

Subject Property

Exhibit 1.
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United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Field Office
2730 Loker Avenue West
Carlsbad, California 92008

RECEIVED

OCT 11 1995

CALIFORNIA
COASTAL COMMISSION
October 5, 1995
SOUTH COAST DISTRICT

Mr. James L. Ryan
California Coastal Commission
P.O. Box 1450
Long Beach, California 90802-4416

Subject: Endangered El Segundo blue butterfly and restoration program
at 433 Paseo del lay Playa, Torrance,

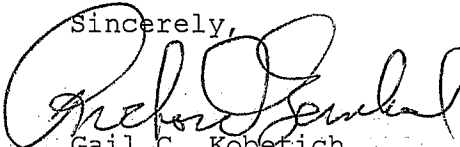
Dear Mr. Ryan:

This letter responds to the proposed restoration plan for the El Segundo blue butterfly (*Euphilotes bernardino allyni*) at 433 Paseo de la Playa in the City of Torrance, Los Angeles County, California. The U.S. Fish and Wildlife Service (Service) is concerned about the possible effects of the project on this endangered species, which is fully protected under the Endangered Species Act of 1973, as amended (Act). The butterfly has been observed on the project site by Chris Nagano of my staff. Our comments are based on the *Planting Plan L-1*, dated July 12, 1995, which was received by the Service from Hawthorne Savings on August 23, 1995; and a meeting between Bruce Lewis and Sherry Lawson of Hawthorne Savings, and Chris Nagano on October 3, 1995.

The planting plan will adequately restore habitat for the endangered El Segundo blue butterfly if the iceplant (*Caprobrotus edulis*) is planted thirty-six (36) inches off-center. The coastal buckwheat (*Eriogonum parvifolium*) and associated native species that will be planted at the site will provide additional habitat for the butterfly.

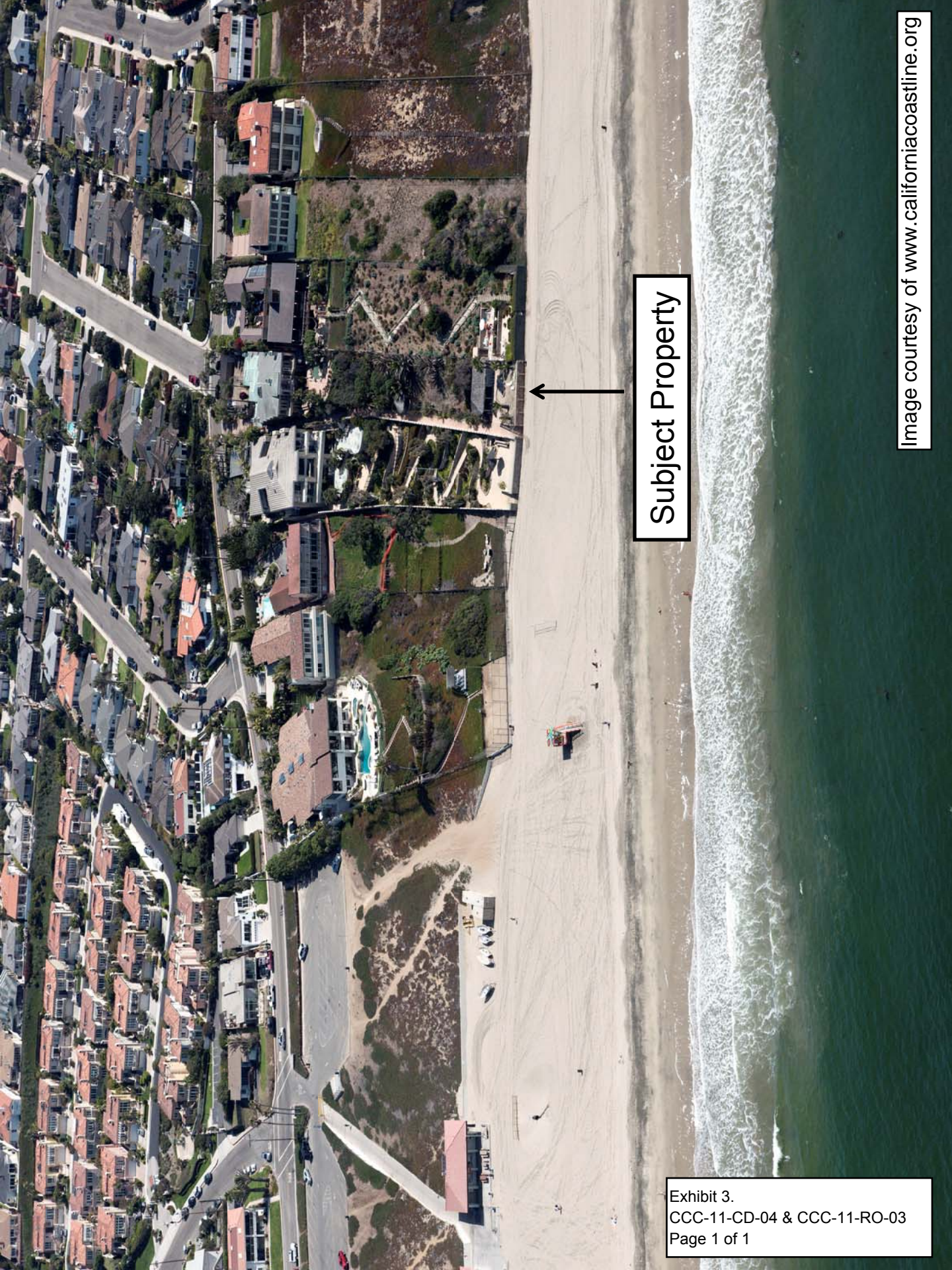
We appreciate the efforts of the California Coastal Commission and Hawthorne Savings in protecting endangered species and California's remaining wildlife habitats. Please contact Chris Nagano of my staff at the letterhead address or at 619/431-9440 if you have any questions.

Sincerely,


Gail C. Kobetich
for Field Supervisor

1-6-96-TA-007

cc: ARD:HC, Portland, OR
CDFG, Sacramento, CA (Attn: D. Warenycia)
CDFG, San Diego, CA (Attn: W. Tippetts)
Hawthorne Savings, El Segundo, CA (Attn: Bruce Lewis)
Dr. R. Mattoni, Beverly Hills, CA



Subject Property

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(714) 509-5071

49th Day: 11/22/95
180th Day: 4/1/96
Staff: A. Padilla
Staff Report: 10/23/95
Hearing Date: 11/14-17/95
Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-90-1041A2

APPLICANT: Hawthorne Savings

AGENT: Bruce Lewis

PROJECT LOCATION: 433 Paseo De La Playa, Torrance

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construct a 2-story, 7,334 sq. ft. single-family residence on a vacant 0.62 acre blufftop lot.

DESCRIPTION OF FIRST AMENDMENT APPROVED: Decrease the building footprint by 250 sq. ft., increase the blufftop setback 3 ft. inland and add an additional 400 sq. ft. on second floor (no change in height).

DESCRIPTION OF PROPOSED AMENDMENT: Installation of drainline, concrete stairway, chain-link fencing and gate, irrigation system, erosion control and restoration of habitat on bluff face.

LOCAL APPROVALS RECEIVED: Approval In Concept

SUBSTANTIVE FILE DOCUMENTS:

1. City of Torrance Adopted Local Coastal Program.
2. Coastal Development Permit No. 5-84-187 (Briles).
3. Coastal Development Permit No. 5-85-755 (Briles).
4. Letter from U.S. Fish and Wildlife Service, dated October 5, 1995.

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) the proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that the development with the proposed amendment, subject to the conditions consistent with the requirements of the Coastal Act.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

i. Approval with Conditions.

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Special Conditions.

1. Restoration Maintenance and Monitoring Program

Prior to the issuance of the coastal development permit the applicant/landowner shall submit to the Executive Director for review and approval, a restoration maintenance and monitoring program consistent with Exhibit #4, revised restoration plan, and Exhibit #5, Habitat Enhancement and Erosion Control Plan, by Rudi Mattoni, as specified below and using plant material as indicated in Exhibit #3, applicant's plant list. By accepting this permit the applicant/landowner agrees to carry out this plan.

- a) The plan shall clearly indicate the following habitat objectives of each area, as stated below:

Zone A, as shown in Exhibit #4. In this area the objective is habitat restoration and temporary cover to protect the slope from erosion and reestablishment of sufficient Eriogonum Parvifolium (Coastal Buckwheat) to provide support for reproduction of El Segundo blue butterfly. In this area native plantings shall follow the plant list as shown in exhibit #5. During the establishment period, the applicant/landowner shall install temporary irrigation, and jute matting. After one year, artificial irrigation shall cease except as necessary to establish replacement plants. While Carpobrotus Edulis (iceplant) is permitted to be planted in the first year, at the end of one year, no new Carpobrotus Edulis shall be installed. In addition to Eriogonum Parvifolium and Carpobrotus Edulis as indicated in Exhibit #4, the applicant/landowner shall install no fewer than four five-gallon deep rooted native plants of the coastal dune community identified in Exhibit #5. In this area the applicant/landowner may maintain Carpobrotus Edulis, planted during the first year, as long as none is allowed to escape into Zone B and as long as Carpobrotus Edulis plants are cleared around all Eriogonum Parvifolium in Zone A. No plants other than those specified above shall be employed.

Zone B, as shown in Exhibit #4. This area shall be maintained in native annuals and perennials of the sea bluff succulent communities. In this area, the applicant/landowner shall remove all Carpobrotus Edulis (ice plant), introduced weeds and grasses, and plant this area according to the applicant's plant list in Exhibit #3 for Zone B area only. After one

year, artificial irrigation shall cease except as necessary to establish replacement plants. All introduced plants, grasses, Carpobrotus Edulis, and any other invasive plants shall be removed as they appear.

Zone C, as shown in Exhibit #4. This area shall be maintained for erosion control. In this area, with the exception of Carpobrotus Edulis (iceplant), the applicant/landowner shall plant no fewer than four five-gallon deep rooted large shrub cover California native plants from the list in Exhibit #5. After one year, irrigation shall cease in this area in order to reduce erosion and control the iceplant.

b) Monitoring

Applicant/landowner shall provide evidence on an annual basis of the success or failure of the plantings for a period of five years and indicate necessary measures and corrective actions to assure the objectives outlined in section 1.a above. Pursuant to this requirement, after one year, the applicant/landowner shall provide a monitoring report prepared by a qualified biologist, ecologist or monitoring resource specialist who has knowledge of the various habitats associated with coastal bluffs. The report shall indicate and provide a clear work program for the following year necessary to assure 1) safety from erosion, 2) protection of habitat of native species, 3) maintenance of significant stand of Eriogonum Parvifolium and other seabluff succulent and coastal strand plants native to California.

In subsequent years, applicant/landowner shall be responsible to assure the continued viability of these plants according to the objectives listed in section 1.a above. The applicant/landowner is also responsible for the control of introduced plants including Carpobrotus Edulis. At the end of five years, a "viable community" of Eriogonum Parvifolium, no fewer than 140 plants, shall exist in this this area.

If at any time, the annual reports, or other information indicates that the revegetation efforts are not successful based on the above criteria, the applicant/landowner shall replant in accordance with the specifications of Section 1.a above. If the revegetation remains unsuccessful after replanting, the applicant/landowner shall submit a revised or supplemental program to compensate for those portions of the original program which were not successful. The revised or supplemental restoration program shall be processed as an amendment to this coastal development permit.

2. Implementation and Completion of the Restoration Plan

The applicant/landowner shall implement and complete the restoration plan within 90 days of the issuance of the permit. The applicant/landowner shall comply with all provisions of the restoration plan, including the revised planting plan and the monitoring program required in special condition no. 1.

3. Assumption of Risk:

Prior to the issuance of the coastal development permit, the applicant [landowner] shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant/landowner understands that the site may be subject to extraordinary hazard from landslide and soil erosion, and the (b) applicant/landowner hereby waives any future claims of liability against the Commission or its successors

in interest for damage from such hazards. The document shall run with the land; binding all successors and assigns, and shall be recorded free and clear of all prior liens and encumbrances the Executive Director determines to affect said interest and shall run with the land binding all successors and assigns.

4. Approval of Erosion Control Plans

Prior to the issuance of the coastal development permit the applicant/landowner shall submit to the Executive Director for review and approval, written evidence from a licensed engineer that the stairway and other development will not contribute to further erosion of the site.

5. Completion of Planting

All restoration and erosion control described in the conditions of this permit shall be completed by June 1, 1996. Failure to comply, with such additional time as may be granted by the Executive Director for good cause, will result in the nullification of this permit approval.

6. Condition Compliance

The requirements specified in the foregoing special conditions that the applicant/landowner is required to satisfy as a prerequisite to the issuance of this permit must be fulfilled within 30 days of Commission action. Failure to comply, with such additional time as may be granted by the Executive Director for good cause, will result in the nullification of this permit approval.

Note: Unless specifically changed by the above conditions all previous conditions on the underlying permit remain in effect.

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

A. Project Description and Background

This is a request for a second amendment to Coastal Permit 5-89-1041 for the installation of drainline, concrete stairway, chain-link fencing and gate at the toe of the bluff, irrigation system, erosion control, restoration of habitat on bluff face on a vacant lot previously approved for the construction of a 7,805 square foot single-family residence.

The proposed property is located on a blufftop lot above Torrance Beach, in the City of Torrance. The upper portion of the lot has been graded as approved under CDP 5-89-1041A. After grading the building pad, development stopped. In 1995 development not permitted under 5-89-1041A occurred on the bluff face. The bluff face development consisted of construction of a drainline along the northern portion of the property and the placement of minor amount of fill and sandbags for erosion control purposes. The placement of the on-site fill, which was placed in response to erosion, has adversely impacted the federally listed endangered El Segundo Blue Butterfly's natural habitat found on the bluff face.

The erosion that has occurred on-site can be attributed to a number of factors such as: initial grading of the building pad, the property being vacant, heavy rains during the past couple of years, unchecked street runoff entering the property, and the construction of a block wall [Coastal Development Permit 5-85-755 (Briles)] along the site's northern property line, which channelized the runoff down the bluff face.

The United States Department of Interior Fish and Wildlife Service reported the erosion problem to Commission staff and informed Commission staff of the adverse impact the erosion had caused to the habitat of the federally listed endangered El Segundo Blue Butterfly. The Fish and Wildlife Service has found the El Segundo Blue Butterfly on this property and other areas of these coastal bluffs.

The present applicant, Hawthorn Savings, is in the process of transferring ownership to a third party. The new owner will assume the responsibility of caring out the project and its conditions. This has been included in the new owners escrow agreement.

B. Environmentally Sensitive Habitat

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

The development proposed by the applicant/landowner is located on the natural bluff face. Vegetation on the bluff face consists of native and introduced plants. One of the native plant species found on this bluff face is Eriogonum Parvifolium (Coastal Buckwheat). Eriogonum Parvifolium is the host plant for the El Segundo Blue Butterfly, a federally listed endangered species. The United States Department of Interior Fish and Wildlife Service monitored the site and observed the presence of the El Segundo Blue Butterfly.

Due to on-site erosion along the northern boundary, which broadens along the lower reaches of the bluff, the applicant/landowner in an attempt to prevent further erosion installed a subterranean drain line, minor amount of fill and sandbags. The erosion, however, created a large erosional gully, which removed top soil and native vegetation including the El Segundo Blue Butterfly's host plant-- Coastal Buckwheat. Efforts to repair the erosional damage threatened the habitat value of the bluff face through the burying of the native plant species located on the bluff.

To mitigate the loss of the El Segundo Blue host plant and to minimize future erosion the applicant/landowner is proposing to restore the site through regrading the area where erosion has occurred, and replanting the bluff face with native plantings, including Eriogonum Parvifolium, and non-native iceplant, Carpobrotus Edulis (see Exhibit 2 and 3). The proposed restoration plan has been prepared by the applicant/landowner in consultation with Dr.

Rudi Mattoni (Resource Specialist involved with the restoration of the El Segundo Dunes habitat area) and with the United States Department of the Interior Fish and Wildlife Service. The restoration plan divides the site into two areas: Zone A--upper and middle slopes and Zone B--located along the lower flatter portions (toe) of the bluff. The applicant/landowner proposes to plant Zone B with a mixture of native plant species. Zone A will be planted with Coastal Buckwheat (200 plantings) and iceplant, planted at 36 inches on center, to cover the remaining bare areas. Temporary irrigation will be installed to augment natural rainfall and extend the growing season to establish revegetation of the slope for erosion control.

Although the restoration plan has been reviewed and approved by the Fish and Wildlife Service, the Commission is concerned with the use of non-native iceplant. Iceplant is an invasive plant which over time will eventually supplant areas planted with native plants. Once this occurs the El Segundo Blue's habitat could be seriously degraded or entirely eliminated from this site. However, in this particular case, approximately 50% of the bluff face (mostly upper portion of the bluff face, Zone C in Exhibit 4) is currently heavily covered with iceplant (iceplant is prevalent throughout this coastal bluff area).

Zone A, as depicted in Exhibit #4, the area disturbed by the erosion and unpermitted development, is located along the northern and lower western portion of the property. This disturbed area will be replanted with 200 plantings of Coastal Buckwheat, to restore and enhance the native habitat value of the site. The proposed plan also allows iceplant to be planted throughout Zone A to minimize soil erosion. Zone B is at the toe of the bluff and is planned to be planted with only native annuals and perennials.

In most cases native planting would be preferred to revegetate natural areas, such as this coastal bluff face, to protect the existing native plant communities. The planting of iceplant within areas with native vegetation tends to supplant the native vegetation. However, the existing iceplant is so prevalent on this site and the adjoining site that planting native plants within the iceplant area would be futile since the surrounding iceplant would eventually overrun and push out the native plantings. The existing iceplant could be systematically removed from the site and replaced with native vegetation, but this would also be ineffective unless a comprehensive plan, which would require the systematic removal of all iceplant from the bluffs and replanting with native plants, was implemented for all properties located along the bluffs.

To ensure that the native plants have a greater chance to establish themselves on the bluff face and provide a viable native habitat for the El Segundo Blue Butterfly and to provide an adequate measure of erosion control the Commission finds that if the restoration plan is modified to limit the use of iceplant as a temporary measure and require clearing of iceplant that encroaches into areas of Coastal Buckwheat planted in Zone A and the native plant area (Zone B) the restoration plan will be adequate to restore and enhance the habitat area that was disturbed and will minimize on-site erosion consistent with Section 30240 of the Coastal Act.

While the Commission can agree to the use of invasive plants the use of such plants require control measures and monitoring so that native plants are not supplanted by the invasive plants. To ensure that the planting proposed in the plan establishes itself a monitoring program is necessary. The

Commission's experience with biological resource restoration has indicated that such efforts cannot be assumed to be successful in advance. Only an effective monitoring program, with reports and requirements for additional restoration activity if the initial efforts are not successful, can insure that appropriate measures are taken if the initial efforts fail. For this reason Special Condition 1(b) includes a monitoring program. This condition requires the submittal of a detailed monitoring program for the proposed restoration. The condition provides for monitoring of the restoration site for a five-year period and that an annual report be submitted to determine whether the condition of the restored site appears to be adequate to support the revegetation of slope. If the final report indicates any portion of the restoration has been unsuccessful, the Commission will require additional remedial measures to assure the goal of full restoration. Any additional restoration measures will be processed as an amendment to this permit.

The Commission finds that only as conditioned will the proposed amendment restore and protect the habitat values of the site and be consistent with Section 30240 of the Coastal Act.

C. Natural Hazards

Section 30253 of the Coastal Act states:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed development is located in an area which is subject to natural hazards. Natural hazards common to this area include landslides, erosion, flooding and slumping. The Commission in previous actions on development in this area has found that there are certain risks associated with blufftop development that can never be entirely eliminated. Blufftop lots are subject to potential hazards not found in conventional flatland developments. In approving the underlying permit the Commission required that the property owner record a deed restriction stating that the property owner understands the hazards of building on a bluff top and assumes all associated risks. This amendment is being similarly conditioned in order to cover the new development proposed under this amendment. The Commission finds, therefore, that in order to be consistent with section 30253 of the Coastal Act, the applicant/landowner must record a deed restriction assuming the risk of developing in this hazardous area, and waiving the Commission's liability for damage that may occur as a result of such natural hazards.

D. Scenic and Visual Resources/Landform Alteration

Section 30251 of the Coastal Act states:

"The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas...."

The primary concern under this section of the Act is the preservation and enhancement of ocean and coastal views from public areas, such as highways, beaches and parks. The coastal bluff on which the applicant's/landowner's house is located forms the back drop to the beach in this area, and is highly visible to the public using the beach. Section 30251 requires that alteration of the bluff face be minimized so as to protect the scenic and visual qualities of the bluff and beach areas.

The applicant/landowner is also proposing a 5 foot wide concrete stairway down the bluff face along the northern boundary line and a 4 foot high concrete property wall along the western boundary. The stairway will be adjacent to the existing concrete property line wall that was constructed by the adjoining property owner under permit no. 5-85-755 (Briles). The stairway will be located within the area of the erosion gully. The applicant/landowner proposes to refill the erosional gully to a grade consistent with the surrounding site grades and place the stairway atop the fill. The stairway will be designed with drains to drain all future runoff to prevent further erosion and channelization caused by the existing adjoining wall.

The lots to the north of this lot contain stairways leading down to the bottom of the bluff. All of the stairways, except for one, consists of wooden planks set into the slope. The one exception is on the lot immediately adjacent and north of the project site. This stairway is a concrete serpentine path leading from the bluff top deck down the slope to a deck area located at the toe of the bluff. This stairway was approved by the Commission under permit #5-85-755 (Briles).

The proposed stairway will not contribute further to bluff erosion since it will be located adjacent to the existing concrete block wall (#5-85-77) and will be designed to channel runoff into runoff drains. The proposed stairway is consistent with the stairway approved on the adjoining property. Moreover, the proposed site is located within the northern end of this coastal bluff range where slopes are more gradual than the southern area. The bluffs in the northern area are also shorter in height. The proposed site is the approximate transitional area between the more gradual sloping bluffs and the steeper taller bluffs. Because the proposed site is located within the bluff area where the slopes are more gradual and shorter than the slopes to the south, and the stairway will be located adjacent to an existing block wall, the construction of a stairway down this bluff face will not significantly degrade or contribute to the erosion of the bluff. However, to ensure that the stairway is properly engineered to prevent further bluff erosion, the applicant/landowner shall submit written evidence from a licensed engineer stating that the stairway is designed so as not to contribute to further bluff erosion. Therefore, the Commission finds that, as conditioned, the proposed development will not significantly alter the natural bluff landforms, and the scenic and visual quality of Torrance Beach will be protected, consistent with Section 30251 of the Coastal Act.

E. Previously Approved Project

The written description of the project approved by the Commission in the original permit #5-90-1041, stated that the square footage of the proposed single-family residence was 7,334 square feet. Subsequently, the applicant/landowner amended the project by reducing the footprint by 250 square feet and adding 400 square feet. Based on these square footage changes the approved plans showed a total of 7,805 square feet. Although the original square footage plus the changes made in the amendment do not add up to 7,805 square feet the written permit should have been consistent with the square footage listed on the plans that were reviewed and approved by the Commission.

The revised square footage is consistent with the Commission's intent in approving the original permit and subsequent amendment.

F. Unpermitted Development

Prior to the submittal of this application, the applicant/landowner installed a drainage line and temporary erosion control measures along the bluff face. This development was not consistent with the Commission development approved under 5-90-1041 or its subsequent amendment.

Although unpermitted development may have taken place elsewhere on the property prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a Coastal permit.

G. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act:

- (a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200 of the division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

On June 18, 1981, the Commission approved the City of Torrance Land Use Plan (LUP) with Suggested Modifications. The City did not accept the modifications and the certified LUP, which was valid for six months, has lapsed. The major issues raised in the LUP were affordable housing, blufftop development and beach parking.

Based upon the findings presented in the preceding section, the Commission finds that the proposed development, as conditioned, will not create adverse

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(310) 590-5071

NOTICE OF PROPOSED PERMIT AMENDMENT

TO: All Interested Parties
FROM: Peter Douglas, Executive Director
DATE: December 14, 1995
SUBJECT: Permit No. 5-90-1041A3 granted to William Campbell
for:

Description of project previously approved: Construct a 2-story, 7,334 sq. ft. single-family residence on a vacant 0.62 acre blufftop lot.

Description of first amendment approved: Decrease the building footprint by 250 sq. ft., increase the blufftop setback 3 ft. inland and add an additional 400 sq. ft. on second floor (no change in height).

Description of second amendment: Installation of drainline, concrete stairway, chain-link fencing and gate, irrigation system, erosion control and restoration of habitat on bluff face.

at: 433 Paseo De La Playa, Torrance

The Executive Director of the California Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following change(s):

Construction of a four foot high retaining wall at the toe of the bluff, perimeter chain-link fencing, and swimming pool at the top of the bluff within the approved area of the single-family residence.

FINDINGS

Pursuant to 14 Cal. Admin. Code Section 13166(a)(2) this amendment is considered to be IMMATERIAL and the permit will be modified accordingly if no written objections are received within ten working days of the date of this notice. This amendment has been considered "immaterial" for the following reason(s):

The proposed project will not adversely impact coastal resources or access and conforms to the character of the surrounding area. The proposed wall is consistent with other walls in the immediate area and will assist in the revegetation of the bluff. The proposed project is consistent with all applicable Sections of the Coastal Act.

If you have any questions about the proposal or wish to register an objection, please contact Al J. Padilla at the Commission Area office.

C2: 4/88
5969F

Exhibit 5.
CCC-11-CD-04 & CCC-11-RO-03
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CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

245 W. BROADWAY, STE. 380

P.O. BOX 1450

LONG BEACH, CA 90802-4416

(310) 590-5071

AMENDMENT TO PERMITDate: 29 April 1996Permit Number 5-90-1041 issued to William Campbell

for construction of a 2-story, 7,334 sq. ft. single family residence on a vacant 0.62 acre blufftop lot.

at 433 Paseo de la Playa, Torrance

has been amended to include the following changes:

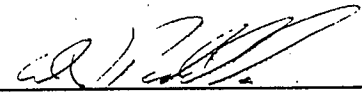
Construction of a four foot high retaining wall at the toe of the bluff, perimeter chain-link fencing, and swimming pool at the top of the bluff within the approved area of the single-family residence.

This amendment was determined by the Executive Director to be immaterial, was duly noticed, and no objections were received.

This amendment will become effective upon return of a signed copy of this form to the Commission Area office. Please note that the original permit conditions are still in effect.

Sincerely,

Peter M. Douglas
Executive Director

By: Title: Coastal Program AnalystACKNOWLEDGMENT

I have read and understand the above amendment and agree to be bound by the remaining conditions of permit number 5-90-1041

Date _____ Signature _____

AJP:b11

6868F

**Unpermitted Development at
433 Paseo de la Playa, Torrance
(APN 7512-003-021)***

Image courtesy of
www.californiacoastline.org

Ornamental Landscaping in
Habitat Restoration Area

Shade Structure

Concrete Patio

Shade Structure

Retaining Wall

Concrete Patio

Boundary Wall



Exhibit 6.
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* This is not intended to serve as an exhaustive representation of all violations on the property.

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641 - 0142

**NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT
REGULAR AND CERTIFIED MAIL (70012510000158721356)**

April 25, 2003

Mr. William and Michelle Campbell
433 Paseo De La Playa
Redondo Beach, CA 90277

Violation File Number: V-5-03-002

Property location: 433 Paseo De La Playa, Los Angeles County

Unpermitted Development: (1) Non-compliance with terms and conditions of Coastal Development Permit 5-90-1041-A2 including failure to submit any of the five required annual bluff slope restoration and revegetation program monitoring reports and (2) construction of two unpermitted structures on the bluff slope and on the toe of the bluff.

Dear Mr. and Mrs. Campbell:

Our staff has confirmed that development undertaken on your property does not fully comply with the terms and conditions of Coastal Development Permit 5-90-1041-A2 which was previously approved by the Commission and issued on April 29, 1996 for installation of a drainline, concrete stairway, chain-link fencing and gate, irrigation system, erosion control and restoration of habitat on bluff face on your property. Special Condition 1 of your permit requires that the "applicant/landowner shall provide evidence on an annual basis of the success or failure of the plantings for a period of five years and indicate necessary measures and corrective actions to assure the objectives outlined in section 1.a above." However, our records indicate that, as of this date, you have not submitted any of the five required bluff slope restoration annual monitoring reports. Further, it appears that the landscaping and development that has occurred on the bluff slope does not comply with required restoration program. In addition, our staff has also confirmed that unpermitted development has occurred on your property consisting of the construction of two structures on the bluff. Commission staff has researched our permit files and concluded that no Coastal Development Permits have been issued for any of the above development. Standard Condition Three (3) attached to your permit states:

All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

The installation of landscaping is non-compliance with the required bluff slope restoration program and failure to submit any of the five annual restoration monitoring reports is not in compliance with either the development approved by the Commission or with the terms and conditions required by Coastal Development Permit 5-90-1041-A2. A copy of your Coastal Development Permit is enclosed for reference. Please be advised that non-compliance with the terms and conditions of an approved permit constitute a violation of the Coastal Act.

In addition, pursuant to Section 30600 (a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. "Development" is defined by Section 30106 of the Coastal Act as:

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

The above referenced two structures which have been constructed on the slope and the toe of the bluff constitute development under the Coastal Act and, therefore, require a coastal development permit. Any development activity conducted in the Coastal Zone without a valid coastal development permit constitutes a violation of the Coastal Act.

In order to resolve this matter in a timely manner and avoid the possibility of a monetary penalty or fine, we are requesting that you submit a complete application for an amendment to Coastal Development Permit 5-90-1041-A2 by May 25, 2003, to remove the unauthorized development and restore of the site consistent with the previously required bluff slope restoration program. For your convenience, a Coastal Development Permit Amendment Application has been enclosed. Please contact me as soon as possible and by no later than May 10, 2003, regarding how you intend to resolve this violation.

We hope that you will choose to cooperate in resolving this violation by submitting a permit amendment application by May 25, 2003. If you do not, we will consider pursuing additional enforcement action against you. The Coastal Act contains many enforcement remedies for Coastal Act violations. Section 30803 of the Act authorizes the Commission to maintain a legal action for declaratory and equitable relief to restrain any violation of the Act. Coastal Act section 30809 states that if the Executive Director determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, the Executive Director may issue an order directing that person to cease and desist.

Coastal Act section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to ensure compliance with the Coastal Act. Moreover, section 30811 authorizes the Commission to order restoration of a site where development occurred without a permit from the Commission, is inconsistent with the Coastal Act, and is causing continuing resource damage. Finally, the Executive Director is authorized, after providing notice and the opportunity for a hearing as provided for in section 30812 of the Coastal Act, to record a Notice of Violation against your property.

In addition, section 30820(a) provides for civil liability to be imposed on any person who performs or undertakes development without a coastal development permit or in a manner that is inconsistent with any coastal development permit previously issued by the Commission in an amount that shall not exceed \$30,000 and shall not be less than \$500. Section 30820(b) provides that additional civil liability may be imposed on any person who performs or undertakes development without a coastal development permit or that is inconsistent with any coastal development permit previously issued by the Commission when the person intentionally and knowingly performs or undertakes such development, in an amount not less than \$1,000 and not more than \$15,000 per day for each day in which the violation persists. Section 30821.6 provides that a violation of either type of cease and desist order or of a restoration order can result in the imposition of civil fines of up to \$6,000 for each day in which the violation persists. Finally, Section 30822 allows the Commission to maintain a legal action for exemplary damages, the size of which is left to the discretion of the court. In exercising its discretion, the court shall consider the amount of liability necessary to deter further violations.

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

Sincerely,

Jamie Burwell
Assistant Enforcement Officer

cc: **Steve Hudson, Enforcement Supervisor**
Teresa Henry, District Manager
Pam Emerson, Planning Supervisor

Enclosures: **Coastal Development Permit Amendment Application, CDP 5-90-1041-A2**

CALIFORNIA COASTAL COMMISSION

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

Tu15a

Filed:	8/31/04
180 th Day	N/A
Staff:	AJP-LB
Staff Report:	7/15/05
Hearing Date:	8/10-12/05
Commission Action:	

**STAFF REPORT: MATERIAL AMENDMENT**

APPLICATION NUMBER: 5-90-1041A5

APPLICANT: William Campbell

PROJECT LOCATION: 433 Paseo de la Playa, City of Torrance (Los Angeles County)

PROJECT DESCRIPTION: Request for after-the-fact approval of unpermitted development consisting of: The construction of a 13-foot high, 480 square-foot shade structure (with 8 10-inch posts and a 8 foot tall retaining wall) with thatched roof on an approximately 680 square foot concrete patio at the toe of the coastal bluff; and a 8-foot high, 12-foot diameter thatched umbrella on an approximately 10-foot in diameter concrete pad at mid bluff located on a 2,744 square foot beach-fronting lot.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission **deny** the project because, as a whole, it is inconsistent with Sections 30210, 30221, 30251, and 30253 of the Coastal Act. **(The motion is on page 2 of this report.)** With regard to public access and recreation, coastal bluffs are a source of sand supply, and there is evidence that the continued hardening of coastal bluffs reduces the amount of sand available to beaches, reducing the size of a coastal recreational resource, which is inconsistent with the public access and recreation policies of the Coastal Act. Section 30251 protects the scenic and visual qualities of coastal areas and requires the Commission to minimize the alteration of natural landforms. The proposed structures substantially alter the appearance of the natural bluff. Section 30253 (2) requires approved development to neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The proposed structures are located on or at a toe of a bluff that consists of unconsolidated sandy material that is subject to erosion.

Section 30253(5) protects special communities and neighborhoods, which, because of their unique characteristics, are popular visitor destination points for recreational uses. The project alters the special area of the Torrance bluff. The project site is located immediately inland of Torrance Beach, which is a public beach. The irregular backdrop of a vegetated bluff is essential to the character of this public beach that is heavily used by visitors from Redondo Beach, Torrance, and other south Los Angeles County communities

and is used – albeit more sparsely – by an even wider range of people from all over. Changing the irregular vegetated bluff to a row of structures and hardened walkways changes the quality of the area from an undeveloped, recreational open space with the backdrop of an undeveloped bluff, to a developed urban neighborhood.

While there are exceptions, the overall appearance of the bluff along Paseo de la Playa is natural and undeveloped. With the exception of two pre-coastal decks, one at each end of this row of 28 lots, all permitted houses, and roofed structures are sited at the top of the coastal bluff. The bluff is crisscrossed with a network of shared pre-coastal pioneered trails, with a few permitted paved private accessways, including one on this lot that was approved in 1996 as part of the erosion control and habitat restoration associated with 5-90-1041A2. Except for the lots described above, bluff face development either does not exist or is unpermitted development. The shade structures, including the one subject to this application, that exist on four of the 28 residential lots, are all unpermitted. The four unpermitted shade structures are located on the five northernmost lots. The Commission's Enforcement Division will evaluate further actions to address these matters.

SUBSTANTIVE FILE DOCUMENTS:

See Appendix A.

I. STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit Amendment No. 5-90-1041A5 for the development as proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

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

RESOLUTION TO DENY THE PERMIT:

The Commission hereby **denies** a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. Findings and Declarations:

The Commission hereby finds and declares as follows:

A. Project Description and Location

1. Project Description

The applicant requests after-the-fact approval of an existing 13-foot high 480 square foot shade structure (with 8 10-inch posts and a 8-foot tall retaining wall notched into the bluff in support of the structure) with thatched roof on an approximately 680 square foot concrete patio at the toe of the coastal bluff, and a 8-foot high, 12-foot in diameter thatched umbrella on an approximately 10 foot in diameter concrete pad at mid bluff, located on a 2,744 square foot beach-fronting lot (see Exhibit no. 3 &4).

2. Project Location

The project site is located within an existing residential area at 433 Paseo de la Playa, City of Torrance, Los Angeles County (Exhibits No. 1 & 2). The site is the fifth northernmost lot of the 28 residential lots on the bluff top between the first public road, Paseo de la Playa, and the sea (see Exhibit No. 6. The bluff in question varies in height from approximately 60 feet at the Los Angeles County Torrance Beach Park to the north of the residential lots, to 120 feet near the City boundary of Palos Verdes Estates to the south. The bluff tops of all 28 residential lots have been developed with single-family residences.

Torrance Beach, the beach seaward of the toe of the bluff, is public. Vertical public access to this beach is available to pedestrians via public parking lots and footpaths located at the Torrance Beach Park, which is approximately 200 feet to the north of the project site. There are also a vertical beach public access way and public parking in Palos Verdes Estates located approximately $\frac{3}{4}$ of a mile to the south of the project site.

B. Prior Development at Subject Site

In 1990, the Commission approved the construction of a 2-story, 7,334 square foot single-family residence on the bluff top, on a vacant lot (CDP 5-90-1041). After grading the building pad atop the bluff, pursuant to the approved permit, development stopped. Subsequently, in 1995, in response to erosion problems caused by the abandonment of the development after the building pad was constructed, unpermitted development occurred on the bluff face consisting of a drainline, minor fill and placement of sandbags for erosion control purposes. This unpermitted development on the bluff face adversely impacted the El Segundo Blue butterfly's (*Euphilotes bernardino allyni*) habitat found on the property. El Segundo blue butterfly is a Federally Listed endangered species.

As a result of Commission enforcement action, in consultation with a resource specialist and the USFWS, a restoration plan was developed and the applicant submitted an application for an amendment to the permit (CDP 5-90-1041-A2). The plan included planting of Coastal Buckwheat (*Eriogonum parvifolium*), other native vegetation to restore the butterfly habitat, and non-native plants to stabilize the bluff. The plan divided the bluff face into three areas: Zone A, B and C (see Exhibit No. 5). Zone A, located along the northern portion of the property, was required to be planted with 200 plants of Buckwheat because of the developments impact from erosion, and the minimum amount of non-native iceplant located in this area. Zone B, located at the toe of the bluff, because of its relatively undisturbed nature, but lack of native Buckwheat, was required to be planted with only native annuals and perennials consistent with the approved plant list. Zone C, located along the upper and southern portion of the site, was heavily impacted by non-native iceplant. Non-native plants were to be removed from this zone. Zone C was allowed to remain in its existing state to protect the slope from further erosion. All planting was to be consistent with the submitted Habitat Enhancement and Erosion Control Plan, prepared by Dr. Rudi Mattoni, and all native plants were to be protected through a monitoring and maintenance program as conditioned in amendment no. 2, and annual reports were to be submitted for a period of five years to ensure the success of the revegetation (the applicant has not submitted any reports regarding the landscape monitoring and maintenance).

In December 1995, a third amendment to the permit was approved (CDP 5-90-1041-A3) for the construction of a four foot high retaining wall along the perimeter of the property near the toe of the bluff, perimeter chain-link fencing along the eastern property line, and swimming pool at the top of the bluff within the approved area of the single-family residence. The amendment was found to be immaterial and would not adversely impact coastal resources or access. Furthermore, the wall was consistent with other permitted development in the surrounding area and would assist in the revegetation of the bluff.

A fourth amendment (CDP 5-90-1041-A4) was approved in April 1996 for relocation of the bluff top retaining wall and swimming pool on the bluff top.

C. Permit History for Bluff Face Development in Project Vicinity

Figure 1 and 2 on the following two pages summarize the permit history of bluff face development for the 28 residential lots located along Paseo de la Playa in Torrance.

FIGURE 1 TORRANCE BLUFFS INVENTORY OF BLUFF FACE DEVELOPMENT PERMITTED AND PRE-COASTAL DEVELOPMENT			
Pre-coastal	Development	Location	Permit Number
3	Stairways/ paths		
		413/417	NA
		601	NA
		627	NA
2	Patios/decks ¹		
		413/417	NA
		627	NA
0	Shade structures		
			NA
0	Retaining walls		
			NA
Approved			
3	Stairways/ paths		
		429	5-85-755
		433	5-90-1041A3
		515	5-90-1079
0	Shade structures		
3	Retaining walls		
		429	5-85-755
		433	5-90-1041A3
		449 ²	5-90-355

¹ Patios/decks listed above are located below concrete drainage swale marking the "historic top of bluff".

² Low wall constructed as part of upper bluff repair, not highly visible.

FIGURE 2 TORRANCE BLUFFS INVENTORY OF BLUFF FACE DEVELOPMENT UNPERMITTED DEVELOPMENT			
Unpermitted.			
4	Stairways/ paths ³		
			425*
			437*
			445
			[601 ⁴]
		605	
3	Patios/decks		
			429
			433
		437	
4	Shade structures		
			413
			429
			433
		437	

When the Commission assumed jurisdiction in 1973, there were three improved bluff face accessways on this bluff. There were two platforms perched on the bluff face -- one at each end of the row of lots. Since 1973, the Commission has approved three ramps or stairways down the bluff face to the toe of the bluff on the 28 lots along Paseo de la Playa. In one (5-85-755), the applicant asserted the need for safe access for permission to build a concrete walkway, a wall at the toe of the bluff and a patio above the beach; in the second (5-90-1041-A3), a 3-4 foot wide cement walkway along the northern property line, sited along an existing wall to minimize visual impacts of the walkway, was approved as part of a bluff reconstruction and restoration, that the owners requested to repair a massive bluff blow-out. The area of the walkway experienced excessive runoff erosion extending from the top to the toe of the bluff, creating a gully along the northern property line and property wall. The Commission found that a walkway along the existing wall would assist in restoring the site and minimize any future erosion.

The absence of the promised landscaping at these sites has been referred to the Commission's Enforcement staff. A lot, located nine lots to the south of the subject lot, received a permit in 1991 to stabilize an "existing path " with redwood beams (5-90-1079 (Wright)). During consideration of the third stairway (5-90-1079), the applicant provided

³ A web of unpermitted paths existed across several lots in 1972. An asterisk indicates that these were further modified without a CDP after 1973.

⁴ This stairway has been rebuilt in a new location. Since there was a stairway on this lot in 1972, even though a permit was needed for its relocation, the relocated stairway is not included in staff report total as "unpermitted".

persuasive evidence that placement of redwood ties was merely a repair and stabilization of a pre-existing soft-footed path. The Commission approved two patios in conjunction with stairways, but it has approved no shade structures at the toe of the bluff.

The Commission has approved other development on the bluff face or at the toe of the bluff. A house to the south of the property received a permit to construct a walkway to an upper bluff terrace [5-01-409(Conger)]. The permit was conditioned not to extend seaward of a concrete swale, located at an elevation of approximately 95 feet, marking the historic top of the bluff. Four lots to the south of the subject lot, the Commission approved remedial sand colored concrete terrace drains and bluff restoration [5-90-868(Schreiber)], but no stairway and no development below mid-bluff. An owner of another lot received approval for a property line fence, extending down the bluff. The Commission denied an application for construction of stairs down the bluff face, a covered observation deck located towards the base of the bluff and bluff restoration for the endangered El Segundo Blue butterfly on a down coast site at 613 Paseo de la Playa [5-03-328 (Carey)]⁵. The Commission acknowledges that several lots have inconspicuously pioneered paths down the bluff; shared with adjacent lots or the public, these are not improved and appear in 1973 photographs.

The Commission has approved five new houses on the bluff top lots and a number of additions to existing single-family houses and appurtenant structures, such as pools, jacuzzis, and patios on the top of the bluff. Most of the approved additions were at the top of the bluff, or inland of a three foot wide concrete lined drainage structure parallel to the bluff top, that represents the historic top of bluff for a number of lots south of 449 Paseo de la Playa. In approving development along this area of the bluffs, the Commission routinely imposed conditions limiting development to a 25-foot bluff top set back. In making these approvals, the Commission agreed with the applicants that a concrete swale located about ten feet below the house pads and parallel to the bluff top represented the historic top of the bluff [5-01-405A(Conger), P-5-77-716 (Warren)].

As shown in the tables above, the Commission has approved no structures other than paths and walls. The Commission has not approved any "shade structures" on the bluff or at the toe of the bluff. The Commission has approved only minor development along the bluff face.

Recently in June 2005, the Commission denied a proposed development on the bluff face located immediately to the south and abutting this applicant's property. The development included the construction of a stairway, retaining wall, and Trellis [Coastal Development Permit application No. 5-04-324(Bredesen)]. In denying the proposed project, the Commission found the proposed development would adversely impact the scenic and visual qualities of the coastal area and would substantially alter the natural appearance of the bluff.

⁵ The Commission's Enforcement Division is currently investigating unpermitted development along the bluffs at Paseo de la Playa in Torrance, including stairways and toe of slope improvements.

When the beach transferred to the City, the Commission approved a fence at the toe of the bluffs along five northern most lots, including this one, separating the private property from the beach. The northernmost lot has development on the bluff face that includes stairs and a small deck about 30 feet above the toe of the bluff and a volleyball court at sand level. The ramp, volleyball court and deck appear in the Commission aerial photo dated 1972 and existed prior to the effective date of the Coastal Act and the Coastal Zone Conservation Act of 1972. A shade structure visible in more recent photographs appears to have been constructed after the Coastal Act without a coastal development permit.

D. Scenic Resources/Community Character & Cumulative Adverse Impacts

The proposed amendment consists of after-the-fact approval of a 13-foot high, 480 square foot shade structure, with 8 10-inch posts and a 8 foot tall retaining wall, and thatched roof on an approximately 680 square foot concrete patio at the toe of the coastal bluff, and a 12-foot diameter thatched umbrella on an approximately 10 foot in diameter concrete pad at mid bluff, which is inconsistent with the following Coastal Act policy:

Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

While some bluff faces in southern California have been subdivided and developed, development generally does not extend down the Torrance bluffs. The bluffs extend from about 60 feet high at the north end to almost one hundred twenty feet high as the coast curves toward Palos Verdes. The bluff also becomes steeper going north to south, changing from a 2:1 slope covered with dune sand, to rocky cliffs at approximately 1:1. From the beach, the roofs of some of the houses on the top of the bluff, parts of the rear walls of those houses, and the edges of some patios are visible atop the bluff. With few exceptions, there is little development along the face of the Torrance bluffs.

The project site is located near the northern end of the 28 residential bluff top lots (Exhibits No. 2). The eight northernmost lots are developed with single-family residences, including one of the pre-Coastal Act stairways, two of the permitted stairways, three of the unpermitted stairways and all four unpermitted cabañas. The houses on these northernmost lots along this bluff are more visible for the public beach due to the lower height of the bluffs and flatter slope gradient. Even with these exceptions, the bluff face still resembles the bluff face shown in the sketch in the proposed 1981 LUP: irregular cliffs overlain by blown sand, vegetated with a mixture of ice plant and native plants.

Bluff face development on the northern most lot (417 Paseo de la Playa) occurred before passage of the California Coastal Act and was therefore never subject to the requirements of, or review under, the Coastal Act. There is also bluff face development on lots located

to the south on lots at 521 and 609 Paseo de la Playa. However, single-family homes existed on these lots prior to establishment of the Coastal Act. Except for the lots described above, bluff face development either does not exist or is unpermitted development.

Development along the bluffs must be sited and designed to protect views to and along the beach and to minimize the alteration of existing natural landforms. New development in this area must also be sited and designed to be visually compatible with the relatively undisturbed character of the surrounding area.

The proposed project is located on the bluff face immediately adjacent to the public beach. The bluff face at this site is highly visible from the public sandy beach. The applicant requests after-the-fact approval for a 13-foot high 480 square foot shade structure (with 8 10-inch posts and a 8-foot tall retaining wall to support the cut into the slope), with thatched roof on an approximately 680 square foot concrete patio at the toe of the coastal bluff, and an existing 12 foot diameter thatched umbrella on an approximately 10 foot in diameter concrete pad on the bluff face. A notch has been excavated into the lower portion of the bluff to accommodate the rear of the shade structure that is supported by an eight-foot high concrete retaining wall with two wing walls and eight posts along the front. The patios are constructed with four-inch thick, reinforced concrete leveled pads cut into the bluff. An unknown amount of excavation and vegetation removal took place to accommodate the patios.

a. Landform Alteration

The Coastal Act requires new development to be sited to “*minimize the alteration of natural land forms.*” The proposed project would be located along a coastal bluff. The existing bluff is a natural landform visible from public vantage points such as the adjacent beach. Any alteration of this landform would affect views to and along the public beach.

b. Community Character

Pursuant to Section 30251 of the Coastal Act, new development must be visually compatible with the surrounding area. In addition, Section 30253 (5) requires the protection of “*special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*”

The proposed project would result in a visible intensification of use of the site as compared to its undeveloped state (See Exhibits No. 3). The only development on the project site approved on the bluff face or at the toe was a concrete pathway along the northern property line, abutting the existing property wall, and a four foot high wall along the western property line, and landscaping consistent with the approved landscaped plan.

The lot located four lots to the north of the project has a pre coastal improved pathway and patio. The second lot to the north of the subject property has an unpermitted hardened accessway; as does the lots immediately to the south. Four lots, including the four lots to the north and two lots to the immediate south have unpermitted structures, but unpermitted development cannot be considered in determining the community character. Either way, the overall appearance of the bluff as a whole (all 28 lots), is natural and undeveloped. Although a four foot high wall was approved along the western property line, the development of the structures at the toe of the bluff and mid bluff are visible along the public beach and constitute a dramatic intensification and increase in visual impact over the approved development.

Since the 80's and early 90's, the Commission has learned a great deal about the degrading effects to bluffs caused by constructing structures and/or walls on bluff faces, including adverse impacts to public views and coastal community character. The project site is immediately inland of Torrance public beach, which serves as a popular visitor destination point for recreational uses. The existing patios and shade structures subject to this application are located midway down the bluff face and at the base of the bluff, immediately adjacent to the public beach.

Approximately 500 feet to the north of the site are a public park, beach parking lot, and pedestrian access ways that extend from the street and parking lot to the beach. Just north of the public park is Redondo Beach. Approximately $\frac{3}{4}$ of a mile to the south is a public beach access way and a public parking lot. Intensified private development along the bluff face will adversely impact the visual quality of the subject area, and will do so in a manner inconsistent with the community character, inconsistent with Sections 30251 and 30253 of the Coastal Act.

c. Cumulative Impacts

Section 30250(a) of the Coastal Act requires that new development be located where it will not have significant cumulative adverse effects on coastal resources. As described earlier the majority of development along Paseo de la Playa is located on the bluff top. The proposed shade structures and patios could set a precedent for future development to intensify bluff face development not only in this northern portion of the bluff but along the entire bluff face. Over time, incremental impacts can have a significant cumulative adverse visual impact. Other similarly situated property owners may begin to request authority for new construction on the bluff face, thus contributing to cumulative adverse visual impacts.

Conclusion

The Commission finds that the project, as currently proposed, is not sited and designed to protect scenic and visual qualities of the site as an area of public importance. Denial of the proposed project would preserve existing scenic resources and would be consistent with preserving the existing community character where approved (or pre-coastal)

development generally occurs solely at the top of the coastal bluff (on 22 out of 28 lots) and significant approved development (beyond simple trails) or development at the toe of the bluff occurs even more rarely. The alteration of the bluff from construction of the shade structures and patio would result in an adverse visual effect when viewed from public vantage points along the beach.

Allowing the proposed project would also lead to seaward encroachment of new development in an area where additional unpermitted development has occurred and threatens to affect the community character. The Commission finds that the proposed project would result in the alteration of natural landforms and would not be visually compatible with the character of the surrounding area. Consequently, the proposed project would increase adverse impacts upon visual quality in the subject area. Therefore, the Commission finds that the proposed project is inconsistent with Section 30251 of the Coastal Act and therefore must be denied. Denial of the project is consistent with the Commission's recent action in the same area with application 5-01-018 (Conger), where the Commission approved ancillary structures that were located above the historic top of the bluff, but rejected all development seaward of that line.

E. Habitat

Section 30240 of the Coastal Act states:

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

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

The host plant for the El Segundo blue butterfly (*Euphilotes bernardino allyni*), an endangered species, is located in patches throughout the bluff face on many of the lots along Paseo de la Playa. In 1995, the United States Fish and Wildlife Service (USFWS) provided the Commission written notice (Letter, Gail Kobetich, 1995) that the butterfly and its habitat has been observed on the project site.

In 1990, the Commission approved the construction of a single-family residence at the top of the bluff. After grading the building pad, development stopped. Subsequently, in 1995 in response to erosion problems caused by the abandonment of the development after the pad was constructed, unpermitted development occurred on the bluff face consisting of a drainline, minor fill and placement of sandbags for erosion control purposes. The development on the bluff face adversely impacted the butterfly's habitat found on the property. In consultation with a resource specialist and the USFWS a restoration plan was

developed. The plan included planting of 200 plantings of Coastal Buckwheat along with non-native plants to stabilize the bluff. The bluff face was divided into three areas (Zone A, B and C). Zone A was required to be planted with the 200 plants of Buckwheat because of the developments impact on erosion of the bluff, and the minimum amount of non-native iceplant that was existing on the site. Zone B, located at the toe of the bluff, because of its relatively undisturbed nature was require to be planted with only native annuals and perennials pursuant to an approved plant palette. Zone C, located along the upper and southern portion of the site, was heavily impacted by non-native iceplant. Zone C was allowed to remain in its existing state to protect the slope from further erosion.

Because of the habitat and presence of the butterfly, permit amendment 5-90-1041A2 was obtained for restoration of the slope, and that permit required monitoring of the approved landscaping, pursuant to the restoration plan developed by the USFWS.

The two proposed shade structures are located in Zones A and B. These two zones were designated in the approved habitat enhancement plan as areas to be restored with *Eriogonum parvifolium* and other native plants to preserve and enhance the habitat value of the area for the El Segundo Blue butterfly (see Exhibit No. 7). The *Eriogonum*, like many dune plants expands radially through loose soils. Hardening or stabilizing the bluff, or irrigation is likely to be inconsistent with these processes and eliminates any habitat value and any chance of having the area restored either through natural processes or restoration efforts.

The applicant has not received USFWS review and approval of the structures within the restoration area. Allowing the proposed structures would result in allowing a new pattern of development on the bluff face. Allowing a new pattern of development, which brings development and associated human activity closer to existing habitat on the face and toe of the coastal bluff will have a cumulative impact on the El Segundo blue habitat and/or the butterfly itself. The Commission recognizes that approving the project described herein may set a precedent for future projects on other properties along this bluff, and the cumulative impacts of that would be severe in degrading what is left of the butterfly habitat in this area. The proposed development will replace environmentally sensitive habitat areas, will be disruptive of nearby sensitive habitat values, and would, if proliferated, be incompatible with the continuance of those habitat values along the bluffs. Therefore, the Commission finds that the proposed project is inconsistent with Section 30240 of the Coastal Act, and therefore denies the project.

F. Hazards

Section 30253 of the Coastal Act states, in pertinent part:

New development shall:

(l) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*

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

Development on a coastal bluff is inherently risky due to the potential for bluff failure. Bluff development poses potential adverse impacts to the geologic stability of bluffs and the stability of residential structures and ancillary improvements. In general, bluff instability is caused by environmental factors and impacts caused by man. Environmental factors include seismicity, wave attack, drying and wetting of soils, wind erosion, salt spray erosion, rodent burrowing, percolation of rain water, poorly structured bedding and soils conducive to erosion. Factors attributed to man include bluff over steepening from cutting roads and railroad tracks, irrigation, over-watering, building too close to the bluff edge, grading into the bluff, improper site drainage, use of impermeable surfaces to increase runoff, use of water-dependent vegetation, pedestrian or vehicular movement across the bluff top, face and toe, and breaks in water or sewage lines.

Site Conditions and Geotechnical Conclusions

As described in the technical reports submitted with the underlying permit and in other reports on nearby lots, the bluffs in this area consist of sandy material at the north end, slowly being displaced by higher, rocky material as the bluffs extend south toward the Palos Verdes Peninsula. The applicant's geologic report submitted for the underlying permit, indicates that the bluff consists of blown sand over Pleistocene dunes. It notes that Miocene shales are exposed on lots to the south. The report indicates that the surface materials are subject to slippage and erosion and includes a number of recommendations concerning drainage.

The existing unpermitted patios, shade structures, and retaining walls subject to this application are located mid bluff and at the base of the bluff, adjacent to the beach. The applicant has not submitted any geologic reports to address the issue of structure stability on the bluff. However, structural stability would have to be achieved by hardening portions of the cliff face for the patios and structures. The unpermitted retaining wall at the rear of the shade structure at the toe of the bluff is necessary to support the bluff behind it, where it has been excavated, and to protect the structure from the weight of the bluff. This retaining wall adds to the hardening of the bluff face and is a form of a protective device that substantially alters the natural landform along the bluff.

Because the unpermitted development is located on a coastal bluff and includes a protective device that substantially alters natural landforms along bluffs and cliffs, the Commission finds that the approval of the unpermitted development would not be consistent with Coastal Act Section 30253 (2).

G. Beach Erosion and Beach Processes

Section 30235 states:

Section 30235 Construction altering natural shoreline

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

The applicant has not submitted a wave uprush analysis. Staff geologist, Mark Johnsson, in reviewing a coastal engineering report done for the adjacent property to the south states:

The report goes on to conclude that there has been no overall shoreline retreat at the site over the last four decades, that a conservative estimate of future beach erosion would reduce the beach width by about 50 feet in 100 years, and that the toe of the slope is not likely to be subject to damage even from the most extreme beach erosion and wave attack over the expected economic life of the improvements. I concur with these assessments. I do note, however, that the width of the beach is at least in part due to artificial beach nourishment upcoast, that resulted in a dramatic increase in beach width between 1946 and the present (Leidersdorf et al., 1994, Mark Johnsson, Staff Geologist).

Historically the sandy bluffs immediately inland of this beach have suffered from sloughing and collapse. While sloughing and collapse have been hazardous for beach visitors climbing on the bluffs, it has resulted in replenishment of the beach. The proposed construction of structures on the bluff face adjacent to the beach includes a retaining wall notched into the slope to prevent erosion and sloughing (Exhibits No 3). Without some erosion of the material from the bluffs, sand and other material from the bluffs will not be available as a source of replenishment of sand for the beaches. Section 30235 states that cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures.

The applicant is requesting after-the-fact approval for additional development that is landward of the previously approved 4 foot high wall (CDP 5-90-1041-A3), along the western property line. Although all proposed development is located landward of the wall and does not encroach onto the public beach, proposed development will be located at the toe of the bluff and on the bluff face. This proposed development is inconsistent with Section 30235, which requires minimal interference with natural processes related to shoreline sand supply. Although the existing wall approved in amendment No. 3 would hinder the migration of sand from the bluff to the beach, adding hardscape to the bluff face and at the toe eliminates those sandy areas from wind blown migration. Therefore, the project as proposed, reduces the amount of sand available to replenish this beach by

hardscaping the bluff. The project as proposed is therefore not required to be permitted pursuant to Section 30235 of the Coastal Act.

H. Public Access and Recreation

Sections 30210, 30220, and 30221 of the Coastal Act, among other sections, contain policies regarding public access to the shoreline. In addition, Section 30240 addresses appropriate development adjacent to parks and recreation areas.

Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30220 states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221 states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30240 (b) states:

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

The unpermitted development is adjacent to a public beach and may have indirect impacts on public recreation by moving the line of private structures closer to the public areas, and, as noted above, by having long term impacts on sand supply. The subject site is located along a lower portion of a bluff face and the toe of a bluff on the seaward side of Paseo de la Playa, which is the first public road immediately inland of Torrance Beach. The subject site is highly visible from the sandy public beach. The pattern of development along this segment of Paseo de la Playa is such that structures are sited at the top of the bluff, while the bluff face remains largely undisturbed and vegetated. The bluff faces, generally fenced at the toe of the bluff, provide a buffer between the public beach and the private

residential uses. As discussed previously, only three properties out of twenty-eight along this stretch of Paseo de la Playa have permitted accessory structures or retaining walls at the toe of the slope. Two consist of concrete retaining walls and one consists of a pre-coastal terrace located about thirty feet above the toe of a bluff, and what appears to be a volley ball court at sand level (417 Paseo de la Playa). Although several lots have stairways or paved walkways traversing the bluff face (see table above) and some have unpermitted development at the toe of the bluff (currently under investigation by the Commission's Enforcement staff), the overall appearance of the bluff in this area is natural and undeveloped. Only one of the three permitted stairways (one permitted to accommodate easier access) includes highly visible switchbacks (at 429 Paseo de la Playa, CDP 5-85-755). This highly visible stairway is adjacent to, and north of, the project site. However, this stairway was not built according to the approved plans, thus increasing its visual impact.

The subject site also has a stairway on the property. The stairway was built to address an erosional problem and to provide access to the bluff face in order to maintain what was offered as part of a revegetation and erosion reconstruction program. This stairway is located adjacent to the property line and is sited next to an existing wall so as not to be obtrusive (CDP 5-90-1041-A3).

Public access is available directly seaward of the toe of the bluff at Torrance Beach. Development at this site, if approved, must be sited and designed to be compatible with Section 30240 (b) of the Coastal Act. Section 30240 (b) of the Coastal Act states that development in areas adjacent to parks and recreation areas shall be sited and designed to prevent impacts that would significantly degrade those areas or be incompatible with their continuance. It is necessary to ensure that new development be sited and designed to prevent seaward encroachment of development that would impact public access to coastal resources. After-the-fact approval of the unpermitted development, as proposed,, would result in significant new development encroaching seaward.

As described previously, the applicant is requesting after-the-fact approval for existing development just inland of the public beach and behind the approved four-foot high wall. While the requested as-built structures do not physically impede public access at the toe of the slope or to adjacent beach area, new private structures adjacent to the beach often facilitate private use of the public beach adjacent to the new private structures. In addition, discussions of coastal erosion often point out that the "hardening" of coastal bluffs contributes to the loss of beach sand by reducing the supply of material slowly eroding from the face of the bluff (Terchunian, A.V., 1988 and Department of Boating and Waterways and State Coastal Conservancy, 2002). Loss of sand means a narrower beach, which means loss of a coastal resource. As discussed previously, fewer than 10% of the lots that terminate at the toe of the slope along this stretch of Paseo de la Playa have permitted patios and/or retaining walls. Two consist of concrete retaining walls and one consists of a pre-coastal patio twenty feet above the toe of the bluff at the lower portion of the bluff (417 Paseo de la Playa). There are no approved shade structures. Other property owners along Paseo de la Playa may seek to intensify use of their

properties along the face and toe of the bluff if the unpermitted development is approved as requested. Increased intensification of private development located along the coastal bluffs adjacent to Torrance Beach will result in a less inviting beach appearance to the general public discouraging public use of the beach. The Commission finds that the area directly seaward of the unpermitted development is a publicly owned recreation area and that the proposed project would decrease the distance from the public beach to private residential uses, thereby significantly degrading the area for public recreation and would therefore be inconsistent with Sections 30210, 30220, 30221 and 30240 (b). Therefore, the Commission finds that approval of the unpermitted development is inconsistent with the public access policies and Section 30240 (b) of the Coastal Act and must be denied.

I. Unpermitted Development

Unpermitted development has occurred on site without benefit of the required coastal development permit including, but not limited to, the construction of a 13-foot high 480 square foot shade structure (with 8 10-inch posts and a 8 foot tall retaining wall), with thatched roof on an approximately 680 square foot concrete patio at the toe of the coastal bluff, and a 12-foot diameter thatched umbrella on an approximately 10 foot in diameter concrete pad at mid bluff. All of this development is located on the bluff face and adjacent to the public beach and is visible from the public beach.

Amendment No. 5-90-1041-A2, was submitted as the result of enforcement action by Commission staff to resolve the unpermitted removal of vegetation and to restore the bluff. The Commission approved the amendment with special conditions regarding restoration maintenance and monitoring of the landscaping and habitat. The special conditions required the applicant to agree to plant the area per the approved plant list and annually monitor the landscaping for a period of five years to ensure that a viable community of *Eriogonum Parvifolium* is established. The applicant has not submitted any of the required reports and it cannot be determined, without the applicant submitting a survey of vegetation on site, if the existing landscaping is consistent with the landscaping plan approved by the Commission. Furthermore, the unpermitted development is located in the two areas of the restoration area that was approved under CDP 5-90-1041-A2, as areas to be restored with *Eriogonum* and other native plants to preserve and enhance the habitat value of the El Segundo Blue butterfly. The unpermitted approximately 758 square feet of concrete pads eliminates a significant amount of area from revegetation and impacts habitat for the El Segundo Blue butterfly.

However, the Commission has not based its decision on the above-referenced alleged violations of the Coastal Act. It is because the proposed after-the-fact approval of the unpermitted development would be inconsistent with the Chapter 3 policies of the Coastal Act that the Commission is denying this application. The Commission's enforcement division will evaluate further actions to address the matters discussed in the prior paragraph.

Although construction has taken place prior to submission of this permit application, consideration of the permit application by the Commission has been based solely on the consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Commission action on this permit does not constitute a waiver of any legal action with regard to the alleged unpermitted development, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

J. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program that conforms with Chapter 3 policies of the Coastal Act.

On June 18, 1981, the Commission approved the City of Torrance Land Use Plan (LUP), with suggested modifications. Torrance identified the beach area as an important resource in its Land Use Plan and included a photographs of the bluffs in its document. However, the City did not accept the modifications, and the certified LUP has lapsed. The area that was not resolved included development standards for the beach and the bluffs; where the boundary line issues were unresolved. Because the City of Torrance does not have a certified LUP, the standard for this review is the Coastal Act.

Approval of the unpermitted development, as proposed, is inconsistent with the Chapter 3 policies of the Coastal Act discussed previously, specifically Sections 30211, 30235, 30240, 30251 and 30253 of the Coastal Act. Development on the coastal bluff would cause adverse impacts to the natural landforms, the coastal scenic resource, and public access. Section 30211 requires that the Commission protect existing public access to the beach, Section 30240 of the Coastal Act states that development in areas adjacent to parks and recreation areas and habitat areas shall be sited and designed to prevent impacts, which would significantly degrade those areas. Section 30251 of the Coastal Act states that permitted development should minimize landform alteration and visual impacts. Section 30253 of the Coastal Act states that new development should not contribute to significant erosion and geologic instability or be inconsistent with community character. Section 30235 only requires approval of protective devices where they are needed to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion. By approving development that is inconsistent with so many aspects of Chapter 3 of the Coastal Act, the proposed development would prejudice the City's ability to prepare a Local Coastal Program for the City of Torrance that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a). Therefore, approval of the unpermitted development is found inconsistent with Section 30604(a), and the project must be denied.

K. Alternatives

Denial of the proposed project will neither eliminate all economically beneficial or productive use of the applicant's property, nor unreasonably limit the owner's reasonable investment backed expectations of the subject property. The applicant already possesses a substantial residential development of significant economic value of the property. When the Commission approved the existing single family home on the bluff top, development on the face of the bluff was specifically prohibited. In addition, several alternatives to the proposed development exist. Among those alternative developments are the following (though this list is not intended to be, nor is it, comprehensive of the possible alternatives):

1. No Project. This alternative would mean that no changes to the site as it existed before the unpermitted development took place would be approved. The owner would continue to use the existing home and approved accessory structures atop the bluff, and walkway down the bluff face. There would be no disturbance of the bluff face or the toe of the bluff and no seaward encroachment of development. The bluff face would remain as an undeveloped vegetated slope and would be consistent with community character as development would be limited to the top of the coastal bluff. The proposed project which would diminish the value of the public beach by discouraging public usage, would not be authorized. This alternative would result in the least amount of adverse effects to the environment.
2. Relocate development. A shaded patio located on the bluff top within the vicinity of the pool or added to the landward side of the property would provide the applicant the same type of use proposed at mid bluff and at the toe of the bluff.

L. California Environmental Quality Act (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project includes approval of unpermitted development on the bluff face and at the toe of the bluff. Coastal resources in the general area include scenic views from the public beach and public recreational access. As discussed previously, the majority of development along Paseo de la Playa is located along the bluff top. Allowing the proposed project would lead to bluff face development in an area where a proliferation of beach level structures and bluff face and paved walkways could create a seaward line of private structures on what has been and undeveloped bluff face. The Commission cannot regard the proliferation of unpermitted structures on the seaward face of the bluff as

establishing either the community character or a precedent. Additional unpermitted development has occurred that has encroached seaward and threatens to affect the community character. Over time, incremental impacts can have a significant cumulative adverse visual impact. Approving the project may set a precedent for future projects on other properties along this bluff. The cumulative impact of private structures, patios paved accessways, and stairways along the bluff face would degrade the public's recreational beach experience, and as indicated above, potentially reduce the sand supply available for beach replenishment. Further, on beaches where there is extensive private development adjacent to the public beach, conflicts arise concerning the level and hours of public use of the beach closest to these structures as homeowners attempt to protect their privacy.

Additionally, the unpermitted development has occurred in a potential habitat area of the El Segundo blue butterfly, a Federally Listed endangered species, in an area previously ordered restored by the Commission specifically to benefit that species.

As described above, the proposed project would have adverse environmental impacts. There are feasible alternatives or mitigation measures available, as described in the section above that would substantially lessen these significant adverse impacts that the activity will have on the environment. Therefore, the proposed project is not consistent with CEQA or the policies of the Coastal Act because there are feasible alternatives, which would lessen significant adverse impacts. Therefore, the project must be denied.

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Development Permits P-7342 (Hood), 5-97-050 (Kreag) and applicable amendments (Prince), 5-84-187 (Briles), 5-84-187-A (Briles), 5-85-755 (Briles), 5-90-1041 and amendments (Stamegna, Hawthorne Savings and Campbell), P-77-716 (Warren), P-7266 (Bacon), A-80-6753 (Bacon), 5-90-868 (Schreiber), 5-01-018 and 5-01-409 (Conger), 5-85-183 (Hall), 5-90-1079 (Wright), 5-91-697 (Wright), A-79-4879 (McGraw), 5-83-618 (Fire), 5-96-167 (Lichter), 5-01-080 (Palmero); 5-03-328 Tim Carey Trust), 5-03-212 (Bredesen), P-77-716 (Warren), 5-85-183 (Hall), 5-90-1079 (Wright), 5-91-697 (Wright), A-79-4879; 5-03-328 (Carey), 5-83-618 (Fire).
2. Terchunian, A.V., 1988, *Permitting coastal armoring structures: Can seawalls and beaches coexist?* Journal of Coastal Research, Special Issue No. 4, p. 65-75.
3. United States Geological Survey, Monty A. Hampton and Gary B. Griggs, Editors, Professional Paper 1693, *Formation, Evolution and Stability of Coastal Cliffs -- Status and Trends*, pp1-4, Introduction.
4. *Geologic and Soils Engineering Investigation Proposed Single Family Residence, 437 Paseo de la Playa, Torrance, California for Mr. and Mrs. Robert*

- Hood*, (Project No. KB 1935) prepared by Kovacs – Byer and Associates Inc. January 23, 1976.
5. United States Department of the Interior, United States Fish and Wildlife Service, "*Habitat Restoration and Enhancement Plan, C.G. and V.C. Bredesen Trust Property, 437 Paseo de la Playa Redondo Beach, CA*," letter signed by Ken Corey for Karen Goebel, November 3, 3004
 6. Department of Boating and Waterways and State Coastal Conservancy, 2002, "*California Beach Restoration Study*," Sacramento, California, www.dbw.ca.gov/beachreport.htm.
 7. City of Torrance, Aerial photograph, 1978.
 8. City of Torrance, Aerial photograph, 1992
 9. USGS, 1:40,000 map, Santa Monica Bay, 1893,
 10. United States Army Corps of Engineers, 1:62,500 map, Redondo Beach, Quadrangle Sheet, 1944.
 11. Cotton, Shires and Associates, Inc., "Geotechnical Investigation and Evaluation, 437 Paseo de la Playa, Torrance, California, " March, 2004.
 12. Kelley and Associates, Environmental Sciences, Inc. Native Vegetation Landscaping Plan, 437 Paseo de la Playa, Torrance, Los Angeles County, California, November, 2003,
 13. Kelley and Associates, Environmental Sciences, Inc. Native Vegetation Landscaping Plan, 437 Paseo de la Playa, Torrance, Los Angeles County, California, Revised 26 October, 2004
 14. Skelley Engineering wave run-up and coastal hazard study, 437 Paseo de la Playa Redondo Beach, CA" June, 2004.
 15. SMP inc. Structural Analysis of Existing Detached Palapa Patio Cover, 437 Paseo de la Playa Torrance ca 90277, " 5-06-04, 8 pages.
 16. David Skelly, Geosoils, Memorandum to Mr. Chris Bredesen, November 30, 2004.
 17. Stanley E. Remelmeyer, City Attorney, City of Torrance, 1976. Position Paper of the City of Torrance Regarding the Proposal to Acquire Eight (8) Blufftop Parcels at Torrance; Requesting Deletion from the Acquisition List of the Proposal to Acquire Eight (8) Blufftop parcels at Torrance Beach;
 18. Kelley, and Associates, Environmental Sciences, Inc. Supplemental Habitat Enhancement Plan, Native Vegetation Landscape Plan, seaward slope, 437 Paseo de la Playa, Torrance, Los Angeles County, California
 19. Kelley and Associates, Environmental Services, Inc., "Native Vegetation Landscaping Plan, 437 Paseo de la Playa, Torrance, Los Angeles County, California, " November 2003.
 20. Kelley and Associates, Environmental Sciences, Inc., Supplemental Habitat Enhancement Plan and Supporting Documents, 11 October 2004
 21. Cotton, Shires & Associates, Inc., Geotechnical Investigation and Evaluation, 437 Paseo de la Playa, Torrance California, March, 2004
 22. Skelly Engineering, "Wave Run-up and Coastal Hazard Study, 437 Paseo de la Playa, Redondo Beach, CA, " June, 2004,

23. SMP, Inc., "Structural Analysis of Existing Detached Palapa Patio Cover, 437 Paseo de la Playa, Torrance, Ca. 90277." CDP A-2019

CALIFORNIA COASTAL COMMISSION

46 FIDELITY STREET, SUITE 2000
 SAN FRANCISCO, CA 94104-0046
 VOICE AND TDD (415) 884-0200



**NOTIFICATION OF SUBSTITUTION OF APPLICANT FOR COASTAL PERMIT AND
 AFFIDAVIT OF SUBSTITUTED APPLICANT**

Any person who has applied for a Coastal Development Permit may transfer that application to another person by submitting the following to the District Office:

- An affidavit, executed by the substituted applicant, attesting to the substituted applicant's agreement to comply with any legal requirements associated with the application (see Section III, over);
- Evidence of the substituted applicant's legal interest in the real property involved and legal capacity to undertake the development as applied for in the application;
- The original applicant's request to transfer all rights to obtain a permit for the development to the substituted applicant (see Section II, over); and
- A copy of the original application showing that it is still pending before the California Coastal Commission. The applicant for substitution shall submit the above documents to the District Office together with a completed notification form. The substitution shall be effective upon the District Director's receipt of the documentation submitted, subject to any specified condition precedent to the substitution. The completed notification form and supporting documentation shall become a part of the project file maintained by the Commission.

SECTION ONE

1. Name, address, and telephone number of original applicant:

HAWTHORNE SAVINGS, F.S.B. (BRUCE LEWIS VICE PRES)
 2381 ROBERTSON AVENUE EL SEGUNDO CA 90245 (310) 725-5723

2. Index number of application:

5-90-1041

3. Location and description of development applied for:

433 PASEO DE LA PLAYA TORRANCE CA
 CONSISTING 2-STORY 7,805 SQUARE FOOT SINGLE FAMILY RESIDENCE

4. Conditions precedent to substitution (close of escrow, etc.), if any:

CLOSE OF ESCROW

5. Name, address and telephone number of substituted applicant:

WILLIAM CAMPBELL & MICHELLE CAMPBELL
 1700 NELSON MANHATTAN BEACH, CA 90266

EXHIBIT NO. 5
APPLICATION NO. 5-90-1041A2
Notification of Substitution of Applicant
California Coastal Commission

**SIGN
HERE**

SECTION TWO

AFFIDAVIT OF ORIGINAL APPLICANT

I hereby request that the above-identified person(s) be substituted as applicant for Permit Application No. 5-90-1041 A2, and I further declare that the foregoing is true and correct to the best of my knowledge.

Nov. 27 1995
Date

Bruce H. Lewis, VICE PRESIDENT
Applicant HAWTHORNE SAUNGS F.S.B.

SECTION THREE

AFFIDAVIT OF SUBSTITUTED APPLICANT

I have read Coastal Development Permit No. 5-90-1041 and CDP Application No. 5-90-1041 A2 which was designed as a proposed remedy to correct Coastal Act Violation No. 5-95-003 of the original permit (5-90-1041) and fully understand the contents and conditions imposed. I understand that any modifications to approved plans or amendments to existing permits require additional approval and I hereby consent to all conditions and assume all obligations imposed by the original permit, any future requirements to correct violations of the Coastal Act as well as requirements of subsequent and future permits or additional requirements of the Coastal Commission.

Date

[Signature]
Substituted Applicant

**SIGN
HERE** 

CALIFORNIA COASTAL COMMISSION

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



NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT
Regular and Certified Mail

July 31, 2003

William and Michelle Campbell
433 Paseo De La Playa
Redondo Beach, CA 90277

Violation File Number: V-5-03-002

Property location: 433 Paseo De La Playa, Los Angeles County

Unpermitted Development: (1) Non-compliance with terms and conditions of Coastal Development Permit 5-90-1041-A2 including failure to submit any of the five required annual bluff slope restoration and revegetation program monitoring reports and (2) construction of two unpermitted structures on the bluff slope and on the toe of the bluff.

Dear Mr. and Mrs. Campbell:

We have verified that you are in receipt of our letter to you dated April 25, 2003, which informed you that: (1) development has occurred on your property that does not fully comply with the final approved plans and the terms and conditions of Coastal Development Permit 5-90-1041-A2 and (2) in order to resolve this matter administratively and avoid the possibility of court-imposed fines and penalties, the deadline for you to submit a complete application for an amendment to Coastal Development Permit 5-90-1041-A2 to remove the unauthorized development and restoration of the site consistent with the previously required bluff slope restoration program was May 25, 2003. As of this date, our office has not received an amendment application addressing any of the unauthorized development on your property.

As previously stated, the landscaping on the bluff slope does not comply with the planting plan that you submitted with your application for Coastal Development Permit 5-90-1041-A2, nor has the Commission received any of the five required annual bluff slope restoration and revegetation program monitoring reports. Additionally, the Commission did not previously approve the two structures on the bluff slope and bluff toe. A copy of your Coastal Development Permit is enclosed for reference. Please be advised that non-compliance with the terms and conditions of an approved permit constitutes a violation of the Coastal Act.

In most cases, violations involving unauthorized development may be resolved administratively, avoiding the possibility of court-imposed fines and penalties, by removal of the unpermitted development and restoration of any damaged resources. Removal of the development and restoration of the site may require an amendment to your Coastal Development Permit.

In order to resolve this matter administratively, you were previously requested to **submit an** amendment application by May 25, 2003, to remove the unauthorized development and restore the site consistent with the required slope restoration and revegetation plan. However, our records indicate that you have still not submitted an application. In order to resolve the violation on your property in a timely manner and reduce the possibility of any court-imposed monetary penalty or fine, please submit a complete application for an amendment to Coastal Development Permit 5-90-1041-A2, no later than **August 18, 2003**, to remove the two structures on the bluff and the unpermitted landscaping and restore the site consistent with the required slope restoration and revegetation plan.

We are still interested in working with you to resolve this matter administratively without further enforcement action. However, if you do not submit a complete application for an amendment by no later than **August 18, 2003**, we are notifying you that you will be subject to further enforcement action that may include issuance of a cease and desist order by the Executive Director or the Commission.

Coastal Act Section 30809 states that if the Executive Director of the Commission determines that any person has undertaken, or is threatening to undertake, any activity that may be inconsistent with any permit previously issued by the commission, the Executive Director may issue an order directing that person to cease and desist. Coastal Act section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. A violation of a cease and desist order can result in civil fines of up to \$6,000 for each day in which the violation persists. Under this provision of the Coastal Act, the Executive Director may, after providing this notice, issue an Executive Director Cease and Desist Order unless a "satisfactory" response is received. A "satisfactory" response is defined in the Commission's regulations to be one made in the manner and within the timeframe specified in the notice, and which either provides information sufficient to demonstrate to the Executive Director's satisfaction that either (1) the requirements of Section 30809 of the Coastal Act are not met, or that you are not responsible for the activity, or (2) provides all information requested, results in immediate and complete cessation of all work on the project, and includes an agreement (followed by actions which fully carry out the agreement) to comply in the manner and within the timeframe specified in the notice with any request to undertake measures to prevent irreparable injury to the area. (See CCR § 13180).

In addition, please be aware that Sections 30803 and 30805 of the Coastal Act authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a)(1) of the Coastal Act provides that any person who violates any provision of the Coastal Act may

be subject to a penalty amount that shall not exceed \$30,000 and shall not be less than \$500. Coastal Act section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 for each day in which the violation persists.

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

Please contact me by no later than **August 11, 2003**, regarding how you intend to resolve this violation, (562) 590-5071. If you cannot reach me, please contact my supervisor, Steve Hudson, at (805) 585-1800. We hope that you will choose to cooperate in resolving this violation by submitting an amendment application by **August 18, 2003**. If you do not, we will consider pursuing additional enforcement action against you.

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

Sincerely,



Andrew Willis
Assistant Enforcement Officer

cc: Steve Hudson, Enforcement Supervisor
Teresa Henry, District Manager
Pam Emerson, Planning Supervisor Enter Supervisor

Enclosures: Coastal Development Permit Amendment Application
CDP 5-90-1041-A2

M.B. Landscaping

For a greener tomorrow

20300 South Figueroa Street • Carson, CA 90745
(310) 527-7750 Office • (310) 527-3759 Fax



October 8, 2003

Attn. Coastal Commission
Re: Bluff Revegetation at 433 Paseo de la Playa
Torrance, California

Inspection of bluff area at rear of property. Drain lines, concrete stairway, chain link fencing with gate, irrigation system, erosion control and restoration of bluff area have been accomplished pursuant to the objectives of the permit issued on May 13, 1996 to William Campbell.

Eriogonum Parvifolium (Coastal Buck Wheat) is growing in the bluff area. At time of inspection control of erosion is excellent. Also noted that vegetation growing on this bluff area is consistent with the vegetation growing on other bluff areas of adjacent properties.

Rick Wheeler
Certified Arborist
WC 6043
QAL (B) 39406

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JUL 13 2004

CALIFORNIA
COASTAL COMMISSION

CALIFORNIA COASTAL COMMISSION

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

**NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT**
Regular and Certified Mail

July 8, 2004

William and Michelle Campbell
433 Paseo De La Playa
Redondo Beach, CA 90277

Violation File Number: V-5-03-002

Property location: 433 Paseo De La Playa, Los Angeles County

Unpermitted Development: (1) Non-compliance with terms and conditions of Coastal Development Permit 5-90-1041-A2 including failure to submit any of the five required annual bluff slope restoration and revegetation program monitoring reports and (2) construction of two unpermitted structures on the bluff slope and on the toe of the bluff.

Dear Mr. and Mrs. Campbell:

We have verified that you are in receipt of our letters to you dated July 31, 2003, and April 25, 2003, which informed you that: (1) development has occurred on your property that does not fully comply with the final approved plans and the terms and conditions of Coastal Development Permit 5-90-1041-A2 and (2) in order to resolve this matter administratively and avoid the possibility of court-imposed fines and penalties, the deadline for you to submit a complete application for an amendment to Coastal Development Permit 5-90-1041-A2 to remove the unauthorized development and restore the site consistent with the previously required bluff slope restoration program was August 18, 2003. As of this date, our office has still not received an amendment application addressing any of the unauthorized development on your property.

As you were informed in our previous letters to you, the landscaping on the bluff slope of your property does not comply with the planting plan that you submitted with your application for Coastal Development Permit 5-90-1041-A2, nor has the Commission received any of the five required annual bluff slope restoration and revegetation program monitoring reports. Additionally, the Commission did not previously approve the two structures on the bluff slope and bluff toe. Please be advised that non-compliance with the terms and conditions of an approved permit constitutes a violation of the Coastal Act.

It is our understanding that you intend to resolve this matter administratively through the permit process. During the telephone conversation between Mr. William Campbell and Mr. Steve Hudson, Enforcement Supervisor on September 8, 2003, Mr. Campbell agreed to submit an amendment application to remove the unpermitted cabana on the bluff slope and to request approval to either remove or retain the cabana at the toe. Mr. Campbell also agreed to apply for changes to the restoration plan in order to bring it into conformance with the previously required restoration plan. Based on your agreement to submit a complete application, Mr. Hudson extended your deadline to submit an amendment application from August 18, 2003 to October 17, 2003. However, our records indicate that, as of this date, you have still not submitted an application.

We are still interested in working with you to resolve this matter administratively without further enforcement action. However, if you do not submit a complete application for an amendment to remove the two structures on the bluff and the unpermitted landscaping and restore the site consistent with the required slope restoration and revegetation plan by no later than **August 16, 2004**, we are notifying you that you will be subject to further enforcement action that may include issuance of a cease and desist order by the Executive Director or the Commission.

Coastal Act Section 30809 states that if the Executive Director of the Commission determines that any person has undertaken, or is threatening to undertake, any activity that may be inconsistent with any permit previously issued by the commission, the Executive Director may issue an order directing that person to cease and desist. Coastal Act section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. A violation of a cease and desist order can result in civil fines of up to \$6,000 for each day in which the violation persists. Under this provision of the Coastal Act, the Executive Director may, after providing this notice, issue an Executive Director Cease and Desist Order unless a "satisfactory" response is received. A "satisfactory" response is defined in the Commission's regulations to be one made in the manner and within the timeframe specified in the notice, and which either provides information sufficient to demonstrate to the Executive Director's satisfaction that either (1) the requirements of Section 30809 of the Coastal Act are not met, or that you are not responsible for the activity, or (2) provides all information requested, results in immediate and complete cessation of all work on the project, and includes an agreement (followed by actions which fully carry out the agreement) to comply in the manner and within the timeframe specified in the notice with any request to undertake measures to prevent irreparable injury to the area. (See CCR § 13180).

In addition, please be aware that Sections 30803 and 30805 of the Coastal Act authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a)(1) of the Coastal Act provides that any person who violates any provision of the Coastal Act may be subject to a penalty amount that shall not exceed \$30,000 and shall not be less than \$500. Coastal Act section 30820(b) states that, in addition to any other penalties, any

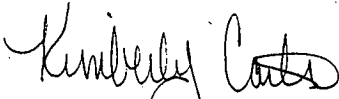
person who "knowingly and intentionally" performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 for each day in which the violation persists.

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

Please contact me at (562) 590-5235 by no later than **July 22, 2004**, regarding how you intend to resolve this violation. We hope that you will choose to cooperate in resolving this violation by submitting an amendment application by **August 16, 2004**. If you do not, we will consider pursuing additional enforcement action against you.

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

Sincerely,



Kimberly Carter
Assistant Enforcement Officer

cc: Steve Hudson, Enforcement Supervisor
Teresa Henry, District Manager
Pam Emerson, Planning Supervisor Enter Supervisor

Enclosures: Coastal Development Permit Amendment Application
CDP 5-90-1041-A2

CALIFORNIA COASTAL COMMISSION

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



NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT
Regular and Certified Mail

December 21, 2005

William and Michelle Campbell
433 Paseo De La Playa
Torrance, CA 90277

Violation File Number: V-5-03-002

Property Location: 433 Paseo De La Playa, Los Angeles County

Unpermitted Development: (1) Non-compliance with terms and conditions of Coastal Development Permit 5-90-1041-A2 including failure to implement restoration and submit any of the five required annual restoration monitoring reports and (2) construction of two unpermitted structures on the bluff slope and on the toe of the bluff resulting in removal of native vegetation and landform alteration.

Dear Mr. and Mrs. Campbell:

On August 9, 2005, the Coastal Commission denied your coastal development permit requesting after-the-fact approval for construction of unpermitted development on your property. The unpermitted development consists of two structures: 1) a 13-foot high, 480 square foot shade structure (with 8 10-inch posts and an 8-foot tall retaining wall) with thatched roof on an approximately 680 square foot concrete patio at the toe of a coastal bluff and 2) an 8-foot high, 12-foot in diameter thatched umbrella on an approximately 10-foot in diameter concrete pad at mid bluff. The Commission denied your permit on the ground that the development does not conform to the resource protection policies of Chapter 3 of the Coastal Act. Your request for reconsideration of the Commission's decision was rejected on November 18, 2005. At the present time, the unpermitted structures described above persist on your property and constitute a violation of the Coastal Act.

In addition, the landscaping on the bluff slope of your property does not comply with the restoration plan that you submitted with your application for Coastal Development Permit No. 5-90-1041-A2, which was issued on April 29, 1996. The Commission approved the amendment with special conditions regarding restoration, maintenance and monitoring of the landscaping and habitat. The special conditions required you to plant the bluff slope according to the approved plant list. However, it appears that the existing landscaping on your property is inconsistent with the landscaping plan approved by the Commission and we have received no

annual reports from you that confirm that all vegetation on the approved plant list was installed. In fact, the unpermitted structures described above are located in the two areas of the bluff slope that pursuant to CDP No. 5-90-1041-A2 were to be restored with *Eriogonum Parvifolium* and other native plants to preserve and enhance the habitat of the El Segundo Blue butterfly. The unpermitted concrete pads totaling 758 square feet eliminate a significant amount of area from revegetation activities and impact habitat for the El Segundo Blue butterfly.

The special conditions of CDP No. 5-90-1041-A2 also required you to submit annual reports providing evidence of the success or failure of the plantings and indicate necessary measures and corrective actions to insure that the objectives of the restoration are achieved. You have not submitted any of the required reports. Staff did receive a short statement dated October 8, 2003 from your arborist, Rick Wheeler. However, this statement is severely deficient; it does not assess whether the objectives of the restoration plan, as listed in Special Condition #1a, have been achieved. For instance, the statement does not 1) specify the success or failure of the plants in the planting plan, 2) verify that no fewer than 8 ten-gallon native plants were installed in Zones A and B as required by Special Condition #1 of your permit, 3) verify that there are no fewer than 140 plants of the species *Eriogonum Parvifolium* on the property as required by Special Condition #1 of your permit, or 4) verify that all non-native plants have been removed from Zone B as required by Special Condition #1 of your permit. If the four objectives listed above, or any other objectives listed in Special Condition #1a, have not been met, you are required by Special Condition #1 of your permit to replant in accordance with the specifications of the approved restoration plan.

In order to resolve this matter administratively and avoid the possibility of court-imposed fines and penalties, please submit a complete application for an amendment to Coastal Development Permit No. 5-90-1041 authorizing you to remove the unpermitted structures and restore the areas impacted by the structures. Additionally, please comply immediately with the requirements of the restoration plan approved pursuant CDP No. 5-90-1041-A2, including, but not limited to submittal of a detailed annual report that identifies the current conditions on the site and the restoration activities that were conducted. The report must assess the success of each objective of the restoration plan, including, but not limited to, the four objectives listed above. If the report indicates that the revegetation efforts have not been successful, you must replant in accordance with the specifications of the previously approved restoration plan.

We are still interested in working with you to resolve this matter administratively without further enforcement action. However, if you do not 1) submit a complete application for an amendment authorizing removal of the structures on the bluff and restoration of the impacted areas and 2) comply with the previously approved restoration, including but not limited to submittal of an annual report by no later than **January 20, 2006**, we are notifying you that you will be subject to further enforcement action that may include issuance of a cease and desist order by the Executive Director or the Commission and monetary penalties.

Coastal Act Section 30809 states that if the Executive Director of the Commission determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, the Executive Director may issue an order directing that person to cease and desist. Coastal Act section 30810 states that the

Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. A violation of a cease and desist order can result in civil fines of up to \$6,000 for each day in which the violation persists.

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

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

Please contact me at (562) 590-5071 by no later than **January 6, 2006**, regarding how you intend to resolve this violation. We hope that you will choose to cooperate in resolving this violation by submitting an application for a permit amendment and complying with the previously approved restoration plan by **January 20, 2006**. Thank you for your attention to this matter. If you have any questions regarding this letter or the pending enforcement case, please feel free to contact me.

Sincerely,



Andrew Willis
District Enforcement Analyst

cc: **Lisa Haage, Chief of Enforcement**
Pat Veesart, Southern California Enforcement Team Leader
Teresa Henry, South Coast District Manager
Pam Emerson, Southern California Planning Supervisor

Enclosures: **Coastal Development Permit Amendment Application**
CDP 5-90-1041-A2

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
Phone: (562) 590-5071
Fax: (562) 590-5084



Fax

To: Mike Avila, Michelle and William Campbell **From:** Andrew Willis

Fax: _____ **Pages:** _____

Phone: _____ **Date:** January 19, 2006

Re: _____ **CC:** _____

- Urgent
- For Review
- Please Comment
- Please Reply
- Please Recycle

The information contained in this facsimile is confidential and is property of the State of California. If you have received this information in error, please notify the sender and return the hardcopy to the address listed above.

● **Comments:**

CALIFORNIA COASTAL COMMISSION

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



January 19, 2006

William and Michelle Campbell, Mike Avila

Violation File Number: V-5-03-002

Property Location: 433 Paseo De La Playa, Los Angeles County

Unpermitted Development: (1) Non-compliance with terms and conditions of Coastal Development Permit 5-90-1041-A2 including failure to implement restoration and submit any of the five required annual restoration monitoring reports and (2) construction of two unpermitted structures on the bluff slope and on the toe of the bluff resulting in removal of native vegetation and landform alteration.

Dear Mr. and Mrs. Campbell and Mr. Avila:

In order to resolve the violation on the subject property, we are asking for 1) a complete application for an amendment to Coastal Development Permit 5-90-1041 that authorizes removal of the unpermitted structures on the bluff and restoration of the impacted areas, and 2) compliance with the landscaping condition of your coastal development permit. Compliance with the landscaping condition initially entails submitting the first of the five annual reports that were required by Coastal Development Permit 5-90-1041-A2. The report must specifically assess the success of the landscaping required by the permit. Please refer to your permit and approved landscaping plan for details of the required landscaping. I also identified key components of the landscaping plan in my letter to you dated December 21, 2005. If the report shows that the required landscaping has not established, you must replant in accordance with the specifications of the landscaping plan.

Please find enclosed an application for an amendment to your coastal development permit. In order to avoid further enforcement action that may include issuance of a cease and desist order by the Executive Director or the Commission and monetary penalties, please submit the completed application and the annual report described above by February 17, 2006. I have extended the original deadline of January 20, 2006 for submittal of the application and report by 30 days. Since Commission staff cannot allow unpermitted development to persist on the property for an extended length of time, 30 days is the longest extension I can provide. If you have any questions regarding this matter, please do not hesitate to contact me.

Andrew Willis
District Enforcement Analyst
(562) 590-5071

FILE COPY

CALIFORNIA COASTAL COMMISSION

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



Date April 26, 2006

Re: Application/Appeal No 5-90-1041-AG

STATUS LETTER

The status of this matter is noted below.

____ Your application was filed on _____.
The public hearing is tentatively scheduled on _____
in _____. This tentative scheduling information is being provided for
your convenience and is subject to change. Written notification of final
scheduling of the hearing, along with a copy of the staff report, will be mailed
approximately 10 days prior to the hearing.
IMPORTANT: The enclosed Notice of Pending Permit must be posted on the
site, in a conspicuous place, within 3 days of its receipt.

✓
____ This application is incomplete and cannot be filed or processed until the
items listed on the attached sheet have been completed and submitted to the
District Office. If these items have not been received by the date indicated, the
entire package will be returned to you.

Please be advised that the items needed to complete your application must be
submitted to this office by June 15, 2006.

____ This file is being returned as the application submitted is deemed incomplete.
The required substantive documents are missing. Please see the attached
sheet.

____ This appeal was received _____ and has been determined
to be a valid appeal. You will be notified of the place and date of the public
hearing.

____ This appeal was received _____ but has been determined
invalid for the following reason:

If you have any questions, please contact this office at (562) 590-5071.

Staff Analyst 

CALIFORNIA COASTAL COMMISSION

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



5-90-1041-176

(File No.)

Campbell

(Name)

123cc Stels Pkwy, Terrence

(Project Street and City)

Your coastal permit application has been reviewed and is **INCOMPLETE**. Before it can be accepted for filing, the information indicated below must be submitted.

- ___ 1. Filing fee is \$ _____. Payable by check or money order to the California Coastal Commission.
- ___ 2. Proof of the applicant's legal interest in the property. (A copy of any of the following will be acceptable: current tax bill, recorded deed, signed Offer to Purchase along with a receipt of deposit, signed final escrow document, or current policy of title insurance. Preliminary title reports will not be accepted).
- ___ 3. Assessor's parcel number as indicated on a property tax statement. The property legal description as contained in a Grant Deed is not the assessor's parcel number. See page 2, item 1 of the application form.
- ___ 4. Assessor's parcel map(s) showing the applicant's property and all other properties within 100 feet (excluding roads) of the property lines of the project site. (Available from the County Assessor). Drawings or facsimilies are not acceptable.
- ___ 5. Stamped envelopes addressed to each property owner and occupant of property situated within 100 feet of the property lines of the project site (excluding roads), along with a list containing the names, addresses and assessor's parcel numbers of same. The envelopes must be plain (i.e., no return address), and regular business size (9 1/2 x 4 1/8"). Include a first class postage stamp on each one. **METERED ENVELOPES ARE NOT ACCEPTABLE.** Mailing list must be on the format shown on **page C-1** of the application.
- ___ 6. Enclose appropriate map (s) indicating location of property in relation to the coastline. Thomas Brothers map, road map or area maps prepared by local governments may provide a suitable base map.
- ___ 7. Cost valuation of city/county or contractor for the development.
- ___ 8. Copies of required local approvals for the proposed project, including zoning variances, use permits etc.. Including minutes of any hearings.
- ___ 9. Verification of all other permits, permissions or approvals applied for by public agencies (e.g. Dept. of Fish and Game, State Lands Commission, U.S. Army Corps of Engineers, etc.).

Exhibit 15.

CCC-11-CD-04 & CCC-11-RO-03

Page 2 of 3

OUTSIDE OF EXISTING DEVELOPED AREAS (AS DEFINED BY GUIDELINES)

- ___ 6. Gross Structural area calculations for Malibu/Santa Monica Mountains, Small Lot Subdivisions. See section IV-B of the Malibu/Santa Monica Mountains Interpretive Guidelines.
- ___ 7. Statement of Water Service and Access Certificate for Building Permit signed by Los Angeles County Fire Department. If Fire Department requirements include road or water installation or modifications, submit plans stamped and approved by Los Angeles County Fire Department (not required for minor additions to single family dwellings).
- ___ 8. An archaeological report developed by a qualified archaeologist regarding the presence and significance of archaeological materials. (Selection of an archaeologist is subject to approval of the Executive Director).

DANA POINT/CAPISTRANO BEACH

- ___ Bluff projects - A surveyed topographic map of the site on a scale generally not less than 1" = 10'.

CITY OF SAN CLEMENTE

- ___ 1. Bluff and canyon projects - A surveyed topographic map of the site on a scale generally not less than 1" = 10'.
- ___ 2. Bluff and canyon projects - A stringline map showing the existing adjacent structures and decks in relation to the proposed development. The stringline is to be prepared in accordance with the Coastal Commission's Interpretive Guidelines.

STAFF COMMENTS

Under certain circumstances, additional material, not previously indicated, may be required before an application can be deemed complete. The following additional material is required for the completion of this application:

- ① Provide plan showing structures to be removed
- ② Explain where debris will be disposed
- ③ Provide revegetation plan for disturbed area

FAILURE TO PROMPTLY SUBMIT THE INFORMATION REQUESTED ABOVE WILL RESULT IN THE DELAY OF YOUR PROJECT. PLEASE ADD ANY COMMENTS TO THE BACK OF THIS SHEET.

By [Signature]

Date 4/26/06

CALIFORNIA COASTAL COMMISSION

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



NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT
Regular and Certified Mail

June 11, 2008

Michelle Campbell
433 Paseo De La Playa
Torrance, CA 90277

Violation File Number: V-5-03-002

Property Location: 433 Paseo De La Playa, Los Angeles County

Unpermitted Development: (1) Non-compliance with terms and conditions of Coastal Development Permit 5-90-1041-A2 including failure to implement restoration and (2) construction of two unpermitted structures on the bluff slope and on the toe of the bluff resulting in displacement of native vegetation and landform alteration.

Dear Ms. Campbell:

As you'll remember, on August 9, 2005, the Coastal Commission denied your coastal development permit requesting after-the-fact approval for construction of unpermitted development on your property. The unpermitted development consists of two structures: 1) a 13-foot high, 480 square foot shade structure (and an 8-foot tall retaining wall) with thatched roof on an approximately 680 square foot concrete patio at the toe of a coastal bluff and 2) an 8-foot high, 12-foot in diameter thatched umbrella on an approximately 10-foot in diameter concrete pad at mid bluff. The Commission denied your permit on the ground that the development does not conform to the resource protection policies of Chapter 3 of the Coastal Act. Your request for reconsideration of the Commission's decision was rejected on November 18, 2005. At the present time, the unpermitted structures described above persist on your property and constitute a violation of the Coastal Act.

In addition, the landscaping on the bluff slope of your property does not comply with the restoration plan that you submitted with your application for Coastal Development Permit No. 5-90-1041-A2, which was issued on April 29, 1996. The Commission approved your permit with special conditions regarding restoration, maintenance and monitoring of the landscaping and habitat. The special conditions required you to plant the bluff slope according to the approved plant list. However, the existing landscaping on your property is inconsistent with the landscaping plan approved by the Commission and we have not received the required annual reports from you confirming that all vegetation on the approved plant list was installed. In fact,

the unpermitted structures described above are located in two areas of the bluff slope that, pursuant to your permit, were to be restored with *Eriogonum Parvifolium* and other native plants to preserve and enhance the habitat of the El Segundo Blue butterfly. The unpermitted concrete pads totaling 758 square feet eliminate a significant amount of area from revegetation activities and impact habitat for the El Segundo Blue butterfly.

In order to resolve this matter administratively and avoid court-imposed fines, please remove the unpermitted shade structures, patios, and retaining wall on the bluff. Additionally, please begin implementation of the restoration plan approved pursuant CDP No. 5-90-1041-A2. I have attached a copy of the approved restoration plan. The first steps of the restoration are grading, if necessary, and site preparation. The restoration plan recommends plant installation at some time from September through December and site preparation beforehand.

We are still interested in working with you to resolve this matter administratively without further enforcement action. However, if you do not: 1) remove the structures on the bluff; and 2) commence the site preparation prescribed by the previously approved restoration, by no later than **August 15, 2008**, we will consider further enforcement action that may include issuance of a cease and desist order by the Executive Director and/or the Commission and monetary penalties.

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

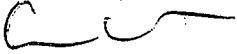
In addition, please be aware that Section 30820(a)(1) of the Coastal Act provides that any person who violates any provision of the Coastal Act may be subject to a penalty amount that shall not exceed \$30,000 and shall not be less than \$500. Coastal Act section 30820(b) states that, in addition to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

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

Please contact me at (562) 590-5071 by no later than **June 27, 2008**, regarding how you intend to resolve this violation. We hope that you will choose to cooperate in resolving this violation by removing the unpermitted structures and commencing implementation of the restoration plan by

August 15, 2008. Thank you for your attention to this matter. If you have any questions regarding this letter or the pending enforcement case, please feel free to contact me.

Sincerely,



Andrew Willis
District Enforcement Analyst

cc: Pat Veesart, Southern California Enforcement Team Leader, CCC
Teresa Henry, South Coast District Manager, CCC
Gary Timm, Los Angeles County Planning Supervisor, CCC
Gabriel Buhr, Coastal Program Analyst, CCC

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



VIA CERTIFIED AND REGULAR MAIL
Certified Mail No. 70011940000205433133

March 31, 2010

Michelle Campbell
433 Paseo de la Playa
Redondo Beach, CA 90277

Rachid Abou Fadel Living Trust
C/O Western Fidelity Trustees
Attn: Kathleen Herrera
1222 Crenshaw Blvd., Suite B
Torrance, CA 90501

Subject: Notice of Intent to Record a Notice of Violation of the Coastal Act and Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings

Violation File Number: V-5-03-002

Property location: 433 Paseo de la Playa, Torrance, Los Angeles County, APN 7512-003-021

Unpermitted Development: Non-compliance with terms and conditions of CDP 5-90-1041-A2, including failure to implement habitat restoration plan, installation of vegetation inconsistent with habitat restoration plan, and construction of unpermitted structures on the bluff slope and on the toe of the bluff resulting in removal of native vegetation, landform alteration, and preclusion of implementation of required habitat restoration plan.

Dear Ms. Campbell and Rachid Abou Fadel Living Trust¹:

¹ Property records indicate that Michelle Campbell is the owner of the property. In conversations with staff, a representative of the lender, Rachid Abou Fadel Living Trust, informed staff that the lender has foreclosed upon the property but has not recorded a notice of sale. The property record is unclear whether the current owner of the property is Michelle Campbell or the Trust. To ensure that all potentially appropriate parties are noticed of our intent to commence enforcement proceedings, this letter is being sent to Michelle Campbell and the Trust.

The California Coastal Act² was enacted by the State Legislature in 1976 to provide long-term protection of California's 1,100-mile coastline through implementation of a comprehensive planning and regulatory program designed to manage conservation and development of coastal resources. The California Coastal Commission ("Commission") is the state agency created by, and charged with administering, the Coastal Act of 1976. In making its permit and land use planning decisions, the Commission carries out Coastal Act policies, which, amongst other goals, seek to protect and restore environmentally sensitive habitats, such as habitat that exists on the property for the federally-listed endangered El Segundo Blue Butterfly, which has been documented on the coastal bluff on the property; protect natural landforms, including coastal bluffs; protect scenic landscapes and views of the sea; protect against loss of life and property from coastal hazards; and provide maximum public access to the sea. The El Segundo Blue Butterfly is a critically endangered species whose range is limited to just the El Segundo Dunes and nearby dunes and bluffs that support the butterfly's host plant, Coastal Buckwheat. The Torrance Bluffs, including that portion of the bluffs on the subject property, is one of the few locations in the world that this species is found.

The purpose of this letter is to notify you of my intent, as the Executive Director of the Commission, to record a Notice of Violation ("NOVA"), and to commence proceedings for issuance of Cease and Desist and Restoration Orders to address unpermitted development conducted in violation of the Coastal Act on the property located at 433 Paseo de la Playa, Torrance, County of Los Angeles, Assessor Parcel Number 7512-003-021 ("subject property"). As noted in our prior communications with the Campbells, the development is both unpermitted, and includes non-compliance with terms and conditions of Coastal Development Permit ("CDP") No. 5-90-1041-A2, which was issued to William and Michelle Campbell, including failure to implement the required habitat restoration plan to re-establish habitat for an endangered butterfly species adversely affected on the property as a result of previous unpermitted development separate from the development at issue here, and installation of non-native vegetation inconsistent with the butterfly habitat restoration plan. Please be advised that non-compliance with the final approved plans and terms and conditions of an approved CDP constitutes a violation of the Coastal Act.

In addition, unpermitted construction of a shade structure and patio on the bluff slope and a shade structure, patio and retaining wall at the toe of the bluff resulting in removal of major vegetation and landform alteration occurred on the property within areas that were required to be restored with habitat for an endangered butterfly species as mitigation for previous unpermitted development on the property. This development is both unpermitted development and a violation of the permit.

Under Section 30600 of the Coastal Act, all development within the Coastal Zone not otherwise exempted under the Coastal Act requires a CDP. The term "development" is defined broadly in Section 30106 of the Coastal Act as follows:

² The Coastal Act is codified in sections 30000 to 30900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated.

“Development” means, on land, in or under water, the placement or erection of any solid material or structure...grading...change in the density or intensity of use of land...construction, reconstruction, demolition, or alteration of the size of any structure...and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations...

The above-described development on the subject property constitutes “development” as defined by Section 30106, is not exempt, and is within the Coastal Zone. As such, it is subject to Coastal Act permitting requirements. We have researched our permit files and found that the above-mentioned development has not been authorized by a CDP as required by law. Any non-exempt development activity conducted in the Coastal Zone without a valid CDP constitutes a violation of the Coastal Act. Moreover, any development conducted that is inconsistent with any permit previously issued by the Commission is also a violation of the Coastal Act.

1. Violation History

Commission staff has attempted to informally resolve this violation cooperatively for six years and so avoid formal enforcement action. Despite this effort, a resolution consistent with CDP No. 5-90-1041-A2 and the Coastal Act, such as removal of the unpermitted shade structures, retaining wall, and patios and implementation of the butterfly habitat restoration plan, has not been achieved. The unpermitted shade structures and patios persist on a largely undeveloped coastal bluff causing ongoing loss of habitat for a federally-listed endangered species, the El Segundo Blue Butterfly. This habitat loss remains unmitigated despite our efforts to resolve the violations informally and thereby address the coastal resource impacts associated with the shade structures, patios, and failure to implement the required butterfly habitat restoration plan.

Site History

As you are aware, on April 12, 1991, the Commission approved CDP No. 5-90-1041 for the construction of a 2-story, 7,334, sq. ft. single family residence on a vacant 0.62 acre blufftop lot on the subject property, subject to Standard and Special Conditions, including Special Condition No. 5, which required approval from the Commission for any future improvements to the property, such as the placement of fill and sandbags, installation of non-native vegetation, and construction of patios, walls and shade structures that would subsequently occur on the property without authorization from the Commission.

On December 15, 1995, the Commission issued CDP No. 5-90-1041-A2, applied for by Hawthorne Savings and Loan in response to Commission enforcement action regarding previous unpermitted development conducted at the site, and issued to William and Michelle Campbell.³ Page 5 of the staff report for CDP No. 5-90-1041-A2 notes that “The present applicant, Hawthorn [sic] Savings, is in the process of transferring ownership to a third party. The new owner will assume the responsibility of caring [sic] out the project and its conditions. This has

³ Exhibit 5 to the Staff Report for CDP No. 5-90-1041-A2 is the Notification of Substitution of Applicant for Coastal Permit and Affidavit of Substituted Applicant whereby William and Michelle Campbell agreed to assume the application originally filed by Hawthorne Savings and Loan, and comply with all conditions of that application.

been included in the new owners escrow agreement.” CDP No. 5-90-1041-A2 was an application to address unpermitted development which had occurred on the bluff face, consisting of construction of a drain-line and placement of fill and sandbags. CDP No. 5-90-1041-A2 authorized installation of a drain-line, a concrete stairway to stabilize an eroded area of the bluff, chain-link fencing and gate, an irrigation system, and jute matting for erosion control.

This CDP also authorized restoration of the bluff to mitigate for impacts of the unpermitted placement of fill and sandbags, which had caused adverse impacts to El Segundo Blue Butterfly habitat. The adverse impacts to the butterfly habitat resulted both from the erosion, “which removed top soil and native vegetation including the El Segundo Blue Butterfly’s host plant-Coastal Buckwheat” and from the unpermitted placement of fill and sandbags on the bluff, which resulted in the “burying of the native plant species located on the bluff.”⁴

In order to ensure restoration of habitat for the El Segundo Blue Butterfly which was destroyed by the unpermitted development, the Commission issued CDP No. 5-90-1041-A2 with Special Condition 1, Restoration, Maintenance, and Monitoring, which states:

Prior to the issuance of the coastal development permit the applicant/landowner shall submit to the Executive Director for review and approval, restoration maintenance and monitoring program consistent with Exhibit #4, revised restoration plan, and Exhibit #5, Habitat Enhancement and Erosion Control Plan, by Rudi Mattoni, as specified below and using plant material as indicated in Exhibit #3, applicant’s plant list. By accepting this permit the applicant/landowner agrees to carry out this plan.

The required restoration plan included steps to ensure the mitigation of the loss of the host plant for the El Segundo Blue Butterfly and to minimize future erosion by regrading and replanting the bluff face with native plants, in a detailed scheme of three zones, with specified plant mixes and counts in each of the three zones on the bluff. Special Condition 1 included a requirement for a monitoring plan for the restoration, to ensure that it was successful. The monitoring plan required annual reports for five years, and required corrective measures, including replanting, to be instituted if any of the monitoring reports showed that all or part of the restoration was failing. The monitoring plan included the requirement that “[a]t the end of five years, a ‘viable community’ of Coastal Buckwheat, no fewer than 140 plants, shall exist in this area.”

Violation History

On July 6, 2001, our staff confirmed that the habitat restoration and monitoring required by CDP No. 5-90-1041-A2 had not been implemented – staff found no evidence of a viable Coastal Buckwheat community of 140 plants on the site and none of the required monitoring reports in the file – in fact, non-native vegetation had been planted in place of the required native plants, and our attempts to resolve the violation began. Our staff also received and confirmed reports of additional unpermitted development on the property, including construction of structures on the bluff slope and on the toe of the bluff. These activities resulted in removal of native vegetation,

⁴ Staff Report for CDP No. 5-90-1041-A2, on Page 5.

and alteration of a natural landform, the coastal bluff, which is highly visible from a public beach. As noted above, the restoration of the habitat for the El Segundo Blue Butterfly specifically required by Special Condition 1 of CDP No. 5-90-1041-A2 was not performed, and, in fact, this unpermitted development was placed in the very area that CDP No. 5-90-1041-A2 required to be restored to mitigate the adverse impacts to the El Segundo Blue Butterfly from the previous unpermitted placement of fill and sandbags on the bluff.

On April 25, 2003, staff sent William and Michelle Campbell the first of several Notice of Violation ("NOV") letters. In that letter, Commission staff informed the Campbells that unpermitted development had occurred on the property and that in order to resolve the violation, they must submit a CDP application for either removal of the unpermitted development and restoration of the site, or after-the-fact authorization for the unpermitted development. This letter also informed the Campbells of the potential for the issuance of a Commission Cease and Desist Order under Section 30810 and a Restoration Order under Section 30811 and for recordation of a NOVA on the property pursuant to Section 30812. The Campbells were given until May 25, 2003 to submit an application; however our office received no response.

On July 31, 2003, staff sent the Campbells a second NOV letter in which they were again informed that unpermitted development had occurred on the property and again informed of the noncompliance with Special Condition 1 of CDP No. 5-90-1041-A2. The Campbells were given a new deadline of August 18, 2003 to submit an application.

On September 8, 2003, our staff spoke to William Campbell. Staff explained that all unpermitted development must be addressed, as explained in the previous two NOV letters. Mr. Campbell indicated that he would submit an amendment application for the restoration program in CDP No. 5-90-1041-A2, as well as the unpermitted structures.

On October 8, 2003, staff received a short statement from the Campbells' arborist, apparently intended to respond to the NOV letters, which claimed the required restoration had been implemented. But the statement did not address the complete failure of the habitat restoration, which was apparent from staff's visits to the site and is confirmed by the fact that the two unpermitted shade structures were placed in the very area required to be restored to a viable community of native plants, including Coastal Buckwheat. Moreover, the arborist's statement did not commit to removal of the unpermitted structures or other resolution of the violations noted in the letters from the Commission staff. In addition, as stated above, the habitat restoration required under Special Condition 1 of CDP No. 5-90-1041-A2 was to be completed within 90 days from the issuance of the permit. In addition, the restoration condition required that annual monitoring reports be submitted, and corrective measures be taken if the restoration failed. None of these requirements were followed, in violation of the permit requirements, and the habitat area for the El Segundo Blue Butterfly remains adversely impacted.

On July 8, 2004, staff sent the Campbells a third NOV letter which reiterated that unpermitted development had occurred on the property and that in order to resolve the violation, the Campbells must submit a CDP application for either the removal of the unpermitted development and restoration of the site or seek after-the-fact authorization for the unpermitted development. This letter again informed the Campbells of the potential for the issuance of a

Cease and Desist Order and the recordation of a NOVA on the property pursuant to Section 30812.

Staff received an incomplete application to authorize the unpermitted structures after-the-fact on August 31, 2004. The application seeking authorization of the unpermitted structures was completed on March 17, 2005; however the application did not address the failure to implement the restoration plan required by CDP No. 5-90-1041-A2. After one postponement from the April 2005 hearing, on August 9, 2005, the Commission held a public hearing and at that hearing, denied CDP No. 5-90-1041-A5 requesting after-the-fact approval for the construction of unpermitted development on your property. The Commission denied CDP No. 5-90-1041-A5 on the grounds that the development did not conform to the resource protection policies of Chapter 3 of the Coastal Act. In reference to the harm from the unpermitted development to visual and scenic resources:

"The Commission finds the project, as currently proposed, is not suited and designed to protect scenic and visual qualities of the site as an area of public importance. Denial of the proposed project would preserve existing scenic resources and would be consistent with preserving the existing community character where approved (or pre-Coastal) development generally occurs solely at the top of the coastal bluff. . . . The alteration of the bluff from construction of the shade structures and patio would result in an adverse visual effect when viewed from public vantage points along the beach."

The Commission also found in its denial of after-the-fact approval for the shade structures that:

"The proposed development will replace environmentally sensitive habitat areas, will be disruptive of nearby sensitive habitat values, and would, if proliferated, be incompatible with the continuance of those habitat values along the bluffs. Therefore, the Commission finds that the proposed project is inconsistent with Section 30240 of the Coastal Act, and therefore denies the project."

Moreover, the Commission found that "[b]ecause the unpermitted development is located on a coastal bluff and includes a protective device that substantially alters natural landforms along bluffs and cliffs, . . . approval of the unpermitted development would not be consistent with Coastal Act Section 30253(2)." Additionally, the Commission noted that "structural stability would have to be achieved by hardening portions of the cliff face for the patios and structures," which would harm the habitat for the El Segundo Blue Butterfly, because its host plant, Coastal Buckwheat, "expands radially through loose soils" and hardening the bluff limits the ability of the Coastal Buckwheat plant to expand, thereby adversely impacting the butterfly. The Commission also noted that "unpermitted development has occurred in a potential habitat area of the EL Segundo Blue Butterfly, a Federally Listed endangered species, in an area previously ordered restored by the Commission." Overall, retention of the unpermitted development was inconsistent with Chapter 3 of the Coastal Act, as the Commission stated by denying CDP Application No. 5-90-1041-A5. A request for reconsideration of the Commission's CDP decision filed by the Campbells was rejected by the Commission on November 18, 2005.

On December 21, 2005, following the action taken by the Commission denying the application after the fact for retention of the unpermitted development, staff sent the Campbell's a fourth NOV letter. Again, the Campbell's were reminded of the potential for the issuance of a Cease and Desist Order and the recordation of a NOVA on the property pursuant to Section 30812. The deadline for submitting an application for a permit amendment to authorize removal of the structures and to implement the previously approved bluff-face habitat restoration plan was January 20, 2006. At the Campbell's request, on January 19, 2006, staff extended that deadline for no more than 30 days. Staff also indicated that they could not allow unpermitted development to persist on the property for an extended length of time.

Staff received an incomplete CDP application (No. 5-90-1041-A6) for removal of the structures on February 17, 2006. However, the removal plan, debris dispersal plan, and revegetation plan for the disturbed areas were missing from the application, as detailed in staff's application status letter to the Campbells dated April 26, 2006. In the April 26 status letter, staff requested that the Campbells submit these items to complete the application by June 15, 2006. However, staff did not receive the requested items by the deadline. In fact, this application was never completed, and was therefore finally returned to the Campbell's on June 25, 2009.

On June 11, 2008, staff sent Michelle Campbell⁵ a fifth NOV letter. In that letter, Commission staff informed Ms. Campbell that in order to resolve this matter, she must remove the unpermitted shade structures, patios, and retaining wall on the bluff and begin implementation of the restoration plan required by and approved pursuant CDP No. 5-90-1041-A2. This letter repeated the potential for the issuance of a Cease and Desist Order and the recordation of a NOVA on the property pursuant to Section 30812, and the desire of staff to work with Ms. Campbell to resolve this matter.

Just today, Commission staff became aware of a potential for the status of the property to change. Apparently, the lender, Rachid Abou Fadel Living Trust, is foreclosing upon the property. On March 31, 2010, Commission staff spoke with the lender's representative, Kathleen Herrera of Western Fidelity Trustees, and described the unpermitted development that has occurred on the property, informed her of staff's attempts to resolve the violation, and confirmed that necessary steps to address the unpermitted development have not been taken. Staff informed Ms. Herrera of our intent to record a Notice of Violation of the Coastal Act on the property's title in order to provide notice to any subsequent purchasers that a violation of the Coastal Act has occurred, and continues to persist on the property and generally avoid any unnecessary complications or confusion for any potential subsequent owners.

Throughout the history of attempting to resolve this violation, staff has generally monitored this site. Through those site visits, staff can confirm that as of this letter, removal of the unpermitted development and restoration of the site has not occurred. In addition, the current landscaping on the bluff slope of the property does not comply with the butterfly habitat restoration plan required by CDP No. 5-90-1041-A2, nor with the original permit conditions requiring restoration of this area. As of today's date, the existing landscaping and structures on the property are

⁵ Property records indicate that William Campbell transferred his interest in the property to Michelle Campbell's sole ownership on October 29, 2007.

inconsistent with the restoration plan approved by the Commission and we have not received the required annual restoration monitoring reports. In fact, the unpermitted structures described above are located in two areas of the bluff slope that, pursuant to CDP No. 5-90-1041-A2, were to be restored with Coastal Buckwheat and other native plants to preserve and enhance the habitat of the El Segundo Blue Butterfly. The unpermitted concrete pads and non-native vegetation landscaping eliminate a significant amount of area, essentially the entire bluff face, from revegetation activities and thus deny the availability of habitat for the El Segundo Blue Butterfly.

Despite the above-detailed history of the failure to comply with the permit conditions and Coastal Act, we are willing to continue to work with all parties involved to resolve this violation, but with assurances that notice will be provided that there is an unresolved violation of the Coastal Act on the property. Recordation of a NOVA ensures that notice of the violation is recorded on the property's title to prevent transfer of the property to an innocent purchaser without that party's knowledge of the violation and, thus, affords us the flexibility to continue to work with you to resolve this matter.

2. Notice of Violation

Therefore, by this letter, I am notifying you of my intent to record a Notice of Violation of the Coastal Act for non-compliance with the final approved plans and terms and conditions of CDP No. 5-90-1041-A2, including failure to implement legally required restoration of habitat areas on the bluff-slope, installation of non-native vegetation inconsistent with the butterfly habitat restoration plan, and for unpermitted development on the site including construction of two unpermitted structures on the bluff slope and on the toe of the bluff, also resulting in removal of major native vegetation and landform alteration. The unpermitted development activities occurred on the property located at 433 Paseo de la Playa, Torrance, Los Angeles County Assessor's Parcel No. 7512-003-021, which is located within the Coastal Zone, and within the Commission's retained jurisdiction.

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

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

I am issuing this Notice of Intent to record a Notice of Violation because development has occurred on the subject property in violation of the Coastal Act. This determination is based on review of Commission records, site visits, and conversations with the property owners. In five letters to the property owners dated April 25, 2003, July 31, 2003, July 8, 2004, December 21,

2005, and June 11, 2008, we notified the property owners of possible enforcement action under the Coastal Act, including the possibility of the recordation of a Notice of Violation under Section 30812 against the property. In Andrew Willis' telephone conversation today with the lender, Rachid Abou Fadel Living Trust, he also informed the lender's representative of the facts underlying this violation and of possibility of the recordation of a Notice of Violation under Section 30812 against the property.

Because this violation has remained unresolved for many years, I am taking this action at this time to ensure that notice of the violation is recorded on the property's title and to put potential purchasers of the subject property on notice that a violation of the Coastal Act has occurred and avoid creating additional complications associated with a potential sale to an uninformed party.

In many such instances, property owners have stipulated to the recordation of a Notice of Violation and continued to work with the Commission staff to resolve the underlying violation. If you would like to discuss this option, please feel free to contact Andrew Willis at the number listed at the end of this letter. If the property owner⁶ instead wishes to object to the recordation of a Notice of Violation in this matter and wishes to present evidence to the Commission at a public hearing on the issue of whether a violation has occurred, the property owner must respond, in writing, within 20 days of the postmarked mailing of the notification. If, within 20 days of mailing of the notification, the property owner fails to inform Commission staff of an objection to recording a Notice of Violation, I shall record the Notice of Violation in the Los Angeles County Recorder's Office as provided for under Section 30812 of the Coastal Act.

If the property owner objects to the recordation of a Notice of Violation in this matter and wish to present evidence on the issue of whether a violation has occurred, you must respond in writing, to the attention of Andrew Willis at the California Coastal Commission, 200 Oceangate 10th Floor, Long Beach, CA 90802, no later than April 20, 2010. Please include the evidence you wish to present to the Coastal Commission in your written response and identify any issues you would like us to consider.

3. Cease and Desist Order

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

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

⁶ Please note that pursuant to Coastal Act Section 30812, only the property owner may object to recordation of a Notice of Violation. As noted in footnote 1 above, the record is unclear whether Michelle Campbell or the Trust is the current owner of the property. To ensure that all potentially appropriate parties are noticed of our intent to record a Notice of Violation, this letter is being sent to Michelle Campbell and the Trust.

I am issuing this notice of intent to commence Cease and Desist Order proceedings to compel the removal of the unpermitted development on the subject property and to require you to cease and desist from conducting and maintaining development that is unpermitted and/or inconsistent with any previously issued permit, and from conducting further unpermitted development. As noted above, the unpermitted development and development inconsistent with permits issued by the Commission is located on property that you own⁷ in Torrance, and which is in the retained Coastal Zone jurisdiction of the Commission.

As described above, the unpermitted development on the subject property includes both non-compliance with the final approved plans and terms and conditions of CDP 5-90-1041-A2, including failure to implement restoration of habitat areas on the bluff-slope, installation of non-native vegetation inconsistent with the butterfly habitat restoration plan, and unpermitted development on the site including construction of two unpermitted structures on the bluff slope and on the toe of the bluff resulting in displacement of native vegetation and landform alteration. Your failure to comply with the required habitat restoration plan on the bluff slope constitutes noncompliance with a requirement of the permit previously issued by the Commission. Further, the unpermitted activities on the subject property constitute "development" under Section 30106, were not exempt from permitting requirements, and were conducted within the Coastal Zone. Thus a CDP was required; however, a CDP was never issued authorizing the development. Therefore, development requiring a permit was undertaken without a permit, and the criteria of Section 30810(a) have been met under both (1) and (2), and I am sending this letter to initiate proceedings for the Commission to determine whether to issue a Cease and Desist Order.

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

4. Restoration Order

Section 30811 authorizes the Commission to order restoration of a site in the following terms:

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

Pursuant to Section 13191 of the Commission's regulations, I have determined that the specified activities meet the criteria of Section 30811 of the Coastal Act, based on the following:

- 1) Unpermitted development including installation of non-native vegetation inconsistent with the required butterfly habitat restoration plan and construction of two structures: 1) a 13-foot high, 480 sq. ft. shade structure

⁷ See fn.1.

(with eight 10-inch posts and an 8-foot tall retaining wall with thatched roof) on an approximately 680 sq. ft. concrete patio at the toe of a coastal bluff and 2) an 8ft. high, 12ft. in diameter thatched umbrella on an approximately 10ft. in diameter concrete pad at mid-bluff. This development is also inconsistent with the terms of the Coastal Development Permit issued for this property.

- 2) This development is inconsistent with the resource protection policies of the Coastal Act, including Sections 30240, 30251, 30253, 30235, 30210, 30220, and 30221.
- 3) The unpermitted development remains in place and is thereby causing continuing resource damage, as defined by Section 13190 of the Commission's regulations. The impacts from the unpermitted development continue and remain unmitigated; therefore, the damage to resources protected by the Coastal Act is continuing.

For the reasons stated above, we are commencing proceedings for the Commission's issuance of a Restoration Order in order to restore the subject property. The procedures for the issuance of Restoration Orders are described in Sections 13190 through 13197 of the Commission's regulations, which are codified in Title 14 of the California Code of Regulations.

5. Response Procedure

In accordance with Sections 13181(a) and 13191(a) of the Commission's Regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this notice of intent to commence Cease and Desist and Restoration Order proceedings by completing the enclosed Statement of Defense (SOD) form. **The SOD form must be returned to the Commission's Long Beach office at 200 OceanGate 10th Floor, Long Beach 90802, directed to the attention of Andrew Willis, by no later than April 20, 2010.**

6. Civil Liability/Exemplary Damages

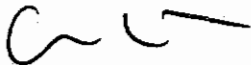
We are obliged to inform you that the Coastal Act includes a number of penalty provisions for violations of the Coastal Act. Section 30820(a)(1) provides for civil liability to be imposed on any person who performs or undertakes development without a CDP and/or that is inconsistent with any CDP previously issued by the Commission in an amount that shall not exceed \$30,000 and shall not be less than \$500 for each instance of development that is in violation of the Coastal Act. Section 30820(b) provides that additional civil liability may be imposed on any person who performs or undertakes development without a CDP and/or that is inconsistent with any CDP previously issued by the Commission when the person intentionally and knowingly performs or undertakes such development, in an amount not less than \$1,000 and not more than \$15,000 per day for each day in which each violation persists. Section 30821.6 provides that a violation of a cease and desist order, including an Executive Director Cease and Desist Order, or a restoration order can result in civil fines of up to \$6,000 for each day in which the violation persists. Section 30822 provides for additional exemplary damages.

7. Resolution

If you have any questions regarding this letter or the enforcement case, please call Andrew Willis at (562) 590-5071 or send correspondence to his attention California Coastal Commission, 200 Ocean Gate 10th Floor, Long Beach, CA 90802. Again we prefer to resolve violations cooperatively and would like to do so in this matter. It is possible that this could be resolved via a consent order, which is a form of a settlement. Such a consent order would allow you increased input into the resolution of the matter, and provide the opportunity to work with us to resolve the entire violation, and avoid litigation.

In order to most efficiently address this matter, please identify the current property owner and provide staff with the current status of the foreclosure process. We look forward to working with you to resolve this situation and thank you in advance for your cooperation.

Sincerely,



Andrew Willis for
PETER M. DOUGLAS
Executive Director
California Coastal Commission

Enclosure: Statement of Defense form

cc: Lisa Haage, Chief of Enforcement, CCC
Alex Helperin, Staff Counsel, CCC
N. Patrick Veesart, Southern California Enforcement Supervisor, CCC
Andrew Willis, South Coast District Enforcement Analyst, CCC

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



VIA CERTIFIED AND REGULAR MAIL
Certified Mail No. 7006 2760 0005 5883 5545

May 17, 2010

William Campbell
100 The Strand
Hermosa Beach, CA 90254

Subject: Notice of Intent to Record a Notice of Violation of the Coastal Act and Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings

Violation File Number: V-5-03-002

Property location: 433 Paseo de la Playa, Torrance, Los Angeles County, APN 7512-003-021

Unpermitted Development: Non-compliance with terms and conditions of CDP 5-90-1041-A2, including failure to implement habitat restoration plan, installation of vegetation inconsistent with habitat restoration plan, and construction of unpermitted structures on the bluff slope and on the toe of the bluff resulting in removal of native vegetation, landform alteration, and preclusion of implementation of required habitat restoration plan.

Dear Mr. Campbell:

The California Coastal Act¹ was enacted by the State Legislature in 1976 to provide long-term protection of California's 1,100-mile coastline through implementation of a comprehensive planning and regulatory program designed to manage conservation and development of coastal resources. The California Coastal Commission ("Commission") is the state agency created by, and charged with administering, the Coastal Act of 1976. In making its permit and land use planning decisions, the Commission carries out Coastal Act policies, which, amongst other goals, seek to protect and restore environmentally sensitive habitats, such as habitat that exists on the property for the federally-listed endangered El Segundo Blue Butterfly, which has been documented on the coastal bluff on the property; protect natural landforms, including coastal bluffs; protect scenic landscapes and views of the sea; protect against loss of life and property from coastal hazards; and provide maximum public access to the sea. The El Segundo Blue Butterfly is a critically endangered species whose range is limited to just the El Segundo Dunes and nearby dunes and bluffs that support the butterfly's host plant, Coastal Buckwheat. The

¹ The Coastal Act is codified in sections 30000 to 30900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated.

Torrance Bluffs, including that portion of the bluffs on the subject property, is one of the few locations in the world that this species is found.

The purpose of this letter is to notify you of my intent, as the Executive Director of the Commission to commence proceedings for issuance of Cease and Desist and Restoration Orders to address unpermitted development conducted in violation of the Coastal Act on the property located at 433 Paseo de la Playa, Torrance, County of Los Angeles, Assessor Parcel Number 7512-003-021 ("subject property"). As noted in our prior communications with you, the development is both unpermitted, and includes non-compliance with terms and conditions of Coastal Development Permit ("CDP") No. 5-90-1041-A2, which was issued to William and Michelle Campbell, including failure to implement the required habitat restoration plan to re-establish habitat for an endangered butterfly species adversely affected on the property as a result of previous unpermitted development separate from the development at issue here, and installation of non-native vegetation inconsistent with the butterfly habitat restoration plan. Please be advised that non-compliance with the final approved plans and terms and conditions of an approved CDP constitutes a violation of the Coastal Act.

In addition, unpermitted construction of a shade structure and patio on the bluff slope and a shade structure, patio and retaining wall at the toe of the bluff resulting in removal of major vegetation and landform alteration occurred on the property within areas that were required to be restored with habitat for an endangered butterfly species as mitigation for previous unpermitted development on the property. This development is both unpermitted development and a violation of the permit.

Under Section 30600 of the Coastal Act, all development within the Coastal Zone not otherwise exempted under the Coastal Act requires a CDP. The term "development" is defined broadly in Section 30106 of the Coastal Act as follows:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure...grading...change in the density or intensity of use of land...construction, reconstruction, demolition, or alteration of the size of any structure...and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations...

The above-described development on the subject property constitutes "development" as defined by Section 30106, is not exempt, and is within the Coastal Zone. As such, it is subject to Coastal Act permitting requirements. We have researched our permit files and found that the above-mentioned development has not been authorized by a CDP as required by law. Any non-exempt development activity conducted in the Coastal Zone without a valid CDP constitutes a violation of the Coastal Act. Moreover, any development conducted that is inconsistent with any permit previously issued by the Commission is also a violation of the Coastal Act.

1. Violation History

Commission staff has attempted to informally resolve this violation cooperatively for six years and so avoid formal enforcement action. Despite this effort, a resolution consistent with CDP No. 5-90-1041-A2 and the Coastal Act, such as removal of the unpermitted shade structures,

retaining wall, and patios and implementation of the butterfly habitat restoration plan, has not been achieved. The unpermitted shade structures and patios persist on a largely undeveloped coastal bluff causing ongoing loss of habitat for a federally-listed endangered species, the El Segundo Blue Butterfly. This habitat loss remains unmitigated despite our efforts to resolve the violations informally and thereby address the coastal resource impacts associated with the shade structures, patios, and failure to implement the required butterfly habitat restoration plan.

Site History

As you are aware, on April 12, 1991, the Commission approved CDP No. 5-90-1041 for the construction of a 2-story, 7,334, sq.ft. single family residence on a vacant 0.62 acre blufftop lot on the subject property, subject to Standard and Special Conditions, including Special Condition No. 5, which required approval from the Commission for any future improvements to the property, such as the placement of fill and sandbags, installation of non-native vegetation, and construction of patios, walls and shade structures that would subsequently occur on the property without authorization from the Commission.

On December 15, 1995, the Commission issued CDP No. 5-90-1041-A2, applied for by Hawthorne Savings and Loan in response to Commission enforcement action regarding previous unpermitted development conducted at the site, and issued to William and Michelle Campbell.² Page 5 of the staff report for CDP No. 5-90-1041-A2 notes that "The present applicant, Hawthorn [sic] Savings, is in the process of transferring ownership to a third party. The new owner will assume the responsibility of caring [sic] out the project and its conditions. This has been included in the new owners escrow agreement." CDP No. 5-90-1041-A2 was an application to address unpermitted development which had occurred on the bluff face, consisting of construction of a drain-line and placement of fill and sandbags. CDP No. 5-90-1041-A2 authorized installation of a drain-line, a concrete stairway to stabilize an eroded area of the bluff, chain-link fencing and gate, an irrigation system, and jute matting for erosion control.

This CDP also authorized restoration of the bluff to mitigate for impacts of the unpermitted placement of fill and sandbags, which had caused adverse impacts to El Segundo Blue Butterfly habitat. The adverse impacts to the butterfly habitat resulted both from the erosion, "which removed top soil and native vegetation including the El Segundo Blue Butterfly's host plant-Coastal Buckwheat" and from the unpermitted placement of fill and sandbags on the bluff, which resulted in the "burying of the native plant species located on the bluff."³

In order to ensure restoration of habitat for the El Segundo Blue Butterfly which was destroyed by the unpermitted development, the Commission issued CDP No. 5-90-1041-A2 with Special Condition 1, Restoration, Maintenance, and Monitoring, which states:

Prior to the issuance of the coastal development permit the applicant/landowner shall submit to the Executive Director for review and approval, restoration

² Exhibit 5 to the Staff Report for CDP No. 5-90-1041-A2 is the Notification of Substitution of Applicant for Coastal Permit and Affidavit of Substituted Applicant whereby William and Michelle Campbell agreed to assume the application originally filed by Hawthorne Savings and Loan, and comply with all conditions of that application.

³ Staff Report for CDP No. 5-90-1041-A2, on Page 5.

maintenance and monitoring program consistent with Exhibit #4, revised restoration plan, and Exhibit #5, Habitat Enhancement and Erosion Control Plan, by Rudi Mattoni, as specified below and using plant material as indicated in Exhibit #3, applicant's plant list. By accepting this permit the applicant/landowner agrees to carry out this plan.

The required restoration plan included steps to ensure the mitigation of the loss of the host plant for the El Segundo Blue Butterfly and to minimize future erosion by regrading and replanting the bluff face with native plants, in a detailed scheme of three zones, with specified plant mixes and counts in each of the three zones on the bluff. Special Condition 1 included a requirement for a monitoring plan for the restoration, to ensure that it was successful. The monitoring plan required annual reports for five years, and required corrective measures, including replanting, to be instituted if any of the monitoring reports showed that all or part of the restoration was failing. The monitoring plan included the requirement that “[a]t the end of five years, a ‘viable community’ of Coastal Buckwheat, no fewer than 140 plants, shall exist in this area.”

Attempts at Resolution

On July 6, 2001, our staff confirmed that the habitat restoration and monitoring required by CDP No. 5-90-1041-A2 had not been implemented – staff found no evidence of a viable Coastal Buckwheat community of 140 plants on the site and none of the required monitoring reports in the file – in fact, non-native vegetation had been planted in place of the required native plants, and our attempts to resolve the violation began. Our staff also received and confirmed reports of additional unpermitted development on the property, including construction of structures on the bluff slope and on the toe of the bluff. These activities resulted in removal of native vegetation, and alteration of a natural landform, the coastal bluff, which is highly visible from a public beach. As noted above, the restoration of the habitat for the El Segundo Blue Butterfly specifically required by Special Condition 1 of CDP No. 5-90-1041-A2 was not performed, and, in fact, this unpermitted development was placed in the very area that CDP No. 5-90-1041-A2 required to be restored to mitigate the adverse impacts to the El Segundo Blue Butterfly from the previous unpermitted placement of fill and sandbags on the bluff.

On April 25, 2003, staff sent William and Michelle Campbell the first of several Notice of Violation (“NOV”) letters. In that letter, Commission staff informed the Campbells that unpermitted development had occurred on the property and that in order to resolve the violation, they must submit a CDP application for either removal of the unpermitted development and restoration of the site, or after-the-fact authorization for the unpermitted development. This letter also informed the Campbells of the potential for the issuance of a Commission Cease and Desist Order under Section 30810 and a Restoration Order under Section 30811 and for recordation of a NOVA on the property pursuant to Section 30812. The Campbells were given until May 25, 2003 to submit an application; however our office received no response.

On July 31, 2003, staff sent the Campbells a second NOV letter in which they were again informed that unpermitted development had occurred on the property and again informed of the noncompliance with Special Condition 1 of CDP No. 5-90-1041-A2. The Campbells were given a new deadline of August 18, 2003 to submit an application.

On September 8, 2003, our staff spoke to you; staff explained that all unpermitted development must be addressed, as explained in the previous two NOV letters. You indicated that you would submit an amendment application for the restoration program in CDP No. 5-90-1041-A2, as well as the unpermitted structures.

On October 8, 2003, staff received a short statement from the Campbells' arborist, apparently intended to respond to the NOV letters, which claimed the required restoration had been implemented. But the statement did not address the complete failure of the habitat restoration, which was apparent from staff's visits to the site and is confirmed by the fact that the two unpermitted shade structures were placed in the very area required to be restored to a viable community of native plants, including Coastal Buckwheat. Moreover, the arborist's statement did not commit to removal of the unpermitted structures or other resolution of the violations noted in the letters from the Commission staff. In addition, as stated above, the habitat restoration required under Special Condition 1 of CDP No. 5-90-1041-A2 was to be completed within 90 days from the issuance of the permit. In addition, the restoration condition required that annual monitoring reports be submitted, and corrective measures be taken if the restoration failed. None of these requirements were followed, in violation of the permit requirements, and the habitat area for the El Segundo Blue Butterfly remains adversely impacted.

On July 8, 2004, staff sent the Campbells a third NOV letter which reiterated that unpermitted development had occurred on the property and that in order to resolve the violation, the Campbells must submit a CDP application for either the removal of the unpermitted development and restoration of the site or seek after-the-fact authorization for the unpermitted development. This letter again informed the Campbells of the potential for the issuance of a Cease and Desist Order and the recordation of a NOVA on the property pursuant to Section 30812.

Staff received an incomplete application to authorize the unpermitted structures after-the-fact on August 31, 2004. The application seeking authorization of the unpermitted structures was completed on March 17, 2005; however the application did not address the failure to implement the restoration plan required by CDP No. 5-90-1041-A2. After one postponement from the April 2005 hearing, on August 9, 2005, the Commission held a public hearing and at that hearing, denied CDP No. 5-90-1041-A5 requesting after-the-fact approval for the construction of unpermitted development on your property. The Commission denied CDP No. 5-90-1041-A5 on the grounds that the development did not conform to the resource protection policies of Chapter 3 of the Coastal Act. In reference to the harm from the unpermitted development to visual and scenic resources:

"The Commission finds the project, as currently proposed, is not suited and designed to protect scenic and visual qualities of the site as an area of public importance. Denial of the proposed project would preserve existing scenic resources and would be consistent with preserving the existing community character where approved (or pre-Coastal) development generally occurs solely at the top of the coastal bluff. . . . The alteration of the bluff from construction of the shade structures and patio would result in an adverse visual effect when viewed from public vantage points along the beach."

The Commission also found in its denial of after-the-fact approval for the shade structures that:

“The proposed development will replace environmentally sensitive habitat areas, will be disruptive of nearby sensitive habitat values, and would, if proliferated, be incompatible with the continuance of those habitat values along the bluffs. Therefore, the Commission finds that the proposed project is inconsistent with Section 30240 of the Coastal Act, and therefore denies the project.”

Moreover, the Commission found that “[b]ecause the unpermitted development is located on a coastal bluff and includes a protective device that substantially alters natural landforms along bluffs and cliffs, . . . approval of the unpermitted development would not be consistent with Coastal Act Section 30253(2).” Additionally, the Commission noted that “structural stability would have to be achieved by hardening portions of the cliff face for the patios and structures,” which would harm the habitat for the El Segundo Blue Butterfly, because its host plant, Coastal Buckwheat, “expands radially through loose soils” and hardening the bluff limits the ability of the Coastal Buckwheat plant to expand, thereby adversely impacting the butterfly. The Commission also noted that “unpermitted development has occurred in a potential habitat area of the EL Segundo Blue Butterfly, a Federally Listed endangered species, in an area previously ordered restored by the Commission.” Overall, retention of the unpermitted development was inconsistent with Chapter 3 of the Coastal Act, as the Commission stated by denying CDP Application No. 5-90-1041-A5. A request for reconsideration of the Commission’s CDP decision filed by the Campbells was rejected by the Commission on November 18, 2005.

On December 21, 2005, following the action taken by the Commission denying the application after the fact for retention of the unpermitted development, staff sent the Campbell’s a fourth NOV letter. Again, the Campbell’s were reminded of the potential for the issuance of a Cease and Desist Order and the recordation of a NOVA on the property pursuant to Section 30812. The deadline for submitting an application for a permit amendment to authorize removal of the structures and to implement the previously approved bluff-face habitat restoration plan was January 20, 2006. At the Campbell’s request, on January 19, 2006, staff extended that deadline for no more than 30 days. Staff also indicated that they could not allow unpermitted development to persist on the property for an extended length of time.

Staff received an incomplete CDP application (No. 5-90-1041-A6) for removal of the structures on February 17, 2006. However, the removal plan, debris dispersal plan, and revegetation plan for the disturbed areas were missing from the application, as detailed in staff’s application status letter to the Campbells dated April 26, 2006. In the April 26 status letter, staff requested that the Campbells submit these items to complete the application by June 15, 2006. However, staff did not receive the requested items by the deadline. In fact, this application was never completed, and was therefore finally returned to the Campbell’s on June 25, 2009.

On June 11, 2008, staff sent Michelle Campbell⁴ a fifth NOV letter. In that letter, Commission staff informed Ms. Campbell that in order to resolve this matter, she must remove the unpermitted shade structures, patios, and retaining wall on the bluff and begin implementation of

⁴ Property records indicate that you transferred your interest in the property to Michelle Campbell’s sole ownership on October 29, 2007. However, as described in this letter, the Commission may direct a cease and desist order to any person who has undertaken development inconsistent with a previously issued permit.

the restoration plan required by and approved pursuant CDP No. 5-90-1041-A2. This letter repeated the potential for the issuance of a Cease and Desist Order and the recordation of a NOVA on the property pursuant to Section 30812, and the desire of staff to work with Ms. Campbell to resolve this matter.

Notice of Intent to Record a Notice of Violation and to Commence Cease and Desist Order and Restoration Order Proceedings

By way of background, on March 31, 2010, the Executive Director issued Michelle Campbell a Notice of Intent to Record a Notice of Violation of the Coastal Act and to Commence Cease and Desist and Restoration Order Proceedings, to resolve the violations through formal enforcement actions either as a consent or standard order proceeding. An SOD form was sent along with the NOI, affording Michelle Campbell the opportunity to present defenses to the issuance of the orders. The NOI also provided Michelle Campbell with the opportunity to specifically object, in writing, to the recordation of a Notice of Violation ("NOVA") in this matter, as provided for in Coastal Act Section 30812. The NOI and the SOD form specified a twenty-day time period for submittal of an SOD and objection to the recordation of a Notice of Violation, as required under Section 13181(a) of the Commissions Regulations and Coastal Act Section 30812(b), respectively. This letter is to provide a similar notice to you.

The final date for submittal of the SOD and objection for Ms. Campbell was April 20, 2010. Michelle Campbell did not object to recordation of a NOVA, and therefore on April 28, 2010, the Executive Director recorded the NOVA on the subject property in the Los Angeles County Recorder's office as Instrument No. 2010-0566556.

Throughout the history of attempting to resolve this violation, staff has generally monitored this site. Through those site visits, staff can confirm that as of this letter, removal of the unpermitted development and restoration of the site has not occurred. In addition, the current landscaping on the bluff slope of the property does not comply with the butterfly habitat restoration plan required by CDP No. 5-90-1041-A2, nor with the original permit conditions requiring restoration of this area. As of today's date, the existing landscaping and structures on the property are inconsistent with the restoration plan approved by the Commission and we have not received the required annual restoration monitoring reports. In fact, the unpermitted structures described above are located in two areas of the bluff slope that, pursuant to CDP No. 5-90-1041-A2, were to be restored with Coastal Buckwheat and other native plants to preserve and enhance the habitat of the El Segundo Blue Butterfly. The unpermitted concrete pads and non-native vegetation landscaping eliminate a significant amount of area, essentially the entire bluff face, from revegetation activities and thus deny the availability of habitat for the El Segundo Blue Butterfly.

Despite the above-detailed history of the failure to comply with the permit conditions and Coastal Act, we are willing to continue to work with all parties involved to resolve this violation.

2. Cease and Desist Order

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

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

I am issuing this notice of intent to commence Cease and Desist Order proceedings to compel the removal of the unpermitted development on the subject property and to require you to cease and desist from conducting and maintaining development that is unpermitted and/or inconsistent with any previously issued permit and from conducting further unpermitted development. As noted above, the unpermitted development and development inconsistent with permits issued by the Commission is located on property in Torrance, which is in the retained permit jurisdiction of the Commission. Such an order may be issued to any person or persons who have undertaken such activities.

As described above, the unpermitted development on the subject property includes both non-compliance with the final approved plans and terms and conditions of CDP 5-90-1041-A2, including failure to implement restoration of habitat areas on the bluff-slope, installation of non-native vegetation inconsistent with the butterfly habitat restoration plan, and unpermitted development on the site including construction of two unpermitted structures on the bluff slope and on the toe of the bluff resulting in displacement of native vegetation and landform alteration. Your failure to comply with the required habitat restoration plan on the bluff slope constitutes noncompliance with a requirement of the permit previously issued by the Commission. Further, the unpermitted activities on the subject property constitute "development" under Section 30106, were not exempt from permitting requirements, and were conducted within the Coastal Zone. Thus a CDP was required; however, a CDP was never issued authorizing the development. Therefore, development requiring a permit was undertaken without a permit, and the criteria of Section 30810(a) have been met under both (1) and (2), and I am sending this letter to initiate proceedings for the Commission to determine whether to issue a Cease and Desist Order.

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

3. Restoration Order

Section 30811 authorizes the Commission to order restoration of a site in the following terms:

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

Pursuant to Section 13191 of the Commission's regulations, I have determined that the specified activities meet the criteria of Section 30811 of the Coastal Act, based on the following:

- 1) Unpermitted development including installation of non-native vegetation inconsistent with the required butterfly habitat restoration plan and construction of two structures: 1) a 13-foot high, 480 sq. ft. shade structure (with eight 10-inch posts and an 8-foot tall retaining wall with thatched roof) on an approximately 680 sq. ft. concrete patio at the toe of a coastal bluff and 2) an 8ft. high, 12ft. in diameter thatched umbrella on an approximately 10ft. in diameter concrete pad at mid-bluff. This development is also inconsistent with the terms of the Coastal Development Permit issued for this property.
- 2) This development is inconsistent with the resource protection policies of the Coastal Act, including Sections 30240, 30251, 30253, 30235, 30210, 30220, and 30221.
- 3) The unpermitted development remains in place and is thereby causing continuing resource damage, as defined by Section 13190 of the Commission's regulations. The impacts from the unpermitted development continue and remain unmitigated; therefore, the damage to resources protected by the Coastal Act is continuing.

For the reasons stated above, we are commencing proceedings for the Commission's issuance of a Restoration Order in order to restore the subject property. The procedures for the issuance of Restoration Orders are described in Sections 13190 through 13197 of the Commission's regulations, which are codified in Title 14 of the California Code of Regulations.

4. Response Procedure

In accordance with Sections 13181(a) and 13191(a) of the Commission's Regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this notice of intent to commence Cease and Desist and Restoration Order proceedings by completing the enclosed Statement of Defense (SOD) form. If you want to settle this matter and reach an agreement with the Commission (as outlined below), you may be able to avoid having to prepare the SOD. If however, you desire to contest issuance of the order, **the SOD form must be returned to the Commission's Long Beach office at 200 OceanGate 10th Floor, Long Beach 90802, directed to the attention of Andrew Willis, by no later than June 7, 2010.**

5. Civil Liability/Exemplary Damages

We are obliged to inform you that the Coastal Act includes a number of penalty provisions for violations of the Coastal Act. Section 30820(a)(1) provides for civil liability to be imposed on any person who performs or undertakes development without a CDP and/or that is inconsistent with any CDP previously issued by the Commission in an amount that shall not exceed \$30,000 and shall not be less than \$500 for each instance of development that is in violation of the Coastal Act. Section 30820(b) provides that additional civil liability may be imposed on any person who performs or undertakes development without a CDP and/or that is inconsistent with

any CDP previously issued by the Commission when the person intentionally and knowingly performs or undertakes such development, in an amount not less than \$1,000 and not more than \$15,000 per day for each day in which each violation persists. Section 30821.6 provides that a violation of a cease and desist order, including an Executive Director Cease and Desist Order, or a restoration order can result in civil fines of up to \$6,000 for each day in which the violation persists. Section 30822 provides for additional exemplary damages.

6. Resolution

If you have any questions regarding this letter or the enforcement case, please call Andrew Willis at (562) 590-5071 or send correspondence to his attention California Coastal Commission, 200 Ocean Gate 10th Floor, Long Beach, CA 90802. We would like to work with the parties involved to resolve these issues amicably. One option that you may consider is agreeing to a "consent order". A consent order is similar to a settlement agreement. A consent order would provide an opportunity to resolve this matter consensually and to have input into the process and timing of restoration of the subject property, and would allow for negotiation of a penalty amount with Commission staff. If you are interested in negotiating a consent order, please contact me at (562) 590-5071 or send correspondence to my attention at the address listed on the letterhead when you receive this letter, but by no later than **May 25th, 2010**, to discuss options to resolve this case.

We look forward to working with you to resolve this situation and thank you in advance for your cooperation.

Sincerely,



PETER M. DOUGLAS
Executive Director
California Coastal Commission

Enclosure: Statement of Defense form

cc: Michelle Campbell
Lisa Haage, Chief of Enforcement, CCC
Alex Helperin, Staff Counsel, CCC
N. Patrick Veesart, Southern California Enforcement Supervisor, CCC
Andrew Willis, South Coast District Enforcement Analyst, CCC

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



VIA CERTIFIED AND REGULAR MAIL
Certified Mail No. 7007 1490 0000 8798 9449
REVISED VERSION¹

June 22, 2010

William Campbell
100 The Strand
Hermosa Beach, CA 90254

**Subject: Notice of Intent to Commence Cease and Desist Order
and Restoration Order Proceedings**

Violation File Number: V-5-03-002

**Property location: 433 Paseo de la Playa, Torrance, Los Angeles County,
APN 7512-003-021**

Unpermitted Development: Non-compliance with terms and conditions of CDP 5-90-1041-A2, including failure to implement habitat restoration plan, installation of vegetation inconsistent with habitat restoration plan, and construction of unpermitted structures on the bluff slope and on the toe of the bluff resulting in removal of native vegetation, landform alteration, and preclusion of implementation of required habitat restoration plan.

Dear Mr. Campbell:

The California Coastal Act² was enacted by the State Legislature in 1976 to provide long-term protection of California's 1,100-mile coastline through implementation of a comprehensive planning and regulatory program designed to manage conservation and development of coastal resources. The California Coastal Commission ("Commission") is the state agency created by, and charged with administering, the Coastal Act of 1976. In making its permit and land use planning decisions, the Commission carries out Coastal Act policies, which, amongst other goals, seek to protect and restore environmentally sensitive habitats, such as habitat that exists on the

¹ We are resending the Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings ("NOI") dated May 17, 2010 to incorporate the unpermitted retaining wall at the toe of the bluff along the western property line and to establish a revised deadline to respond to this NOI. Material changes from the May 17, 2010 NOI are underlined.

² The Coastal Act is codified in sections 30000 to 30900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated.

property for the federally-listed endangered El Segundo Blue Butterfly, which has been documented on the coastal bluff on the property; protect natural landforms, including coastal bluffs; protect scenic landscapes and views of the sea; protect against loss of life and property from coastal hazards; and provide maximum public access to the sea. The El Segundo Blue Butterfly is a critically endangered species whose range is limited to just the El Segundo Dunes and nearby dunes and bluffs that support the butterfly's host plant, Coastal Buckwheat. The Torrance Bluffs, including that portion of the bluffs on the subject property, is one of the few locations in the world that this species is found.

The purpose of this letter is to notify you of my intent, as the Executive Director of the Commission to commence proceedings for issuance of Cease and Desist and Restoration Orders to address unpermitted development conducted in violation of the Coastal Act on the property located at 433 Paseo de la Playa, Torrance, County of Los Angeles, Assessor Parcel Number 7512-003-021 ("subject property"). As noted in our prior communications with you, the development is both unpermitted, and includes non-compliance with terms and conditions of Coastal Development Permit ("CDP") No. 5-90-1041-A2, which was issued to William and Michelle Campbell, including failure to implement the required habitat restoration plan to re-establish habitat for an endangered butterfly species adversely affected on the property as a result of previous unpermitted development separate from the development at issue here, and installation of non-native vegetation inconsistent with the butterfly habitat restoration plan. Please be advised that non-compliance with the final approved plans and terms and conditions of an approved CDP constitutes a violation of the Coastal Act.

In addition, unpermitted construction of a shade structure and patio on the bluff slope and a shade structure, patio and retaining wall at the toe of the bluff resulting in removal of major vegetation and landform alteration occurred on the property within areas that were required to be restored with habitat for an endangered butterfly species as mitigation for previous unpermitted development on the property. This development is both unpermitted development and a violation of the permit.

Staff has also confirmed that an approximately 8' high masonry retaining wall at the toe of the bluff along the western property line was constructed without the necessary coastal development permit and in non-compliance with the terms and conditions of CDP No. 5-90-1041-A3, which authorized a 4' high retaining wall in this location to assist in the revegetation of the bluff by limiting erosion at the toe of the bluff. The CDP limited the wall to 4' high in order to minimize alteration of the bluff and protect the scenic and visual qualities of the bluff and beach area.

Under Section 30600 of the Coastal Act, all development within the Coastal Zone not otherwise exempted under the Coastal Act requires a CDP. The term "development" is defined broadly in Section 30106 of the Coastal Act as follows:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure...grading...change in the density or intensity of use of land...construction, reconstruction, demolition, or alteration of the size of any structure...and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations...

The above-described development on the subject property constitutes "development" as defined by Section 30106, is not exempt, and is within the Coastal Zone. As such, it is subject to Coastal Act permitting requirements. We have researched our permit files and found that the above-mentioned development has not been authorized by a CDP as required by law. Any non-exempt development activity conducted in the Coastal Zone without a valid CDP constitutes a violation of the Coastal Act. Moreover, any development conducted that is inconsistent with any permit previously issued by the Commission is also a violation of the Coastal Act.

1. Violation History

Commission staff has attempted to informally resolve this violation cooperatively for six years and so avoid formal enforcement action. Despite this effort, a resolution consistent with CDP No. 5-90-1041-A2 and the Coastal Act, such as removal of the unpermitted shade structures, retaining wall, and patios and implementation of the butterfly habitat restoration plan, has not been achieved. The unpermitted shade structures and patios persist on a largely undeveloped coastal bluff causing ongoing loss of habitat for a federally-listed endangered species, the El Segundo Blue Butterfly. This habitat loss remains unmitigated despite our efforts to resolve the violations informally and thereby address the coastal resource impacts associated with the shade structures, patios, and failure to implement the required butterfly habitat restoration plan.

Site History

As you are aware, on April 12, 1991, the Commission approved CDP No. 5-90-1041 for the construction of a 2-story, 7,334, sq. ft. single family residence on a vacant 0.62 acre blufftop lot on the subject property, subject to Standard and Special Conditions, including Special Condition No. 5, which required approval from the Commission for any future improvements to the property, such as the placement of fill and sandbags, installation of non-native vegetation, and construction of patios, walls and shade structures that would subsequently occur on the property without authorization from the Commission.

On December 15, 1995, the Commission issued CDP No. 5-90-1041-A2, applied for by Hawthorne Savings and Loan in response to Commission enforcement action regarding previous unpermitted development conducted at the site, and issued to William and Michelle Campbell.³ Page 5 of the staff report for CDP No. 5-90-1041-A2 notes that "The present applicant, Hawthorn [sic] Savings, is in the process of transferring ownership to a third party. The new owner will assume the responsibility of caring [sic] out the project and its conditions. This has been included in the new owners escrow agreement." CDP No. 5-90-1041-A2 was an application to address unpermitted development which had occurred on the bluff face, consisting of construction of a drain-line and placement of fill and sandbags. CDP No. 5-90-1041-A2 authorized installation of a drain-line, a concrete stairway to stabilize an eroded area of the bluff, chain-link fencing and gate, an irrigation system, and jute matting for erosion control.

³ Exhibit 5 to the Staff Report for CDP No. 5-90-1041-A2 is the Notification of Substitution of Applicant for Coastal Permit and Affidavit of Substituted Applicant whereby William and Michelle Campbell agreed to assume the application originally filed by Hawthorne Savings and Loan, and comply with all conditions of that application.

This CDP also authorized restoration of the bluff to mitigate for impacts of the unpermitted placement of fill and sandbags, which had caused adverse impacts to El Segundo Blue Butterfly habitat. The adverse impacts to the butterfly habitat resulted both from the erosion, "which removed top soil and native vegetation including the El Segundo Blue Butterfly's host plant-Coastal Buckwheat" and from the unpermitted placement of fill and sandbags on the bluff, which resulted in the "burying of the native plant species located on the bluff."⁴

In order to ensure restoration of habitat for the El Segundo Blue Butterfly which was destroyed by the unpermitted development, the Commission issued CDP No. 5-90-1041-A2 with Special Condition 1, Restoration, Maintenance, and Monitoring, which states:

Prior to the issuance of the coastal development permit the applicant/landowner shall submit to the Executive Director for review and approval, restoration maintenance and monitoring program consistent with Exhibit #4, revised restoration plan, and Exhibit #5, Habitat Enhancement and Erosion Control Plan, by Rudi Mattoni, as specified below and using plant material as indicated in Exhibit #3, applicant's plant list. By accepting this permit the applicant/landowner agrees to carry out this plan.

The required restoration plan included steps to ensure the mitigation of the loss of the host plant for the El Segundo Blue Butterfly and to minimize future erosion by regrading and replanting the bluff face with native plants, in a detailed scheme of three zones, with specified plant mixes and counts in each of the three zones on the bluff. Special Condition 1 included a requirement for a monitoring plan for the restoration, to ensure that it was successful. The monitoring plan required annual reports for five years, and required corrective measures, including replanting, to be instituted if any of the monitoring reports showed that all or part of the restoration was failing. The monitoring plan included the requirement that "[a]t the end of five years, a 'viable community' of Coastal Buckwheat, no fewer than 140 plants, shall exist in this area."

Attempts at Resolution

On July 6, 2001, our staff confirmed that the habitat restoration and monitoring required by CDP No. 5-90-1041-A2 had not been implemented – staff found no evidence of a viable Coastal Buckwheat community of 140 plants on the site and none of the required monitoring reports in the file – in fact, non-native vegetation had been planted in place of the required native plants, and our attempts to resolve the violation began. Our staff also received and confirmed reports of additional unpermitted development on the property, including construction of structures on the bluff slope and on the toe of the bluff. These activities resulted in removal of native vegetation, and alteration of a natural landform, the coastal bluff, which is highly visible from a public beach. As noted above, the restoration of the habitat for the El Segundo Blue Butterfly specifically required by Special Condition 1 of CDP No. 5-90-1041-A2 was not performed, and, in fact, this unpermitted development was placed in the very area that CDP No. 5-90-1041-A2

⁴ Staff Report for CDP No. 5-90-1041-A2, on Page 5.

required to be restored to mitigate the adverse impacts to the El Segundo Blue Butterfly from the previous unpermitted placement of fill and sandbags on the bluff.

On April 25, 2003, staff sent William and Michelle Campbell the first of several Notice of Violation ("NOV") letters. In that letter, Commission staff informed the Campbells that unpermitted development had occurred on the property and that in order to resolve the violation, they must submit a CDP application for either removal of the unpermitted development and restoration of the site, or after-the-fact authorization for the unpermitted development. This letter also informed the Campbells of the potential for the issuance of a Commission Cease and Desist Order under Section 30810 and a Restoration Order under Section 30811 and for recordation of a NOVA on the property pursuant to Section 30812. The Campbells were given until May 25, 2003 to submit an application; however our office received no response.

On July 31, 2003, staff sent the Campbells a second NOV letter in which they were again informed that unpermitted development had occurred on the property and again informed of the noncompliance with Special Condition 1 of CDP No. 5-90-1041-A2. The Campbells were given a new deadline of August 18, 2003 to submit an application.

On September 8, 2003, our staff spoke to you; staff explained that all unpermitted development must be addressed, as explained in the previous two NOV letters. You indicated that you would submit an amendment application for the restoration program in CDP No. 5-90-1041-A2, as well as the unpermitted structures.

On October 8, 2003, staff received a short statement from the Campbells' arborist, apparently intended to respond to the NOV letters, which claimed the required restoration had been implemented. But the statement did not address the complete failure of the habitat restoration, which was apparent from staff's visits to the site and is confirmed by the fact that the two unpermitted shade structures were placed in the very area required to be restored to a viable community of native plants, including Coastal Buckwheat. Moreover, the arborist's statement did not commit to removal of the unpermitted structures or other resolution of the violations noted in the letters from the Commission staff. In addition, as stated above, the habitat restoration required under Special Condition 1 of CDP No. 5-90-1041-A2 was to be completed within 90 days from the issuance of the permit. In addition, the restoration condition required that annual monitoring reports be submitted, and corrective measures be taken if the restoration failed. None of these requirements were followed, in violation of the permit requirements, and the habitat area for the El Segundo Blue Butterfly remains adversely impacted.

On July 8, 2004, staff sent the Campbells a third NOV letter which reiterated that unpermitted development had occurred on the property and that in order to resolve the violation, the Campbells must submit a CDP application for either the removal of the unpermitted development and restoration of the site or seek after-the-fact authorization for the unpermitted development. This letter again informed the Campbells of the potential for the issuance of a Cease and Desist Order and the recordation of a NOVA on the property pursuant to Section 30812.

Staff received an incomplete application to authorize the unpermitted structures after-the-fact on August 31, 2004. The application seeking authorization of the unpermitted structures was completed on March 17, 2005; however the application did not address the failure to implement the restoration plan required by CDP No. 5-90-1041-A2. After one postponement from the April 2005 hearing, on August 9, 2005, the Commission held a public hearing and at that hearing, denied CDP No. 5-90-1041-A5 requesting after-the-fact approval for the construction of unpermitted development on your property. The Commission denied CDP No. 5-90-1041-A5 on the grounds that the development did not conform to the resource protection policies of Chapter 3 of the Coastal Act. In reference to the harm from the unpermitted development to visual and scenic resources:

"The Commission finds the project, as currently proposed, is not suited and designed to protect scenic and visual qualities of the site as an area of public importance. Denial of the proposed project would preserve existing scenic resources and would be consistent with preserving the existing community character where approved (or pre-Coastal) development generally occurs solely at the top of the coastal bluff. . . . The alteration of the bluff from construction of the shade structures and patio would result in an adverse visual effect when viewed from public vantage points along the beach."

The Commission also found in its denial of after-the-fact approval for the shade structures that:

"The proposed development will replace environmentally sensitive habitat areas, will be disruptive of nearby sensitive habitat values, and would, if proliferated, be incompatible with the continuance of those habitat values along the bluffs. Therefore, the Commission finds that the proposed project is inconsistent with Section 30240 of the Coastal Act, and therefore denies the project."

Moreover, the Commission found that "[b]ecause the unpermitted development is located on a coastal bluff and includes a protective device that substantially alters natural landforms along bluffs and cliffs, . . . approval of the unpermitted development would not be consistent with Coastal Act Section 30253(2)." Additionally, the Commission noted that "structural stability would have to be achieved by hardening portions of the cliff face for the patios and structures," which would harm the habitat for the El Segundo Blue Butterfly, because its host plant, Coastal Buckwheat, "expands radially through loose soils" and hardening the bluff limits the ability of the Coastal Buckwheat plant to expand, thereby adversely impacting the butterfly. The Commission also noted that "unpermitted development has occurred in a potential habitat area of the EL Segundo Blue Butterfly, a Federally Listed endangered species, in an area previously ordered restored by the Commission." Overall, retention of the unpermitted development was inconsistent with Chapter 3 of the Coastal Act, as the Commission stated by denying CDP Application No. 5-90-1041-A5. A request for reconsideration of the Commission's CDP decision filed by the Campbells was rejected by the Commission on November 18, 2005.

On December 21, 2005, following the action taken by the Commission denying the application after the fact for retention of the unpermitted development, staff sent the Campbell's a fourth NOV letter. Again, the Campbell's were reminded of the potential for the issuance of a Cease

and Desist Order and the recordation of a NOVA on the property pursuant to Section 30812. The deadline for submitting an application for a permit amendment to authorize removal of the structures and to implement the previously approved bluff-face habitat restoration plan was January 20, 2006. At the Campbell's request, on January 19, 2006, staff extended that deadline for no more than 30 days. Staff also indicated that they could not allow unpermitted development to persist on the property for an extended length of time.

Staff received an incomplete CDP application (No. 5-90-1041-A6) for removal of the structures on February 17, 2006. However, the removal plan, debris dispersal plan, and revegetation plan for the disturbed areas were missing from the application, as detailed in staff's application status letter to the Campbells dated April 26, 2006. In the April 26 status letter, staff requested that the Campbells submit these items to complete the application by June 15, 2006. However, staff did not receive the requested items by the deadline. In fact, this application was never completed, and was therefore finally returned to the Campbell's on June 25, 2009.

On June 11, 2008, staff sent Michelle Campbell⁵ a fifth NOV letter. In that letter, Commission staff informed Ms. Campbell that in order to resolve this matter, she must remove the unpermitted shade structures, patios, and retaining wall on the bluff and begin implementation of the restoration plan required by and approved pursuant CDP No. 5-90-1041-A2. This letter repeated the potential for the issuance of a Cease and Desist Order and the recordation of a NOVA on the property pursuant to Section 30812, and the desire of staff to work with Ms. Campbell to resolve this matter.

Notice of Intent to Record a Notice of Violation and to Commence Cease and Desist Order and Restoration Order Proceedings

By way of background, on March 31, 2010, the Executive Director issued Michelle Campbell a Notice of Intent to Record a Notice of Violation of the Coastal Act and to Commence Cease and Desist and Restoration Order Proceedings, to resolve the violations through formal enforcement actions either as a consent or standard order proceeding. An SOD form was sent along with the NOI, affording Michelle Campbell the opportunity to present defenses to the issuance of the orders. The NOI also provided Michelle Campbell with the opportunity to specifically object, in writing, to the recordation of a Notice of Violation ("NOVA") in this matter, as provided for in Coastal Act Section 30812. The NOI and the SOD form specified a twenty-day time period for submittal of an SOD and objection to the recordation of a Notice of Violation, as required under Section 13181(a) of the Commissions Regulations and Coastal Act Section 30812(b), respectively. This letter is to provide a similar notice to you.

The final date for submittal of the SOD and objection for Ms. Campbell was April 20, 2010. Michelle Campbell did not object to recordation of a NOVA, and therefore on April 28, 2010, the Executive Director recorded the NOVA on the subject property in the Los Angeles County Recorder's office as Instrument No. 2010-0566556.

⁵ Property records indicate that you transferred your interest in the property to Michelle Campbell's sole ownership on October 29, 2007. However, as described in this letter, the Commission may direct a cease and desist order to any person who has undertaken development inconsistent with a previously issued permit.

Throughout the history of attempting to resolve this violation, staff has generally monitored this site. Through those site visits, staff can confirm that as of this letter, removal of the unpermitted development and restoration of the site has not occurred. In addition, the current landscaping on the bluff slope of the property does not comply with the butterfly habitat restoration plan required by CDP No. 5-90-1041-A2, nor with the original permit conditions requiring restoration of this area. As of today's date, the existing landscaping and structures on the property are inconsistent with the restoration plan approved by the Commission and we have not received the required annual restoration monitoring reports. In fact, the unpermitted structures described above are located in two areas of the bluff slope that, pursuant to CDP No. 5-90-1041-A2, were to be restored with Coastal Buckwheat and other native plants to preserve and enhance the habitat of the El Segundo Blue Butterfly. The unpermitted concrete pads and non-native vegetation landscaping eliminate a significant amount of area, essentially the entire bluff face, from revegetation activities and thus deny the availability of habitat for the El Segundo Blue Butterfly.

Despite the above-detailed history of the failure to comply with the permit conditions and Coastal Act, we are willing to continue to work with all parties involved to resolve this violation.

2. Cease and Desist Order

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

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

I am issuing this notice of intent to commence Cease and Desist Order proceedings to compel the removal of the unpermitted development on the subject property and to require you to cease and desist from conducting and maintaining development that is unpermitted and/or inconsistent with any previously issued permit and from conducting further unpermitted development. As noted above, the unpermitted development and development inconsistent with permits issued by the Commission is located on property in Torrance, which is in the retained permit jurisdiction of the Commission. Such an order may be issued to any person or persons who have undertaken such activities.

As described above, the unpermitted development on the subject property includes both non-compliance with the final approved plans and terms and conditions of CDPs 5-90-1041-A2 and A3, including failure to implement restoration of habitat areas on the bluff-slope, installation of non-native vegetation inconsistent with the butterfly habitat restoration plan, and unpermitted development on the site including construction of two unpermitted structures on the bluff slope and on the toe of the bluff resulting in displacement of native vegetation and landform alteration

and construction of an 8' high masonry retaining wall at the toe of the bluff along the western property line. Your failure to comply with the required habitat restoration plan on the bluff slope constitutes noncompliance with a requirement of the permit previously issued by the Commission. Further, the unpermitted activities on the subject property constitute "development" under Section 30106, were not exempt from permitting requirements, and were conducted within the Coastal Zone. Thus a CDP was required; however, a CDP was never issued authorizing the development. Therefore, development requiring a permit was undertaken without a permit, and the criteria of Section 30810(a) have been met under both (1) and (2), and I am sending this letter to initiate proceedings for the Commission to determine whether to issue a Cease and Desist Order.

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

3. Restoration Order

Section 30811 authorizes the Commission to order restoration of a site in the following terms:

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

Pursuant to Section 13191 of the Commission's regulations, I have determined that the specified activities meet the criteria of Section 30811 of the Coastal Act, based on the following:

- 1) Unpermitted development including installation of non-native vegetation inconsistent with the required butterfly habitat restoration plan and construction of three structures: 1) a 13-foot high, 480 sq. ft. shade structure (with eight 10-inch posts and an 8-foot tall retaining wall with thatched roof) on an approximately 680 sq. ft. concrete patio at the toe of a coastal bluff, 2) an 8ft. high, 12ft. in diameter thatched umbrella on an approximately 10ft. in diameter concrete pad at mid-bluff, and 3) an 8' high masonry retaining wall at the toe of the bluff along the western property line. This development is also inconsistent with the terms of the Coastal Development Permits issued for this property.
- 2) This development is inconsistent with the resource protection policies of the Coastal Act, including Sections 30240, 30251, 30253, 30235, 30210, 30220, and 30221.
- 3) The unpermitted development remains in place and is thereby causing continuing resource damage, as defined by Section 13190 of the Commission's regulations.

The impacts from the unpermitted development continue and remain unmitigated; therefore, the damage to resources protected by the Coastal Act is continuing.

For the reasons stated above, we are commencing proceedings for the Commission's issuance of a Restoration Order in order to restore the subject property. The procedures for the issuance of Restoration Orders are described in Sections 13190 through 13197 of the Commission's regulations, which are codified in Title 14 of the California Code of Regulations.

4. Response Procedure

In accordance with Sections 13181(a) and 13191(a) of the Commission's Regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this notice of intent to commence Cease and Desist and Restoration Order proceedings by completing the enclosed Statement of Defense (SOD) form.

On May 17, 2010, the Executive Director issued to you a Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings, to resolve the violations through formal enforcement actions either as a consent or standard order proceeding. An SOD form was sent to you along with the NOI, affording you the opportunity to present defenses to the issuance of the orders. The NOI and the SOD form specified a twenty-day time period for submittal of an SOD and, as required under Section 13181(a) of the Commissions Regulations. The final date for submittal of the SOD was June 7, 2010. You did not submit an SOD by that date. However, as a courtesy and for your convenience, we are extending the deadline to submit an SOD in response to this revised NOI.

If you want to settle this matter and reach an agreement with the Commission (as outlined below), you may be able to avoid having to prepare the SOD. If however, you desire to contest issuance of the order, **the SOD form must be returned to the Commission's Long Beach office at 200 Oceangate 10th Floor, Long Beach 90802, directed to the attention of Andrew Willis, by no later than July 12, 2010.**

5. Civil Liability/Exemplary Damages

We are obliged to inform you that the Coastal Act includes a number of penalty provisions for violations of the Coastal Act. Section 30820(a)(1) provides for civil liability to be imposed on any person who performs or undertakes development without a CDP and/or that is inconsistent with any CDP previously issued by the Commission in an amount that shall not exceed \$30,000 and shall not be less than \$500 for each instance of development that is in violation of the Coastal Act. Section 30820(b) provides that additional civil liability may be imposed on any person who performs or undertakes development without a CDP and/or that is inconsistent with any CDP previously issued by the Commission when the person intentionally and knowingly performs or undertakes such development, in an amount not less than \$1,000 and not more than \$15,000 per day for each day in which each violation persists. Section 30821.6 provides that a violation of a cease and desist order, including an Executive Director Cease and Desist Order, or a restoration order can result in civil fines of up to \$6,000 for each day in which the violation persists. Section 30822 provides for additional exemplary damages.

6. Resolution

If you have any questions regarding this letter or the enforcement case, please call Andrew Willis at (562) 590-5071 or send correspondence to his attention California Coastal Commission, 200 Oceangate 10th Floor, Long Beach, CA 90802. We would like to work with the parties involved to resolve these issues amicably. One option that you may consider is agreeing to a "consent order". A consent order is similar to a settlement agreement. A consent order would provide an opportunity to resolve this matter consensually and to have input into the process and timing of restoration of the subject property, and would allow for negotiation of a penalty amount with Commission staff. If you are interested in negotiating a consent order, please contact me at (562) 590-5071 or send correspondence to my attention at the address listed on the letterhead when you receive this letter to discuss options to resolve this case.

We look forward to working with you to resolve this situation and thank you in advance for your cooperation.

Sincerely,



PETER M. DOUGLAS
Executive Director
California Coastal Commission

Enclosure: Statement of Defense form

cc: Michelle Campbell
Lisa Haage, Chief of Enforcement, CCC
Alex Helperin, Staff Counsel, CCC
N. Patrick Veasart, Southern California Enforcement Supervisor, CCC
Andrew Willis, South Coast District Enforcement Analyst, CCC

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



---FINAL NOTICE---

April 21, 2011

Michelle Campbell
433 Paseo De La Playa
Redondo Beach, CA

William Campbell
100 The Strand
Hermosa Beach, CA 90254

Tom Moroney
Law Office of E. Thomas Moroney
811 N. Catalina Ave., Suite 2206
Redondo Beach, California 90277

Casey Olson
Law Offices of Olsen & Olsen
2367 Torrance Boulevard
Torrance, CA 90501-2541

Subject: 433 Paseo De La Playa, Redondo Beach (Violation File No. V-05-03-002)

Dear Ms. Campbell, and Messrs Campbell, Moroney, and Olsen:

As you know, since 2003, Commission staff has made numerous efforts to work with Michelle and William Campbell to resolve the Coastal Act violations existent on the property described above. Unfortunately, to date, no agreement has been reached and the violations remain in place. We understand that there exists some disagreement between the various parties as to who should bear responsibility for removing the development, restoring the property, and resolving civil liability. We are writing this letter as a courtesy and to address the legal liability issue before taking this matter to the Commission for formal action.

As you may know, the Coastal Act requires any person who performs development within the Coastal Zone to obtain a coastal development permit (CDP)¹. Accordingly, any person who performs development without the necessary CDP does so in violation of the Coastal Act and therefore is liable under its various terms. Similarly, any person who undertakes development that is authorized under a CDP is also bound by the conditions and limitations of said CDP. The

¹ Public Resources Code section 30600.

failure to comply with any term or condition of such a CDP also constitutes a violation of the Coastal Act, and carries with it the same liabilities noted above.

In 1995, the Campbells sought and received CDP No. 5-90-1041-A2 from the Coastal Commission. Under the specific and clear requirements of this CDP, the Campbells agreed to restore habitat for the federally listed as Endangered El Segundo Blue Butterfly within 90 days of CDP issuance. Moreover, that same year, William Campbell signed an affidavit swearing that he: (1) understood all of the requirements of the CDP; (2) understood that any modifications to the final approved plans or amendments require additional approval from the Commission; and (3) assumed all obligations imposed by the original CDP, including any future requirements to correct violations of the Coastal Act. The affidavit is enclosed for your reference. The Campbells availed themselves of the benefits of the CDP, yet failed to comply with its restoration requirements. Instead, the Campbells undertook additional unpermitted development, including the construction of various structures on the bluff slope, in the very area that they agreed to restore under the CDP.


Based upon the information presented to Commission staff, it appears that these actions occurred during the time that Michelle and William Campbell were a married couple, and jointly owned and resided at the property at issue. Consequently, under the enforcement provisions of the Coastal Act, both Michelle and William Campbell are jointly responsible for undertaking the development at issue (and for failing to fulfill the obligations of CDP No. 5-90-1041-A2); and thus the consequences thereof.

Commission staff has received claims that, in the course of the divorce and dissolution proceedings, some agreements regarding liability may have been reached between the respective parties. However, despite Commission staff's numerous requests of both parties for any information to substantiate those claims, we have received no evidence of any agreement that would affect liability for resolving Coastal Act violations. While such agreements may well govern the legal possessions between such parties, they do not affect legal responsibilities under the Coastal Act, nor relieve the parties from their obligations at the site, which they knowingly and willingly accepted in 1995.

We remain desirous of reaching an outcome that is agreeable to all parties, are more than willing to engage in further discussions, and will consider any information that any of the parties wishes to provide. However, it presently appears that Michelle and William Campbell are unwilling and/or unable to commit to a joint settlement agreement with Commission staff, and have, to date, not agreed to address the issues at the site. Resolving this matter through Consent Cease and Desist and Restoration Orders (i.e., a settlement agreement) is our preferred path to resolution. However, Commission staff can no longer afford to invest precious limited time and resources attempting to work with Michelle and William Campbell when neither appears interested and/or able to commit to such a process. **As such, Commission staff has tentatively scheduled this matter for hearing at the Commission's June 15-17, 2011 meeting in Marina del Rey.** As a courtesy, I have enclosed copies of the Notices of Intent letters mailed previously to Michelle and William Campbell, dated March 31, and June 22, 2010, respectively. These documents provide more detail regarding the Coastal Act and the actions inconsistent therewith.

As noted previously, we remain desirous of resolving this in an agreeable fashion. Should you wish to submit additional materials for the Commission's consideration, please send them to my attention at the address listed on the letterhead by no later than April 29, 2011. In the interim, should you have any questions regarding this matter, please do not hesitate to contact me at (415) 904-5292.

Sincerely,



Elijah Davidian
Statewide Enforcement Officer

Encl. Affidavit of Substituted Applicant, signed by William Campbell.
Notices of Intent, dated March 31, and June 22, 2010.

cc: Lisa Haage, Chief of Enforcement
Pat Veesart, Southern California Enforcement Supervisor
Alex Helperin, Staff Counsel

May 14, 2003

RECEIVED
South Coast Region

MAY 22 2003

CALIFORNIA
COASTAL COMMISSION

RECEIVED

MAY 19 2003

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001
Attn: Jamie Burwell

Re: Violation File Number: V-5-03-002
Location: 433 Paseo de la Playa, Los Angeles County

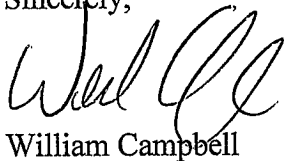
Dear Ms. Burwell or To Whom It May Concern,

We have been calling since we received this notice. It took days to get a response and we were finally notified that you no longer work at the Coastal Commission. No one seems to know about this violation and we don't know what to do without speaking to whoever is taking your position. Also we are going on vacation from May 17-27 and are not sure we understand what this violation is, or what the proposed amendment means. We really need to talk to someone who knows the case, and would appreciate if someone can either respond to us by phone or by letter after we return from our vacation. Also you requested we call you by the 10th which is a Saturday, and also to pull a permit by the 25th which is also a Saturday (which seems quite odd).

Please allow us more time to talk to one of your personnel, so we know what we are doing about this permit, and that we are all on the same page! We have no knowledge of a violation existing, and thought that you would be contacting us on a yearly basis about the bluff slope restoration.

We will be back in the office by May 28, and would like to hopefully get a call or letter from one of your personnel then. Thank you for your consideration.

Sincerely,



William Campbell

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NOV 6 1995

CALIFORNIA
COASTAL COMMISSION
WITH COAST DISTRICT

November 3, 1995

Pam Emerson
California Coastal Commission
P.O. Box 1450
245 W. Broadway 380
Long Beach CA 90802-1450

RE: Permit 5-90-104I and Violation V-5-TOR-95-003,
433 Paseo De La Playa, Torrance

Dear Ms. Emerson:

Hawthorne Savings, F.S.B. and myself, Wm. Campbell Construction, have opened escrow on September 29, 1995 for the purchase of the above property. We are hoping to close the escrow on November 13, 1995 to meet my time projections for completion of the project.

Hawthorne Savings has provided to us all the information regarding the status of the previously issued permit, the subsequent violation notice, and all the materials and correspondence for amendment of the permit. We are aware of the requirements and the concerns of the Fish and Wildlife Commission and your role in monitoring the enforcement of these items.

At this time, we request that you make a determination that the previously issued permit for the HOUSE AND BLUFFTOP ONLY CONSTRUCTION be allowed to proceed, meeting our time projections.

Page 2,

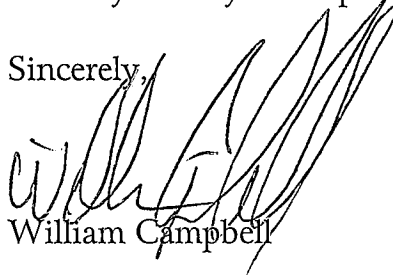
We are requesting this determination, as well as THE ASSIGNMENT OF THE PERMIT TO BE DONE IN ESCROW, in order to proceed with the closing of this escrow and the construction of the house. Your approval and consideration is critical to proceed with this development and close the escrow by our mutually agreed upon date of November 13, 1995. You can expect full cooperation by Campbell Construction in maintaining the integrity of the Bluffside parcel.

We agree to specifically follow the guidelines mandated by the Coastal Commission and the Fish and Wildlife. It is understood these will be mandated at the November 12, 1995 meeting of the Coastal Commission. We will be present at that meeting, if any questions should arise that we can directly respond to and answer. We agree to work with your office, if any modifications should arise on maintaining the integrity of the Bluffside vegetation.

It is very important that you consider placing this matter on your Agenda for November 12, 1995. Thank you.

Thank you for your response to this matter. It is appreciated.

Sincerely,



William Campbell

November 2, 1995

Hawthorne Savings, F.S.B.
2381 Rosecrans Avenue
El Segundo, CA 90245

Regarding Escrow No. 99010279-5 JW (433 Paseo de la Playa)

Previous Escrow Instructions are hereby amended in the following particulars only:

The Buyer is aware the the temporary release of the stop work order by the Coastal Commission is contingent upon the Buyer's compliance with the bluff face requirements of the Commission. The Buyer is further aware that the Commission may reimpose a stop work order if the Buyer does not comply within the time frame established by the Commission.

All other instructions not in conflict with the foregoing shall remain unchanged.



William Campbell

HAWTHORNE SAVINGS, F.S.B.

By: _____

Campbell Construction & Development

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February 20, 1996

FEB 20 1996

California Coastal Commission
245 W. Broadway, Suite 380
Long Beach, CA 90802-4416
Attn: Al Pedilla

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

Re: Permit #5-90-1041A2

Dear Mr. Pedilla,

The Restoration Maintenance and Monitoring Program for the property located at 433 Paseo de la Playa, Torrance, will consist of the following: Zone A will be planted with Coastal Buckwheat and Iceplant (temporary) and at least four five-gallon plants with temporary irrigation and jute matting. Zone B shall be planted with native annuals and perennials of the sea bluff succulent communities, with artificial irrigation for the first year only. All iceplant, weeds and grasses shall be removed as they appear. Zone C shall be planted with iceplant and four five-gallon plants from Exhibit #5. Artificial irrigation shall cease after one year.

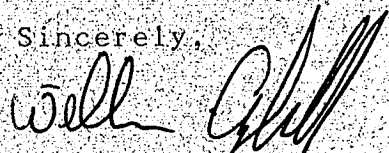
Annually the property shall be monitored by a licensed landscaper with knowledge of the habitats of the coastal bluffs, with a report indicating a work program to assure erosion control, protection of the habitat, and maintenance of the Buckwheat and native plants in the following years. After the end of five years the iceplant shall be removed and the Buckwheat shall consist of at least 140 plants.

If the annual reports indicate non-success, replanting shall occur in accordance with Section 1.a. If revegetation remains unsuccessful, we shall submit a revised program as an amendment to the permit.

The restoration plan shall be completed within 90 days of issuance of permit.

Please feel free to contact the office if we can further assist you.

Sincerely,



William Campbell