doesn't have to be true.

9 Don't retreat from the 100-foot rule. It is
10 necessary. This is the time when that has to be maintained,
11 because our environment has to be protected.

12 Thank you, very much.

13 **CHAIR KRUER:** Thank you, sir.

14 Tarren Collins, and after Tarren Collins, James
15 Wrigley, and after that Mark Massara, and after that, Marcia
16 Hanscom.

17 **MS. COLLINS:** Good evening, Chair Kruer, members
18 of the Commission, my name is Tarren Collins. Today, I speak
19 on behalf of Heal the Bay.

20 Heal the Bay strongly supports the staff
21 recommendation to deny this application. The extent of the
22 unpermitted development at this site is widespread, and
23 detrimental to water quality and natural resources.

24 The proposed and existing development at this site
25 threatens Stokes Canyon Creek, an intermittent blue line

1 stream as structures are located in and adjacent to the
2 creek. This unpermitted development likely contributes to
3 degraded water quality at Heal the Bay's downstream
4 monitoring sites.

5 Monitoring conducted by Heal the Bay's stream team
6 has indicated periodic exceedences of e coli and high levels
7 of algae just downstream of this site, and I am grateful that
8 this Commission subscribes to the precautionary principle and
9 requires these 100-foot setbacks to error on the side of
10 caution.

11 Extensive development is also built directly
12 within the riparian ESHA, which is impermissible under the
13 *Coastal Act Section 30240*. Under the Malibu Santa Monica
14 Mountains Land Use Plan, Stokes Creek Canyon and its
15 associated riparian canopy are designated as inland ESHA.
16 The Land Use Plan specifically requires an interim setback of
17 100 feet from all designated ESHA, and prohibits alterations
18 of stream beds in ESHA.

19 Heal the Bay is greatly concerned about the
20 impacts of this development on water quality and ESHA within
21 the Santa Monica Mountains, and strongly urges this
22 Commission to deny the application, and provide no
23 exceptions.

24 Thank you.

25 **CHAIR KRUER:** Thank you, Ms. Collins.

1 Mr. Wrigley.

2 MR. WRIGLEY: My name is James Wrigley, and I live
3 on Stokes Canyon Road, at about a half of a mile -- or maybe
4 a quarter of a mile, from this project.

5 I am in favor of the staff's position in denying
6 their application, and one of the reasons is that I have
7 horses on my property, but I certainly look after them a lot
8 better than Mr. Boudreau's staff looks after his. For
9 instance, we feed our horses twice a day, and we pick up the
10 manure twice a day, put it in covered bins, and it is taken
11 away once a week, and that certainly is not what the Boudreau
12 does with his operation, in spite of this thing over here,
13 that says they got an award from the county. I have asked
14 the county where can I find that, and they said, "We've never
15 heard of that before." So, it is just one of their many
16 things that they make up.

17 And, let me tell you about the guy that you will
18 be doing business with. In 1998, Boudreau sent a letter to
19 Mr. Ainsworth here, saying that he was building additional
20 facilities on the site, that had burned in the fire of 1996.
21 This was approved by the Commission, and then a neighbor sent
22 information to the Commission that there were no such
23 structures at the time of the fire. And, those buildings,
24 and in fact, the L.A. County's building staff told him not to
25 occupy the buildings because they were illegal. And, those

1 buildings are now occupied, and then --

2 CHAIR KRUER: Mr. Wrigley.

3 MR. WRIGLEY: -- 8 months ago, after --

4 CHAIR KRUER: Mr. Wrigley.

5 MR. WRIGLEY: Yes?

6 CHAIR KRUER: Your time is up, sir, thank you,
7 very much.

8 MR. WRIGLEY: They are still there.

9 CHAIR KRUER: Thank you.

10 Mark Massara.

11 MR. MASSARA: Honorable Chair, Commissioners, Mark
12 Massara, Sierra Club Coastal Programs. The Sierra Club joins
13 with Heal the Bay in support of your staff, and I refer you
14 to our letters in the record.

15 This hearing comes on the heels of this
16 Commission's denial of vested rights claim, and involves much
17 of the same discussion regarding ranch benefits, setback
18 issues, development footprints, and Coastal Act violations
19 that you are hearing again today.

20 Had you approved the vested rights claim some of
21 this discussion might be appropriate, otherwise, it is not.
22 In both the existing LUP and the draft LCP 100-foot setbacks
23 are mandated for ESHA and riparian areas. Your staff report
24 is clear on the environmental resource benefits associated
25 with such setbacks.

1 It goes without saying that should you whack those
2 setbacks in half, or much more today, that you cannot expect
3 others to abide by them in the future, especially, if you
4 explicitly find that mitigation plans trump setbacks.

5 But, more importantly, for the Sierra Club is that
6 you take account of the critical importance of Stokes Creek.
7 Stokes Creek flows through this property and directly into
8 and onto the famous Soka University property, the same
9 property over which the Sierra Club won a large lawsuit based
10 on the need to protect blue line streams, and fishery habitat
11 in the Santa Monica Mountains.

12 Today, the Soka property is slated to become the
13 main visitor serving interpretive center for the entire Santa
14 Monica Mountains Park system. That Soka property, also known
15 as King Gillette Ranch, is now open to the public. From
16 Soka, the creek flows into the most heavily used areas of
17 Malibu Creek State Park where kids wade and swim. It then
18 continues down Malibu Canyon to Malibu Lagoon and Surfrider
19 Beach, used annually by millions.

20 All this is to say that little Stokes Creek is a
21 critical element to water quality throughout the Malibu Creek
22 watershed, the lagoon, and the ocean, and it is enjoyed by
23 wildlife and millions of people.

24 While we sympathize with the equestrian community
25 and support their desire to continue to use this property,

1 disregarding riparian setbacks and the future health of the
2 watershed is no way to get there. This is not about rank
3 science, or equestrian benefits that we all support. This is
4 about --

5 **CHAIR KRUER:** Mr. Massara.

6 **MR. MASSARA:** -- simply compliance with the LUP.
7 Thank you.

8 **CHAIR KRUER:** Thank you.

9 Marcia Hanscom.

10 **MS. HANSCOM:** Honorable Commissioners, Marcia
11 Hanscom, with CLEAN, the Coastal Law Enforcement Action
12 Network.

13 We are in strong support of the staff report today
14 on this matter. We are heartened that staff is not rewarding
15 people for illegal actions, and we hope this becomes a habit.
16 There have been far too many after-the-fact permits for
17 illegal activities in our view in the past.

18 And, we also are heartened to see 100-foot buffers
19 from ESHAs and streams, and we also hope that continues to be
20 a good habit, and we don't get sidetracked on that.

21 In November, this Commission spent a lot of time
22 deliberating, and determined that this was, indeed, years and
23 years of illegal structures, and development on this
24 property, and because of your sympathy for the equestrian
25 center, you gave them 60 days, in spite of a very bad track

1 record of not coming forth with communications when staff
2 asked for it. You gave them 60 days to complete, submit a
3 complete application. They failed to do that.

4 It is time to enforce the Cease and Desist Order.
5 In fact, if you did more enforcing of Cease and Desist
6 Orders, your sister agency, the Coastal Conservancy, would
7 end up with more penalties, and you would end up with,
8 possibly, the money to acquire sensitive lands that we need
9 acquire in the coastal zone.

10 So, I would recommend that you deny this project,
11 per staff. I think they did an excellent job on the staff
12 report, and you are on fully legal ground, I believe, to do
13 so.

14 Thank you.

15 **CHAIR KRUER:** Thank you, very much.

16 Okay, with that, I go back for the rebuttal time.
17 We have allotted five minutes to Mr. Schmitz, and Mr. Gaines.
18 How are you going to share that?

19 Mr. Gaines, how much time do you want?

20 **MR. GAINES:** I am going to go as fast as I can,
21 and then I am going to turn it to Don.

22 **CHAIR KRUER:** Okay, not the correct answer.

23 **MR. GAINES:** Excuse me?

24 **CHAIR KRUER:** I know, but you can go ahead, then
25 Mr. Schmitz will finish it up.

1 **MR. GAINES:** Thank you, very much, Mr. Chairman,
2 honorable members. My name is Fred Gaines with the law
3 offices of Gaines and Stacey. We are counsel for Malibu
4 Valley Farms.

5 Let me try to rebut a couple of the issues that
6 have come up. One has to do with the alternative sites.
7 There was some allegation that Mr. Boudreau has a controlling
8 interests in some alternative sites, and that is absolutely
9 not true. There is no evidence in the record, and he has no
10 controlling interest in any of the off site alternatives that
11 have been mentioned.

12 There has been an issue raised about county
13 permits. First of all, the county permits are effective.
14 They have not been violated, believe me. As you know, we
15 have neighbors that are watching every day. We have no
16 violations whatsoever, and as is the county's policy, those
17 permits are tolled during the time we are going through the
18 coastal process, which often takes more than the two years,
19 and you can ask the county, all of those permits are in
20 place.

21 There was a mention of a suit that brought against
22 Ms. Hubbard. There was a suit brought against Ms. Hubbard.
23 She had filed a ballot measure statement that my client had
24 thought was misleading, so there was a lawsuit about that,
25 which my client won. The ballot statement had to be changed,

1 because of its misleading statements. That is the lawsuit
2 that was brought against Ms. Hubbard.

3 The application was completed in time. We
4 actually made a submission within 30 days after the November
5 hearing, and you can ask staff, as we went back and forth
6 with them, and there is no issue in us not having gone in in
7 time.

8 And, finally, let me just make one last point. I
9 hope when you go into your deliberations, you will do it in
10 the context of what is the law. The *Coastal Act* -- there is
11 no law that requires a 100-foot setback. There is no law.
12 It is not in the *Coastal Act*. It is not in your regulations.
13 It is not in a certified LCP.

14 There is a statement in the certified LUP which
15 talks about having -- which says you should have a 100-foot
16 setback, and right above it, before it says that, it says:

17 "Variations from these standards will be
18 considered on an individual basis, according
19 to their potential environmental effects as
20 determined by the Environmental Review Board."

21 Which is exactly what happened in this case.

22 So, we are not talking about a law, we are talking
23 about a regulation which had a preamble, which is exactly
24 what was followed here.

25 And, so I hope you will look at that, during your

1 deliberations, you will look at the context of where that
2 comes from, and then balance it against what is in the law,
3 in terms of some of the issues that Mr. Schmitz is going to
4 cover, in terms of access, in terms of agriculture, in terms
5 of recreational opportunities.

6 Thank you.

7 **CHAIR KRUER:** Thank you, Mr. Gaines.

8 **MR. SCHMITZ:** I'll cover it if he will give me a
9 little bit of time, Commissioners, Don Schmitz. That was
10 excellent.

11 And, I would say that I agree with Mr. Douglas,
12 that it is about the law, and the Table 1 policies do,
13 specifically, allow the ERB to make findings for a review
14 setback as they did.

15 But, as stated in the staff report, Commissioners,
16 you are tasked under the *Coastal Act* to balance all of the
17 *Coastal Act* resources. What about Section 30253 of the
18 *Coastal Act*? it specifies that development shall minimize
19 risks to life and property due to fire. This is the only
20 evacuation center for equestrians in the Santa Monica
21 Mountains. The next closest one is at Pierce College.

22 What about Section 30222 of the *Coastal Act*? it
23 specifies that low-cost visitor-serving recreational
24 opportunities shall be enhanced and maintained. Yet, the
25 Compton Posse has been coming out for 10 years, and Malibu

1 Valley Farms has been subsidizing them, and allowing them to
2 come out for free -- that is lower-cost visitor-serving
3 commercial uses.

4 What about access? you heard the testimony, you
5 saw the slides, the Recreation Equestrian Coalition, the
6 local ETIs, they all use the facilities.

7 What about agriculture? 29 Code of the Federal
8 Regulations specifies under 780.120 that, in fact, horses are
9 agriculture. And, it goes on to say, under 780.122 that the
10 breeding of horses is agriculture. And, the *Coastal Act*
11 specifies under 30241 and 30242 that agriculture is probably
12 the priority use under the *Coastal Act*. And, the *Coastal*
13 *Act*, itself specifies that there must be a balanced approach.

14 Now, the staff and the opponents, the Sierra Club,
15 have said over and over it must be 100 foot. It does not say
16 that in the *Coastal Act*, nor does it say that the 100-foot
17 setback is in the Land Use Plan. It says that that is where
18 you start, and if the ERB comes up with an alternative, which
19 is environmentally superior, then it can be less -- that is
20 exactly what it says.

21 And, when you look at the vegetated bio-swale,
22 which is part of the drainage plan which is before you today,
23 that water won't be going 100 foot to get to the creek. In
24 most places it will be going 1000 feet, or more, and it will
25 be purified, and that is what the biologists are here to say.

1 Again, there is no contravening evidence in the other
2 direction.

3 This is an application in balance that is worthy
4 of your support and your approval, and Chair Kruer, I
5 apologize for the suit.

6 **CHAIR KRUER:** Thank you, Mr. Schmitz.

7 **MR. SCHMITZ:** I will be available for any
8 questions you may have.

9 **CHAIR KRUER:** Okay, thanks.

10 And, with that I will close public hearing
11 portion, and go back to staff.

12 Mr. Ainsworth.

13 **DISTRICT DIRECTOR AINSWORTH:** Yes, regarding ERB
14 review and the setback requirement.

15 When this project first came before us, it did
16 receive ERB review; however, I was shocked to find out there
17 was absolutely no setback required whatsoever. The ERB did
18 not require a setback here. The setback that is proposed now
19 was the result of a plan that was in response to some of the
20 comments the Commission made at the Cease and Desist and
21 Restoration Order hearings.

22 The ERB, the requirement in the Table 1 policies
23 is a minimum 100-foot setback. ERB does have discretion in
24 some cases; however, in this case, I can't understand for the
25 life of me how the ERB found that no setback for a horse

1 facility is appropriate in this case.

2 We do think there are alternatives on this site
3 for either a equestrian activity, or a residential use, so
4 there are viable alternatives in this case.

5 With regard to the realignment of the creek, and
6 how this creek became, or was vegetated, is really not
7 relevant at this time. It is what is on the ground is the
8 important point here, and what is on the ground now has been
9 determined to be environmentally sensitive habitat area.

10 The other issue is, the 50-foot setback that is
11 before you, is not a true 50-foot setback from the riparian
12 corridor. They are taking it from the edge of the creek, and
13 it also does not include elements of the development such as
14 the roads and the bio-swales and filters.

15 This Commission, in past permit actions in the
16 Santa Monica Mountains, and other areas, has required, you
17 know, substantial buffers from riparian areas and ESHA. And,
18 has required that these water quality measures are sited
19 outside of those buffers. In this case, they are sited up to
20 within 20 to zero feet of the edge of the creek.

21 With regard to the agricultural designation here,
22 this isn't designated as prime ag farm land in any way.
23 Whether this is an agricultural use, or a recreational use,
24 or commercial use is really not relevant, it is what is the
25 adequate setback from the riparian corridor, and to protect

1 the ESHA and water quality here.

2 In our opinion, and in our biologist and water
3 quality staff, believe that a 100-foot buffer is the absolute
4 minimum buffer, and actually a larger buffer would probably
5 be appropriate, when you have a very intense horse facility,
6 such as this.

7 The other thing, with regard to whether horse
8 manure causes increases in the nitrogen and coliform
9 bacteria, I just want to quote from the staff report:

10 "The Regional Water Quality Control Board
11 has developed a total daily maximum load
12 for bacteria in Malibu Creek watershed,
13 including Stokes Creek, which took effect
14 in January of 2006."

15 The TMDL states:

16 "Manure produced by horses, cattle, sheep,
17 goats, birds and other wildlife in Malibu
18 Creek watershed are sources of both nutrients
19 and coliforms."

20 So, horse manure does have a impact on nutrient load, and
21 bacteria within creeks, and that is why adequate setbacks are
22 so critical.

23 With that, that will conclude staff, except for
24 Peter has some additional comments.

25 **EXECUTIVE DIRECTOR DOUGLAS:** Just relative to the

1 standard of law that has to be applied here.

2 The standard is the *Coastal Act*. The LUP provides
3 guidance, only. The Environmental Review Board does not have
4 the legal authority to make any determination under the
5 *Coastal Act* because there is no fully certified, effective,
6 Local Coastal Program that is applicable here. And, I share
7 Mr. Ainsworth's consternation about how they could recommend,
8 even it is just an advisory recommendation, no setback in
9 their review of this particular facility.

10 So, it is the *Coastal Act* that is the standard,
11 and there you have to look to your precedent, the actions
12 this Commission has taken, and the precedent, if you were to
13 allow this variation from the setback, required and
14 recommended in the staff report.

15 **CHAIR KRUER:** Thank you, Director Douglas.

16 With that, I will come back to the Commission for
17 deliberation, and call on Commissioner Burke.

18 [MOTION]

19 **COMMISSIONER BURKE:** Mr. Chairman, I am going to
20 move that the Commission approve Coastal Development Permit
21 No. 4-06-163 for development proposed by the applicant, and
22 recommend a "Yes" vote.

23 **COMMISSIONER BLANK:** Second.

24 **CHAIR KRUER:** It has been moved by Commissioner
25 Burke, and seconded by Commissioner Blank -- or Commissioner

1 Potter, I am sorry.

2 **COMMISSIONER POTTER:** Well, I am willing to yield
3 to the --

4 **COMMISSIONER BURKE:** It was a tie.

5 **COMMISSIONER POTTER:** -- new Commissioner.

6 **COMMISSIONER BURKE:** It was a tie.

7 **CHAIR KRUER:** That's okay, it was a tie. We'll
8 give it to Commissioner Blank this time, okay.

9 It has been moved and seconded. There is a
10 motion, and they are asking for a "Yes" vote, and the
11 approval of this will result in the approval of the permit --

12 **COMMISSIONER BURKE:** Mr. Chairman.

13 **CHAIR KRUER:** -- would you like to speak to your
14 motion, Commissioner Burke?

15 **COMMISSIONER BURKE:** I would like to defer to my
16 "seconded" to have the initial comments, and then I will make
17 my comments.

18 **CHAIR KRUER:** Okay.

19 Commissioner Blank.

20 **COMMISSIONER BLANK:** Thank you, Mr. Chairman.

21 I guess I was just a little surprised in hearing
22 the comments that the staff would never -- and shocked --
23 that they would never have approved something so close to the
24 ESHA buffer. I just want to refer the staff to a staff
25 report written on March 2005, Thursday, 14.f. on another

1 equestrian facility, and it says, I quote:

2 "The applicant is proposing to establish and
3 enhance a buffer area along the north side
4 of the river that is generally about 25 feet
5 in width. The buffer will not be 25 feet in
6 the area of the..." blah, blah, blah...

7 "The applicant proposes to retain a zero buffer
8 in the area of the training rings..."

9 And it says:

10 "...and provide a wider portion, among other
11 portions of the river bank. The buffer
12 would be wider than 25 feet to the extent
13 necessary to offset the lack of buffer at
14 the training rings." et cetera, et cetera.

15 It then goes on to say:

16 "However, the distance created will shield
17 wildlife from the riparian vegetation, the
18 river channel, from the equestrian activities
19 occurring on site."

20 So, it appears that staff has looked, as Director
21 said, at other equestrian facilities, and has found that
22 other buffer widths, other than 100 feet, seemed to be
23 appropriate, and I would like to have some staff comment, if
24 you can, on that issue.

25 **EXECUTIVE DIRECTOR DOUGLAS:** I don't know which

1 case you are talking about, but just to compare --

2 **COMMISSIONER BURKE:** It is March 22, 2005.

3 **EXECUTIVE DIRECTOR DOUGLAS:** Yes, I don't know the
4 project that you are talking about, and just taking a comment
5 like that out of context doesn't tell us what considerations
6 were taken into account? on the ground, what kind of project
7 it was? what the riparian habitat is like? I can't answer
8 the question because I don't know what you are talking about.

9 **COMMISSIONER BLANK:** It was 22nd District
10 Agricultural Association, after-the-fact approval of several
11 existing structures in an existing equestrian facility,
12 including 18 barns, 2 fenced open show rings, 4 fenced open
13 training rings, et cetera.

14 Does that ring a bell?

15 **EXECUTIVE DIRECTOR DOUGLAS:** It rings a bell,
16 because there has been extensive -- well, I don't know about
17 litigation, but your Deputy Attorney General can fill you in
18 on that.

19 The history of dealing with the 22nd Ag District,
20 which is another state agency and this Commission, is very
21 tortured, and we had a history of violations there. We had a
22 history of development that they were not willing to correct
23 in light of Coastal Act violations, as we asserted them.

24 We were in a situation where we could not enforce,
25 because the Attorney General represents both the 22nd Ag

1 District and the Coastal Commission. We had to find a way to
2 resolve these outstanding violations, and the reluctance, or
3 recalcitrants of this other state agency to comply with the
4 *Coastal Act*, and that was the balance that was taken into
5 account to reach the conclusion of resolving a whole variety
6 of violations and issues, and this particular part of what
7 was approved by the Commission was part of that overall
8 package.

9 I think the circumstances there are substantially
10 different from what we are talking about here, in terms of
11 riparian habitat in the Santa Monica Mountains.

12 **COMMISSIONER BLANK:** So, Director Douglas, given
13 the extensive history of equestrian approvals, what other
14 equestrian facilities, not individual horse barns with homes,
15 but what other equestrian facilities have we approved? what
16 is the most recent facility?

17 **DISTRICT DIRECTOR AINSWORTH:** Other than single
18 family home --

19 **COMMISSIONER BLANK:** Yes.

20 **DISTRICT DIRECTOR AINSWORTH:** -- equestrian
21 facilities?

22 **COMMISSIONER BLANK:** Right, yes.

23 **DISTRICT DIRECTOR AINSWORTH:** I think the most
24 recent one was sometime back in the '80s in the Malibu area,
25 Malibu Equestrian Center, I believe is the one, but we

1 haven't had any large scale equestrian facilities proposed in
2 the Santa Monica Mountains recently.

3 **COMMISSIONER BLANK:** And, so this one, with the
4 litigation, was the one in between the '80s and this one
5 today, is that correct?

6 **DISTRICT DIRECTOR AINSWORTH:** This one?

7 **COMMISSIONER BLANK:** The 22nd Agricultural
8 District was the only one since the 1980s and Malibu Farms,
9 is that correct?

10 **DISTRICT DIRECTOR AINSWORTH:** I thought you were
11 referring to the Santa Monica Mountains.

12 **COMMISSIONER BLANK:** No, just in general.

13 **DISTRICT DIRECTOR AINSWORTH:** I am not aware of
14 the others throughout the other districts.

15 **COMMISSIONER BLANK:** I am just referring, Director
16 Douglas, to your comment earlier that we have approved other
17 equestrian facilities. Were you referring to barns at
18 individual homes? or equestrian facilities of this scale and
19 magnitude?

20 **EXECUTIVE DIRECTOR DOUGLAS:** I was referring to a
21 variety of projects that came before the Commission in the
22 past, that included equestrian components, and those were
23 approved by the Commission, and including protecting trails,
24 including riding areas that were being proposed by the
25 property owner. I can't give you examples of those, but I do

1 know that the Commission has approved facilities that include
2 equestrian facilities.

3 **COMMISSIONER BLANK:** Okay, when I was just doing a
4 search, this was the only one I could find that is on the
5 line that wasn't associated with a private homeowner, and I
6 am sure there are others.

7 **EXECUTIVE DIRECTOR DOUGLAS:** Oh, I am sorry, I
8 include what was approved for a private homeowner as an
9 equestrian use --

10 **COMMISSIONER BLANK:** I see, okay.

11 **EXECUTIVE DIRECTOR DOUGLAS:** -- and so I wasn't
12 distinguishing between --

13 **COMMISSIONER BLANK:** Okay.

14 **EXECUTIVE DIRECTOR DOUGLAS:** -- commercial
15 operation and the private homeowner.

16 **COMMISSIONER BLANK:** Those are my questions and
17 comments Mr. Chairman.

18 **CHAIR KRUER:** Okay.

19 Commissioner Burke.

20 **COMMISSIONER BURKE:** I think those who know me
21 from this Commission know that I take what I do seriously,
22 and I try to take myself not so seriously.

23 But, the reason that I made the motion that I made
24 was that there were two things that motivated me. One, was
25 Commissioner Blank's comments and research; but, the other

1 was the lady who testified about angry young men going to a
2 facility like this, and it changing their life. And, I am
3 the expert on this Commission on that, because I was one of
4 those angry young men, who was born and raised in an extra-
5 ordinarily violent neighborhood, and was picking up the sense
6 and the essence of that neighborhood.

7 I was becoming a violent young man, when my father
8 took me one Saturday afternoon to a place where no kid from
9 my neighborhood ever went because it was called a sissy
10 sport. He took me out to a tennis court, and I told him I
11 wasn't going to do it, I wasn't going to go there, because
12 the guys from my neighborhood didn't recognize that as a real
13 sport. He made me stay. I didn't know my old man was that
14 good at tennis. He wore me out. He beat me like a runaway
15 slave, and then I realized that this was a real sport.

16 It was an awareness that came to me from a
17 direction that I would never have dreamed in my life. And,
18 it made it possible for me to at least work with this anger
19 that has stayed with me, basically, all of my life, because
20 this anger does not go away, just because you go out and ride
21 a horse, or win a tennis tournament. It stays with you your
22 entire life. It doesn't go away when you buy nice clothes,
23 or nice cars, or eat at nice restaurants. It stays with you
24 your entire life, and you are forever trying to control it.

25 When you find projects like this, that have any

1 question at all about the benefit to the people that it would
2 serve, I am in favor of those, and I would encourage, and
3 cajole my fellow Commissioners to support this project,
4 because you don't know whose lives you are changing. You
5 don't know who will be the next angry young man, angry young
6 lady, who will serve on this Coastal Commission and make this
7 state proud.

8 This project needs to be approved.

9 **CHAIR KRUER:** Thank you.

10 Commissioner Wan.

11 **COMMISSIONER WAN:** Before I get started, I have a
12 question of staff. Someone brought up that the permit
13 approval from the county was not for a commercial facility,
14 is that correct? do you know?

15 **DISTRICT DIRECTOR AINSWORTH:** I believe the
16 original approval in concept was for a private use, not a
17 commercial use, but I am not sure, I think there was a follow
18 up conditional use permit that dealt with the commercial
19 aspect. But, I would defer to --

20 **COMMISSIONER WAN:** Yes, Mr. Schmitz.

21 **DISTRICT DIRECTOR AINSWORTH:** -- the applicant.

22 **MR. SCHMITZ:** Through the Chair.

23 Commissioner Wan, the permitting by the County of
24 Los Angeles, obviously, was not something pertinent to a
25 single family home. It is for a commercial equestrian

1 facility, but it was constrained from being a commercial
2 boarding facility, whereupon it would be serving people all
3 throughout the Santa Monica Mountains who would be bringing
4 their horses.

5 **COMMISSIONER WAN:** So, it is for a commercial
6 facility, but not for a commercial boarding facility.

7 **MR. SCHMITZ:** Boarding facility, that is the
8 distinction, Commissioner, yes.

9 **COMMISSIONER WAN:** Thank you.

10 **CHAIR KRUER:** Thank you sir.

11 **COMMISSIONER WAN:** I don't think that anybody
12 should doubt my commitment to public access, or even
13 commitment to equestrian use. Before I sat on the
14 Commission, I was a member of the Malibu Trails Council, so I
15 have fought for equestrian use in the mountains for a long
16 time.

17 But, public access and equestrian use, if you
18 quote the *Coastal Act* policies correctly, have to be
19 consistent with natural resource protection.

20 This particular facility, as it is designed, and
21 as it exists, has gone into and is here, actually, develop-
22 ment in the riparian ESHA that has been delineated in the
23 Malibu Land Use Plan. The Malibu Land Use Plan was adopted
24 in 1986, by the way, so it is very old. It has been around
25 -- has designated riparian habitat for a long time, and we

1 are not talking here about a reduction of 100 feet for a
2 small amount. We are talking about reduction down to, in
3 some places along the south, of only 10 feet from a stream.

4 This isn't just from, you know, some other kind of
5 ESHA. This is from the riparian habitat and from the edge of
6 a stream, and I don't know how you can make the findings to
7 approve that kind of reduction given the impacts on pollution
8 that equestrian facilities have.

9 It would set -- as Mr. Massara said -- an
10 unbelievable precedent, that you can simply allow equestrian
11 facilities right up to the edge of the stream.

12 And, I do want to say that the 22nd Ag District,
13 as Mr. Douglas said, is a tortured history, but that is a
14 state agency, unfortunately.

15 Santa Monica Mountains and the creeks are very
16 important to protect. I don't see how you can allow this
17 kind of facility and be consistent with the Coastal Act
18 policies that protect water quality, and environmentally
19 sensitive habitat, and approve this.

20 **CHAIR KRUER:** Thank you, Commissioner Wan.

21 Commissioner Kinsey.

22 **COMMISSIONER KINSEY:** This is a really challenging
23 issue for me. It certainly isn't black and white. The
24 history of the site plays into it, a number of issues, and I
25 just had a question for the staff.

1 In the presentation that the Malibu Valley Farms
2 made they identified that they had received approvals from
3 the State Water Resource Control Board, as well as one other
4 permit approved -- the Fish and Game, did we have any
5 communications with Fish and Game staff about that approval,
6 what their thinking was. And, as it relates to the State
7 Water Resource Control Board, you mentioned that this was
8 identified as impaired water body, and how would they
9 reconcile that?

10 **DISTRICT DIRECTOR AINSWORTH:** We did not have
11 direct communications, to my knowledge, with the Department
12 of Fish and Game on this issue. The Fish and Game approval
13 was a stream bed alteration agreement for development
14 directly in the creek, is my recollection.

15 And, to my knowledge, I am not sure which local
16 approval was received. I don't recall an approval from the
17 Regional Water Quality Control Board, but I could be wrong.
18 It is not listed here in our local approvals received. We do
19 have the State Water Resources Control Board receipt, notice
20 of intent to comply with terms of a general permit to
21 discharge storm water associated with construction activity,
22 that is listed in our local approvals received.

23 Maybe the applicant can clarify exactly what Water
24 Quality Control Board approval was issued for this.

25 **CHAIR KRUEER:** Please.

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MR. SCHMITZ: Through the Chair.

Commissioners, to answer the question --

CHAIR KRUER: Would you speak into the microphone, please.

MR. SCHMITZ: Last time I did it, it echoed off of the walls -- maybe a little intimidated. Don Schmitz, again, for the record.

Yes, the project has received review and approval from the Water Quality Control Board, which included the construction practices, and the runoff control plan, that there would be no debris, or any undue runoff into the creek.

Yes, there was approval by the Department of Fish and Game, not only for the two existing dirt paths which go through the creek bed, that that would not have a significant deleterious impact to the riparian corridor. But, the Fish and Game, typically, wants to take a look at setbacks from riparian corridors, and this project does comply with that. In fact, the proposal before you today will expand that.

So, yes, both of those approvals were received and are a part of the file before the Coastal Commission.

COMMISSIONER KINSEY: Thank you, very much. Those are my questions. I'll reserve until the vote.

CHAIR KRUER: Okay.

Commissioner Lowenthal.

COMMISSIONER LOWENTHAL: Thank you, I wanted to

1 ask a few questions, and make some short remarks, and want to
2 apologize ahead of time, some of my questions might seem a
3 bit pedestrian, since I am new, but I am hoping that
4 Commissioner Gonzalez, perhaps, can appreciate a few of them.

5 I wanted to know, should this Commission deny the
6 permit, and concur with the staff recommendation, what occurs
7 at that point?

8 **DISTRICT DIRECTOR AINSWORTH:** The applicant would
9 then be required to comply with the Commission's Cease and
10 Desist and Restoration Order, to remove the unpermitted
11 development from the site.

12 **COMMISSIONER LOWENTHAL:** Okay.

13 **EXECUTIVE DIRECTOR DOUGLAS:** That is the
14 development that located within the setback area, that is not
15 all of the development that is associated with this
16 particular operation, but that portion of the development
17 that was deemed to be unimproved and illegal, and covered by
18 the Cease and Desist Order.

19 **COMMISSIONER LOWENTHAL:** Do you know what
20 percentage of the total operations that is?

21 **DISTRICT DIRECTOR AINSWORTH:** The entire site is
22 unpermitted. All of the development on the site is
23 unpermitted.

24 And, one other point, our Attorney General just
25 noted, is that the applicant has challenged the Cease and

1 Desist and Restoration Order in court, and there is a pending
2 lawsuit.

3 **COMMISSIONER LOWENTHAL:** And, then, I had a
4 follow-up question to the Regional Water Quality Control
5 Board question that my colleague just asked.

6 In response to that, the response was that there
7 was approval for the runoff plan, is that the runoff plan
8 associated with construction? or runoff plan associated with
9 the equestrian operations?

10 May I ask the applicant? I'm sorry.

11 Please come forward.

12 **MR. SCHMITZ:** Again, Don Schmitz, through the
13 Chair.

14 Commissioner Lowenthal, it is for both. It is for
15 the construction, the removal of existing facilities toward
16 the back, that there be no deleterious impacts. And, it is
17 also for the runoff filtration plan, the bio-swale that is
18 before you today.

19 **COMMISSIONER LOWENTHAL:** Okay, thank you.

20 **EXECUTIVE DIRECTOR DOUGLAS:** Mr. Chairman.

21 **CHAIR KRUEER:** Yes.

22 **EXECUTIVE DIRECTOR DOUGLAS:** If I can clarify my
23 answer to Commissioner Lowenthal's question.

24 **CHAIR KRUEER:** Yes.

25 **EXECUTIVE DIRECTOR DOUGLAS:** What I was saying is

1 the outcome, the end of the day, if the Commission denies
2 this, would be from our perspective that, yes, all of the
3 development that is on the site is unpermitted, but what we
4 have indicated is that development outside of the setback
5 area, is something that we would see could be approved by the
6 Commission, with a permit application.

7 So, that is the reason I said that I felt that
8 that development outside of the setback area could be
9 approved, and then would be retained.

10 **CHAIR KRUER:** Commissioner Lowenthal, do you have
11 a question for Mr. Schmitz?

12 **MR. SCHMITZ:** I need to clarify my previous
13 answer.

14 **COMMISSIONER LOWENTHAL:** I think he is here to
15 clarify.

16 **EXECUTIVE DIRECTOR DOUGLAS:** Yes.

17 **MR. SCHMITZ:** In actuality, the Water Quality
18 Control Board, and Fish and Game, approvals were for the
19 project without the bio-swale, with the approximate 50-foot
20 setback and the removal of the development which is presently
21 closer to the creek.

22 The bio-swale and the improved filtration plan,
23 which is before you today, goes above and beyond that which
24 was before the Fish and Game and Water Quality Control Board,
25 which did, in fact, approve the project.

1 **COMMISSIONER LOWENTHAL:** And, perhaps you can
2 answer my next question.

3 I wanted to know who the local water agency was?
4 is this Calleguas Municipal Water District, that covers --

5 **MR. SCHMITZ:** I am sorry, Commissioner, I didn't
6 intend to speak over you.

7 The water districts, or the water purveyors --
8 this is, I believe, the Las Virgenes Municipal Water
9 District. The Water Quality Control Board is regulatory
10 authority which deals with ground water and water runoff
11 issues. There are two completely separate issues, but I
12 believe we are in the Las Virgenes Municipal Water District.

13 **COMMISSIONER LOWENTHAL:** Thank you, they were
14 separate questions.

15 And, the other question I had was when did the
16 unpermitted development occur? and perhaps staff can answer
17 this, and if not, then Mr. Schmitz. How far back was that?

18 **DISTRICT DIRECTOR AINSWORTH:** Just one minute, and
19 I'll get that in just a minute.

20 [Pause]

21 It was discovered -- let's see, in December of --
22 no, January of 1999.

23 **COMMISSIONER LOWENTHAL:** And, when you say
24 "discovered" this would probably answer my next question: I
25 am not clear as to how this is all before us now. Did the

1 applicant make an application for an addition? or, it was
2 something that the staff stumbled upon, and now it is before
3 us?

4 **DISTRICT DIRECTOR AINSWORTH:** Originally, what
5 happened here was that the landowner applied for an exemption
6 determination for disaster replacement rebuild of some
7 facilities there.

8 We, initially, issued that, or made that
9 determination that the reconstruction of some of these
10 facilities lost to fire were exempt under disaster
11 replacement provisions of the Coastal Act.

12 Later, we discovered that these facilities were
13 constructed after the Coastal Act, without the benefit of a
14 Coastal Development Permit. We notified the applicant of
15 that situation, and indicated he needed to submit a Coastal
16 Development Permit to legalize these facilities.

17 **COMMISSIONER LOWENTHAL:** Okay, that's it for my
18 question. I -- yes?

19 **MR. SCHMITZ:** I have a markedly different opinion
20 --

21 **COMMISSIONER LOWENTHAL:** Your response.

22 **MR. SCHMITZ:** -- with regards to when the property
23 was developed, Commissioner Lowenthal.

24 The portion that Mr. Ainsworth brought to your
25 attention is true. What he fails to mention was that in the

1 early '90s there was a coastal zone boundary determination
2 application, with a staff report, that was before the
3 Commission, that did lay out all of the existing development
4 that is on the site today. No concern was raised by the
5 Commission staff, or the Commission, at that time, that, in
6 fact, the development which is on the site today was
7 constructed in the mid-1980s, that the farmers sought the
8 opinion of the Attorney General in regards to whether or not
9 a -- the '70's excuse me -- regards to whether or not that
10 needed a permit. And, in fact, there is documentation for
11 the dry land farming, and the grazing, going back to the
12 early 1900s. So, the development for agricultural purposes
13 on this site goes back the better part of 60 or 70 years, and
14 what is on the property now was constructed in the mid-1970s.

15 **EXECUTIVE DIRECTOR DOUGLAS:** But, Mr. Chairman, in
16 terms of the issue that was raised by Commissioner Lowenthal,
17 these issue were discussed when the issue of whether or not
18 the applicant had a vested right to continue the operations
19 here. This was extensively discussed before this Commission.
20 The Commission did not agree with the applicant, and denied
21 the vested right claim.

22 Then, subsequently, there was a Cease and Desist
23 Order, and an Restoration Order, which the Commission held in
24 abeyance pending the application for development. And, from
25 our perspective, I mean, and that is why it is before you

1 today.

2 So, if it had been for those areas outside,
3 development outside of the setback area, our recommendation
4 would have been different then what it is today.

5 **COMMISSIONER LOWENTHAL:** Thank you.

6 **CHAIR KRUER:** Okay, is that fine?

7 **COMMISSIONER LOWENTHAL:** Yes, that is fine for my
8 questions. May I make just a few short remarks?

9 **CHAIR KRUER:** Yes, you can, absolutely.

10 **COMMISSIONER LOWENTHAL:** What I wanted to do was
11 to thank everyone that has been here. I know you have waited
12 all day to speak before this Commission, and I truly
13 appreciate that. This is a long and arduous process, and for
14 those of us who are new, I hope you do understand there is an
15 appreciation for that.

16 What I heard today was that Malibu Valley Farms is
17 a good employer. It is a good community servant. I heard
18 from a lot of individuals that speak something that is very
19 near and near to not only Commissioner Burke's heart, but I
20 think a lot of us. A lot of us do live in urbanized areas.
21 I, for one, represent a very urbanized area in the City of
22 Long Beach, and first hand understand the struggles that our
23 at-risk youth face, and the struggles that those of us who
24 would like to provide alternatives for individuals to channel
25 their individual energy, as well as their fraternal energies,

1 into good activities. We all face these challenges.

2 But, a lot of the times, what happens when we have
3 conflicting passions, A, a passion for the environment, a
4 passion for the natural resources. I have a 10-year back-
5 ground in water policy, so I bring a passion for that, not
6 just imported water delivery, but also ground water, and
7 natural water resources.

8 And, then a passion for these children that we are
9 talking about that now have an opportunity to engage in an
10 activity that lets them channel the anger, the energy that
11 they have no other means to do so. And, also the right of an
12 employer, a good employer to continue to operate.

13 But, what I cannot advocate for is teaching young
14 adults that a trade off, that we can sacrifice the natural
15 resource for another positive tradeoff. And, I know life is
16 about tradeoffs, in general, but it is difficult for me to
17 suggest that that is what we can do. I think we must compel
18 ourselves to find other ways to assist the young individuals
19 that we need to assist.

20 About 15 years ago, when I worked -- I believe it
21 was that long ago -- for the Los Angeles City Attorneys
22 Office. There was a proposal for a project called Horses in
23 the Hood, and it is very similar to the Compton Posse that
24 was just described here, and it was a project that was run
25 out of the horse trails up at Griffith Park. It is something

1 that a lot of people supported, myself included, but it did
2 not impair or compromise natural resources.

3 And, so I think what we have to do is to challenge
4 ourselves to find mechanisms, such as this, for students and
5 young adults to be able to engage in positive activities.

6 And, so I wanted to convey a deep gratitude for
7 your passionate testimony today, but I would be in support of
8 the staff recommendation, because I find myself having to
9 balance my water policy concerns, with my natural resources
10 concerns, and my concerns for at-risk youth, as well as my
11 concerns for employees, and those who are employed here, who
12 seems to be a very good employer.

13 Thank you.

14 **CHAIR KRUER:** Thank you, Commissioner Lowenthal.
15 Vice Chair Neely.

16 **VICE CHAIR NEELY:** Thank you, Mr. Chairman.

17 I just wanted to say that I do think the
18 Commission has discretion in this matter, and that we can
19 consider variations on a case-by-case basis, and that I think
20 the mitigation offered by the applicant identifies an
21 alternative that can minimize impacts.

22 And, I just had a question for the maker and the
23 seconder about conditions, if they were going to propose any
24 conditions with the motion? I think that the applicant
25 offered an agricultural easement in their proposal. I think

1 we should have some sort of monitoring of the program, of the
2 mitigation program, and then I think there should be the
3 assumption of risk waiver and liability, and definitely an
4 indemnification condition.

5 **CHAIR KRUER:** Commissioner Blank.

6 **COMMISSIONER BLANK:** I was going to offer some
7 water quality monitoring conditions, as well.

8 **CHAIR KRUER:** Okay.

9 **COMMISSIONER BURKE:** So, the answer is "Yes".

10 **COMMISSIONER BLANK:** Yes.

11 **CHAIR KRUER:** You will put those in, accept those
12 in the motion, and the "seconder" is okay with that, too?

13 **COMMISSIONER BLANK:** Yes.

14 **CHAIR KRUER:** Yes, Commissioner Blank, thank you.
15 Okay, yes, Commissioner Potter.

16 **COMMISSIONER POTTER:** Hi, down there.

17 I just wanted to take a moment to actually weigh
18 in here, and let you know what my thoughts are here, and that
19 is, what is, basically, before us today? And, it is really
20 not a hearing on Mr. Boudreau's character, or the sincerity
21 of his supporters, or, you know, the importance of the equine
22 industry on the economies of the State of California.

23 What is really before us is an after-the-fact
24 permit application, and that is not a unique experience for
25 this body. And, frankly, for me, I am not really that

1 surprised to see structures in an agricultural operation that
2 were unpermitted. In fact, in several areas, accessory ag
3 structures that are relevant to ag operations don't need
4 permits in certain areas.

5 What is unique, in my mind, is the fact that Mr.
6 Boudreau seems to be victim of his own good intentions, and
7 by enhancing the site has created this conflict that we are
8 struggling with.

9 If you look at the photos that are in the packet,
10 the '40s, the '50s, the '60s, it is indisputable that this
11 was a disturbed site, that there has been a significant
12 amount of work that has been done on that site, alteration of
13 stream beds, miscellaneous topographical modifications, and
14 what has happened is that over the course of the time, this
15 site has been enhanced. And, I don't think that is a bad
16 thing.

17 I think that the site, as it now is configured, is
18 much, much better than it used to be, and I don't think it is
19 necessarily fair to penalize the applicant for those
20 improvements.

21 And, when you look at what are the improvements,
22 or what are the consistencies of the *Coastal Act* that have
23 occurred, the agricultural uses are continued, and they are
24 enhanced. The recreational uses have certainly been retained
25 an improved. And, public access is undoubtedly enhanced.

1 The scenic views have been preserved.

2 And, as far as the water quality issue goes, I
3 think it is probably one of the most aggressive management
4 plans I've seen, and I don't argue with the fact that this
5 might well be a model for new standards that we should be
6 trying to implement more regularly.

7 I think commissioner Wan does raise a good
8 question regarding what kind of findings can we put in here
9 that substantiate or support the decision that I am willing
10 to support, and that is the motion that is before us.

11 And, I think we can look at the Public Resources
12 Code and note that Section 30231 states that the Act supports
13 minimizing adverse effects on waste water discharge and
14 controlling runoff. And, the improvements that we see on
15 this project, whether it is the 700-foot swale, it is the
16 guttering of the buildings that are there, the channeling of
17 that runoff in appropriate directions, and frankly, the
18 removal and relocation of some of the buildings that are in
19 question.

20 I think you see a very sincere effort to actually
21 improve the water quality, and I think that specific site
22 helps in that manner.

23 I don't really want to have one of these classic
24 cases, where, you know, no good deed goes unpunished in the
25 coastal zone. It is a controversial issue, I can understand

1 that, but I do think that the benefits that have been high-
2 lighted by my fellow Commissioners, along with those that I
3 just mentioned, are significant and compelling to make me
4 feel very solid in the way I would cast my vote today.

5 **CHAIR KRUER:** Thank you, Commissioner Potter.
6 Commissioner Gonzalez.

7 **COMMISSIONER GONZALEZ:** I have additional
8 questions, along the same questioning as Commission
9 Lowenthal.

10 It was discovered in 1999, I know someone alluded
11 to it, when they were speaking, but what was the cause of the
12 delay to get to this point now, and in 2007?

13 **DISTRICT DIRECTOR AINSWORTH:** There was a long
14 period when the applicant first submitted an application, was
15 reviewed through L.A. County Regional Planning. That took,
16 as I recall, several years, if that is correct, Don.

17 And, then the applicant withdrew that application
18 and brought forward the vested rights claim, and that took
19 time to process, as well. But, it took a number of years to
20 get through L.A. County, and that was the most significant
21 delays in this case.

22 And, as well, then, the applicant withdrew that
23 application, and went forward with a vested rights claim.

24 **COMMISSIONER GONZALEZ:** Yes.

25 **MR. SCHMITZ:** Through the Chair, Commissioner

1 Gonzalez, again, Don Schmitz. There are some other nuances
2 which should be reiterated to the Commission.

3 After it became apparent to the farmers that there
4 was a problem. There was an application for vesting that was
5 originally submitted. There was a meeting, as the matter was
6 being scheduled before the Commission, whereupon the staff
7 was recommending denial of that vesting application.

8 And, it is my client's position that in that
9 meeting with the previous District Director Damm, that it was
10 indicated that, perhaps, a 50-foot setback would be something
11 that would be tenable.

12 My clients redesigned their project. They did go
13 through a lengthy permit process. It did take years to get
14 the county, the fire department, water quality control board,
15 fish and Game, and the last one of those approvals came
16 forward in about '05, if memory serves.

17 Staff then indicated that they could no longer be
18 supportive of a 50-foot setback. At that time, my clients
19 decided to proceed with the vesting application, which was
20 before the Commission last November. The Commission did not
21 see it our way, and then the Commission directed us to come
22 forward with the Coastal Development Permit application,
23 which is where we find ourselves today, with the modified
24 project.

25 **COMMISSIONER GONZALEZ:** As to an explanation for

1 the original claim that those structures were existing prior
2 to a fire, and then a claim that they weren't, how was that
3 ever resolved?

4 **MR. SCHMITZ:** If I may.

5 **CHAIR KRUER:** So, is that question to --

6 **COMMISSIONER GONZALEZ:** Whoever can tell me.

7 **EXECUTIVE DIRECTOR DOUGLAS:** I think staff should
8 respond first.

9 **CHAIR KRUER:** Mr. Schmitz, you can have a seat,
10 unless one of the Commissioners call you up.

11 **DISTRICT DIRECTOR AINSWORTH:** I am sorry, could
12 you repeat that question? I didn't get all of it.

13 **COMMISSIONER GONZALEZ:** In the testimony there was
14 discussion about how this came to be, and how you came to
15 discover this, and that there was a claim put forward to
16 build these structures because they were destroyed in a fire,
17 and then it was approved, and then withdrawn because there
18 was claims that those structures never existed. How was that
19 -- I am trying to get to the veracity of all of these claims.

20 I am sorry, I am having a little hard to
21 understand the timing, without having gone through this
22 before.

23 **DISTRICT DIRECTOR AINSWORTH:** There was a report
24 after we issued the exemption determination, a member of the
25 public came forward and indicated that those structures were

1 built after the Coastal Act.

2 Staff initiated investigation, reviewed our aerial
3 photographs, and also the county permit records, and
4 determined that, in fact, these structures were built after
5 the Coastal Act without the benefit of a permit.

6 **EXECUTIVE DIRECTOR DOUGLAS:** So, as I understand
7 that, the claim that structures never existed, and never
8 burned down, that is not our conclusion. As I understand it,
9 our conclusion was that whatever structures were there simply
10 had no coastal permits. And, we couldn't issue an exemption
11 to rebuild something that wasn't legally there in the first
12 place.

13 **COMMISSIONER GONZALEZ:** Okay, thank you for
14 clarifying that.

15 I want to point out, because I was somewhat
16 offended by some of the speakers, who somehow decided that
17 bringing people in by a bus was not a good thing. As
18 somebody who works with community organizers in my job, with
19 labor, I think any time you can bring people out, that that
20 is a positive thing, and exposing people to a Commission like
21 that, this is very positive, anyway you can get here, so
22 thank you for pooling your resources and bringing a bus. I
23 don't care who pays for it. I think that that is an
24 important factor.

25 And, I really want to thank all of the people who

1 testified today, especially workers. Any time that workers
2 come before us, and can explain how important a decision is
3 upon their jobs, I think that that is vital.

4 Also, want to thank Commissioner Burke, who
5 pointed out something very important, and actually probably
6 having an effect on me that he didn't mean to. He described
7 these good works that is being done for the young men in
8 Compton, and spoke as a voice of one of those young men.

9 I would like to speak also as the voice of
10 somebody who grew up in a working class neighborhood, who
11 valued the ability to get away from that, and how much of an
12 effect that had had on my life. The difference, probably,
13 between Mr. Burke and I, though, was my getting away was
14 going to the ocean, and that is probably why my brother and
15 myself both became environmental attorneys. It was truly our
16 ability to get away and escape, and is why I have such a
17 passion for water and for coastal resources.

18 So, as moved as I was by so much of the testimony,
19 I find it very hard to be able to allow for something that
20 has such a negative effect on water quality, and I think that
21 it is terrible to allow a precedent, especially given --
22 almost post-facto, to allow this without a 100-foot setback.

23 Thank you.

24 **CHAIR KRUER:** Thank you, Commissioner Gonzalez.

25 Other -- yes, Commissioner Baird.

1 **COMMISSIONER BAIRD:** Just a follow up on
2 Commissioner Kinsey's question earlier about the Fish and
3 Game and the State Water Resources Control Board permits.

4 What does trouble me about this report, and this
5 is a bit of a reoccurring theme sometimes, is that you had,
6 apparently, an approval that you disagreed with, with the
7 Environmental Review Board, and apparently their previous
8 approvals by the Department of Fish and Game, the State
9 Wildlife Management agency, apparently their approvals by the
10 State Water Resources Control Board, the state water quality
11 control agency, and your partner on non-point source
12 pollution. I hope in future reports I see these mentioned in
13 the reports, and if you have got issues with or disagreements
14 with it, I think those ought to be brought out throughout the
15 document, you know, otherwise, I think we are asking this
16 question, because that wasn't in the document.

17 And, this is very similar to the last time I came
18 here, when there was a Fish and Game letter on an issue that
19 didn't make it into the analysis, or wasn't an attachment.
20 So, I really want to see a reasoned analysis through this,
21 because I do think what happens on the ground is the most
22 important thing.

23 There is a lot of mitigation that has gone on here
24 that I don't know what the state board has done, and if they
25 have gone through an extensive analysis and found that this

1 is more protective?

2 I want to send a strong signal, that I would
3 really like to see agency positions in their analyses, put
4 into these reports, and to have a reasoned discussion about
5 them.

6 **EXECUTIVE DIRECTOR DOUGLAS:** Relative to the
7 Department of Fish and Game, it is my understanding that they
8 were dealing with a stream bed alteration request --

9 If I could ask the camera operator to just step
10 back a little bit.

11 -- and they don't have discretion to deny those, as I
12 understand it, and they did not look at the question of the
13 natural resource impacts on the riparian habitat, of a
14 setback of any particular amount.

15 It is my understanding that they were only looking
16 at the question of the stream bed alteration that was related
17 to -- Jack, the development or the process?

18 **DISTRICT DIRECTOR AINSWORTH:** My understanding is
19 they were limited to the development that is actually in the
20 creek.

21 **EXECUTIVE DIRECTOR DOUGLAS:** And, relative to the
22 State Water Resources Control Board, their approval, I think
23 you have got a good point. I think that, frankly, I don't
24 know what the scope of their approval, or their review was,
25 at this point, and I think you raise a good point, that in

1 the future we need to make sure that we are clear on what,
2 exactly, they were looking at, and approving.

3 So, that point is well taken.

4 **CHAIR KRUER:** Commissioner Wan, you have a
5 question.

6 **COMMISSIONER WAN:** Just on this one point.

7 I would like to point out that stream bed
8 alternation agreements with the Fish and Game Department are
9 one thing, but there is a *Coastal Act* policy, and I don't
10 know if it is 30236, or something like that.

11 What is our stream bed alteration policy? 36,
12 whatever it is.

13 And, that specifically, under the *Coastal Act*,
14 which is what is our jurisdiction, prohibits alterations of
15 stream bed, except for three specific reasons: one is flood
16 control; the other is -- I have forgotten --

17 **DISTRICT DIRECTOR AINSWORTH:** Water supply
18 projects.

19 **COMMISSIONER WAN:** -- water supply projects --

20 **DISTRICT DIRECTOR AINSWORTH:** And --

21 **COMMISSIONER WAN:** -- or habitat restoration.

22 This doesn't comply with any of those three
23 policies in parts of that, and is therefore a violation of --
24 those stream crossings are a violation of that provision of
25 the *Coastal Act*.

1 **EXECUTIVE DIRECTOR DOUGLAS:** Right, and to
2 supplement that, that is the reoccurring problem that we have
3 with Fish and Game and other agencies. They have a different
4 law, different standards to apply. They are not looking at
5 these projects under the Coastal Act.

6 So, you look at the Regional Water Quality Control
7 Board, they are not looking at the question of impacts on
8 environmentally sensitive habitat, like the riparian. They
9 may be looking solely at the water quality effects, and not
10 the broader effects that the buffer that we are talking about
11 here is designed to protect. The purpose of this buffer is
12 both water quality and protection of the environmentally
13 sensitive habitat, which is the riparian corridor.

14 So, that is why we constantly get into these
15 seeming conflicting situations, where one state agency
16 approves a project that comes before you, and we recommend a
17 different outcome based on the application of the law that is
18 our standard.

19 **CHAIR KRUER:** Commissioner Shallenberger.

20 **COMMISSIONER SHALLENBERGER:** Well, on exactly that
21 same line, I want to point out that we do have a letter from
22 the Department of Parks and Recreation, who urges us to --
23 another department within the Resources Agency -- who asks
24 that it be denied because of their mandates, which are
25 protecting the parks, and specifically they are worried about

1 Gillette Ranch and Santa Monica Conservancy, so this isn't an
2 uncommon thing, and it is how we are kind of set up with
3 different departments, and agencies have their own mandates
4 that they are supposed to be, you know, following, and at the
5 end of the day, we end up with, hopefully with a good strong
6 project.

7 Let me ask staff, we heard testimony that the L.A.
8 County permits had expired. Do you know whether that is
9 true, or not?

10 **DISTRICT DIRECTOR AINSWORTH:** That may well be
11 true. They are only good for several years; however, when
12 the Commission -- when the applicant requested that, to bring
13 this back for a permit, after the Cease and Desist hearing,
14 the Executive Director waived that particular requirement --

15 **COMMISSIONER SHALLENBERGER:** Okay.

16 **DISTRICT DIRECTOR AINSWORTH:** -- for additional
17 reviews, because we didn't want to get stuck in that long
18 delay again, that we had at Regional Planning and --

19 **COMMISSIONER SHALLENBERGER:** So, that is,
20 actually, not relevant to us?

21 **DISTRICT DIRECTOR AINSWORTH:** It really is not.

22 **COMMISSIONER SHALLENBERGER:** Whether it expired,
23 or not.

24 All right, and then just a final point, just to
25 remind Commissioners, that since this is an unpermitted

1 development, that our standard is really as if there never
2 had been a development there. And, everything that I heard
3 from the project proponent was why what they are proposing
4 was so much better than what is currently on the ground, not
5 that it is the best way to do a horse facility on this
6 property.

7 So, I just wanted to be sure that we have the
8 correct standard in our mind, and that these wonderful
9 programs that we heard about, the Calabassas Posse, and
10 things, are not and needn't to be at risk, one way or the
11 other, because this is not, as we heard from staff, if we
12 were to go with the staff recommendation, or if we were to
13 defeat the motion before us, it doesn't mean that it is the
14 end of all of the buildings and all of the horses on the
15 property. It merely means that -- not merely, as these are
16 large things -- but, the program doesn't have to be at risk,
17 just because if we choose to deny the project.

18 **CHAIR KRUER:** Thank you, Commissioner
19 Shallenberger.

20 Commissioner Burke.

21 **COMMISSIONER BURKE:** Commissioner Challenger
22 brings us a good point, and there are two or three that I
23 would like to get cleared up.

24 Could the applicant respond to the fact of what if
25 this application is denied, what happens to the program?

1 **MR. SCHMITZ:** What happens to what, Commissioner?

2 **COMMISSIONER BURKE:** The programs that have been
3 going on, do you continue to operate as you have before,
4 because some people tell me 80 percent of the buildings have
5 to come down, some people tell me that none of the building
6 have to come down. What is the true story, here.

7 **MR. SCHMITZ:** Through the Chair.

8 Commissioner Burke, it utterly and completely
9 destroys this operation.

10 **COMMISSIONER BURKE:** So, everything falls apart.

11 **MR. SCHMITZ:** All that would be left would be an
12 area of an arena, only a part of it, and a small portion of
13 pasture.

14 **COMMISSIONER BURKE:** Thank you.

15 Now, here is one of the things that I find hard to
16 understand, and I know the 26th Agricultural District -- or
17 whatever number it is, down in San Diego, I know how much
18 Chairman Kruer loves that place.

19 **CHAIR KRUER:** The 22nd.

20 **COMMISSIONER BURKE:** The 22nd, right.

21 But, when that project was approved, it was
22 approved unanimously, and half of the people who are speaking
23 opposed to this voted for that. Now, the only people who
24 didn't vote for it, were the people who weren't here.

25 Now, can somebody help me out here, if you say

1 that they are hard to get along with, if these people were
2 hard to get along with, would that mean that you would
3 approve it? And, the same water quality issues that you are
4 about on this project, you weren't concerned about enough to
5 vote against that project?

6 So, this is, you know, strange to me.

7 **EXECUTIVE DIRECTOR DOUGLAS:** Commissioner Burke,
8 would you like to hear me respond to that?

9 **COMMISSIONER BURKE:** No.

10 **EXECUTIVE DIRECTOR DOUGLAS:** That is what I
11 thought.

12 **COMMISSIONER BURKE:** I don't like my friends and I
13 to argue.

14 **CHAIR KRUER:** Anyone else?

15 I would like to just add a little bit on this.
16 This is a very difficult one, but listening to all of the
17 testimony today, and listening to my colleagues, et cetera,
18 the water quality issues are very important, and very
19 critical, but with all of the water studies, and the bio-
20 swale, and the bio-filter thing, I have had horse operations,
21 and if you monitor and maintain them you can keep the water
22 quality, I know that is a fact.

23 I also know that when I first came here, before
24 this hearing started today, I was very supportive of staff's
25 position, but as I listened to the testimony more and more

1 today -- and I know referring and staying with the Coastal
2 Act -- how critical -- no one has mentioned this -- the fire
3 safety issues of having this as a staging area. This is one
4 of the hardest, most difficult things, where I live, in
5 finding horses in fires is a disaster. They get lost, and
6 you have got to have staging areas. It is very difficult to
7 obtain them. You would think that they would be easier, but
8 it is not.

9 Also, when you have an existing facility, you just
10 can't tear half of it down, or whatever percentage it is, and
11 most likely would destroy the economic viability of it,
12 because this one, like a lot of the horse areas, they have
13 horse trails, and networks, et cetera, and you just don't get
14 the right to connect with those horse trails, and you lose
15 all of that by moving something, if you can ride, and go
16 around the facilities.

17 I was moved, like all of the Commissioners today,
18 by the testimony on both sides, but I am very concerned that
19 we sent this -- we talk about the 22nd Agricultural District,
20 and I remember that approval that was brought up, and I
21 didn't until they raised it today. And, it is a state
22 agency.

23 But, you know we have this, we try all of the time
24 to get this 100 foot, it is true, but what is a little
25 different here is that you do have -- I never would say that

1 the ERB in Los Angeles is a walk in the park. I mean, it is
2 pretty difficult to get something through them, too, and that
3 weighs in on me, too. It isn't like, this hasn't been
4 researched, et cetera.

5 So, I believe I have been moved today to be in a
6 position to support my colleague, Commissioner Burke, in his
7 motion.

8 I'll call the roll, so will the clerk call the
9 roll. They are asking for a "Yes" vote.

10 SECRETARY MILLER: Commissioner Lowenthal?

11 COMMISSIONER LOWENTHAL: No.

12 SECRETARY MILLER: Commissioner Gonzalez?

13 COMMISSIONER GONZALEZ: No.

14 SECRETARY MILLER: I didn't hear you.

15 COMMISSIONER GONZALEZ: No.

16 CHAIR KRUEER: No, she said.

17 SECRETARY MILLER: Commissioner Secord?

18 COMMISSIONER SECORD: Yes.

19 SECRETARY MILLER: Commissioner Neely?

20 VICE CHAIR NEELY: Yes.

21 SECRETARY MILLER: Commissioner Potter?

22 COMMISSIONER POTTER: Aye.

23 SECRETARY MILLER: Commissioner Kinsey?

24 COMMISSIONER KINSEY: No.

25 SECRETARY MILLER: Commissioner Shallenberger?

1 **COMMISSIONER SHALLENBERGER:** No.
2 **SECRETARY MILLER:** Commissioner Wan?
3 **COMMISSIONER WAN:** No.
4 **SECRETARY MILLER:** Commissioner Achadjian?
5 **COMMISSIONER ACHADJIAN:** Yes.
6 **SECRETARY MILLER:** Commissioner Blank?
7 **COMMISSIONER BLANK:** Yes.
8 **SECRETARY MILLER:** Commissioner Burke?
9 **COMMISSIONER BURKE:** Yes.
10 **SECRETARY MILLER:** Chairman Kruer?
11 **CHAIR KRUER:** Yes.
12 **SECRETARY MILLER:** Seven, five.
13 **CHAIR KRUER:** Can we ask everyone to go outside,
14 as we need to move onto the next item. We would appreciate
15 it if you would go out quietly, we would appreciate it.
16 **EXECUTIVE DIRECTOR DOUGLAS:** Yes, Mr. Chairman,
17 that brings us to the next item.
18 *
19 *
20 [Whereupon the hearing concluded at 7:35 p.m.]
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STATE OF CALIFORNIA)
) SS.
COUNTY OF MADERA)

I, PRISCILLA PIKE, Hearing Reporter for the State of California, do hereby certify that the foregoing 137 pages represents a full, true, and correct transcript of the proceedings as reported by me before the California Coastal Commission on July 9, 2007.

Dated: February 24, 2008



PRISCILLA PIKE