

CALIFORNIA COASTAL COMMISSION

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F 7.1 & 7.3

ADDENDUM

Click here to go
to the staff report
which follows the
correspondence received.

June 15, 2011

TO: Coastal Commissioners and Interested Parties

FROM: Lisa Haage, Chief of Enforcement

SUBJECT: ADDENDUM TO **ITEM NOS. 7.1 & 7.3** - CEASE AND DESIST ORDER
CCC-11-CD-04 AND RESTORATION ORDER CCC-11-RO-03
(MICHELLE & WILLIAM CAMPBELL)
FOR THE COMMISSION MEETING OF **JUNE 17, 2011**

Documents Received:

Documents included in this addendum are the letters from the following in support of the staff recommendation regarding issuance of the proposed Cease and Desist and Restoration Orders:

1. Mary Jo Baretich, President, Cabrillo Wetland Conservancy
2. Robert A. Hamilton, President, Hamilton Biological, Inc.
3. Steve Ray, Executive Director, Banning Ranch Conservancy
4. Kevin Nelson, Member, Banning Ranch Conservancy
5. Terry Welsh, President, Banning Ranch Conservancy
6. Joe Geever
7. Penny Elia
8. Bill Bennett
9. Jennifer W. Frutig
10. Patricia Barnes
11. Melody and John Perry
12. Cindy Black
13. Deborah Koken
14. Suzanne Forster
15. Bruce Bartram
16. Dorothy & Michael E. Kraus
17. Natalie & Dave Sutherland

Elijah Davidian

From: MJ Baretich [mjbaretech@hotmail.com]
Sent: Saturday, June 11, 2011 9:17 PM
To: Andrew Willis; Elijah Davidian
Subject: Support for Cease and Desist Order CCC-11-CD-04 and Restoration Order CCC-11-RO-03

Andrew Willis
Eli Davidian
California Coastal Commission
200 Oceangate 10th Floor
Long Beach, CA 90802-4316

Re: Support for Cease and Desist Order CCC-11-CD-04 and Restoration Order CCC-11-RO-03

Dear Mr. Willis and Mr. Davidian:

Enforcement of the Coastal Act is a difficult job at best, but as I have witnessed in the past, the staff report for this agenda item is a record of forbearance and regulatory restraint that is almost beyond comprehension. For almost 20 years there have been coastal resource problems associated with this site, but for the last eight years staff has been ignored or provided with misinformation on numerous occasions when it is very clear that the respondents clearly understand their obligations.

With this in mind, I strongly support staff recommendations for Commission approval of the above-referenced cease and desist order as well as the accompanying restoration order that will allow for the late but ultimate restoration of very important habitat that supports the federally endangered El Segundo blue butterfly along with a host of other endangered species that make their home in this ESHA (coastal buckwheat).

Conditioned permits are always a challenge, but applicants are expected to comply with the Coastal Act and the conditions set forth. This expected compliance is the basis for an applicant receiving approval of their permit. The fact that staff was forced to hand deliver a Notice of Violation after multiple mailing attempts failed, (including certified mailings that were disregarded by the respondent) is unacceptable given the heavy work load enforcement staff is already burdened with.

Thank you for your most excellent work on this staff report and all of the pertinent evidence provided. You have certainly provided the respondents with more than adequate time and opportunity to respond and consent, and its unfortunate that they are unwilling to acknowledge that the damage they are inflicting on our finite resources at a certain point become irreparable. I trust the Commission will support your recommendations and demand immediate restoration of this area.

Sincerely,

Mary Jo Baretich, President
Cabrillo Wetland Conservancy
21752 Pacific Coast Hwy #23A
Huntington Beach, CA 92646

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HAMILTON BIOLOGICAL

June 9, 2011

Andrew Willis
Eli Davidian
California Coastal Commission
200 OceanGate # 1000
Long Beach, CA 90802-4316

**SUBJECT: SUPPORT FOR CEASE & DESIST ORDER CCC-11-CD-04
AND RESTORATION ORDER CCC-11-RO-03
433 PASEO DE LA PLAYA, TORRANCE, CALIFORNIA**

Dear Coastal Commission Staff,

Having reviewed the Agenda Items 7.1 and 7.3 of the upcoming Commission meeting, I wish to voice my support for the staff recommendation to issue both a cease and desist order and a restoration order related to unpermitted development of coastal bluff scrub known to provide habitat for the endangered El Segundo Blue Butterfly (*Euphilotes battoides allyni*). The reported planting of the bluff face with non-native plants, and establishment of concrete pads and oversized retaining wall, all in violation of an existing Coastal Development Permit, are unacceptable. Given that Staff has spent years trying to work with the respondents to resolve these matters by mutual consent, the issuance of both a cease and desist order and a restoration order appears to be fully warranted. I support the diligent work of the Coastal Commission and its staff to fairly and impartially enforce the California Coastal Act, and to protect the natural resources of the State of California.

Sincerely,

Robert A. Hamilton
President, Hamilton Biological, Inc.

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

From: Steve Ray [steve.banningranch@hotmail.com]
Sent: Saturday, June 11, 2011 12:10 PM
To: Elijah Davidian; Andrew Willis
Subject: Support for Enforcement Action

Andrew Willis
Eli Davidian
California Coastal Commission
200 Oceangate # 1000
Long Beach, CA 90802-4316

Re: Support for Cease and Desist Order CCC-11-CD-04 and Restoration Order CCC-11-RO-03
Dear Coastal Commission and Staff,
Dear Coastal Commission and Staff,

I have recently been witness to the Coastal Commission and its Staff firmly, but fairly, enforce the Coastal Act to protect the natural resources of Newport Banning Ranch by reaching Consent Orders with Newport Banning Ranch LLC; the City of Newport Beach and others to halt resource destruction and restore those same resources. I wish to congratulate and thank the Commission and Staff for their diligence and commitment.

I have now reviewed Agenda Items 7.1 and 7.3 of the upcoming Commission meeting, and I wish to voice my support for the staff recommendation to issue both a cease and desist order and a restoration order related to unpermitted development of coastal bluff scrub known to provide habitat for the endangered El Segundo Blue Butterfly. The reported planting of the bluff face with non-native plants, and establishment of concrete pads and oversized retaining wall, all in violation of an existing Coastal Development Permit, are unacceptable. I understand that Staff has spent considerable time trying to work with the respondents to resolve these matters by mutual consent but, due to the serious and continuing violation of the Coastal Act and a lack of cooperation, the issuance of both a cease and desist order and a restoration order appears to be fully warranted.

I will continue to support the Coastal Commission and its Staff to enforce the California Coastal Act to protect the natural resources of the State of California. I look forward to a respectful and cooperative relationship with the Commissioners and Staff on both the upcoming Sunset Ridge Park and Newport Banning Ranch projects.

Sincerely,

Steve Ray, Executive Director
Banning Ranch Conservancy
P.O. Box 16071
Newport Beach, CA 92659-6071
310-961-7610
steve.banningranch@hotmail.com
www.banningranchconservancy.org

Addendum CCC-11-CD-04 & CCC-11-RO-03 Page 4 of 19

6/15/2011

Elijah Davidian

From: Kevin Nelson [knelson@web-conferencing-central.com]
Sent: Wednesday, June 08, 2011 10:18 PM
To: Andrew Willis; Elijah Davidian
Subject: Support for Cease-Desist and Restoration Orders in Torrance

To Whom It May Concern,

I have lived my entire life on the coast of California, exploring many of its jewels from the stunning Redwoods and wild lagoons in Humbolt County to the graceful Guadalupe Sand Dunes of Santa Barbara County and the still clean and clear waters of Trestles in Orange County.

Your agency plays a critical role the safe-keeping of this amazing land and nature.

Having looked at the satellite images of the Campbell-Torrance issue at 433 Paseo de la Playa, I would like to express my support for your efforts to have the beach-level structures removed and the area restored to coastal bluff vegetation.

Many of the neighboring property owners seem to have respected the need for coastal bluff protection, so I concur with staff that these orders are correct and important.

I thank you for keeping coastal access and nature intact for future generations.

Regards,

Kevin Nelson
Member, Banning Ranch Conservancy
949-631-0274

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Elijah Davidian

From: Terry Welsh [terrymwelsh@hotmail.com]

Sent: Thursday, June 09, 2011 9:06 AM

To: Andrew Willis; Elijah Davidian

Subject: CCC-11-CD-04, and CCC-11-RO-03

Andrew and Eli, thank you for your work towards enforcement of the Coastal Act in the case of CCC-11-CD-04, and CCC-11-RO-03.

Terry Welsh
President, Banning Ranch Conservancy

Elijah Davidian

From: Joe Geever [jgeever@surfrider.org]
Sent: Sunday, June 12, 2011 7:39 AM
To: Elijah Davidian; Andrew Willis
Subject: Cease & Desist Order CCC-11-CD-04 -- SUPPORT

Andrew Willis
Eli Davidian
California Coastal Commission
200 Ocean Gate 10th Floor
Long Beach, CA 90802-4316

Re: Support for Cease and Desist Order CCC-11-CD-04 and Restoration Order CCC-11-RO-03

Dear Mr. Willis and Mr. Davidian:

I am a lifelong resident of Santa Monica Bay and have watched as the precious natural resources on our coast have disappeared -- one development at a time. I fully understand that enforcement of the Coastal Act is a difficult job and that monitoring such a vast coastline for violations can be daunting, if not impossible. That is why, when un-permitted projects are discovered, and it is obvious the perpetrators should have known better, I support the Commission taking appropriate action to not only ensure the development immediately stops, but to also compel the perpetrator to restore the natural resources lost by their illegal actions.

I am convinced that is the case here. The property owners have been on notice that their development projects need to be permitted in accordance with the law's protecting our coast and ocean. They have flagrantly disregarded those notices.

Further, their unpermitted projects have caused damage to protected natural resources. These projects must be removed and the protected resources fully restored.

In conclusion, I support the staff's recommended Cease and Desist Order, as well as the Restoration Order - both cited in the header above. Failure to act on this case, and others like it, only encourages future developers to turn a blind eye to compliance with the Coastal Act. That, in turn, only results in more difficulties for the staff and public to discover and correct violations of the Coastal Act. We desperately need the Coastal Commission to send a clear message to this violator of the Coastal Act, as well as future potential violators, that their are repercussions for cheating.

Joe Geever
8117 W Manchester Ave, #297
Playa del Rey, CA 90293

Addendum CCC-11-CD-04 & CCC-11-RO-03 Page 7 of 19

7. ENFORCEMENT

[Items 7.1 and 7.3 share a single, combined staff report.]

[Appendix A (the "Orders") can be viewed by clicking [here](#), and the Exhibits can be viewed by clicking [here](#).]

7.1. Commission Cease & Desist Order No. CCC-11-CD-04 (Campbell – Torrance, Los Angeles County) Public hearing and Commission action on proposed Cease and Desist Order authorizing and ordering Michelle Campbell and William Campbell to: (1) cease and desist from maintaining existing and/or engaging in any further unpermitted development, including, but not limited to: (a) removal of major vegetation, (b) landform alteration, (c) construction of concrete patios, (d) construction of shade structures, (e) construction of retaining walls, and (f) the planting of non-native vegetation, all occurring on a coastal bluff that provides habitat for the federally listed as endangered El Segundo Blue Butterfly; and (2) undertake measures necessary to comply with the Coastal Act, including removal of the unpermitted development, among other things, on property located at 433 Paseo de la Playa, in the City of Torrance, and identified by the Los Angeles County Assessor's Office as Assessor Parcel Number 7512-003-021. (AJW-LB/EAD-SF)

7.3. Commission Restoration Order No. CCC-11-RO-03 (Campbell – Torrance, Los Angeles County) Public hearing and Commission action on proposed Restoration Order authorizing and ordering Michelle Campbell and William Campbell to: (1) remove unpermitted development, including, but not limited to: concrete patios, shade structures, and retaining walls, and other materials placed on Torrance coastal bluff; and (2) undertake restoration of said bluff (including restoration of environmentally sensitive habitat for the federally listed as endangered El Segundo Blue Butterfly), on property located at 433 Paseo de la Playa, in the City of Torrance, and identified by the Los Angeles County Assessor's Office as Assessor Parcel Number 7512-003-021. (AJW-LB/EAD-SF)

Andrew Willis
Eli Davidian
California Coastal Commission
200 OceanGate 10th Floor
Long Beach, CA 90802-4316

Re: Support for Cease and Desist Order CCC-11-CD-04 and Restoration Order CCC-11-RO-03

Dear Mr. Willis and Mr. Davidian:

Enforcement of the Coastal Act is a difficult job at best, but as I have witnessed in the past, the staff report for this agenda item is a record of forbearance and regulatory restraint that is almost beyond comprehension. For almost 20 years there have been coastal resource problems associated with this site, but for the last eight years staff has been ignored or provided with misinformation on numerous occasions when it is very clear that the respondents clearly understand their obligations.

With this in mind, I strongly support staff recommendations for Commission approval of the above-referenced cease and desist order as well as the accompanying restoration order that will allow for the late but ultimate restoration of very important habitat that supports the federally endangered El Segundo blue butterfly along with a host of other endangered species that make their home in this ESHA (coastal buckwheat).

Conditioned permits are always a challenge, but applicants are expected to comply with the Coastal Act and the conditions set forth. This expected compliance is the basis for an applicant receiving approval of their permit. The fact that staff was forced to hand deliver a Notice of Violation after multiple mailing attempts failed, (including certified mailings that were disregarded by the respondent) is unacceptable given the heavy work load enforcement staff is already burdened with.

Thank you for your most excellent work on this staff report and all of the pertinent evidence provided. You have certainly provided the respondents with more than adequate time and opportunity to respond and consent, and its unfortunate that they are unwilling to acknowledge that the damage they are inflicting on our finite resources at a certain point become irreparable. I trust the Commission will support your recommendations and demand immediate restoration of this area.

Penny Elia
30632 Marilyn Drive
Laguna Beach, CA 92651

Elijah Davidian

From: bill bennett [shokobennett@gmail.com]
Sent: Thursday, June 09, 2011 8:34 PM
To: Andrew Willis; Elijah Davidian
Subject: Cease and Desist and Restoration Order 7.1 & 7.3 (Campbell-Torrance)

**Staff,
California Coastal Commission,**

In reading through the above titled orders and many like them, I am often struck by the large amount of time involved in in resolving these issues. It would seem to me that this requires extra effort and diligence on the part of the Cosastal Commission staff. I wholly support your decision in the above named issue and I commend you for your work in protecting our California coastline.

**Thank you,
Bill Bennett
10 Odyssey Court
Newport Beach, CA**

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6/15/2011

Elijah Davidian

From: jenniferfrutig@aol.com
Sent: Thursday, June 09, 2011 8:43 PM
To: Elijah Davidian
Subject: Support for Enforcement Action by Coastal Commission

Dear Eli,

The purpose of this email is to write in support of the staff recommendations for the Coastal Commission enforcement items being heard on Friday, June 10, 2011, specifically agenda items 7.1 and 7.3.

Thank you for upholding the Coastal Act.

Jennifer W. Frutig, Ph.D
23871 Willows Drive
Laguna Hills, CA 92653
Banning Ranch Conservancy

Addendum CCC-11-CD-04 & CCC-11-RO-03 Page 11 of 19
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Elijah Davidian

From: Patricia Barnes [mezzohiker@msn.com]

Sent: Thursday, June 09, 2011 5:10 PM

To: Andrew Willis; Elijah Davidian

Subject: Thank You For Upholding the Coastal Act-Support for the Staff Recommendations for the Enforcement Item-Agenda Items 7.1 and 7.3

Dear Members of the Coastal Commission:

I, a resident of Orange County who is very concerned about the ecosystem that exists at the confluence of the Santa Ana River and the Pacific Ocean, and who thus is concerned about all matters which directly or indirectly affect our California coastline, fully support the staff recommendations for the enforcement item being heard on Friday, June 10, 2011, Agenda Items 7.1 and 7.3.

Thank you for your vigilance in upholding the Coastal Act.

Patricia Barnes
10736 Lynn Circle
Cypress, CA 90630

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6/15/2011

Elijah Davidian

From: JP_SEQUE Perry [jp_seque@msn.com].

Sent: Thursday, June 09, 2011 2:08 PM

To: undisclosed-recipients

Dear Coastal Commission:

I support staff recommendations for the enforcement item being heard on Friday, June 10, 2011, Agenda Items 7.1 and 7.3.

Thank you for upholding the Coastal Act.

**Melody and John Perry
10 Aries Court
Newport Beach, CA 92663-2348**

Addendum CCC-11-CD-04 & CCC-11-RO-03 Page 13 of 19
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6/15/2011

Elijah Davidian

From: Cindy Black [cblack949@hotmail.com]

Sent: Thursday, June 09, 2011 5:59 PM

To: Elijah Davidian; Andrew Willis

Subject: Enforcement item

Dear Coastal Commission:

I support staff recommendations for the enforcement item being heard on Friday, June 10, 2011, Agenda Items 7.1 and 7.3.

Thank you for upholding the Coastal Act.

Cindy Black
625 Shalimar Dr.
Costa Mesa, CA 92627

Addendum CCC-11-CD-04 & CCC-11-RO-03 Page 14 of 19
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Elijah Davidian

From: Koken, Debby [HMA] [dkoken@hmausa.com]

Sent: Thursday, June 09, 2011 5:23 PM

To: Elijah Davidian

Subject: El Segundo Blue Butterfly - Enforcement Item

Eli Davidian
Coastal Program Analyst
California Coastal Commission

Dear Mr. Davidian:

I support staff recommendations for the enforcement items CCC-11-CD-04, and CCC-11-RO-03 being heard on Friday, June 10, 2011 (Agenda Items 7.1 and 7.3).

The citizens of California rely on the Coastal Commission to preserve the unique and valuable environmental heritage of California, including the El Segundo Blue butterfly.

Thank you for upholding the Coastal Act.

Debby Koken
1778 Kenwood Place
Costa Mesa, CA 92627

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Addendum CCC-11-CD-04 & CCC-11-RO-03 Page 15 of 19
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Elijah Davidian

From: Blush1996@aol.com
Sent: Thursday, June 09, 2011 2:45 PM
To: Elijah Davidian
Subject: Coastal Commission Enforcement Staff

Dear Coastal Commission:

I support staff recommendations for the enforcement item being heard on Friday, June 10, 2011, Agenda Items 7.1 and 7.3.

Thank you for upholding the Coastal Act.

Suzanne Forster
8 Summerwind Court
Newport Beach, CA 92663

Addendum CCC-11-CD-04 & CCC-11-RO-03 Page 16 of 19
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Elijah Davidian

From: Bruce Bartram [b.bartram@verizon.net]

Sent: Thursday, June 09, 2011 5:36 PM

To: Andrew Willis

Cc: Elijah Davidian

Subject: Coastal Act Enforcement

Dear Coastal Commission:

I support staff recommendations for the enforcement item being heard on Friday, June 10, 2011, Agenda Items 7.1 and 7.3.

Thank you for upholding the Coastal Act.

Bruce Bartram
Attorney at Law
2 Seaside Circle
Newport Beach, CA 92663

Addendum CCC-11-CD-04 & CCC-11-RO-03 Page 17 of 19
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6/15/2011

Elijah Davidian

From: Dorothy Kraus [medjkraus@yahoo.com]

Sent: Thursday, June 09, 2011 8:01 PM

To: Andrew Willis; Elijah Davidian

Subject: Coastal Act Enforcement

Dear Mr. Willis and Mr. Davidian,

We are writing to express our support of staff recommendations for the enforcement item being heard on Friday, June 10, 2011, Agenda Items 7.1 and 7.3. Thank you for your commitment and hard work to uphold the Coastal Act.

Sincerely,

Dorothy and Michael E. Kraus
10 Wild Goose Court
Newport Beach, CA 92663

Addendum CCC-11-CD-04 & CCC-11-RO-03 Page 18 of 19
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Elijah Davidian

From: Dave Sutherland [davesutherland4@gmail.com]

Sent: Thursday, June 09, 2011 1:10 PM

To: Elijah Davidian

Subject: Agenda item 6/10

Dear Coastal Commissioner,

My wife and I support staff recommendations relating to items 7.1 & 7.3 on the Agenda for the meeting to be held Friday June 10, 2011.

Sincerely,

Natalie and Dave Sutherland

Newport Beach

Addendum CCC-11-CD-04 & CCC-11-RO-03 Page 19 of 19
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6/15/2011

CALIFORNIA COASTAL COMMISSION

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



Items F 7.1 & 7.3

Staff: Andrew Willis-LB
Elijah Davidian-SF
Staff Report: June 3, 2011
Hearing Date: June 17, 2011

CEASE AND DESIST ORDER CCC-11-CD-04

RESTORATION ORDER CCC-11-RO-03

RELATED VIOLATION FILE: V-5-03-002

PROPERTY LOCATION: 433 Paseo de la Playa, Torrance, Los Angeles County
(APN: 7512-003-021)

PROPERTY DESCRIPTION: An approximately 0.64 acre lot, immediately adjacent to Torrance Beach, with an approved 7,344 sq. ft., two-story single family residence atop the Torrance coastal bluff, in the City of Torrance, Los Angeles County.

PROPERTY OWNER: Michelle Campbell

PERSONS SUBJECT TO THESE ORDERS: Michelle & William Campbell

VIOLATION DESCRIPTION:

1. Violations of multiple requirements of CDP No. 5-90-1041 specified in conditions of the original permit and of Amendments A2 and A3, including, but not limited to, failure to implement habitat restoration plan, installation of vegetation inconsistent with habitat restoration plan, and construction of unpermitted structures on the face and at the toe of the bluff, resulting in removal of native vegetation, landform alteration, impacts to coastal views, and preclusion of habitat restoration plan implementation.
2. Undertaking of unpermitted development, including the development described in the prior point.

SUBSTANTIVE FILE DOCUMENTS:

1. Public documents in violation file V-5-03-002
2. Public documents in the permit file for CDP No. 5-90-1041 and its amendments.

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

I. SUMMARY OF STAFF RECOMMENDATION AND FINDINGS

A. Overview

Staff recommends that the Commission approve Cease and Desist and Restoration Orders Nos. CCC-11-CD-04 and CCC-11-RO-03 (hereinafter referred to collectively as the “Orders”) to address development undertaken in violation of the Coastal Act, on property located at 433 Paseo de la Playa, in the City of Torrance, Los Angeles County, and identified by the Los Angeles County Assessor’s office as Assessor Parcel Number (APN) 7512-003-021 (“subject property”). The general location of the subject property is depicted on the map in Exhibit 1. The proposed Orders are included as Appendix A of this staff report.

The persons subject to the proposed Orders include the present owner of the subject property, Michelle Campbell, and her ex-husband and former co-owner of the subject property, William Campbell. The activities at issue in this matter involve development that is both unpermitted and inconsistent with numerous amendments to a previously issued coastal development permit (hereinafter referred to generally as the “subject development”); in an area identified by the U.S. Fish and Wildlife Service as habitat for the federally listed as endangered El Segundo blue butterfly (Exhibit 2). Both parties have acknowledged responsibility for undertaking the subject development.

Staff has made numerous attempts over the past several years to work with Ms. and Mr. Campbell (hereinafter “Respondents”), in hopes of resolving this matter in an agreeable fashion. Unfortunately, at this point it appears that neither party is willing and/or able to participate in any such discussions with Commission staff. Therefore, staff is left with no other choice but to move forward with the proposed Cease and Desist and Restoration Orders.

B. Description of Property

The subject property is situated along the Torrance coastal bluff, approximately 225 feet south of the Torrance Beach Park, and abuts Torrance Beach to its west. An aerial photograph of the subject property and its surroundings is included as Exhibit 3. The Torrance coastal bluff, including the portion of the bluff on which the property lies, is one of the few locations in the world where the El Segundo blue butterfly species is found. Its host plant, coast buckwheat, is found growing on the bluff-face portions of the properties located seaward of Paseo de la Playa. The butterfly’s entire lifecycle is intimately tied to the coast buckwheat. According to the U.S. Fish and Wildlife Service (USFWS), “...each of [the butterfly’s] four life stages (egg, larva, pupa, and adult) depend on this plant.”¹

In 1995, the USFWS staff provided the Commission with written notice that the butterfly had been observed on the subject property (Exhibit 2). The previous year, the USFWS staff had contacted Commission staff by telephone to convey its concerns regarding impacts to the butterfly’s habitat on the subject property, resulting from a prior instance of unpermitted

¹ U.S. Fish and Wildlife Service. 2008. El Segundo Blue Butterfly (*Euphilotes battoides allyni*), 5-year Review: Summary and Evaluation. Page 6.

development (see Exhibit 4, Page. 5). Any area with habitat that supports an endangered species, such as coast buckwheat on the Torrance coastal bluff, meets the Coastal Act definition of an environmentally sensitive habitat area (“ESHA”).² In its decision to list the butterfly as endangered, the USFWS reasoned, “due to public and private development, the El Segundo blue butterfly is limited to a few acres near El Segundo and a larger area at the west end of the Los Angeles International Airport. Any further development on these few remaining sites could well bring the species to extinction.”³ A 2001 survey of 21 of the 28 properties situated along the Torrance coastal bluff found that the coast buckwheat in this area had been reduced to just 196 living plants.⁴

C. Summary of Violation and Proposed Resolution

This case involves unpermitted development and Respondents’ failure to comply with the terms and conditions of coastal development permit (“CDP”) No. 5-90-1041, as amended. The Commission approved the original permit in 1991, authorizing construction of a single-family residence on a vacant, bluff-top lot. Special Condition 5 required the applicant to record a document against title to the property providing notice that the permit only authorized the development described therein and that any future development would require a new permit. Thus, any further development that was not authorized by a coastal permit would constitute both unpermitted development and a violation of Special Condition 5 of the existing permit. This was particularly important here given the sensitive nature of the resources on site.

Several amendments followed. Of particular significance to this matter, the Commission issued two amendments (5-90-1041-A2 and 5-90-1041-A3) in April of 1996. The former authorized, among other development, restoration and revegetation of the coastal bluff with coastal bluff scrub plants, including 200 coast buckwheat plants, to address the impacts of a previous instance of unpermitted development, undertaken by Respondents’ predecessor-in-interest.⁵ The latter amendment authorized, among other development, a four-foot tall wall at the base of the bluff, along the western property boundary (“boundary wall”). The Commission found that a wall of that height would be consistent with the character of those in the immediate area, and would facilitate restoration and revegetation of the bluff by limiting erosion at the toe of the bluff. The Commission’s findings for the respective amendments are included as Exhibits 4 and 5.

Rather than implementing the required restoration, Respondents instead planted the bluff face with non-native plants that were not authorized under the CDP. In addition, Respondents

² The Commission has previously found coastal bluff scrub to be ESHA in numerous permit decisions involving the El Segundo blue butterfly and its host plant, coast buckwheat, including, but not limited to, its actions on CDP Nos. 5-01-018, 5-01-409, 5-90-1041-A2, and 5-90-1041-A5. The Commission also found in its decisions on CDP Nos. 5-03-280, 5-03-328, 5-04-324, and 5-07-206, that implementation of the required landscaping plan (including the planting of coast buckwheat) would likely result in the establishment of ESHA.

³ Federal Register. 1976. Endangered and Threatened Wildlife and Plants; Determination that Six Species of Butterflies are Endangered Species. Vol. 41, No. 106.

⁴ Longcore, T. and J. George. 2001. *Habitat Evaluation and Surveys for El Segundo Blue Butterfly* (Euphilotes Bernardino allyni) at Malaga Bluffs. Prepared for U.S. Fish and Wildlife Service, Cooperative Agreement #1448-11430-1-J041

⁵ That previous unpermitted development is not addressed in this enforcement action.

conducted an extensive amount of other development on the bluff face, including, but not limited to, constructing: (1) an approximately 80 square-foot concrete pad at mid-bluff; (2) a thatched shade structure over the mid-bluff concrete pad; (3) an eight-foot tall retaining wall (“retaining wall”) notched into the toe of the coastal bluff;⁶ (4) an approximately 680 square-foot concrete patio seaward of the retaining wall at the base of the coastal bluff; and (5) a 13-foot tall, 480 square-foot shade structure on the concrete patio at the base of the bluff. The unpermitted construction of the concrete pads, retaining wall, and shade structures also involved removal of major vegetation and significant landform alteration. All of these structures were built in the area specifically identified for restoration under 5-90-1041-A2 and their continued presence precludes implementation of the required restoration. Thus, the development described above is both unpermitted *and* inconsistent with Special Condition 5 of CDP No. 5-90-1041 and the second amendment thereto. Moreover, it occupies the very area that was determined to be habitat for the endangered species, and has precluded efforts to protect that species.

In addition, rather than constructing a four-foot tall boundary wall as authorized by amendment A3, Respondents constructed an eight-foot tall boundary wall. Amendment A3 had only authorized the boundary wall to four feet, specifically finding the wall approvable as an immaterial amendment because it conformed to the character of the surrounding area.⁷ Thus, the boundary wall is also both unpermitted and inconsistent with CDP No. 5-90-1041, in this case as amended by 5-90-1041-A3. A diagram of the subject development is included as Exhibit 6.

Beginning in April 2003, staff mailed to Respondents the first of several Notice of Violation (NOV) letters (Exhibit 7).⁸ In August of 2004, after receipt of staff’s NOV letters, Respondents applied for, and in August of 2005 the Commission denied, after-the-fact approval of the applied for development (CDP Amendment No. 5-90-1041-A5), based on Coastal Act policies.⁹ As explained in the corresponding staff report, in denying the amendment request, the Commission found the development to be inconsistent with numerous Coastal Act resource protection policies (Exhibit 8). In September of that year, Respondents requested reconsideration of the Commission’s decision. In November, the Commission denied the request for reconsideration. Respondents did not challenge either of the Commission’s decisions. Instead, in February of 2006, Respondents submitted an incomplete CDP amendment application (No. 5-90-1041-A6) for removal of the subject development. Despite staff’s multiple requests, Respondents never

⁶ This retaining wall was placed in a different location from, and serves a different purpose from, the boundary wall approved in 5-90-1041-A3, and the boundary wall was also constructed (though, as explained in the next paragraph, not as approved). Thus, each is treated as separate development.

⁷ The City of Torrance design standards generally limit rear-yard walls to six feet, and retaining walls to five feet. Those design standards are accessible online at: <http://www.torranceca.gov/PDF/fence.pdf>

⁸ In its efforts to resolve this case, staff sent at least seven Notice of Violation letters to Respondents, providing them with opportunities and instruction on the steps necessary to bring the property into compliance with the Coastal Act, including those of April 2003 (Exhibit 7), July 2003 (Exhibit 10), July 2004 (Exhibit 12), December 2005 (Exhibit 13), January 2006 (Exhibit 14), June 2008 (Exhibit 16), and April 2011 (Exhibit 18). Staff also sent several Notices of Intent to commence enforcement order proceedings, including those of March 2010 (Exhibit 17a), May 2010 (Exhibit 17b), and June 2010 (17c).

⁹ The boundary wall and non-native landscaping in the required habitat restoration area were not addressed in that permit amendment action.

submitted the materials necessary to complete the application.¹⁰ Over the ensuing years, staff has made numerous attempts to work with both Ms. and Mr. Campbell. Unfortunately, those efforts have not resulted in an agreement on how Respondents will resolve the violations at issue herein, and therefore formal action through the proposed Orders is necessary.

With the development at issue in place, the associated resource damage continues unabated. The proposed Orders would address the violations described herein by requiring Respondents to: (1) cease and desist from maintaining or undertaking any future unpermitted development on the subject property; (2) remove all unpermitted development from the subject property; (3) restore and mitigate for impacts to the subject property using restorative grading and planting of vegetation native to coastal bluffs in southern California; (4) weed the site twice annually to ensure the restoration area is maintained free of non-native and invasive species; (5) monitor the success of the restoration for a period of not less than five years; and (6) submit annual monitoring reports to the Commission, describing the progress of the restoration, for the duration of the monitoring period.

D. Commission Authority

The Coastal Commission has jurisdiction to take enforcement action to remedy these violations because the property lies within the Coastal Zone, in the Commission's permitting jurisdiction (this area is not covered by a certified Local Coastal Program), and because the subject development involves unpermitted development and violations of a Commission permit. For the reasons described above, and explained more fully in pages 13-20 of this staff report, the development at issue herein is: (1) unpermitted and inconsistent with a Commission permit; (2) inconsistent with the resource protection policies of the Coastal Act; and (3) causing continuing resource damage. Therefore, each of the standards set forth under Sections 30810 and 30811, for the Commission's issuance of Cease and Desist and Restoration Orders, have been met in this case. Therefore, staff recommends the Commission proceed with issuance of the proposed Orders. The proposed Orders provide a framework for resolving these violations, relieving the associated impacts, and restoring the bluff habitat in a timely fashion.

II. HEARING PROCEDURES

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

For a Cease and Desist Order and Restoration Order hearing, the Chair shall announce the matter and request that all parties or their representatives present at the hearing identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the proceeding, including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, before the close of the hearing, any question(s) for any Commissioner, at his or her discretion, to ask of any other party. Staff then presents the report and recommendation to the Commission, after which the alleged violator(s) or their

¹⁰ The CDP application and associated materials were ultimately returned to the Michelle Campbell in June of 2009.

representative(s) may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons, after which time staff typically responds to the testimony, to any new evidence introduced, and to any questions posed by Commissioners.

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

III. STAFF RECOMMENDATIONS

Staff recommends that the Commission adopt the following two motions:

A. Motion No. 1

I move that the Commission issue Cease and Desist Order No. CCC-11-CD-04 pursuant to the staff recommendation.

Staff Recommendation of Approval

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

Resolution to Issue Cease and Desist Order

The Commission hereby issues Cease and Desist Order No. CCC-11-CD-04, as set forth in the staff report, and adopts the findings set forth in the staff report on grounds that Michelle and William Campbell undertook development at 433 Paseo de la Playa, in the City of Torrance, Los Angeles County, without a coastal development permit and in violation of the terms of existing permit 5-90-1041, as amended, in violation of the Coastal Act, and that the requirements of the Order are necessary to ensure compliance with the Coastal Act.

B. Motion No. 2

I move that the Commission issue Restoration Order No. CCC-11-RO-03 pursuant to the staff recommendation.

Staff Recommendation of Approval

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

Resolution to Issue Restoration Order

The Commission hereby issues Restoration Order No. CCC-11-RO-03, as set forth in the staff report, and adopts the findings set forth in the staff report on the grounds that 1) Michelle and William Campbell undertook development on the subject property without a coastal development permit, 2) the development is inconsistent with the Coastal Act, and 3) the development is causing continuing resource damage.

IV. FINDINGS FOR CEASE AND DESIST AND RESTORATION ORDERS No. CCC-11-CD-04 AND CCC-11-RO-03¹¹

A. Description of Subject Property

The subject property is located approximately 225 feet south of the Torrance Beach Park and abuts Torrance Beach to its west. An aerial photograph of the subject property and its surroundings is included as Exhibit 3. The property at issue is one of 28 residential properties situated along the Torrance coastal bluff, between the first public road and the sea. The bluff-tops of all 28 residential lots, including the subject lot, have been developed with single-family residences. The bluff varies in height from approximately 60 feet at the Torrance Beach Park to 140 feet near the boundary of Palos Verdes Estates, at the south end of the 28 lots. Torrance Beach is public. Vertical public access to this beach is available to pedestrians via public parking lots and footpaths located at the Torrance Beach Park to the north. There is also a vertical public beach accessway and public parking in Palos Verdes Estates, located approximately $\frac{3}{4}$ of a mile south of the subject property.

The irregular backdrop of the Torrance coastal bluff, on which the subject property is located, is essential to the character of the adjacent public beach. The largely undeveloped bluff-face serves as a buffer between Torrance beach at the base of the bluff and the private bluff-top development, thus providing a more natural, secluded beach environment than is typical for Los Angeles County beaches.¹² The northern extent of the bluff, near the subject property, is characterized by its gradual sandy slope; whereas the bluff's southern extent, near the Palos Verdes Peninsula, is more rocky and steep. The sandy bluff immediately inland of Torrance Beach is an important source of sand for the nearby public beaches. As the bluff face erodes through natural processes, such as wind blown sand migration, new material is made available for beach sand replenishment.

¹¹ These findings also hereby incorporate by reference Section I ("Summary of Staff Recommendations and Findings") of the June 3, 2011 staff report in which these findings appear.

¹² The vast majority of the bluff face remains undeveloped to date. The small amount of development that does exist was constructed prior to the effective date of the Coastal Act and/or approved before the habitat value of the bluff face vegetative communities for the El Segundo blue butterfly was fully understood.

The bluff seaward of Paseo de la Playa is identified as one of two significant wildlife habitats in the City of Torrance General Plan. In fact, it is the policy of the City to “Preserve and restore natural plant and animal habitat at Torrance beach including dunes, slopes, and bluff.”¹³ The coastal bluff scrub plant communities existent on the subject bluff are integral components of that wildlife habitat. Development along the Southern California coastline has limited these geographically restricted plant communities throughout their ranges. Coastal bluff scrub provides food and cover for a number of special status species in this area, including, among others, the federally-listed as threatened Coastal California Gnatcatcher, the Cactus Wren, a Species of Special Concern as designated by the California Department of Fish and Game, and the El Segundo blue butterfly, the latter of which is formally listed by the federal government as endangered.¹⁴ The El Segundo blue butterfly is a critically endangered species whose global range is limited to just the El Segundo dunes and nearby dunes and bluffs that support the butterfly’s host plant, coast buckwheat.¹⁵

The Torrance coastal bluff, including the portion of the bluff on which the property lies, is one of the few locations in the world where this butterfly species is found. Its host plant, coast buckwheat, is found growing on the bluff-face portions of the properties located seaward of Paseo de la Playa. The butterfly’s entire lifecycle is intimately tied to the coast buckwheat. In 1994 and 1995, the U.S. Fish and Wildlife Service staff notified Commission staff that the coastal bluff scrub plant communities on the subject property at that time provided habitat for the El Segundo blue butterfly (Exhibit 2). Any area with habitat that supports an endangered species, such as coast buckwheat on the Torrance coastal bluff, meets the Coastal Act definition of an environmentally sensitive habitat area (“ESHA”).

B. Description of Subject Development

The development that is the subject of these proceedings is both unpermitted and inconsistent with CDP No. 5-90-1041, as amended by Amendments A2 and A3, both of which were issued to Michelle and William Campbell. The Commission approved the original permit in 1991, authorizing construction of a single-family residence on a vacant, bluff-top lot. Special Condition 5 required the applicant to record a document against title to the property providing notice that the permit only authorized the development described therein and that any future development would require a new permit. Thus, any further development that was not authorized by a coastal permit would constitute both unpermitted development and a violation of Special Condition 5 of the existing permit.

Several amendments followed. Of particular significance to this matter, the Commission issued two amendments (5-90-1041-A2 and 5-90-1041-A3) to Michelle and William Campbell in 1996, shortly after they took title of the property. The former amendment was conditioned to require

¹³ City of Torrance. 2009. *City of Torrance General Plan- Community Resources Element*. Policy CR.17.6, Page CR-66. Accessed on May 24, 2011 at: http://www.torranceca.gov/PDF/3_Community_Resources_Element.pdf

¹⁴ Longcore, T. (ed.). 2005. *Beach Bluffs Restoration Project Master Plan*. Beach Bluffs Restoration Project Steering Committee, Redondo Beach, California.

¹⁵ Federal Register. 1976. Endangered and Threatened Wildlife and Plants; Determination that Six Species of Butterflies are Endangered Species. Vol. 41, No. 106.

implementation of a restoration plan for reestablishment of El Segundo blue butterfly habitat. However, in 2003, Commission staff learned that Respondents never completed the required restoration. Instead, on the property's coastal bluff face – in the area of the required restoration – Respondents constructed an extensive amount of unpermitted development, as described in Section I.C., above. The latter amendment limited the boundary wall to four-feet. Respondents instead constructed an eight-foot tall boundary wall. These activities resulted in removal of major vegetation and landform alteration, and their continued existence precludes implementation of the required restoration.

C. History of Commission Actions

1. Relevant Permit History

On April 12, 1991, the Commission approved CDP No. 5-90-1041, authorizing construction of a 2-story, 7,334, square-foot, single family residence on the subject property, then a vacant 0.62 acre bluff-top lot. The original permit was issued to prior owners Ivano and Theresa Stamegna. Approval was subject to several standard and special conditions, including Special Condition No. 5, which required approval from the Commission for any future development on the subject property. The Commission approved a few minor modifications to the proposed development in April of 1993 through Amendment A1. Shortly thereafter, the property was acquired by Hawthorne Savings.

After initial grading of the bluff-top pad, development activities on the subject property ceased for several years. Inadequate drainage of the incomplete development project caused significant erosion problems on the site. In response, then property owner Hawthorn Savings placed on the bluff face a drain line, fill, and sandbags, all without permits, in violation of Special Condition No. 5 of the CDP and the Coastal Act. In 1995, Commission staff contacted Hawthorne Savings to address the unpermitted activities, which had impacted habitat for the El Segundo blue butterfly. The property owner agreed to resolve the issue through the preparation of a habitat restoration plan, the submittal of an application for a CDP amendment for its implementation, and, once authorization was secured, the implementation thereof.

In consultation with resource specialists, and the U.S. Fish and Wildlife Service, Hawthorne Savings prepared a habitat enhancement and erosion control plan (“Mattoni Plan”). In a 1995 comment letter to Commission staff, the USFWS staff noted that the planting of coastal buckwheat (*Eriogonum parvifolium*), in accordance with the Mattoni Plan, would “...adequately restore habitat for the endangered El Segundo blue butterfly...” (Exhibit 2). The Mattoni Plan included, among other requirements, the planting of 200 coast buckwheat plants on the bluff face.

2. Amendments Obtained by Respondents

In October of 1995, Hawthorne Savings applied for CDP Amendment No. 5-90-1041-A2, requesting authorization to, among other things, restore the bluff face through implementation of the Mattoni Plan. In November of 1995, the application was transferred to Michelle and William

Campbell, as they had recently taken over title to the property. The staff report for Amendment A2 includes as Exhibit 5 an Affidavit of Substituted Applicant, signed by Mr. Campbell, in which he affirms “I have read Coastal Development Permit No. 5-90-1041 and CDP Application No. 5-90-1041 A2 [sic], which was designed as a proposed remedy to correct Coastal Act Violation No. 5-95-003...” (Exhibit 9).

On December 15, 1995, the Commission granted to Michelle and William Campbell CDP Amendment No. 5-90-1041-A2. In addition to bluff restoration, the amendment authorized installation of a drain-line, a concrete stairway, chain-link fencing and gate, an irrigation system, and jute matting for erosion control. The approval of this amendment was specifically reliant on the restoration in order to be compliant with the Coastal Act. Special Condition No. 1 required that, prior to issuance of the amendment; the applicant had to prepare a restoration, maintenance, and monitoring program consistent with the Mattoni Plan. Respondents submitted the required restoration, maintenance, and monitoring program, prepared by PIAI Engineering, Inc. (“PIAI Plan”), and the Executive Director approved the PIAI Plan as being consistent with the CDP amendment’s requirements. Respondents exercised the permit amendment by constructing, among other things, the concrete stairway. On April 29, 1996, the Executive Director issued the amendment. Special Condition 2 required that restoration plan implementation be completed within 90 days of the issuance of the permit (i.e., July 29, 1996).

On April 29, 1996, the Commission also issued two subsequent immaterial amendments (CDP Amendment Nos. 5-90-1041-A3 and 5-90-1041-A4). The former granted approval for, among other development, a four-foot tall boundary wall at the toe of the bluff. The Commission found the boundary wall, at the four-foot height specifically proposed in that amendment request, to be compatible with the character of other walls in the immediate area (Exhibit 5).

3. Discovery of Violations at Issue

In December of 2002, Commission enforcement staff observed potential unpermitted development on the subject property. Staff confirmed the unpermitted nature of the development and opened a violation case in February of 2003. In the course of its investigation, Commission enforcement staff discovered that Respondents had constructed a substantial amount of development on the bluff face, in the area required to be restored pursuant to the Mattoni and PIAI Plans. Staff also learned that Respondents failed to implement the required Plans, and instead planted the bluff face with non-native, ornamental vegetation that was not included in the approved restoration plan. In 2010, while preparing this matter for hearing, staff also discovered that Respondents had not constructed the boundary wall in accordance with CDP Amendment No. 5-90-1041-A3.

4. Attempts at Resolution

On April 25, 2003, staff mailed to Michelle and William Campbell the first of several Notice of Violation (“NOV”) letters. In that letter, Commission staff informed Respondents of their obligations under CDP No. 5-90-1041, as amended by Amendment 5-90-1041-A2, and that the development at issue needed to be addressed (Exhibit 7). The letter explained the options

available for resolving the matter, including the potential for the issuance of a cease and desist orders and for recordation of a Notice of Violation on the title to the property (a “NOVA”). Respondents were given until May 25, 2003 to respond. Staff received no response by the deadline provided in the letter.

On July 31, 2003, staff sent Respondents a second NOV letter, in which they were again informed of their obligations under the CDP, and that the development at issue needed to be addressed through a CDP application to remove and restore the site consistent with the permit conditions. Respondents were given a new deadline of August 18, 2003 to respond (Exhibit 10).

On September 8, 2003, Commission staff spoke with Mr. Campbell. During that conversation, staff explained that all unpermitted development must be addressed, as outlined in the previous two NOV letters. Mr. Campbell indicated that he would seek another amendment to CDP No. 5-90-1041, to modify the restoration requirement and authorize the unpermitted structures.

On October 8, 2003, staff received, apparently in response to the NOV letters, a short statement from Respondents’ arborist, claiming the required restoration had been implemented (Exhibit 11). The statement did not address the complete failure of the habitat restoration, which was apparent from staff’s numerous visits to the site over the previous years and evident from the readily visible existence of unpermitted concrete patios and shade structures in the very areas required to be restored. The arborist’s statement did not commit to removal of the unpermitted structures or other resolution of the violations noted in the NOV letters from Commission staff. The initial habitat restoration work required under CDP Amendment No. 5-90-1041-A2 was to be completed within 90 days of permit issuance. After that, Respondents were to monitor and report to the Commission annually on the performance of the restoration. The Commission received no evidence of the restoration plan implementation or annual monitoring reports.

On July 8, 2004, staff sent Respondents a third NOV letter, which reiterated Respondents obligations under the CDP and again outlined options for resolving the violation. Through that letter, staff provided Respondents with the option of submitting a CDP application for either (1) the removal of the subject development and restoration of the site consistent with the permit requirements, and/or (2) authorization to retain an unpermitted cabana at the toe of the bluff (Exhibit 12). This letter again informed Respondents of the potential for the issuance of enforcement orders and the recordation of a NOVA on the title to the property.

On August 31, 2004, staff received an incomplete application requesting authorization to retain the subject development.¹⁶ The application was completed on March 17, 2005; however, it did not address Respondents’ failure to implement the required restoration plan. After one postponement from the April 2005 hearing, on August 9, 2005, the Commission held a public hearing on the matter and, based on a Coastal Act analysis, denied the amendment request (Exhibit 8). In doing so, the Commission found that the development did not conform to the

¹⁶ The boundary wall and non-native landscaping in the required restoration area were not included among the developments for which after-the-fact approval was sought in that application.

Coastal Act's resource protection policies. A subsequent request for reconsideration was rejected by the Commission on November 18, 2005.

On December 21, 2005, following the Commission's rejection of the reconsideration request, staff sent Respondents a fourth NOV letter (Exhibit 13). Again, Respondents were reminded of the potential for the issuance of enforcement orders and the recordation of a NOVA. The revised deadline to submit an application for authorization to remove the structures and implement the required habitat restoration plan was set for January 20, 2006. At Respondents' request, on January 19, 2006, staff extended that deadline for 30 days (Exhibit 14).

On February 17, 2006, staff received an incomplete CDP amendment application (No. 5-90-1041-A6) requesting authorization to remove the unpermitted structures and restore the property. However, the application lacked major elements, including the required removal plan, debris dispersal plan, and revegetation plan, as detailed in staff's application status letter to Respondents dated April 26, 2006 (Exhibit 15). In that letter, staff explained that these items were necessary to complete the application, and requested their submittal by June 15, 2006. However, staff did not receive the requested items, or any other information necessary to complete the CDP amendment application by the June deadline or any time thereafter. In fact, this application was never completed and was therefore finally returned to the Campbells on June 25, 2009.

In 2007, Respondents divorced and Ms. Campbell was awarded the subject property.¹⁷ However, because the parties had joint ownership and control over the property, and joint responsibility for development on the subject property, at the time of the violations found herein, they are jointly responsible under the Coastal Act. As such, Commission staff continued its efforts to resolve this matter amicably by attempting to work with Ms. and Mr. Campbell individually.

On June 11, 2008, staff sent Ms. Campbell 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 from the bluff and begin implementation of the restoration plan (Exhibit 16). This letter repeated the potential for the issuance of enforcement orders and the recordation of a NOVA on the property's title, but again noted staff's desire work with Ms. Campbell to resolve this matter amicably.

Ms. Campbell was initially receptive to staff's efforts and after some intermittent discussion, in early 2010, it appeared as though she was prepared to commit to resolution through Consent Cease and Desist and Restoration Orders ("Consent Orders"). In anticipation of such agreement, on March 31, 2010, the Executive Director issued to Ms. Campbell, and on May 17, 2010 and June 22, 2010, to Mr. Campbell, Notices of Intent ("NOI") to Commence Cease and Desist and Restoration Order proceedings (Exhibits 17a, 17b, and 17c). The NOI letter to Ms. Campbell also included a notice, in accordance with Section 30812, that the Executive Director intended to record a NOVA. Statement of Defense ("SOD") forms were included with the NOI letters,

¹⁷ Property records indicate that William Campbell transferred his interest in the property to Michelle Campbell on October 29, 2007 (Instrument No. 2007-2519715).

affording Respondents the opportunity to present defenses to the allegations of Coastal Act violations. The NOI letters provided a twenty-day time period for submittal of a completed SOD form and, in Ms. Campbell's case, written objection to the recordation of a NOVA. Respondents did not respond by the deadlines set forth in their respective NOI letters. As Ms. Campbell did not object to recordation of a NOVA, on April 28, 2010, the Executive Director caused to be recorded a NOVA on the title to the subject property.

Over the ensuing months, staff continued its efforts to work with both Ms. and Mr. Campbell in hopes of reaching full resolution through joint Consent Orders. Unfortunately, staff was not able to settle this matter with either of the parties.¹⁸ Therefore, on April 21, 2011, staff notified Respondents and their representatives of its intent to bring this matter before the Commission at its June meeting, and again included copies of the NOI letters of May and June, 2010 (Exhibit 18). Staff confirmed that representatives for Ms. and Mr. Campbell received the April 2011 letter, but did not receive a response from either. On May 9, 2011, Commission staff received a letter from one of Ms. Campbell's creditors indicating that Ms. Campbell had filed for bankruptcy and stating their intent to foreclose upon the property.¹⁹

Over the years of attempting to resolve this violation, staff has generally monitored the condition of the subject property. Through recent site visits, staff has confirmed that, to date, the development at issue remains and the PIAI Plan has not been implemented. Commission staff has attempted to resolve this violation cooperatively through Consent Cease and Desist and Restoration Orders. Despite numerous attempts to engage Respondents in such discussions over the past several years, they remain unable and/or unwilling to commit to a resolution that would bring the property into compliance with the Coastal Act and CDP issued pursuant thereto. Consequently, staff has no remaining administrative options for resolving this matter, other than formal enforcement action through the proposed Cease and Desist and Restoration Orders.

D. Bases for Issuance of Orders

1. Cease and Desist Order

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

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

¹⁸ Staff mailed to Mr. Campbell both the May 12 and June 22, 2010 NOI letters, each via certified and regular mail to the same address. Mr. Campbell confirmed receipt of the May 12 NOI letter. However, he ignored the certified mail notice left by the U.S. Postal Service, indicating that the June 22 NOI letter was available for him to claim. As such, the June 22 NOI letter mailed via certified mail was returned to the Commission. The June 22 NOI letter sent by regular mail was not returned. As a last attempt to secure a response from Mr. Campbell, on September 1, 2010, staff also hand delivered the June 22 NOI letter to Mr. Campbell's residence. Staff secured the NOI to the door handle with a cover letter inviting Mr. Campbell to contact staff to discuss resolution of this matter. No response was received.

¹⁹ Commission staff has been tracking these proceedings. However, Ms. Campbell is the current holder of the property's title and both Campbells were involved in the violations at issue herein.

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.

The activities that are the subject of these proceedings constitute both unpermitted development and development that is inconsistent with permits previously issued by the Commission. The following paragraphs set forth the bases for the issuance of a Cease and Desist Order by providing substantial evidence that the development meets the standards set forth in Section 30810 for the Commission's issuance of a Cease and Desist Order.

a. Development Occurred without a Coastal Development Permit

The subject development described in Section IV.B and I.C. has occurred on the subject property without a CDP. Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, and with limited exceptions not applicable here, any person wishing to perform or undertake any development in the Coastal Zone must obtain 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... (emphasis added)

The activities referenced in Section IV.B and I.C. constitute "development" as defined in Coastal Act Section 30106; they constitute the types of activities underlined above and, as such, are subject to the permit requirement of Coastal Act Section 30600(a). No CDP was issued authorizing the subject development. Respondents' request for, and the Commission's denial of, after-the-fact approval (CDP Amendment No. 5-90-1041-A5) of the retaining wall, concrete pads, and shade structures on the bluff face, affirms the fact that the development: (1) constitutes development that required a permit; (2) was never permitted; and (3) could not be permitted due to its inconsistency with the Coastal Act. Therefore, the first of the two independently sufficient bases for issuance of a Cease and Desist Order, as set forth under Coastal Act Section 30810 has been met.

b. Development is Inconsistent with a Previously Issued Permit

Coastal Act 30810(a) also authorizes the Commission to issue a cease and desist order if development is undertaken that is inconsistent with a previously-issued CDP. The original permit for the residence on the subject property (CDP No. 5-90-1041) included Special Condition 5, which required the applicant to record a notice reflecting that the development authorized by the permit was limited to the development specifically included in the project description, and that the permit required Commission approval for any future development on the property; such as the development at issue herein. Because none of the development at issue has been authorized

by the Commission, it is inconsistent with the Special Condition described above. Moreover, the vast majority of the development at issue was placed in an area identified for restoration under CDP Amendment No. 5-90-1041-A2. Its existence in the restoration area, in addition to Respondents' failure to complete the required restoration, is also inconsistent with the terms of that permit. Lastly, Respondents' construction of an eight-foot tall wall on the western property boundary is also inconsistent with CDP Amendment No. 5-90-1041-A3, which limited the boundary wall's height to four feet. For these reasons, both of the two independently sufficient bases for issuance of a Cease and Desist Order, as set forth under Coastal Act Section 30810, have been met.

2. Restoration Order

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

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

The following paragraphs set forth the bases for the issuance of the Restoration Order by providing substantial evidence that the development meets all of the standards set forth in Section 30811.

a. Development Occurred without a Coastal Development Permit

As noted in the previous section (IV.D.1), the activities at issue in this matter constitute "development" as defined in the Coastal Act and are therefore subject to the Coastal Act's permit requirements. Staff has verified that the cited development on the subject property was conducted without a CDP. Therefore, the first element has been met for the Commission's issuance of the proposed Restoration Orders.

b. Subject Development is Inconsistent with the Coastal Act

In denying the application for CDP Amendment No. 5-90-1041-A5, in which Respondents sought after-the-fact authorization of most of the subject development²⁰, the Commission found the development at issue²¹ to be inconsistent with the following Coastal Act resource protection policies: Sections 30210 (public access and recreational opportunities), 30220 (protection of water-oriented activities), 30221 (protection of oceanfront land for recreational use), 30235 (construction along natural shoreline), 30240 (protection of ESHA), 30250 (location of new

²⁰ The application for CDP Amendment No. 5-90-1041-A5 did not include a request for after-the-fact authorization for the unpermitted eight-foot boundary wall or the unpermitted non-native landscaping in the required habitat restoration area.

²¹ Again, excluding the boundary wall and non-native landscaping.

development), 30251 (protection of scenic and visual qualities), and 30253 (minimization of hazards). A full analysis of the Coastal Act policies with which the Commission previously found this development to be inconsistent can be found in the findings for the Commission's denial of Amendment A5, which are attached as Exhibit 8 and incorporated by reference herein. The Commission's denial of that amendment was based on the same Chapter 3 analysis and site facts as are at issue here, and which gave rise to the conditions of the original permit and its amendments regarding the protection of coastal resources on and around the subject property. In light of the Commission's past findings, and in the interest of brevity, the following analysis is limited to the development's inconsistency with the ESHA and visual resource protection policies. A brief summary of the Commission's findings in Amendment A5 follows.

(i) Environmentally Sensitive Habitat Areas

As noted above, in its decision to deny Respondents' application for CDP Amendment No. 5-90-1041-A5, the Commission found the development to be inconsistent with, among other Coastal Act policies, Section 30240. Respondents' failure to implement the habitat restoration plan required by CDP Amendment No. 5-90-1041-A2, along with the construction of patios, shade structures, and retaining walls, and the planting of additional ornamental, non-native vegetation in the area identified in that amendment for restoration, caused disruption to environmentally sensitive habitat and is not consistent with the continuance of that habitat, as summarized below. 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.

In 1976, the U.S. Fish and Wildlife Service (USFWS) classified the El Segundo blue butterfly as an endangered species facing threat of extinction. In its decision to list the butterfly as endangered, the USFWS reasoned, "due to public and private development, the El Segundo blue butterfly is limited to a few acres near El Segundo and a larger area at the west end of the Los Angeles International Airport. Any further development on these few remaining sites could well bring the species to extinction."²²

The Torrance coastal bluff, including the portion of the bluff on the subject property, is one of the few locations in the world where this species is found. The butterfly's host plant, coast buckwheat, is found growing on the bluff-face portions of the properties located seaward of Paseo de la Playa. The removal or displacement of these plants can have devastating effects on

²² Federal Register. 1976. Endangered and Threatened Wildlife and Plants; Determination that Six Species of Butterflies are Endangered Species. Vol. 41, No. 106.

the survival of the species. The El Segundo blue butterfly's entire lifecycle is intimately tied to the coast buckwheat. According to the USFWS, "...each of [the butterfly's] four life stages (egg, larva, pupa, and adult) depend on this plant."²³ The butterfly larvae feed on the flowerheads, pupate directly beneath the plant, and the adults perch, mate, feed, and lay eggs on the coast buckwheat flowers.²⁴ In 1995, the USFWS staff provided the Commission with written notice that the butterfly and its host plant had been observed on the subject property (Exhibit 2). Any area with habitat that supports an endangered species meets the Coastal Act definition of an environmentally sensitive habitat area ("ESHA").²⁵

In addition, in southern California, the coastal bluff scrub plant community provides habitat for a number of rare and sensitive plant and animal species. For example, established areas of coastal bluff scrub on the Palos Verdes Peninsula, the northern end of which is the subject bluff, support populations of two sensitive bird species, the Coastal California Gnatcatcher and the Cactus Wren. By failing to implement the PIAI Plan, including the failure to restore and sustain a viable community of 140 coast buckwheat plants, Respondents maintained the property in its degraded state, and thus perpetuated the loss of habitat for sensitive species. As described in detail in the findings for the Commission's denial of CDP Amendment No. 5-90-1041-A5, which are incorporated herein by reference, the unpermitted bluff face development at issue is located in areas that (1) supported the El Segundo blue butterfly's host plant, and/or (2) were identified in the approved habitat restoration plan as areas to be restored with coast buckwheat and other native plants to preserve and enhance the habitat value of the bluff for the El Segundo blue butterfly.

Coast buckwheat, like many dune plants, expands radially through loose soils. Hardening, stabilizing, and irrigating within and around the restoration area precludes such expansion, thereby limiting the potential for natural recruitment and reestablishment of the plants that comprise the butterfly's primary habitat. Thus, Respondents' failure to resolve previous unpermitted development through the implementation of the habitat restoration plan, in addition to the construction of additional non-resource dependent development in place of the native plants that provide habitat for the El Segundo blue butterfly, is inconsistent with Section 30240(a) of the Coastal Act.

Furthermore, Respondents' planting of additional non-native species within and adjacent to the habitat restoration area is detrimental to the success of the coastal bluff scrub vegetation and the El Segundo blue butterfly. According to the USFWS, such non-native plants compete directly

²³ USFWS. 2008. El Segundo Blue Butterfly (*Euphilotes battoides allyni*), 5-year Review: Summary and Evaluation. Page 6.

²⁴ Longcore, T., et al. 2000. *On the Perils of Ecological Restoration: Lessons from the El Segundo Blue Butterfly*. In *2nd Interface Between Ecology and Land Development in California*. U.S. Geological Survey Open File Report 00-62. Pp. 281-286. Accessed Online at: <http://pubs.usgs.gov/of/2000/of00-062/>

²⁵ The Commission has previously found coastal bluff scrub to be ESHA in numerous permit decisions involving the El Segundo blue butterfly and its host plant, coast buckwheat, including, but not limited to, its actions on CDP Nos. 5-01-018, 5-01-409, 5-90-1041-A2, and 5-90-1041-A5. The Commission also found in its decisions on CDP Nos. 5-03-280, 5-03-328, 5-04-324, and 5-07-206, that implementation of the required landscaping plan (including the planting of coast buckwheat) would likely result in the establishment of ESHA.

with coast buckwheat for survival.²⁶ Because many non-native plant species can quickly displace natives, their presence is detrimental to the success of an already fragile and limited native coast buckwheat community in this area. Moreover, the USFWS also reports that non-native plants have been shown to harbor insects that directly consume and compete with the El Segundo blue butterfly. For these reasons, the maintenance of non-native species in and around the restoration area is not compatible with the continuance of habitat essential to the survival of the El Segundo blue butterfly, and is therefore inconsistent with Section 30240(b).

(ii) Scenic and Visual Qualities

Also noted above, in its decision to deny Respondents' application for CDP Amendment No. 5-90-1041-A5, the Commission found the development to be inconsistent with Section 30251. However, in addition to the development addressed therein, Respondents' construction of the bluff-bottom property line wall ("boundary wall") in a manner not in accordance with CDP Amendment No. 5-90-1041-A3 is also inconsistent with the Coastal Act's policies regarding the protection of scenic and visual qualities. 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...

CDP Amendment No. 5-90-1041-A3 authorized a four-foot tall wall along the western edge of the subject property, along its border with Torrance beach. In granting the amendment, the Commission found the wall, as approved, would be compatible with the size and character of those in the immediate area and implicitly found that it would not significantly impact the scenic and visual qualities of the beach and coastal bluffs. However, the wall constructed by Respondents is at least twice the size of the one described in the CDP amendment. The eight-foot tall wall is not only inconsistent with those in the immediate area; it also obstructs views from the beach to and along the coastal bluff. In constructing the subject wall, Respondents failed to protect the scenic and visual qualities of the bluff and beach area. The Commission also addressed these issues at some length in its findings regarding CDP Amendment No. 5-90-1041-A5 (Exhibit 8) and noted that the "overall appearance of the bluff as a whole (all 28 lots), is natural and undeveloped." For these reasons, the wall is inconsistent with CDP Amendment No. 5-90-1041-A3, as well as Coastal Act Section 30251.

(iii) Summary of Commission's Findings for CDP Amendment No. 5-90-1041-A5

As noted above, the Commission previously denied Respondents' request for after-the-fact approval of the subject development.²⁷ The Commission could not approve the development

²⁶ USFWS. 2008. El Segundo Blue Butterfly (*Euphilotes battoides allyni*), 5-year Review: Summary and Evaluation. Page 5.

²⁷ The boundary wall and the non-native landscaping in the required habitat restoration area were not under consideration in that decision.

because of its inconsistency with the resource protection policies of the Coastal Act. For example, the Commission found the development to be inconsistent with the Coastal Act's public access and recreation policies (30210, 30220, and 30221) because of the development's hardening of the sandy bluff and the resulting impacts to sand supply for the public beach; with the scenic and visual resource policies (30251) due to the visibility of the structures and their alteration of the bluff face; with adverse impact minimization policies (30253) due to the development's potential to increase erosion of the bluff face and alter the character of the area; with the ESHA protection policies (30240) due to the development's impacts to the El Segundo blue butterfly habitat; and with the cumulative impact policies (30250) due to the adverse precedent that would be set by authorizing bluff face development in this area. For all of the reasons described herein and in the staff report for CDP Amendment No. 5-90-1041-A5, the development at issue is inconsistent with the Coastal Act. These findings are incorporated by reference herein and included as Exhibit 8 to this staff report. Therefore, the second element has been met for the Commission's issuance of the proposed Restoration Orders.

c. Subject Development is Causing Continuing Resource Damage

The subject development is causing continuing resource damage, as defined in Title 14, California Code of Regulations ("14 CCR"), Section 13190, which states:

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

'Resource' means any resource which is afforded protection under the policies of Chapter 3 of the Coastal Act, including but not limited to public access, marine and other aquatic resources, environmentally sensitive wildlife habitat, and the visual quality of coastal areas.

'Damage' means any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development. (emphasis added)

The Torrance coastal bluffs, in addition to the endangered species habitat they host, the coastal views they enhance, and the public access and recreational opportunities they enable (e.g., through buffering the beach from residential development and beach sand nourishment), are afforded protection under Coastal Act Sections 30210, 30220, 30221, 30235, 30240, 30250, 30251, and 30253, and therefore constitute "resources" as defined in 14 CCR Section 13190(a).

The subject development has fundamentally altered the natural topography of the bluff face, its vegetative composition and habitat function for an endangered species; degraded the scenic and visual quality of coastal bluffs immediately adjacent to a public beach, and left the site susceptible to erosion and other geologic hazards, thereby causing "damage" to these resources, as defined in Title 14, California Code of Regulations, Section 13190(b).

Without restoration, revegetation and careful monitoring, the foregoing impacts are continuing and will continue to occur; in addition to the temporal loss and loss of fitness to El Segundo blue butterfly habitat, and corresponding and continuing stress on its already limited population, as a result. The persistence of these impacts constitutes “continuing” resource damage, as defined in 14 CCR Section 13190(c).

For the reasons stated above, the subject development is causing continuing resource damage. Therefore, the third and final element has been met for the Commission’s issuance of the proposed Restoration Order, pursuant to Section 30811.

E. Provisions of Recommended Actions

As described in Section IV.C of these findings, for nearly 10 years, Commission staff has made numerous attempts to work with Respondents towards an amicable resolution to the violations described herein. Despite these efforts, Respondents have continued to maintain and undertake development that is not only inconsistent with numerous provisions of the previously-issued CDP, as amended, and the Coastal Act, but is also causing continuing resource damage. As a result, staff has determined that the only remaining administrative option for resolving this matter is through formal enforcement proceedings. Therefore, in hopes of putting an end to this ongoing set of violations and to bring the subject properties into compliance with the Coastal Act – both by compelling the work that was required 15 years ago and never completed, and by requiring additional habitat restoration to mitigate for the temporal losses that occurred over that period – staff recommends the Commission approve the proposed Cease and Desist and Restoration Orders.

The Cease and Desist Order and Restoration Orders included as Appendix A are consistent with the resource protection policies found in Chapter 3 of the Coastal Act. The proposed Orders would require Respondents to: (1) cease and desist from maintaining or undertaking any future unpermitted development on the subject property; (2) remove all subject development from the subject property; (3) restore and mitigate for impacts to the subject property using restorative grading and planting of vegetation native to coastal bluffs in southern California; (4) weed the site twice annually to ensure the restoration area is maintained free of non-native and invasive species; (5) monitor the success of the restoration for a period of not less than five years; and (6) submit annual monitoring reports to the Commission, describing the progress of the restoration, for the duration of the monitoring period. If monitoring reports indicate the restoration is not in conformance with or has failed to meet the performance standards specified in the restoration plan approved pursuant to the proposed Orders, Respondents would be required to submit and implement a revised or supplemental restoration plan for the review and approval of the Executive Director.

F. California Environmental Quality Act (CEQA)

The Commission finds that issuance of these Orders to compel the restoration of the subject property is exempt from any applicable requirements of the California Environmental Quality Act of 1970 (CEQA), Cal. Pub. Res. Code §§ 21000 *et seq.*, and will not have significant adverse

effects on the environment, within the meaning of CEQA. The Orders are exempt from the requirement for the preparation of an Environmental Impact Report, based on Sections 15060(c)(2) and (3), 15061(b)(2), 15307, 15308 and 15321 of CEQA Guidelines, also in 14 CCR.

G. Summary of Findings of Fact

1. The impacts to the Torrance coastal bluff, caused by the development at issue, including, but not limited to: the temporal loss of the ecosystem services provided by coastal bluff scrub plant communities; impacts to the endangered El Segundo blue butterfly resulting from the destruction of its already limited habitat; the degradation of its scenic and visual qualities; and the potential hazards associated with significant bluff alteration, will continue until restoration and revegetation activities are completed.
2. Michelle Campbell is and has been the sole owner of real property located at 433 Paseo de la Playa, in Torrance, Los Angeles County (APN: 7512-003-021), since October 2007.
3. Michelle Campbell and William Campbell jointly owned real property located at 433 Paseo de la Playa, in Torrance, Los Angeles County (APN: 7512-003-021), between November 1995 and October 2007.
4. The subject property is located within the Coastal Zone, in an area that is not covered by a certified Local Coastal Program.
5. Michelle and William Campbell undertook and maintained development, as defined in Coastal Act Section 30106 (listed in Section I.C., supra), on the subject property without obtaining a coastal development permit, in violation of the Coastal Act.
6. The development at issue in this matter is also inconsistent with numerous conditions of CDP No. 5-90-1041, as amended.
7. Michelle and William Campbell have acknowledged undertaking and maintaining the development at issue in this matter.
8. No Coastal Act permit exemption applies to the development at issue in this matter, and the results of that development remain on the subject property.
9. On December 15, 1995, the Commission granted to Michelle and William Campbell CDP Amendment No. 5-90-1041-A2, authorizing installation of a drain-line, a concrete stairway, chain-link fencing and gate, an irrigation system, revegetation of the bluff to restore El Segundo blue butterfly habitat, and placement of jute matting for erosion control.
10. On April 29, 1996, the Commission issued CDP Amendment No. 5-90-1041-A2 and issued notice of the effectiveness of immaterial Amendments 5-90-1041-A3 & 5-90-1041-A4, authorizing various minor modifications to the CDP. The former authorized a four-foot tall wall along the subject property's western boundary.
11. Respondents failed to implement the habitat restoration plan required pursuant to special conditions of CDP Amendment No. 5-90-1041-A2. Instead, Respondents planted non-native vegetation that was not authorized under the CDP Amendment and constructed various unpermitted structures in the area identified for restoration under the permit and

corresponding habitat restoration plan. Respondents also constructed an approximately eight-foot tall wall in the area for which CDP Amendment 5-90-1041-A3 authorized a four-foot wall.

12. After numerous Notice of Violation letters were sent to Respondents by Commission staff in 2003 and 2004; on August 31, 2004, Respondents submitted an application requesting after-the-fact authorization to retain the subject development referenced in Item No. 6, above (CDP Amendment Application No. 5-90-1041-A5).²⁸
13. On August 9, 2005, the Coastal Commission denied CDP Amendment Application No. 5-90-1041-A5. In doing so, the Commission found the subject development at issue in that application to be inconsistent with numerous resource protection policies of the Coastal Act, including Sections 30210, 30220, 30221, 30235, 30240, 30250, 30251, and 30253.
14. On November 18, 2005, the Commission rejected Respondents' request for reconsideration of the Commission's decision denying CDP Amendment Application No. 5-90-1041-A5.
15. On February 17, 2006, Respondents submitted an incomplete CDP Amendment application (No. 5-90-1041-A6) requesting authorization to remove the subject development for which after-the-fact authorization was previously requested and denied under CDP Amendment application No. 5-90-1041-A5, and to restore the subject property to its pre-violation condition.
16. On April 26, 2006, Commission staff notified Respondents that their February 17, 2006 CDP amendment application was incomplete and listed the items that needed to be submitted before the application could be filed. Respondents never submitted the items necessary to complete the application.
17. On June 25, 2009, Commission staff returned Respondents' incomplete application materials for CDP Amendment No. 5-90-1041-A6.
18. On March 31, 2010, the Executive Director issued to Michelle Campbell a letter notifying her of the Commission's intent (NOI) to commence cease and desist and restoration order proceedings and to record a Notice of Violation (NOVA), pursuant to Title 14 California Code of Regulations (14 CCR) Sections 13181(a) and 13191(a), and Public Resources Code Section 30812. The NOI letters each included a Statement of Defense form, in accordance with 14 CCR 13181(a).
19. Michelle Campbell did not submit to Commission staff a completed Statement of Defense form or written objection to the Executive Director's recordation of a NOVA on the title to the subject property.
20. On April 21, 2010, the Executive Director mailed to the Los Angeles County Recorder's office a letter requesting the recordation of a NOVA on the subject property. The NOVA was recorded on April 27, 2010 (Instrument No. 2010-0566556).
21. On May 10, 2010 and June 22, 2010, the Executive Director issued to William Campbell letters notifying him of the Commission's intent (NOI) to commence cease and desist and

²⁸ The application did not include a request for after-the-fact authorization of the approximately eight-foot-tall retaining wall along the property's western boundary.

restoration order proceedings, pursuant to Title 14 California Code of Regulations Sections 13181(a) and 13191(a).

22. On September 1, 2010, Commission staff hand delivered to William Campbell's residence a copy of the June 22, 2010 NOI letter.
23. William Campbell did not submit to Commission staff a completed Statement of Defense form.
24. On April 21, 2011, Commission staff mailed to Michelle and William Campbell, and their respective representatives, Mr. Tom Moroney and Mr. Casey Olsen, a letter restating its interest in resolving the issues described herein amicably, but also noting its intent to bring this matter to hearing at the June 2011 Commission meeting. Included with the letters were copies of the NOI letters to Michelle and William Campbell, dated March 31, and June 22, 2010, respectively.
25. Those portions of the Torrance coastal bluff that provide habitat for the federally listed as endangered El Segundo blue butterfly meet the definition of environmentally sensitive habitat areas, as defined in the Coastal Act.
26. The subject development had severe negative impacts on coastal resources protected under Coastal Act Sections 30210, 30220, 30221, 30235, 30240, 30250, 30251, and 30253, and therefore is inconsistent with those resource protection policies, as the Commission previously found in its decision regarding CDP Amendment No. 5-90-1041-A5.
27. The subject development is causing "continuing resource damage" within the meaning of Coastal Act Section 30811 and Title 14, California Code of Regulations, Section 13190.
28. Coastal Act Section 30810 authorizes the Commission to issue a cease and desist order in these circumstances. Coastal Act Section 30811 authorizes the Commission to issue a restoration order in these circumstances.
29. In addition to personal liability associated with performing and maintaining development in violation of the Coastal Act, the requirements of Commission actions pursuant to the Coastal Act also run with the land, binding present and future owners.
30. The work to be performed under the proposed Orders, if completed in compliance with the Orders and the plans required therein, will be consistent with Chapter 3 of the Coastal Act.

H. Statement of Defense

On March 31, May 10 and June 22, 2010, the Executive Director mailed to Michelle and William Campbell (the first to the former, the subsequent two to the latter) letters notifying each of his intent to commence proceedings for, *inter alia*, issuance of cease and desist and restoration orders (NOI). The Notice of Intent letters included a copy of the Commission's Statement of Defense form, in accordance with Section 13181(a) of the Commission's Regulations, for Respondents to complete. Thus, Respondents were provided the opportunity to respond to the allegations contained within the NOI letters, to raise any affirmative defenses that they believe may exonerate them of legal liability for the violations, and/or to raise other facts that might mitigate their responsibility. However, Respondents never returned any Statement of Defense

form. Nonetheless, as a courtesy and by way of explanation, responses to the general objections raised by Respondents through verbal and written correspondence over the past several years are provided below. The following paragraphs present quotations where possible, and synopses where necessary, of the arguments raised by Respondents, followed by the Commission's responses to those arguments.

1. William Campbell's Defense (Telephone call on May 19, 2010)

Claim: In valuing assets during divorce proceedings, the court devalued Mr. Campbell's assets to compensate for Michelle Campbell taking sole responsibility for the Coastal Act violations at issue as the property owner.

Commission's Response:

On numerous occasions, the Commission invited Mr. Campbell and his attorney, Mr. Casey Olsen, to submit any documentation that would absolve Mr. Campbell of his liability for the violations under the Coastal Act. Neither Mr. Campbell nor Mr. Olsen submitted any information to support Mr. Campbell's assertion. However, even if Mr. Campbell's assertion is true, the court's devaluation of Mr. Campbell's assets would not bar the Commission from issuing the proposed Orders or pursuing a claim for declaratory or equitable relief, or civil liability to resolve Coastal Act issues.

The Coastal Act authorizes the Commission to issue Orders and pursue claims for declaratory and equitable relief, and for civil liability against any person who undertakes development in violation of the statute, regardless of whether that person owns the property at issue. The Commission can issue Orders to a variety of parties, including those who have undertaken development without a permit or inconsistent with a permit. Coastal Act Section 30810 provides for Order issuance to "any person or governmental agency [who] 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..." Section 30811 authorizes the Commission to "order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission... is inconsistent with this division, and the development is causing continuing resource damage." Finally, Section 30820(a) simply states, "Any person who violates any provision of this division may be civilly liable in accordance with this subdivision ..." Section 30820(a)(1) provides for the imposition of civil liability against "...any person who performs or undertakes development that is in violation of this division or that is inconsistent with any coastal development permit previously issued by the Commission..." Section 30820(b) provides for the imposition of additional liability in cases where the person's actions conform to the previous standard and "...the person intentionally and knowingly performs or undertakes the development..." As described in pages 13-18 of this staff report, Respondents are both liable under each of the standards described here.

The Commission concludes that the court's decision in the divorce proceedings is not relevant to whether Mr. Campbell is liable under the Coastal Act for the violations at issue. The divorce

proceedings did not address or resolve the Coastal Act violations at issue in this matter. Therefore, the full range of relief provided in the Coastal Act for rectifying the violations, including the imposition of civil liability for knowing and intentional violations of the Coastal Act, remains available to the Commission.

2. William Campbell's Defense (Letter dated May 14, 2003)

Claim: "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." (Exhibit 19)

Commission's Response:

A violator's knowledge of the violation's existence is not a pre-requisite to the Coastal Commission's issuance of a Cease and Desist or Restoration Order. In addition, however, for the reasons explained below, the Commission finds Mr. Campbell's plea of ignorance unpersuasive.

In 1995, Mr. Campbell signed on behalf of Respondents an Affidavit of Substituted Applicant, providing for the transfer of the application for CDP Amendment No. 5-90-1041-A2 into their name (Exhibit 9). The affidavit begins, "I have read Coastal Development Permit No. 5-90-1041 and CDP Application No. 5-90-1041 A2 [sic], which was designed as a proposed remedy to correct Coastal Act Violation No. 5-95-003..." Furthermore, by signing the affidavit, Mr. Campbell swore 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.

A substantial component of CDP Amendment No. 5-90-1041-A2 involved the requirement for the implementation of restoration measures to address the impacts of unpermitted development on habitat for the El Segundo blue butterfly. Aside from the sworn statement described above, Mr. Campbell's knowledge of his obligation to restore the bluff and submit annual monitoring reports is evident through his November 3, 1995 letter to the Commission, in which he states:

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 concerns of the Fish and Wildlife Commission and your role in monitoring the enforcement of these items...

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 agree to work with your office, if any modifications should arise on maintaining the integrity of the Bluffside vegetation. (Exhibit 20)

Additionally, in a letter to the Commission dated February 20, 1996, William Campbell stated the following:

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 habitat, and maintenance of the Buckwheat and native plants in the following years...

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. (Exhibit 21)

Mr. Campbell signed the Affidavit of Substituted Applicant, and communicated to the Commission, through written correspondence on at least two occasions, that he understood his obligations under CDP Amendment No. 5-90-1041-A2. Based on the information above, the Commission concludes that Respondents made a conscious decision not to implement the restoration plan required under the above-reference CDP.

In 1996, Mr. Campbell, then a licensed general contractor, sought and obtained two additional amendments to CDP No. 5-90-1041, so he clearly understood the process for obtaining coastal development permits. However, not only did Mr. Campbell make a conscious decision to not implement the required restoration plan, the record suggests that he also made a conscious decision not to apply for CDP amendments for the unpermitted structures and non-native landscaping that he would ultimately place in the area of the required restoration.

For these reasons, the Commission rejects Mr. Campbell's assertion that, in 2003, Respondents had no knowledge of the violations at issue herein.

3. William Campbell's Defense (Letter from arborist dated October 8, 2003)

Claim: 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. (Exhibit 11)

Commission's Response:

As noted above, the restoration plan approved pursuant to CDP Amendment No. 5-90-1041-A2 required planting of the bluff with native coastal bluff scrub species and establishment of a viable community of 140 coast buckwheat plants within five years of issuance of the Amendment, which was issued on April 29, 1996. Amendment A2 and the approved restoration

plan also called for the submittal of annual monitoring reports of the success or failure of the plantings for a period of five years.

The Commission did not receive the annual monitoring reports required under the CDP and approved restoration plan. In fact, the arborist's letter was the first such letter received by the Commission describing the status of the restoration. However, contrary to the arborist's assertion that the restoration objectives had been accomplished, during numerous site visits, beginning in 2001, the Commission confirmed that very few coastal bluff scrub plant species were growing on the site. At no time did the Commission receive evidence of a viable community of 140 plants was certainly not established. Instead, it found the bluff face had been planted with non-native ornamental vegetation and some of it covered by unpermitted hardscape.

In addition, an extensive amount of unpermitted development has been constructed within the area to be restored under the CDP and approved restoration plan. The existence of the subject development within the area to be restored necessarily means that the objectives of the restoration plan have not been achieved. Moreover, the arborist's assertion that the vegetation growing on the property is consistent with vegetation on other areas of the bluff is not relevant to whether the objectives of the restoration plan have been met. CDP Amendment No. 5-90-1041-A2 required establishment of a specific palette native coastal bluff scrub species on the subject property. Far from demonstrating that the objectives of the restoration plan have been achieved, the arborist's letter contains no evidence that the restoration plan was ever implemented.

Appendices and Exhibits

<u>List of Appendices</u>	
Appendix	Description
A.	Proposed Cease and Desist and Restoration Orders Nos. CCC-11-CD-04 & CCC-11-RO-03.

<u>List of Exhibits</u>	
Exhibit	Description
1.	General property location map.
2.	Letter from USFWS to CCC, dated October 5, 1995, Re: Endangered El Segundo blue butterfly and restoration program at 433 Paseo del lay Playa, Torrance.
3.	Oblique aerial photograph of the subject property.
4.	Commission findings for CDP No. 5-90-1041-A2.
5.	Commission findings for CDP No. 5-90-1041-A3.
6.	Diagram of unpermitted development at 433 Paseo de la Playa, Torrance.
7.	Letter from CCC to Michelle & William Campbell, dated April 25, 2003, Re: Unpermitted development at 433 Paseo de la Playa, Torrance.
8.	Commission findings for CDP Application No. 5-90-1041-A5.
9.	Notification of Substitution of Applicant for Coastal Permit and Affidavit of Substituted Applicant, dated November 27, 1995.
10.	Letter from CCC to Michelle & William Campbell, dated July 31, 2003, Re: Unpermitted development at 433 Paseo de la Playa, Torrance.
11.	Letter from M.B. Landscaping to CCC, dated October 8, 2003, Re: Bluff Revegetation at 433 Paseo de la Playa.
12.	Letter from CCC to Michelle and William Campbell, dated July 8, 2004, Re: Unpermitted development at 433 Paseo de la Playa, Torrance.
13.	Letter from CCC to Michelle and William Campbell, dated December 21, 2005, Re: Unpermitted development at 433 Paseo de la Playa, Torrance.

14.	Letter from CCC to Michelle and William Campbell, dated January 19, 2006, Re: Extension of time for submittal of an application to remove unpermitted development at 433 Paseo de la Playa, Torrance.
15.	Letter from CCC to Michelle and William Campbell, dated April 26, 2006, Re: Incomplete status letter for CDP Application No. 5-90-1041-A6.
16.	Letter from CCC to Michelle Campbell, dated June 11, 2008, Re: Unpermitted development at 433 Paseo de la Playa, Torrance.
17a.	Letter from CCC to Michelle Campbell, dated March 31, 2010, Re: Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings, and to Record a Notice of Violation on the title to the subject property.
17b.	Letter from CCC to William Campbell, dated May 17, 2010, Re: Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings.
17c.	Letter from CCC to William Campbell, dated June 22, 2010, Re: Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings.
18.	Letter from CCC to Michelle and William Campbell, et al., dated April 21, 2011, Re: Final resolution attempt and notice of tentative hearing date.
19.	Letter from William Campbell to CCC, dated May 14, 2003, Re: Unpermitted development at 433 Paseo de la Playa, Torrance.
20.	Letter from William Campbell to CCC, dated November 3, 1995, Re: Permit 5-90-1041 and Violation V-5-TOR-95-003, 433 Paseo de la Playa, Torrance
21.	Letter from William Campbell to CCC, dated February 20, 1996, Re: Permit # 5-90-1041-A2.