

CALIFORNIA COASTAL COMMISSION

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



January 10, 2012

MEMORANDUM**W19b****TO: Coastal Commissioners and Interested Parties****FROM: South Coast District Staff****SUBJECT: ADDENDUM TO ITEM W19b, COASTAL DEVELOPMENT APPLICATION 5-10-258(GOODELL), FOR THE COMMISSION MEETING OF January 11, 2012.****I. CHANGES TO THE STAFF REPORT****A. Additional Special Condition**

1. Page 9, add the following additional special condition, Special Condition 6:

6. CURATION OF NON-GRAVE GOOD ARTIFACTS AND MATERIALS

PROIR TO ISSUANCE OF THIS PERMIT the applicant shall submit for the review and approval of the Executive Director, evidence of a written agreement with a curation facility that has agreed to accept any non-grave good artifacts, including but not limited to, original photos, field notes, laboratory data, and other materials recovered from the project site through the approved ARP. Any such materials shall be permanently curated within Orange County, at a facility meeting the established State and local standards for the curation of archaeological resources. Further, the applicant shall request in the agreement that the facility receiving the collection prepare an appropriate display of significant materials so that the public can view the investigation results and benefit from the knowledge gained by the investigations.

If permanent curation facilities are not available, artifacts may be temporarily stored at a facility such as the Anthropology Department of the California State University at Fullerton until space becomes available at a facility meeting the above standards. The applicant shall submit written proof of acceptance from the above permanent curation or temporary facility of 100 percent of the recovered non-grave good artifacts prior to issuance of the permit.

B. Additional Findings

1. Page 1, top right corner, insert the following between the second and third line:

270th Day 3/2/12

2. Page 18, the second full paragraph (which begins, "If midden deposits or features are exposed,..."), add the following:

The pollen and charcoal samples, original photographs and drawings, as well as all other collected materials, except for human remains or grave goods which will be later reburied on-site under a separate coastal development permit, will be permanently stored at a curation facility meeting applicable federal, state and local requirements, as required in Special Condition 6. The curation of this material makes this important information accessible to other archaeologists and researchers and aids in the understanding of the highly significant cultural site.

3. Page 21, subsection Comments Received, add the following at the end of the second paragraph:

The project archaeologist responds that there is no need to delay the proposed ARP on the subject Goodell site until receipt of the final archaeological report on the adjacent Brightwater site and states, "information contained within the final report series for the Brightwater Project will not change recommendations presented in the ARP for the Goodell Project". Dr. Wiley further states that the now completed final report provides details on every aspect of the investigations and materials recovered from the archaeological sites on the Bolsa Chica Mesa and is contained in 11 volumes, each ranging between 300-500 pages, plus additional appendices and digital data disks. Dr. Wiley concludes that subject Goodell ARP has already considered the pertinent information in its predictive modeling and that "no information in the Brightwater report series is of a nature which might change the investigative program outlined in the Goodell ARP" (Exhibit 15).

II. ADDITIONAL CORRESPONDENCE RECEIVED

In addition to the consulting archaeologist response to the issue of the final report for the Brightwater Project site (Exhibit 15), seven other letters were received after the publication of the staff report. On January 4, 2012, a letter was received from Dr. Pat Martz voicing concern that the archaeology peer reviewers who are reviewing the final Brightwater report are paid by the applicant which represents a conflict of interest in her opinion; that the information from the investigations on the Brightwater site is essential the ARP on the Goodell site and requests that the Commission not grant approval of the subject ARP until the Brightwater final report has been reviewed and approved by the ED; that the project archaeologist is in violation of the Register of Professional Archaeologists (RPA) of which she is a member; and that the materials recovered from the ARP which are not required by law to be reburied should be permanently stored at an appropriate curation facility (Exhibit 16). On January 5, 2012 a letter was received from the Native American Heritage Commission (NAHC) in support of requiring an independent archaeologist or geoarchaeologist to monitor the Goodell ARP process, if the project is approved (Exhibit 17). Also received on January 5th is two letters from the Bolsa Chica Land Trust (BCLT). Exhibit 18 requests that the Commission delay consideration of the application pending the final Brightwater archaeology report or deny the request and requests an independent archaeological observer. The second letter

ADDENDUM
5-10-258 (Goodell)
Page 3 of 3

from BCLT (Exhibit 19) suggests that without the final Brightwater report that the Commission does not have complete information in order to act upon the Goodell ARP application and cites the previous revocation request for the Brightwater project. Four emails were received requesting delay or denial of the Goodell application and the requirement for an independent archaeological reviewer of the proposed work if the project is approved (Exhibits 20-23).

Subsequent to the publishing of the Goodell staff report for the November Commission meeting BCLT submitted color copies of 5 photographs. The applicant postponed the matter from the November meeting. The color photos are attached as Exhibit 24.

With regards to the hiring of an independent archaeologist or geoarchaeologist to oversee the proposed ARP field work, there is not State law requiring such a process. The practice of applicants providing monetary compensation to archaeologist peer reviewers, as well as to Native American monitors and MLDs is common practice although not required by any State law.

Teresa Henry

From: Nancy 'Anastasia' Wiley, Ph.D [wileycoyote@srscorp.net]
Sent: Tuesday, January 10, 2012 11:48 AM
To: Teresa Henry
Cc: Ed Mountford
Subject: Goodell ARP

Teresa-

Pursuant to your inquiries, please be informed that information contained within the final report series for the Brightwater Project will not change recommendations presented in the ARP for the Goodell Project. The final report series provides minute details on every aspect of the investigations and materials recovered from sites on the Bolsa Chica Mesa over the last 20 years. Presented in 11 volumes of data, each report is between 300-500 pages long and some with longer appendices have additional digital data disks in a report pocket about those investigations. It is not necessary to delay action on the ARP because the ARP has already considered the pertinent information in its predictive modelling. No information in the Brightwater report series is of a nature which might change the investigative program outlined in the Goodell ARP.

Nancy 'Anastasia' Wiley, Ph.D
Research Director/Principal Investigator Scientific Resource Surveys, Inc.

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EXHIBIT # 15
PAGE 1 OF 1

TO: Teresa Henry, District Manager, South Coast District, California Coastal Commission

FROM: Patricia Martz, Ph.D.

DATE: January 4, 2012

COMMENTS ON THE STAFF REPORT FOR APPLICATION NUMBER 5-10-258 DATED 12/22/11 FOR HEARING DATE 1/11/12

The Staff Recommendation represents a good faith effort to protect the last remaining portions of the 9,000 year-old archaeological site CA-ORA-83, also know as the Cogged Stone Site. I commend and support the recommendations for preservation of human burials, archaeological features, and intact midden, but have the following concerns:

Page 21: The final report for the Brightwater site was due by the end of the year 2011. The applicant states that it is being reviewed by the archaeology peer reviewers and anticipates that the final report will be submitted to the Coastal Commission by March 2012. There are two problems:

(1) The peer reviewers are paid by the applicant through their archaeological consultant. This represents a conflict of interest. The report should be submitted to a peer review panel of qualified archaeologists who will review on a pro bono basis.

(2) The archaeological investigations were completed in 2006. **The applicant anticipates that the peer reviewer's comments will be incorporated and the report finalized by March 2012.** One year after completion of field work is the standard, 5 1/2 years is unacceptable. In fact archaeological work has been conducted on the Bolsa Chica Mesa by the applicant's archaeologist for nearly 30 years without a comprehensive report that meets the State of California Office of historic Preservation Archaeological Resource Management Reports (ARMR). **The information from the archaeological investigations on the Brightwater portion of the site is essential for the successful completion of the subject ARP and the ARP permit should not be granted until the final report for the Brightwater archaeological investigations has been reviewed and approved by the Executive Director of the Coastal Commission.**

See pg. 10 of the Staff Report: "The proposed ARP is based on "Predictive Modeling" in that it is designed in consideration of the records searches, archival research, and field work carried out on the Bolsa Chica Mesa since the 1920's." This is further support for the position that the final report documenting the previous fieldwork is essential to guide the ARP.

Nancy Desautels Wiley is a member of the Register of Professional Archaeologists (RPA) and is in violation of the Code of Conduct: The Code of Conduct for RPA states that "An archaeologist shall accurately, and without undue delay, prepare and properly disseminate a description of research done and its results (2.1 c.) and "An archaeologist shall **COASTAL COMMISSION**

EXHIBIT # 16
PAGE 1 OF 2

undertake research that affects the archaeological resource base unless reasonable prompt, appropriate analysis and reporting can be expected.”

Page 18: States that a pollen sample will be removed from the hand excavated units and saved for future special studied. Also charcoal samples will be collected. The pollen and charcoal samples and other archaeological materials, that are excavated from these units and the augur holes and do not fall under repatriation laws, should be curated (stored) at a curation repository that meets state and federal standards so that they are accessible to qualified researchers. **The lack of requirements for curation of these and site forms, drawings, photos and other materials generated by the excavations is troubling and does not meet the State of California Guidelines for the Curation of Archaeological Collections.**

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STATE OF CALIFORNIA

Edmund G. Brown, Jr., Governor

NATIVE AMERICAN HERITAGE COMMISSION

815 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-0251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: na_hc@pacbell.net



January 5, 2012

Ms. Teresa Henry, District Manager
California Coastal Commission
South Coast District
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416

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JAN 5 2012

CALIFORNIA
COASTAL COMMISSION

Sent by FAX to: (562) 590-5084
No. of Pages: 2

Dear Teresa:

RE: CA-ORA-83 COGGED STONE SITE; GOODELL PROPERTY PROJECT,
ARCHAEOLOGY OR GEOARCHAEOLOGICAL MONITORING OR THE ARP, IF
APPROVED BY THE CCC

Because of the sensitivity of this site and the fact that human remains and cultural resources were discovered in the road, nearly adjacent to the site, we suggest that the Coastal Commission consider an *independent archaeologist or geo-archaeologist* to monitor the ARP processes, if approved, in order to determine whether or not 'intact midden' is present, and where, on the development. Based on our knowledge of the site, there is not sufficient evidence that the area is too disturbed to contain intact cultural materials. It was reported on the Brightwater project site that it was unlikely that cultural resources would be discovered; yet, substantial CA-ORA=83 and CA-ORA-85 resources were uncovered including human remains.

Furthermore, it may be advisable to the independent archaeologist or geo-archaeologist be someone who is not affiliated with the project archaeologist of record or of the Cogged Stone site in order to have an objective and unbiased review.

The California Native American Heritage Commission (NAHC) is the state agency responsible for the protection and preservation of Native American Cultural Resources, pursuant to California Public Resources Code §2170 and also pursuant to the court decision of Environmental Protection Information Center v. Johnson (1985) 170 Cal App. 3rd 604); the court held that the NAHC has jurisdiction and special expertise, as a state agency, over affected Native American resources, impacted by proposed projects including archaeological, places of religious significance to Native Americans and burial sites.

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EXHIBIT # 17
PAGE 1 OF 2

Received Jan-05-12 05:45pm

From-916 657 5390

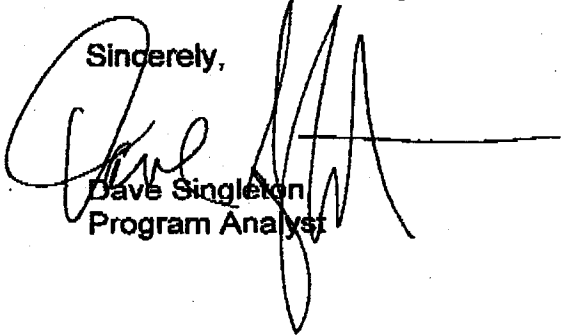
To-California Coastal

Page 001

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Let me know if you have any questions about our suggestions, above.

Sincerely,



Dave Singleton
Program Analyst

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EXHIBIT # 17
PAGE 2 OF 2



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David Sullivan
Grace Winchell

ENDORSEMENTS

Amigos de Bolsa Chica
Algalita Marine Research
Foundation
Anza Borrego Foundation
Ballona Wetlands Land
Trust
City of Huntington Beach
Friends of Harbors,
Beaches and Parks
Huntington Beach
Wetlands Conservancy
Huntington Beach Tomorrow
Orange Coast League of
Women Voters
Orange County
Coastkeeper
Peninsula Open Space Trust
Sea and Sage Audubon
Sierra Club
Angeles Chapter
Surfrider Foundation

January 5, 2012

California Coastal Commission
200 Ocean Gate #1000
Long Beach, Ca 90802-4316

Dear Commissioners:

Re 19.b Application No 5-10-258 (Goodell, Huntington Beach) CDP for ARP

Dear Commissioners:

I. The Land Trust requests you delay your consideration or deny the permit.

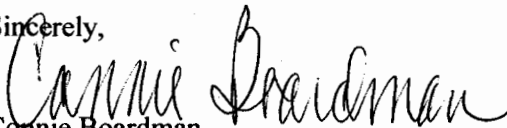
Please postpone your consideration on ARP permit application. According to the staff report the final archeological report for ORA 83 is still pending. It has been submitted to the peer reviewer and is "anticipated to be submitted to Coastal Commission in March 2012". (Page 21 staff report) Archeological excavations on Brightwater development which is directly adjacent to the Goodell property were completed in 2006. Had the applicant's archaeologist submitted the Final Brightwater Archaeological Report (due February 2010 and now due December 2011); you would have the requisite information upon which to base your decision. If you decide not to postpone then denial of ARP permit is appropriate. See Land Trust letter submitted October 25, 2011 for background.

II. Independent archeological observer

For over 20 years, the developer's archaeological consultant has incorrectly stated that the clogged stone site is too disturbed to contain intact cultural materials and the same consultant was recently cited and fined for digging 16 unauthorized trenches for soil profiles on the subject property. This poor track record warrants the hiring of an independent archaeological observer to monitor any determinations regarding whether intact midden is present. The independent archaeological observer should be a qualified archaeologist, or geoarchaeologist who is not affiliated in any way with the archaeological consultant and who has had no previous involvement with the clogged stone site. In the event of a dispute between the applicant's archaeologist and the independent archaeological observer regarding whether midden is intact, the dispute shall be promptly reported to the Executive Director via email and telephone and investigations shall be halted in the area(s) of dispute until it is resolved. The observer can be paid with funds collected for the fine levied for the unauthorized trenching.

Please refer to Bolsa Chica Land Trust October 25, 2011 submission for background on this permit application.

Sincerely,


Connie Boardman
President

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EXHIBIT # 18
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City of Huntington Beach
Friends of Harbors,
Beaches and Parks
Huntington Beach
Wetlands Conservancy
Huntington Beach Tomorrow
Orange Coast League of
Women Voters
Orange County
Coastkeeper
Peninsula Open Space Trust
Sea and Sage Audubon
Sierra Club
Angeles Chapter
Surfrider Foundation

January 5, 2012

California Coastal Commission
200 Ocean Gate #1000
Long Beach, Ca 90802-4316

Dear Commissioners:

Re 19.b Application No 5-10-258 (Goodell, Huntington Beach) CDP for ARP

Dear Commissioners:

In 2008, the Land Trust along with over 500 interested citizens requested a revocation hearing regarding the CDP for Brightwater development 5-05-020. The petitioners' position was that grounds for revocation of a permit were present. The petitioners asserted that intentional inclusion of inaccurate, erroneous or incomplete information in connection with the CDP application, where the Commission finds that accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny the permit had occurred.

A hearing was held on 1/13/2008. The Commission found that there were no grounds for revocation. According to report from hearing on the Revocation request:

"The rules for revocation do not allow the Commission to have second thoughts on a previously issued permit based on information that comes into existence after the granting of the permit, no matter how compelling that information might be. The grounds for revocation are, of necessity, confined to information in existence at the time of the Commission's action." (Page 2 of 27 R5-05-020).

The Land Trust believes that with regards to the current CDP application for an ARP for the ORA 83 "Cogged stone" site on the D.E. Goodell property that there is a failure to comply with Commission's requirement that the Final archeological report on ORA 83 be received by December 2011. As such the Commission does not have complete information upon which the Commission can properly base its decision relative to the CDP application.

Sincerely,


Flossie Horgan
Executive Director

COASTAL COMMISSION

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SUBSTANTIVE FILE DOCUMENTS: Final Supplemental EIR (SEIR) 551 (State Clearinghouse No. 1993071064), Vol. I, Brightwater Development Project Orange County, California, prepared by LSA Associates, Inc., November 17, 2001; Coastal Development Permit files 5-84-983, 5-83-702 as amended, 5-89-772 as amended, Executive Director Report to the Commission Regarding ORA-83, R5-98-772, 5-04-192, 5-05-020.

PROCEDURAL NOTE:

The Commission's regulations, Title 14 of the California Code of Regulations, state the grounds for the revocation of a coastal development permit as follows:

Grounds for revocation of a permit shall be:

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

STAFF NOTE:

Revocation of a permit removes a previously granted permit. Even if a permit is vested, i.e. the permittee has undertaken construction of the project, if the Commission revokes the permit, the applicant is required to stop work and, if wishing to continue, to reapply for the project. In fact, if the Executive Director determines that evidence clearly shows that there are grounds for revocation, Section 13107 provides that the operation of the permit shall be suspended. In this case, the Executive Director has not determined that grounds exist for revocation and the operation of the permit is not suspended.

Because of the impacts on a permittee, the grounds for revocation are necessarily narrow. The rules of revocation do not allow the Commission to have second thoughts on a previously issued permit based on information that comes into existence after the granting of the permit, no matter how compelling that information might be. Similarly, a violation of the Coastal Act or the terms and conditions of a permit or an allegation that a violation has occurred are not grounds for revocation under the California Code of Regulations. The grounds for revocation are, of necessity, confined to information in existence at the time of the Commission's action.

The revocation request is based on subsection (a) of Section 13105 of the Commission's regulations. The three elements of Section 13105(a) that must be proved before a permit can be revoked are:

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EXHIBIT # 19
PAGE 2 OF 3

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CALIFORNIA
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California Coastal Commission
Cecilia Henry, District Manager
200 Ocean Gate, 10th floor
Long Beach, CA 90802-4416

RE: Brightwater / Bolsa Chica Permit 5-05-020

Dear Ms. Henry:

We, the undersigned (petitioners) along with over 500 interested citizens who have submitted signatures, request an immediate investigation by the California Coastal Commission with respect to Permit 5-05-020 Brightwater, approved April 14, 2005 (Condition of Approval 23 attached as Exhibit A).

If any of the following allegations are discovered to be true we request that the Commission immediately revoke or suspend this permit.

The petitioners want to preface the above request by noting that over decades the petitioners have come to believe that the Bolsa Chica sacred site is being systematically destroyed or, at a minimum, placed in grave peril. The petitioners do not fault the Coastal Commission or any other public agency for this state of affairs. However, we believe the following presents such a clear case of improper action relative to the Bolsa Chica sacred site that specific action must be taken immediately.

Revocation of Permits

Section 13105 of Title 14 of the California Code of Regulations provides as follows:
Grounds for revocation of a permit shall be:

- a. Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the commission finds that accurate and complete information would have caused the commission to require additional or different conditions on a permit or deny an application;

In accordance with Title 14 CCR Section 13053.5 c, an application is to include a dated signature by or on behalf of each of the applicants, attesting to the truth, completeness and accuracy of the contents of the application. We are concerned that the Commission may have been provided with less than complete information regarding the cultural resources on the Brightwater site, resources of which the applicant may have been aware.

COASTAL COMMISSION

EXHIBIT # 19
PAGE 3 OF 3

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Teresa Henry

From: John Killian [jskillian@roadrunner.com]

Sent: Friday, January 06, 2012 11:30 PM

To: Teresa Henry

Cc: connieb07@gmail.com

Subject: ORA-83

i AM requesting the Coastal Commissioners delay their decision until provided the final report. If they can't delay the decision we are asking for them to deny this Coastal Development Permit.

Also, for decades the developer's archeologist claimed ORA 83 was too disturbed to be of importance, until that is the developers of Brightwater had their permits. Excavations before development revealed 160 burials, tens of thousands of artifacts, numerous house pits, and hearths.

The archeologist also violated a permit to use non-invasive methods to examine the Goodell site and dug 16 pits without permits, and without a Native American monitor being present. Given this track record we are also asking the commission to require an independent archeologist observer be present if this Coastal Development Permit is approved.

JOHN KILLIAN
16681 South Pacific Avenue
Sunset Beach, CA 90742

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EXHIBIT # 20
PAGE 1 OF 1

1/9/2012

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Teresa Henry

From: Frank Fata [ffata@csulb.edu]
Sent: Friday, January 06, 2012 4:57 PM
To: Teresa Henry
Subject: Bolsa Chica Human History

To the Coastal Commission:

I urge that the permit be delayed until the final report or denied.

Frank Fata
7 Seventieth Place
Long Beach, CA 90803

COASTAL COMMISSION

EXHIBIT # 21
PAGE 1 OF 1

14

Teresa Henry

From: Nancy Grimes [avocet5@gmail.com]
Sent: Friday, January 06, 2012 5:45 PM
To: Teresa Henry
Subject: Bolsa Chica Cogged Stone Site

Please delay your decision on the Bolsa Chica Cogged Stone Site, OR-83, on the Goodell Property at Bolsa Chica until the final report of the developer's archeologist is provided. Given his track record, including the violation of a permit to use non-invasive methods to examine the site, we request the commission to require an independent archeologist observer be present if this Coastal Development Permit is approved.

Please help us preserve this incredibly important piece of archeology's and our history! Once destroyed it is gone forever!

Thank you.

Dr. & Mrs. James L Grimes
8591 Mossford Drive
Huntington Beach, CA 92646

COASTAL COMMISSION

EXHIBIT # 22
PAGE 1 OF 1

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1/10/2012

Teresa Henry

From: MJ Baretich [mjbaretech@hotmail.com]

Sent: Friday, January 06, 2012 9:26 PM

To: Teresa Henry

Subject: Bolsa Chica's Human History

Dear Coastal Commissioners,

We are requesting that you delay your decision on the Goodell Property until after you have had time to review the final report from the Brightwater Project. If you cannot delay the decision, we are asking you to deny this Coastal Development Permit for which the owner of the Goodell Property is asking. He wishes to do extensive archeological excavations prior to his proposed development of the property.

We support the Bolsa Chica Land Trust's vision to save ORA-83, the Cogged Stone site at Bolsa Chica. It is the only coastal prehistoric site eligible for listing on the National Register of Historic Places in all of Southern California.

The developer's archeologist finished work on Brightwater (immediately adjacent to the Goodell property) in 2006 and still has not provided the final report as required to the Coastal Commission. Since ORA-83 on the Goodell property is the same archeological site as was at Brightwater, you Commissioners need to have access to the final report prior to making any decisions regarding archeology or development on the Goodell Property.

According to the records, for decades the developer's archeologist claimed ORA 83 was too disturbed to be of importance, that is, until the developers of Brightwater had their permits. Excavations before development revealed 160 burials, tens of thousands of artifacts, numerous house pits, and hearths.

We agree with the Bolsa Chica Land Trust wherein they further explain that the archeologist also violated a permit to use non-invasive methods to examine the Goodell site and dug 16 pits without permits, and without a Native American monitor being present. Given this track record we are also asking the commission to require an independent archeologist observer be present if this Coastal Development Permit is approved.

Thank you for your consideration of our concerns, and continued support of Bolsa Chica.

Mary Jo Baretich
President, Cabrillo Wetlands Conservancy, Inc.
Huntington Beach, CA
(714) 960-9507

COASTAL COMMISSION

EXHIBIT # 23
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1/9/2012

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EXHIBIT 1

**1. Photo of proximity of all properties
D.E.Goodell, Shea/parkside, Brightwater and the Ridge**

2-4 Directional orientation

2 Looking east

3, Looking south

4. Looking south west

5. View from Shea up to DEGoodell

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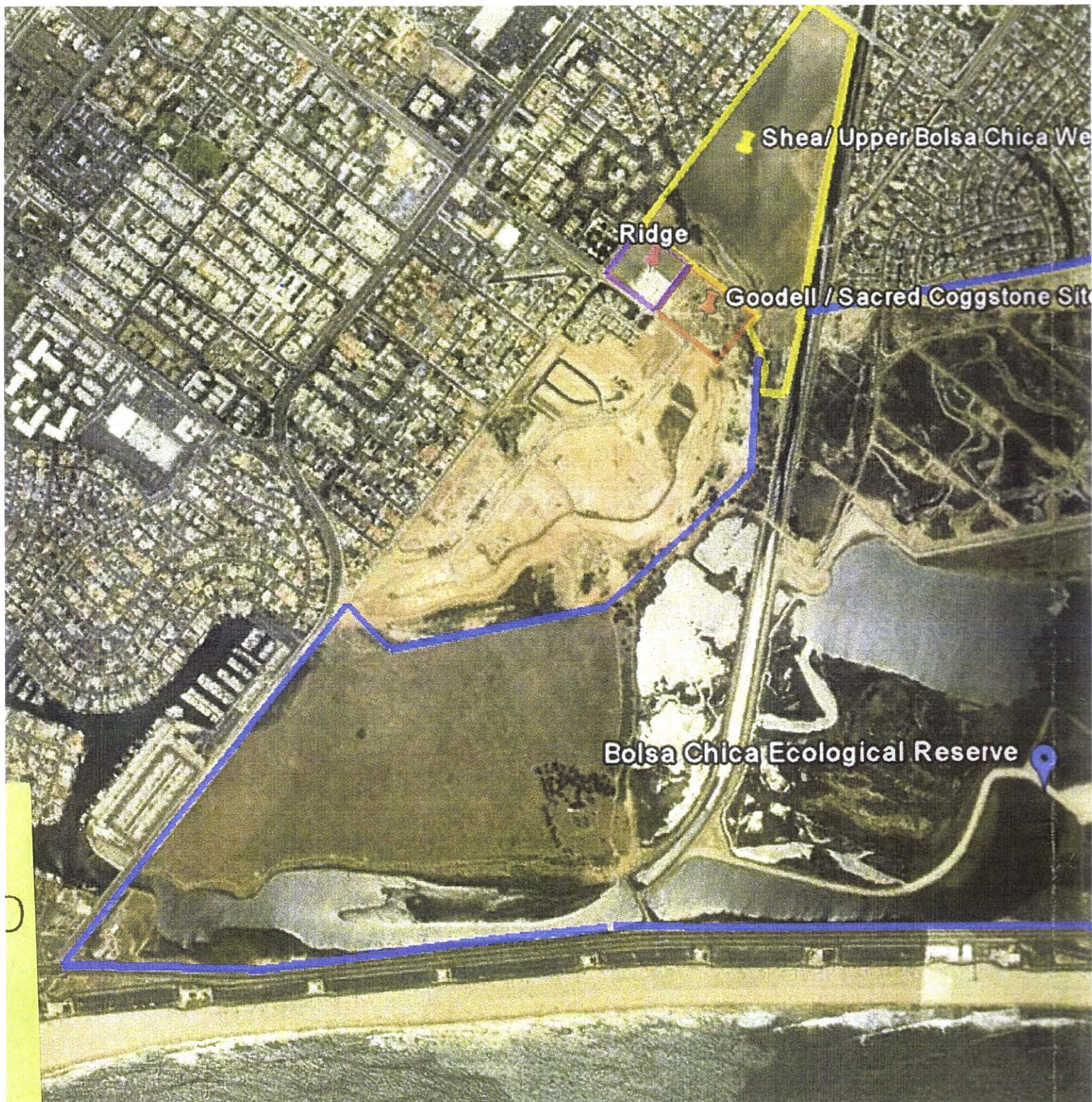
OCT 25 2011

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EXHIBIT # 24
PAGE 1 OF 6

#1



Perspective - From D.E. Goodell looking east to Shea property

2
19



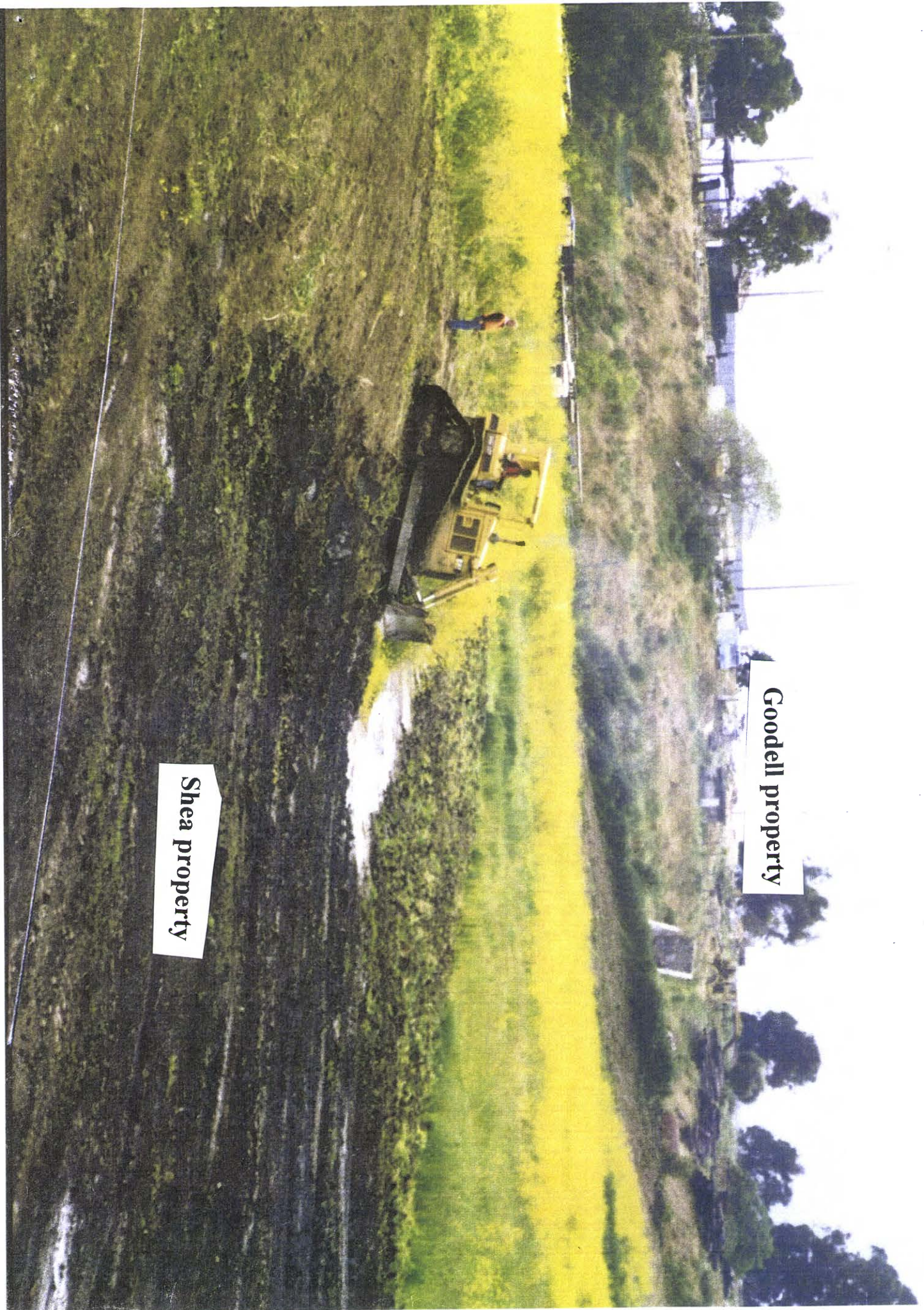
Perspective - From D.E. Goodell looking south to wetlands

#38



Perspective - From D.E. Goodell looking south west wetlands & ocean #4





Goodell property

Shea property

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

**W19b**

Filed: 6/6/11
180th Day: 12/3/11
Staff: Teresa Henry-LB
Staff Report: 12/22/11
Hearing Date: 1/11/12
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-10-258

APPLICANT: Donald E. Goodell

AGENT: Ed Mountford, Hearthside Homes
Nancy Wiley, Scientific Resources Surveys, Inc.
Dave Neish, D. B. Neish, Inc.

PROJECT LOCATION: East side of the intersection of Brightwater Drive and Bolsa Chica Street, Bolsa Chica, Orange County (APN: 110-016-18)

PROJECT DESCRIPTION: Implementation of an archaeological research plan (ARP) including subsurface investigation of potential cultural resources. The investigation will include a two-series auger program using hollow-stem augers, and small (1x1 meter) hand excavation units, wet screening, laboratory work and report of findings. The purpose of the ARP is to determine if cultural/archaeological resources (such as intact midden, Native American human remains, or archaeological features) are present on the subject site, and to define the boundaries of these areas, using the above methods and techniques that avoid impacts to these resources, if they are present.

LOCAL APPROVALS RECEIVED: Approval in Concept, County of Orange, OC Communities Planning, OC Public Works, pre-annexation zoning, City of Huntington Beach.

SUMMARY OF STAFF RECOMMENDATION:

The Coastal Act issues involved in the subject application include protection of significant archaeological/cultural resources that have a high potential to exist on the subject site and the protection of biological resources, including Southern tar plant and raptor nesting, roosting and breeding habitat. The subject 6.2 acre site is located on the southeastern portion of the Bolsa Chica Mesa and contains a known archaeological site, CA-ORA-144, "The Water Tower Site", in recognition of a water tower structure that was historically on the site up until the 1980's. However, some archaeologists consider the subject site to be the north-eastern portion of another archaeological site located on the Bolsa Chica Mesa the highly significant archaeological site CA-ORA-83, "The Cogged Stone Site" which lies primarily to the west of Bolsa Chica Street on the Hearthside Homes Brightwater project site. The project archaeologist, Scientific Resources Surveys, Inc. (SRS), agrees that CA-ORA-144 is a part of "The Cogged Stone Site" which is a 9,000 year old archaeological site that was included on the National Register of Historic Places in 2009. Additionally, the Native American Heritage Commission (NAHC) has determined that "The Cogged Stone Site" is a Native American cemetery due to the high number of Native American burials that were found on the site. Beginning in the early 1980's, the predecessor company to Hearthside Homes was granted several coastal development permits to investigate CA-ORA-83, as well as other archaeological sites on the mesa such as CA-ORA-85, "The Eberhart Site", and was also allowed to fully excavate all existing on-site archaeological resources. This work was carried out over a 20 year period and was completed in 2006.

The subject site lies on the southeastern portion of the Bolsa Chica Mesa and is separated from the main portion of CA-ORA-83 by Bolsa Chica Street. Therefore, there is a high likelihood that archaeological/cultural resources are on the project site. However, portions of the subject Goodell site were developed with above and below ground World War II development and still contain remnants of this historic development that may have impacted prehistoric archaeological/cultural resources.

The purpose of the proposed archaeological research plan (ARP) is to identify portions of the subject site that contain intact cultural/archaeological resources (such as Native American human remains, archaeological features, or intact midden), and to define the boundaries of these areas, using techniques that avoid impacts to these resources, if they are present. An archaeological midden is a prehistoric mound of discarded material used in cooking and food processing and contains marine shell, animal bone, fired rocks, and discarded artifacts and characterized by organic material in the soil such as grease, blood, and body fluids. The presence of prehistoric midden soils constitutes an archaeological site. Therefore, the additional presence of prehistoric human remains, artifacts or features is not necessary to determine that an archaeological site exists. Archaeological midden is "intact" if it is in place and has not been dug up and re-deposited or severely disturbed as the result of historic or modern activities. The purpose of the proposed ARP on the Goodell site is not to excavate intact cultural/archaeological resources as was done on the adjacent Brightwater project site. Any intact cultural/archaeological resources found on the subject site will be left in place and any subsequent development of the site will be designed to avoid further impacts to these resources.

The testing plan is designed to document intact midden, human remains and other archaeological features (such as subterranean house pit structures, fired rocks, hearths,

ornaments, religious objects, etc.) and to limit disturbance to these resources, determine and map their boundaries and then cover and preserve in place any Native American human remains or features found in intact midden soils. The ARP is also designed to preserve intact midden as an archaeological/cultural resource. The Program Purpose of the proposed ARP states, "...the goal of the Constraints Analysis should be limited to identifying the locations and defining the boundaries of areas of intact cultural deposits (midden) within the property." The proposed ARP is a two-part mechanical auger and 1x1meter hand unit excavation program. A hollow-stemmed 16" bucket auger will be used, as opposed to a screw auger, in order to minimize impacts to any existing cultural deposits. Only the portion of the site that has been pre-zoned for subsequent residential use by the City of Huntington Beach will be subject to the proposed testing; which is approximately half of the 6.2 acre site. Areas pre-zoned open space or conservation will not be subject to the proposed investigation since subsequent subsurface development is not contemplated in those areas. Once intact midden areas have been established, boring will cease in those areas in order to limit impact. The applicant proposes to have all subsurface work monitored by Native American monitors with ancestral ties to the area. The NAHC has determined that both the Gabrielino and Juaneno tribal groups have ancestral ties to the Bolsa Chica Mesa.

On April 16, 2010 the Executive Director issued exemption 5-10-035-X(Goodell) for the subject site to allow the applicant's archaeological consultant to carry out a surface survey and a geophysical program intended to provide data to be used to generate archaeological maps including site boundaries, location of surface artifacts and other relevant GPS data for the subject ARP. The applicant did not request, nor did the exemption approve, any subsurface work. However, in addition to carrying out the approved geophysical plan the archaeological consultant also, without authorization, excavated by hand, sixteen 50cm wide by 101 cmbs (centimeters below surface) average depth profiles along the edge of the upper terrace of the subject site. Initially the applicant requested approval of the unpermitted development in conjunction with the proposed ARP. .The combined application was scheduled on the Commission November 2011 agenda. However, the applicant postponed the application in order to respond to the staff recommendation. Following the postponement the applicant met with Commission planning and enforcement staff to discuss consensual resolution of the unpermitted excavations and has entered into a settlement agreement in the form of consent orders that would provide a resolution of the unpermitted development. The applicant subsequently modified the project description for the subject application to remove the request for approval of the after-the-fact development. Those consent cease and desist and restoration orders, CCC-12-CD-01 and CCC-12-RO-01, are also scheduled on the Commission's January 11, 2012 hearing (items W13 and W14) to precede Commission action on the subject application (see Exhibit XX for the staff report, as incorporated by reference herein).

In summary, staff recommends that the Commission **APPROVE** the proposed archaeological research plan (ARP), subject to conditions requiring the applicant carry out the proposed ARP, within the area of the site planned for future residential development, in a manner most protective of any significant archaeological/cultural resources (such as intact midden, Native American human remains or archaeological features) by, among other things, avoiding excavation of intact midden, minimizing the exposure of and the preservation in place of any archaeological/cultural resources found in intact midden; the timely preparation and appropriate dissemination of the final report of findings of the

approved ARP; the submittal of an equipment staging plan for the protection of Southern tar plant; protection of raptor nesting; and protection of water quality.

Staff Note

The proposed project is the implementation of an archaeological research plan (ARP) which allows subsurface exploration on a site that contains a known, mapped archaeological site. Boundaries of mapped archaeological sites are not exact; intact archaeological resources may be present within or outside of a mapped archaeological site, or no longer present due to historic or modern development or vandalism. Through previous archeological testing the site has been found to contain soils that indicate that intact archaeological resources may be present. Due to the sensitive nature of Native American archaeological resources recorded within the proposed ARP, and consistent with State Government Code, section 6254, subsection (r); the proposed ARP is not attached as an exhibit to the staff report. The ARP will be available at the hearing for review only by Coastal Commissioners, the deputy attorney general, and appropriate Commission staff and will be collected by staff following Commission review and kept in confidential records at the Commission office.

Standard of Review

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The subject site lies within the Bolsa Chica segment of Orange County. There is no LUP or IP for the Bolsa Chica segment of the County of Orange Local Coastal Program. The standard of review is therefore Chapter 3 of the Coastal Act and the Coastal Commission is the permit issuing entity for this area.

However, the subject site is pending annexation to the City of Huntington Beach. The City of Huntington Beach has pre-zoned the subject 6.2 acre site for low density residential, open space and conservation use. The City of Huntington Beach has a certified LCP but it will not be applicable to the project site until the area is annexed into the City and the City amends its LCP to include the site. The Commission recently approved an amendment to the certified City of Huntington Beach LCP for the Parkside Estates site, which is immediately adjacent to the subject site to the east. Land Use Plan Amendment HNB-MAJ-1-06 was approved by the Commission in November, 2007. The Implementation Plan Amendment HNB-MAJ-1-10 was approved in January, 2010. The Parkside Estates LUP Amendment is fully certified and the Commission concurrence with the Executive Director's determination that the City has fully incorporated its action on the IP Amendment is scheduled for the same Commission meeting as the subject application. Therefore, to the extent that the certified Huntington Beach LCP, as amended applies to the subject site, it may be used for guidance.

SUBSTANTIVE FILE DOCUMENTS: Cultural Resource Constraint Analysis on Archaeological Site CA-ORA-144, "The Water Tower Site" [A Part of CA-ORA-83 "The Cogged Stone Site"], The Goodell Parcel, prepared by Scientific Resource

Surveys, Inc., SRS Project No. 1731, dated October 13, 2011; 5-10-035-X(Goodell); 5-11-011(Shea Homes-Parkside);5-11-068(Shea Homes-Parkside); HNB-MAJ-1-06; HNB-MAJ-1-10; (5-05-020(Hearthside Homes - Brightwater); R5-05-020(Hearthside Homes - Brightwater); 5-05-479(Goodell); “Results of General Biological Surveys and Minimization Recommendations in Preparation for the Auger Program – Goodell Property, City of Huntington Beach, California”, letter from LSA Associates, Inc., dated March 3, 2011; “Supplement to Results of General Biological Surveys and Minimization Recommendations in Preparation for the Auger Program – Goodell Property, City of Huntington Beach, California”, LSA Associates, Inc., dated June 3, 2011; CCC-12-CD-01 (Goodell), CCC-12-RO-01(Goodell).

STAFF RECOMMENDATION:

Staff recommends that the Commission **APPROVE** the permit application with special conditions.

MOTION:

I move that the Commission approve Coastal Development Permit No. 5-10-258 pursuant to the staff recommendation.

Staff recommends a **YES** vote. This will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

RESOLUTION:

I. APPROVAL WITH CONDITIONS

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

The proposed project is subject to the following Special Conditions:

1. Protection of Archaeological Resources

The applicant shall carry out the proposed archaeological investigation as proposed in the revised archaeological research plan (ARP) entitled, "Cultural Resource Constraint Analysis on Archaeological Site CA-ORA-144, "The Water Tower Site" [A Part of CA-ORA-83 "The Cogged Stone Site"], The Goodell Parcel", by Scientific Resource Surveys, Inc., SRS Project No. 1731, dated October 13, 2011, and as modified by the Special Conditions contained herein.

All work shall be consistent with the applicable State of California Office of Historic Preservation (OHP) standards for archaeological work and the Native American Heritage Commission "Guidelines for Native American Monitors/Consultants" and done in a manner that is most protective of any "intact midden", human remains or archaeological features, and shall be monitored by Native American monitor(s) from each of the Gabrielino and Juaneno tribal groups, as designated by the Native American Heritage Commission (NAHC) as the tribal groups with documented ancestral ties to the area, and the Native American most likely descendent (MLD) from each of the said tribal groups, when State Law mandates identification of a MLD. Accordingly, this permit does not authorize any subsurface investigation within any known "intact midden", as shown in revised Figures 3 and 4 of the Plan dated October 13, 2011. As proposed by the applicant, all auger borings shall be placed a sufficient distance from the "intact midden", as shown in revised Figures 3 and 4, such that any necessary excavation of hand units shall not encroach into "intact midden". Further, this permit does not authorize any subsurface

investigation or excavation of any "intact midden" subsequently determined to be present on the project site through implementation of the ARP as authorized by this permit. For purposes of this permit, midden soils shall be considered to be "intact" if it is in place and has not been dug up and re-deposited or severely disturbed as the result of historic or modern activities. If any "intact midden", human remains or archaeological features are encountered, exposure of the intact midden, human remains or archaeological features shall be minimized to the maximum extent feasible and they shall be documented, left in place, and reburied (covered in place) as soon as possible. If human remains are encountered, the permittee shall comply with applicable State and Federal laws, including but not limited to, contacting the County Coroner, Native American Heritage Commission (NAHC) and the most likely descendent (MLD). Human remains found in intact midden soils, including isolated bone fragments shall be left in situ and shall be excavated only to the extent necessary for the archaeologist and Coroner to make the necessary determination as to whether the find is human in origin and whether it represents a modern forensic case. Unless required by the County Coroner, subsequent human remains, including bone fragments, shall not be excavated unless excavation is necessary to determine whether they are human in origin and the extent of excavation shall be the minimum necessary to make the determination. However, if human remains (including but not limited to, bone or bone fragments) are found in fill material, the human remains may, in consultation with the most likely descendents (MLDs) and Native American monitors, be removed from the fill material,. Human remains recovered from the project site shall be reburied on-site, after negotiations with the property owner, as required by State and Federal law, and after a coastal development permit is obtained for reburial.

Any disputes in the field regarding the discovery of any intact midden, human remains or archaeological features arising among the applicant, the archaeologist, and/or the Native American monitors or Native American MLD, when State law requires the designation of an MLD, shall be promptly reported to the Executive Director via e-mail and telephone and the investigation shall be halted in the area(s) of dispute. Work may continue in area(s) not subject to dispute. Disputes shall be resolved by the Executive Director in consultation with the designated three archaeological peer reviewers, the archaeologist, Native American monitors and the Native American MLD, when State law requires the designation of an MLD, and the applicant. If disputes cannot be resolved by the Executive Director in a timely fashion, said disputes shall be reported to the Commission for resolution at the next regularly scheduled Commission meeting.

2. Final Report

At the completion of the field investigation, matrix sorting and laboratory analysis, and the applicant shall prepare a technical report of findings. The report shall be in accordance with all applicable guidelines, including but not limited to the State of California Office of Historic Preservation Archaeological Resource Management Reports (ARMR) and California Historical Resources Information System and shall be subject to the review and approval of the Executive Director. As proposed by the applicant, a draft report shall be prepared within three months of completion of field excavation and matrix sorting, and analysis. Review copies of the draft shall be

submitted to the Juaneno and Gabrielino Most Likely Descendants, the Peer Review Team, the Native American Heritage Commission, the State Historic Preservation Office, the landowner and their representative and the Executive Director. After review, comment and incorporation of comments of all parties and any necessary revisions, the final report shall be distributed to involved agencies (e.g. NAHC, SHPO, CCC), local government entities (e.g. County of Orange, City of Huntington Beach), the designated archaeological information center (SCIC at California State University, Fullerton), affected Native American groups (Juaneño and Gabrielino tribes) and interested professionals (Peer Reviewers and other local archaeologists). The field notes, photos, laboratory data, and other materials generated through the approved ARP shall also be distributed to the above entities. The report shall be used in consideration of the determination of the appropriate type, location and intensity of development allowed in conjunction with any subsequent coastal development permit application for the subject site.

Due to the sensitive nature of the report contents, and consistent with State Government Code, section 6254, subsection (r), the report will be held as 'confidential' and not made available to the general public.

3. Protection of Biological Resources - Equipment Staging Plan

- A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit equipment staging plans for the review and approval of the Executive Director. Said plans shall incorporate the Recommended Minimization Measures contained in the March 3, 2011 letter from LSA Associates, Inc. entitled "Results of General Biological Surveys and Minimization Recommendations in Preparation for the Auger Program – Goodell Property, City of Huntington Beach, California" and the June 3, 2011 letter by LSA Associates, Inc., entitled, "Supplement to Results of General Biological Surveys and Minimization Recommendations in Preparation for the Auger Program – Goodell Property, City of Huntington Beach, California" and shall indicate that the equipment staging area(s) and work corridor(s), including the wet screening area(s), will avoid impacts to Southern tar plant. Access to the work area shall be via the existing adjacent street (Bolsa Chica Street) only. Upon completion of the approved field work, all borings and hand excavation units shall be backfilled, all equipment and materials shall be removed and the project site shall be restored to the conditions that existed prior to the approved field work.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved staging plans shall be reported to the Executive Director. No changes to the approved staging plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Protection of Nesting Raptors

No mechanical boring shall be permitted within five hundred (500) feet of an occupied raptor nest during the nesting season (February 15 through August 31). One week prior to the commencement of the approved development, the applicant shall conduct a survey of all trees within the southern Eucalyptus ESHA that are within five hundred (500) feet of the work area, to determine if raptor nesting is occurring. The survey shall be conducted by a qualified biologist. The applicant shall submit, subject to the review and approval of the Executive Director, the biologist's survey, including a map of the required survey area and survey report. The survey and report shall be submitted to the Executive Director within 2 days of completion and prior to commencement of any mechanized work.

5. Storage of Materials, Mechanized Equipment and Removal of Debris

The permittees shall comply with the following construction-related requirements:

- A.** No materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to tidal erosion and dispersion;
- B.** Any and all debris resulting from development activities shall be removed from the project site within 24 hours of completion of work;
- C.** Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or run-off of materials, and to contain sediment or contaminants associated with mechanical boring, excavation and wet screening activity, shall be implemented prior to the onset of such activity. BMPs and GHPs which shall be implemented include, but are not limited to: storm drain inlets must be protected with sandbags or berms, all stockpiles must be covered, and a pre-construction meeting should be held for all personnel to review procedural and BMP/GHP guidelines. All BMPs shall be maintained in a functional condition throughout the duration of the project.
- D.** Debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. Debris and sediment shall be removed from project areas as necessary to prevent the accumulation of sediment and other debris, which may be discharged into coastal waters. Debris shall be disposed at a debris disposal site outside the coastal zone.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares as follows:

A. Project Description, Location and Background

1. Project Description

The applicant requests to implement an archaeological research plan (ARP) in order to determine the areas of the 6.2 acre site that can be subsequently developed in a manner that avoids impacts to any intact archaeological resources that may be present. The ARP proposes only to investigate a 3.2 acre portion of the site that has been pre-zoned by the City of Huntington Beach for subsequent residential development (Exhibit 3). The initially proposed ARP, '*Cultural Resource Constraint Analysis on Archaeological Site CA-ORA-144, "The Water Tower Site" [A Part of CA-ORA-83 "The Cogged Stone Site"]*, *The Goodell Parcel*', prepared by Scientific Resource Surveys, Inc., SRS, is dated May 31, 2011. However, the May 31, 2011 submittal was superseded by a later version dated October 13, 2011. The revised plan makes two significant changes: (1) as recommended by staff, proposed hand excavation units have been relocated outside of known "intact midden" soils with revised Figures 3 and 4 showing such revision; and (2) included the request for after-the-fact approval of the hand excavation of 16 soil profiles that were dug in 2010 along the edge of the upper terrace of the site. The applicant subsequently further revised the application to withdraw the request for approval of the after-the-fact excavations and instead entered into negotiations to resolve this development through two consent orders. Those consent orders are also on the Commission's January 11, 2012 agenda (Item W13, CCC-12-CD-01 and W14, CCC-12-RO-01)..

The proposed archaeological research plan (ARP) is a subsurface investigation for the purpose of determining the presence of intact midden, Native American human remains and/or archaeological features and accurately establishing the boundaries of these archaeological/cultural resources. An archaeological midden is a prehistoric mound of discarded material used in cooking and food processing and contains marine shell, animal bone, fired rocks, and discarded artifacts and characterized by organic material in the soil such as grease, blood, and body fluids. Midden is "intact" if it is in place and has not been dug up and re-deposited or severely disturbed as the result of historic or modern activities. As proposed, all field work will be monitored by Native American representatives from both the Gabrielino and Juaneno tribal groups under the direction of most likely descendants (MLD) Gabrielino Chief Anthony Morales and Juaneno Chief David Belardes. The Native American Heritage Commission (NAHC) has determined that both the Gabrielino and Juaneno tribal groups have ancestral ties to the subject site. The proposed Plan incorporates the concerns of the affected Native American tribal groups, as well as the three archaeologist peer reviewers and NAHC (Exhibit 7).

The proposed ARP is based on "predictive modeling" in that it is designed in consideration of the records searches, archival research, and field work carried out on the Bolsa Chica Mesa since the 1920's. The Plan will be carried out in two phases. A two-part auger program, on a five-meter grid pattern, is proposed to systematically search the pre-zoned residential area for midden; and then use a second set of auger borings to accurately define midden boundaries. Once relatively intact midden deposits have been located, the second part of the program, delineation of the midden boundaries will occur. Small (1x1 meter) hand units will be excavated in order to verify that a midden deposit or feature exists. If midden deposit or features are exposed, excavations will cease at that point and the cultural material will be left in place.

Following auger boring and hand unit excavation, all material collected will be water screened using 1/8-inch hardware cloth. While the field work is in process, basic laboratory documentation and initial analyses will occur which will compliment the field

observations. The final step of the proposed project is the preparation of a technical report upon the completion of field work and all laboratory analysis. The applicant proposes to submit a draft report within three months of completion of the field working and matrix sorting. The applicant also proposes to distribute the final report to involved agencies (NAHC, SHPO and the Coastal Commission), to municipal entities, the designated archaeological information center at California State University, Fullerton, and affected Native American groups. Due to the sensitive nature of the report contents, the report will be held as 'confidential' and not made available to the general public, consistent with State Government Code, section 6254, subsection (r).

2. Project Location

The subject site is located on the upper Bolsa Chica Mesa in the unincorporated Bolsa Chica area of the County of Orange. The site is surrounded by the City of Huntington Beach. Immediately east of the subject site is the Parkside Estates site that was before the Commission in October 2011; to the west is Bolsa Chica Street and the Hearthside Homes Brightwater project site that was approved by the Commission in 2005 for subdivision, single family residential development, habitat restoration and public trails; to the north is Hearthside Homes the Ridge site for which the City of Huntington Beach has a pending application for an LCP amendment change the land use designation at the Ridge site from Open Space – Parks (OSP) to Residential Low Density and change the zoning designation from Residential Agriculture – Coastal Zone Overlay (RA – CZ) to Low Density - Coastal Zone Overlay (RL-CZ) to allow the site to be developed with single family residential development uses; and to the south a Eucalyptus grove on the Brightwater site which has been designated ESHA by the Department of Fish and Game and the Coastal Commission (Exhibits 1, 2 and 3).

The subject site is 6.2 acre in size and its geography, from highest to lowest elevations, consists of 1) a natural upper terrace; 2) a second terrace artificially created with sediments that overlie the World War II historic Bolsa Chica Military Reservation PSR Building and which contains roadways formed by cutting back the upper mesa edge; 3) steep slopes; and 4) lower bay flatlands. The City of Huntington Beach has pre-zoned the site low density residential, open space and conservation (Exhibit 3). The area zoned Open Space or Conservation encompasses portions of both the natural upper terrace and the second terrace; all of the steep slopes; and all of lower bay flatlands. No investigations are proposed on the steep slopes or in the lowlands since these areas are preserved in open space or conservation land use.

3. Project Background

A. Previous Nearby Archaeological Investigations

Archaeological investigations have been on-going on Bolsa Chica Mesa since the 1920s. Among the numerous excavations over the last 90 years, three are especially important in predictive modeling of the potential archaeological deposits on the subject Goodell site. As stated above, the project site is located on the eastern Bolsa Chica Mesa and contains a mapped archaeological site, CA-ORA-144, "The Water Tower Site". Some archaeologists, including the project archaeologist, believe CA-ORA-144 to be actually a part of the highly significant CA-ORA-83 which is a 9,000 year old archaeological site

known as the Cogged Stone Site, due to the great number of cogged stone artifacts recovered. ORA-83 has been twice found by the State Historical Resources Commission to be eligible for listing in the National Register of Historic Places. The Cogged Stone Site also lies on three other adjacent sites: the Hearthside Homes "Brightwater" site, located on the west side of Bolsa Chica Street; Hearthside Homes the "Ridge" project site, located on the east side of Bolsa Chica Street, adjacent to Los Patos Avenue; and the Parkside Estates site, located immediately east of the subject Goodell site (Exhibit 2). The 105 acre Brightwater development site was recently annexed into the City of Huntington Beach. The predecessor companies to Hearthside Homes received several coastal development permits, beginning in the early 1980's, to conduct archaeological research, salvage and relocation (on-site) of any human remains, features and artifacts that were found. The archaeological research, salvage and on-site reburial took place over the course of approximately 28 years with the final reburial occurring in spring 2009. The State of California Office of Historic Preservation has determined that the site was eligible under Criteria A and D for listing as a National Historic Site. Under Criteria A, as a type site for production, manufacture and distribution of the cogged stone artifact and an historic site that represents an Early Holocene ceremonial complex important to the local Native American communities; and under Criterion D since the site has produced hundreds of cogged stones, human remains, numerous semi-subterranean pit houses, and other artifacts, the site is considered highly significant with regard to research potential particularly if this information is combined with other archaeological and ethnographic evidence. During the 2008 revocation hearing for the Brightwater coastal development permit [R5-05-020(Hearthside Homes)] the Commission found that approximately 160 human burials, and several animal burials, over 100 significant archaeological features such as house pits, rock pits, hearths and tens of thousands of beads, charmstones cogged stones and other artifacts have been found on CA-ORA-83. The final archaeological report for ORA-83 is still pending. Hearthside Homes Ridge project site is located immediately northwest of the project site and is covered by the certified Huntington Beach Local Coastal Program. That site has undergone numerous extensive surface and subsurface archaeological investigations. A hand excavated test pit dug on this site revealed the presence of a prehistoric archaeological/cultural feature that has since been completely removed, according to SRS, Inc.

B. Previous On-Site Archaeological Investigation

With the exception of the unpermitted excavation of 16 soil profiles that occurred in 2010, the only subsurface archaeological investigation conducted on the Goodell property was occurred in 1960's. As discussed below, unpermitted subsurface investigation in the form of hand excavation of 16 soil profiles was carried out. In 2009 and 2010, records and archival searches and surface investigations were conducted in an attempt to gain a better understanding of the potential archaeological resources of the site. On April 16, 2010 the Executive Director approved an exemption [5-10-035-X (Goodell)] for the property owner to conduct a surface archaeological investigation with the use of ground penetrating radar in order to further refine the necessary archaeological research design plan that is being developed for that site. Other than the placement of stakes to mark grids, no ground disturbance or subsurface excavation or earth movement was permitted (Exhibit 4).

C. Previous On-Site Historical Development

The subject site contains remnants of historic World War II (WWII) development. The site geography, from the highest to lowest elevations, consists of 1) a natural upper terrace; 2) a second terrace artificially created with sediments that overlie the WWII Bolsa Chica Military Reservation Plotting and Spotting Room (PSR) Building as well as roadways formed by cutting back the upper mesa edge; 3) steep slopes; and 4) lower bay flatlands. The second terrace was carved into its present configuration when the WWII PSR facility was built. Still present on the subject site are a long rectangular concrete structure and two square air shafts surfacing from within the building located on the northeast portion of the site (Exhibit 3). Roadways encircle the subsurface bunker and lead downhill next to the long entrance shaft; the majority of the second terrace consists of soils covering this immense concrete structure. A retaining wall for the upper terrace was created during construction of the bunker to support the upper terrace after the natural hillside had been removed to accommodate the PSR building. Areas outside the actual bunker location have also been flattened by the WWII work, removing all natural sediments and exposing the Pleistocene terrace soils. During this localized but extensive subsurface work any existing prehistoric archaeological resources may have been dug up and re-deposited or severely disturbed. Subsequent vandalism of the abandoned historic bunker facility could have also resulted in disturbance to archaeological resources in this area of the site. A portion of the same area where the historic structures were built currently experiences further disturbance with the construction and use of unauthorized dirt bike ramps.

B. APPROVAL FINDINGS AND DECLATIONS

1. Archaeological Resources

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Additionally, the Huntington Beach certified Land Use Plan, used as guidance, contains policies for the protection of historical and cultural resources. Policies C5.1.1, C5.1.2, C5.1.3, C5.1.4, and C5.1.5 5 of the Coastal Element are attached as Exhibit 10 and require: (1) Coordination with State of California Historic Preservation Office to ensure protection of archaeological, paleontological and historically significant resources; (2) reasonable mitigation measures be provided where development would adversely impact archaeological or paleontological resources; (3) requires the notification of the County Coroner, NAHC and MLD upon the discovery of human remains and consultation with MLD regarding disposition of Native American human remains; (4) requires the submittal of a completed ARD along with the application for a CDP within any area containing archaeological or paleontological resources. The ARD is required to determine the significance of any uncovered artifacts and make recommendations for preservation. The ARD must be developed in consultation with affected Native American groups and also contain a discussion of important research topics, and be reviewed by at least 3 peer reviewers and OHP. Finally, the LUP requires that the permittee comply with the requirements of the peer review committee to assure compliance with the mitigation measures of the ARD and (5) requires that a County-certified paleontologist/archaeologist and a Native American monitor all grading operations where there is a potential to affect

cultural or paleontological resources, based on the ARD. If paleontological/archaeological resources are uncovered during grading operations, either monitor are required to suspend all development activity to avoid destruction of resources until a determination can be made as to the significance of the resource. If the resource is found to be significant, the site(s) shall be tested and preserved until a recovery plan is completed to assure the protection of the paleontological/archaeological resources.

The recently amended Huntington Beach LCP Implementation Plan for the adjacent Parkside Estates area contains development standard in Chapter 230, Site Standards regarding the protection of archaeological resources. Although the Huntington Beach LCP does not currently apply to the project site since the site has yet to be annexed into the City and the City would need to amend its certified LCP to include policies and development standards for the subject site, the archaeological resources on the subject site are potentially more significant than those on the adjacent Parkside site. Therefore, the Commission considers the development standards designed to protect archaeological resources contained in the Huntington Beach LCP Implementation Plan as guidance. The standards are:

Section 230.82 E

Archaeological/Cultural Resources Within the coastal zone, applications for grading or any other development that has the potential to impact significant archaeological/cultural resources shall be preceded by a coastal development permit application for implementation of an Archaeological Research Design (ARD). This is required when the project site contains a mapped archaeological site, when the potential for the presence of archaeological/cultural resources is revealed through the CEQA process, and/or when archaeological/cultural resources are otherwise known or reasonably suspected to be present. A coastal development permit is required to implement an ARD when such implementation involves development (e.g. trenching, test pits, etc.). No development, including grading, may proceed at the site until the ARD, as reflected in an approved coastal development permit, is fully implemented. Subsequent development at the site shall be subject to approval of a coastal development permit and shall be guided by the results of the approved ARD.

Archaeological Research Design (ARD) The ARD shall be designed and carried out with the goal of determining the full extent of the on-site archaeological/cultural resources and shall include, but not be limited to, postulation of a site theory regarding the archaeological and cultural history and pre-history of the site, investigation methods to be implemented in order to locate and identify all archaeological/cultural resources on site (including but not limited to trenching and test pits), and a recognition that alternative investigation methods and mitigation may become necessary should resources be revealed that indicate a deviation from the initially espoused site theory. The ARD shall include a Mitigation Plan based on comprehensive consideration of a full range of mitigation options based upon the archaeological/cultural resources discovered on site as a result of the investigation. The approved ARD shall be fully implemented prior to submittal of any coastal development permit application for subsequent grading or other development of the site. The ARD shall also include recommendations for subsequent construction

phase monitoring and mitigation should additional archaeological/cultural resources be discovered.

The ARD shall be prepared in accordance with current professional practice, in consultation with appropriate Native American groups as identified by the Native American Heritage Commission (NAHC), NAHC, and the State Historic Preservation Officer, subject to peer review, approval by the City of Huntington Beach, and, if the application is appealed, approval by the Coastal Commission. The peer review committee shall be convened in accordance with current professional practice and shall be comprised of qualified archaeologists.

Mitigation Plan The ARD shall include appropriate mitigation measures to ensure that archaeological/cultural resources will not be adversely impacted. These mitigation measures shall be contained within a Mitigation Plan. The Mitigation Plan shall include an analysis of a full range of options from in-situ preservation, recovery, and/or relocation to an area that will be retained in permanent open space. The Mitigation Plan shall include a good faith effort to avoid impacts to archaeological/cultural resources through methods such as, but not limited to, project redesign, capping, and placing an open space designation over cultural resource areas.

A coastal development permit application for any subsequent development at the site shall include the submittal of evidence that the approved ARD, including all mitigation, has been fully implemented. The coastal development permit for subsequent development of the site shall include the requirement for a Monitoring Plan for archaeological and Native American monitoring during any site grading, utility trenching or any other development activity that has the potential to uncover or otherwise disturb archaeological/cultural resources as well as appropriate mitigation measures for any additional resources that are found. The Monitoring Plan shall specify that archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, and Native American monitor(s) with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC) shall be utilized. The Monitoring Plan shall include, but not be limited to: 1) procedures for selecting archaeological and Native American monitors; 2) monitoring methods; 3) procedures that will be followed if additional or unexpected archaeological/cultural resources are encountered during development of the site including, but not limited to, temporary cessation of development activities until appropriate mitigation is determined. Furthermore, the Monitoring Plan shall specify that sufficient archaeological and Native American monitors must be provided to assure that all activity that has the potential to uncover or otherwise disturb cultural deposits will be monitored at all times while those activities are occurring. The Monitoring Plan shall be on-going until grading activities have reached sterile soil.

The subsequent mitigation plan shall be prepared in consultation with Native American Heritage Commission (NAHC), Native American tribal group(s) that have ancestral ties to the area as determined by the NAHC, and the State Historic Preservation Officer, subject to peer review.

All required plans shall be consistent with the City of Huntington Beach General Plan and Local Coastal Program and in accordance with current professional practice, including but not limited to that of the California Office of Historic Preservation and the Native American Heritage Commission, and shall be subject to the review and approval of the City of Huntington Beach and, if appealed, the Coastal Commission.

Coastal Act Section 30244 requires that any impacts to significant archaeological resources be reasonably mitigated. Avoidance of impacts to archaeological resources is the preferred alternative, which will avoid mitigation requirements. In the past, as with the Brightwater site, previous Commissions have allowed archaeological research designs (ARD) to be carried out that excavated Native American and other archaeological resources for the purpose of analyzing the artifacts and features as well as human remains, in order to provide information on prehistoric times and conditions. The Native American human and animal remains were reburied on the project site in a permanent open space area but artifacts and features were often sent to museums. These were standard mitigation measures that also served to allow for residential or other types of development of the majority of the site after the resources were relocated. Increasingly, Native Americans, as well as some archaeologists and environmental organizations have found these mitigation measures to be objectionable and have petitioned the Commission to avoid impacts by allowing the archaeological resources to remain in place, especially when the archaeological resources are Native American human remains.

The proposed project is to carry out an archaeological research plan (ARP) to determine if intact cultural/archaeological resources exist on the site and to determine the boundaries of such resources, if they exist. No other development is proposed at this time. The results of the proposed ARP will be used in conjunction with the earlier on-site geophysical investigation (and unpermitted soil profiles) to determine the appropriate area for future development of the site. Previous archaeological investigations of the site in the 1960s and in 2009 and 2010 have indicated that intact soils including intact midden soils exist on the subject site. The proposed ARP was guided by the information obtained through previous archaeological investigations performed on-site and on adjacent properties, including geophysical, subsurface and records searches. Based on the previous archaeological investigations the City of Huntington Beach has pre-zoned the 6.2 ac site for residential (3.2 ac - RL), open space-parks and recreation (2.0 ac – OS-PR) and conservation use (1.0ac - CC). The ARP proposes investigation of only the portion of the site pre-zoned for future residential use (Exhibit 3).

The revised archaeological research plan (ARP), '*Cultural Resource Constraint Analysis on Archaeological Site CA-ORA-144, "The Water Tower Site" [A Part of CA-ORA-83 "The Cogged Stone Site"], The Goodell Parcel*', prepared by Scientific Resource Surveys, Inc., SRS, dated October 13, 2011 proposes all augers and hand unit excavation outside of known "intact midden" soils. As proposed, all field work will be monitored by Native American representatives from both the Gabrielino and Juaneno tribal groups under the direction of most likely descendants (MLD) Gabrielino Chief Anthony Morales and Juaneno Chief David Belardes. The Native American Heritage Commission (NAHC) has determined that both the Gabrielino and Juaneno tribal groups have ancestral ties to the subject site.

The proposed ARP has been modified by the applicant, and is conditioned by Special Condition 1, to avoid encroachment into known "intact midden" deposits since development within intact midden, even testing, would not be most protective of archaeological resources.

The proposed ARP will be carried out in two phases. A two-part auger program, on a five-meter grid pattern, is proposed in order to systematically search existing portions of the pre-zoned residential area for midden; and then uses a second set of auger borings to accurately define midden boundaries. A 12" hollow-stemmed bucket auger (rather than a screw auger) will be utilized to provide the least amount disturbance. Further, the shaft of the auger will be marked in 20 cm intervals to aid in depth control and thereby further reducing the potential impacts to any archaeological resources. The proposed use of hollow-stem augers is to allow for deep penetration, beneath historic development, and any hard clay layer that may be present on the site. Although the applicant has chosen to use a hollow-stem auger as opposed to the screw type auger and to use the smaller bucket (12" as opposed to 16") in order to minimize disturbance, there is still a potential to impact archaeological/cultural resources that are present. In accordance with the concerns expressed by the Native Americans designated by NAHC as having ancestral ties to the area, as well as the recommendations of the three archaeologist peer reviewers (Exhibit 7), in the areas suspected of containing human remains, features or intact midden, one meter square hand units will replace auger borings in an attempt to minimize impacts to these resources, if they are present. After the soils are removed from the bucket, they will be measured for stratigraphic change, recorded and then screened for artifacts. If an auger borings recover historic material or disturbed soils associated with structural foundations or a significant find, such as but not limited to, unusual shell or faunal remains; special artifacts such as cogged stones or charmstones; projectile points or pestles; fired rocks; or human remains (including, but not limited to, bone or bone fragments), further excavation will be carried out in the least invasive fashion in order to establish the source of the find. 1x1 meter units will be then be hand excavated.

A second set of auger borings, if necessary, and 1x1 meter hand excavation units, will be used to accurately define boundaries of any intact archaeological resources. According to the proposed ARP, each auger boring will be deep enough to extend below the strata that would contain any midden deposits into clearly defined sterile soils (Pleistocene terrace deposits). This is an important aspect of the ARP as experience on the adjacent Brightwater site found that burials were beneath the 'hard clay layer' and were found to exist despite the fact that the site was thought to contain limited intact prehistoric resources given the long-term agricultural (including plowing) activities and the construction of subsurface historic World War II (WWII) facilities among other activities. The proposed ARP also recognizes that prehistoric midden deposits may still exist below the historic WWII materials that were constructed on the subject site. Therefore the auger program is designed to penetrate the historic strata and the hard clay layer to examine these deposits.

Once intact midden deposits have been located, the second part of the program, delineation of the midden boundaries can be completed. Small 1x1 meter hand units are proposed in order to verify that a midden deposit or feature exists. If midden deposit or features are exposed, excavations will cease at that point and the cultural material will be left in place. Another purpose of the hand units is to determine whether additional

archaeological/cultural resources are present when isolated feature materials (e.g. fired rock), or bone fragments), are exposed. If an artifact is found through auger boring or if it is suspected that an archaeological feature may be present based on isolated feature materials found in an auger boring (e.g. fired rock, bone fragment), then a one meter square hand excavated unit will be placed adjacent to the auger hole in order to verify that a midden deposit or feature exists.

The consulting archaeologist for the proposed project suggests, for midden deposit to be deemed significant, the deposit should have artifacts and/or features (including human or animal bone) so that meaningful data can be gleaned from the cultural materials and their context. Archaeologist Dr. Patricia Martz, president of the California Cultural Resource Preservation Alliance (CCRPA) disagrees with this statement (Exhibit 11). Dr. Martz states that one of the criterion (criterion d) used by the National Register of Historic Places to determine that CA-ORA-83 was eligible for listing as a significant archaeological site is that the intact midden has the potential to provide important information. Intact midden, even if no human or animal burials, tools, ornaments, religious items, or other artifacts or features are found, still contains prehistoric shell (ecofacts) and is evidence of long-term prehistoric Native Americans use and/or habitation. Thus, CCRPA argues that intact midden should be preserved as an archaeological witness area and as a place where the Native American descendants can come to honor their ancestors. Three other letters were received, the content of which are described below, voicing similar concerns, among other things (Exhibits 12 -14). As proposed and as conditioned in Special Condition 1, the ARP will preserve intact midden and minimize disturbance of this archaeological/cultural material.

If midden deposits or features are exposed, excavations will cease at that point and the cultural materials will be left in place. The alignment of the 1x1 meter hand unit will be in a northerly orientation. The unit will be placed so that the auger hole is situated in the corner of the 1x1 meter unit; the unit is thereby treated as a continuation of the previous excavation. Units will be excavated in arbitrary ten centimeter levels and extend to a maximum depth of 150 cm. Excavation sidewalls will be photographed and the stratigraphy drawn. Soil samples will be taken per level of excavation from a consistently sampled corner (i.e. northwest) from each auger boring/unit for purposes of description, analysis and comparison with each other. Through this method, disturbed soils, intact soils, and midden soils will be differentiated. In addition, a pollen sample will be removed in 10cm increments from the back of each hand unit, if units are excavated, and saved for future special studies. Charcoal pieces likely to yield radiocarbon dates for useful target events will be mapped and collected from the units using appropriate techniques so as not to compromise the integrity of the sample. Scale drawings of unit's levels and stratigraphic sections will be prepared and all excavations will be photo-documented.

If bone fragments are uncovered during auger boring or hand excavation, a determination will be made as to whether the bone is human or other animal. In the event human remains are encountered, excavation will immediately stop and the human remains are protected from the elements by covering the cultural deposit with a permeable membrane and then soil and the spot is marked. The applicant proposes to follow all applicable State law regarding the discovery of human remains. The Plan states:

In accordance with the California Health and Safety Code, Section 7050.5, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin. Further, pursuant to California Public Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. ***The remains will be uncovered for inspection by the coroner.*** (emphasis added)

If the Orange County Coroner determines the remains to be Native American, the Native American Heritage Commission shall identify the 'most likely descendant.' The most likely descendant shall then make recommendations, and engage in consultations concerning the treatment of the remains as provided in Public Resources Code 5097.98. Since human remains have been discovered on Bolsa Chica Mesa previously, the Native American Heritage Commission has identified the following individuals as "Most Likely Descendants": David Belardes (Juañeno) and Anthony Morales (Gabrielino). In accordance with the Public Resource Code requirements, notification will also be provided to these Most Likely Descendants upon the discovery of human remains.

As stated above, the applicant proposes to uncover any human remains for inspection by the coroner. The Commission is concerned that this statement suggests that human remains may be completely or extensively uncovered or excavated in order for the coroner to make a determination as to whether the bones represent a modern forensic case. On October 13, 2011, staff discussed this concern with the Tiffany Williams, Senior Deputy Coroner, Orange County Coroner's Office. Ms. Williams stated that while every case is different, the Coroner's Office also agrees with the goal of leaving burials in place, to the maximum extent possible in order to minimize impacts to prehistoric archaeological resources. If the find is a modern forensics case, the remains need to be left intact since the area would be a considered a crime scene. She further stated that after the Coroner's Office has made an initial visit due to the discovery of human remains, in working with the project archaeologist, if it is established that the area is an archaeological site, that subsequent visits are not always necessary upon subsequent discoveries of human bones or bone fragments. However, all subsequent reports of discoveries are noted by the Coroner's Office and the reports should continue to be made. Therefore, the Commission imposes Special Condition 1 which requires that the proposed ARP be carried out in a manner that will limit the exposure of all bones or bone fragments and that they be exposed only to the extent necessary for the archaeologist and Coroner to make the necessary determination as to whether the bone is human and whether it represents a modern forensic case. Further, unless required by the County Coroner, subsequent human remains (including but not limited to bones or bone fragments) shall not be exposed unless exposure is necessary to determine whether they are human in origin and the extent of exposure shall be the minimum necessary to make the determination. Only as conditioned to minimize the excavation of Native American human remains is the proposed project consistent with Section 30244 of the Coastal Act.

Regarding human remains, the applicant further states, it is of paramount importance that the context of any discovered bone is examined by the various participants. Previous experience on this archaeological site has shown that isolated bone fragments may be found which have lost their original context and have been dislodged from their source by rodent activity or historic disturbances. The applicant suggests, in the event that isolated

pieces of bone or bone fragments are found, and as determined by agreements between the landowner and Native American representatives, these will be documented, left in situ, and adjacent excavations will be conducted in order to locate the original source of the isolate. If the burial can be located, the isolate will be left in-situ and reburied. The applicant proposes that if the burial can not be located, the isolate will be removed and reburied at a later time with other isolates. The Commission notes that CA-ORA-83 is approximately 9,000 years old and that the animal and human bone found on the adjacent Brightwater site were in a fragmented condition. Therefore, individual bone fragments could be considered isolated and therefore removed under the applicant's proposal. As approved by the permit, only isolated bone fragments located within fill material may be removed and reburied elsewhere on the property through a subsequent coastal development permit. All human remains, including isolated bone fragments, if found in intact midden, shall not be removed and exposure of such resources shall be minimized.

Following auger boring and hand unit excavation, all material collected will be water screened using 1/8-inch hardware cloth. Although wet screening is a labor-intensive process, when the excavation includes high clay content soils, such as those on the subject Goodell property, the wet screening process helps to break down the clumps of aggregated clay materials in an efficient and non-invasive manner, according to the project archaeologist. This step is critical to collecting as much information as possible from the extracted soils and helps provide for accurate integrity statements. However, it is also important to ensure that the wet screening does not adversely impact important biological resources which exist on the site. As discussed below, there is Southern tar plant on the subject site that must be protected. Adverse impacts to marine water quality could also result from the wet screening process if not done properly. Section IV.B.3 of this staff report below discusses potential marine resources impacts.

While the field work is in process, basic laboratory documentation and initial analyses will occur which will compliment the field observations. Laboratory work will include the sorting of collected material. 'Collected materials' will consist of materials recovered from the auger coring and hand excavations necessary to determine the location and boundaries of intact cultural midden and do not include intact midden constituents, features, or human remains. Analysis will be conducted on historic as well as prehistoric material, including fire affected rock. Faunal remains, vertebrate specimens and shellfish remains will also be analyzed. The documentation of the location of structural remains, units, features (including human and animal bone) and artifacts will occur using multi-layer mapping derived from the GPS data collected during the 2010 site investigation. The original archaeological site mapping and site boundary delineation will be able to be redefined using the subsurface information that will be obtained as a result of the proposed ARP and the 2010 geophysical investigation as well as all other research and site analysis. The final step of the proposed project is the preparation of a technical report upon the completion of field work and all laboratory analysis. The applicant proposes to submit a draft report within three months of completion of the field working and matrix sorting. The applicant also proposes to distribute the final report to involved agencies (NAHC, SHPO and the Coastal Commission), to municipal entities, the designated archaeological information center at California State University, Fullerton, and affected Native American groups. Due to the sensitive nature of the report contents, the report will be held as 'confidential' and not made available to the general public, consistent with State Government Code, section 6254, subsection (r).

As proposed and as conditioned the subject ARP will be carried out in a manner that is most protective of archaeological/cultural resources and is therefore consistent with Section 30244 of the Coastal Act. Further, the proposed ARP as conditioned, will not prejudice the preparation of the LCP for the area once it is annexed to the City of Huntington Beach.

Comments Received

Three letters were received after the staff report for this application was published for the November Commission meeting. The applicant postponed the matter from the November Commission hearing in order to respond to the staff recommendation. The Native American Heritage Commission (NAHC) letter, dated October 24, 2011 supports documentation and preservation in place of any intact midden as well as human remains and archaeological features. The letter goes on to say that the NAHC considers the project site a part of a 'cultural landscape' involving numerous nearby archaeological and historical sites in the sub region of Southern California; a cultural landscape as defined by the 1992 Secretary of the Interiors Standards for the treatment of Historic Properties, and also, federal Executive Order No. 11593 (preservation of cultural environment) (Exhibit 12).

A letter, dated October 24, 2011, was also received from the Bolsa Chica Land Trust (BCLT) (Exhibit 13). The BCLT letter states, among other things, that in July, 2009 that the US Dept of Interior designated 17 acres (including the subject Goodell site) of ORA-83 – the 9,000 year old “Cogged Stone Site” – as eligible for listing on the National Register of Historic Places and that it is the only such National Historic site on the coast of Southern California from Ventura to San Diego. BCLT asserts that proper mitigation [for the removed and relocation of a significant number of human and animal burials, grave goods and other archaeological features on the adjacent 11 acres of the Cogged Stone Site] for the Brightwater development is avoidance and preservation of the entire remaining 6.2 acres of the site located on the Goodell property. Further, BCLT requests that additional protections be added concerning the treatment of “isolates”, the Coroner’s review of all human remains, not file any subsequent application for the Goodell site until submittal of the final report for the subject ARP and require the submittal of final reports prior to publication or presentation. Finally, the BCLT also requests that the Commission postpone action on the subject ARP until the final report for the adjacent Brightwater site is submitted.

The final archaeological/cultural resources report for the Brightwater site is due by the end of the year. The applicant stated that the final report has been submitted to the archaeology peer reviewers. Comments are expected from the peer reviewer beginning next month. Those comments will also be submitted to Commission staff. The applicant anticipates that the comments will be incorporated and the report finalized by March, 2012.

The final letter was received from Michael McMahan (Exhibit XX). The letter expresses concerns about the length of time it is taking to submit the final archaeological/cultural report for CA-ORA-83 and its importance to the subject site. Further, the letter calls for in situ preservation of the Goodell site. (Exhibit 14).

2. Biological Resources

The Coastal Act requires the protection of biological resources and states:

Section 30240 of the Coastal Act states:

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

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

The Goodell site has been disturbed by historic subsurface bunker construction and above ground road, water tower and radar facilities and subsequent development and activities such as a commercial pole yard and unauthorized construction of dirt bike ramps. However, the site also contains biological resources. Though the site is dominated by ruderal, non-native plant species, Southern tar plant, (*Centromadia parryi ssp. australis*) a California Native Plant Society List 1B.1 species (seriously endangered in California), is also present on the site. According to the applicant's biological consultant, LSA Associates, Inc., several general and focused biological surveys have been conducted on the subject site, including surveys by LSA Associates, Inc. in 2007, 2009 and 2010 (Exhibits 5 and 6). Those surveys were for the purpose of general biological assessment, protocol coastal California gnatcatcher surveys and vegetation mapping.

The most recent biological survey of the site was done by LSA on February 12, 2011. The purpose of the survey was to ascertain general site conditions and to determine whether the proposed auger locations would impact any significant biological resources. That survey found that while the Bolsa Chica Mesa area is known to be used by the burrowing owl, a California Species of Special Concern, no signs of burrowing owl use (e.g., tracks, pellets, feathers) were detected. Further, although wildlife activity was relatively high, the bird species and numbers present were those expected in an urban edge location; with the exception of the less common citing of a merlin (*Falco columbarius*) (Exhibit 5). To respond to questions regarding the presence of the California gnatcatcher, LSA's June 3, 2011 letter concludes that the gnatcatcher is not present on the subject site (Exhibit 6). LSA states that their biologists make very frequent visits to the project vicinity in connection with their work on the adjacent Parkside Estates and the Ridge sites and their on-going habitat restoration efforts at the Brightwater site. LSA further states that the last observation of a single gnatcatcher, which was in the area for a few months, was spring 2007. Therefore, based upon the above biological assessments, the only potential habitat impacts associated with the proposed archaeological testing would be to Southern tar plant.

Southern Tar plant

As stated above, though the subject site is dominated by ruderal, non-native plant species, Southern tar plant, (*Centromadia parryi ssp. australis*) a California Native Plant Society List

1B.1 species (seriously endangered in California), is also present on the site. The tar plant is scattered throughout the site as shown on the vegetation map in Exhibit 5 (page 3). On February 12, 2011 a focused survey by LSA was conducted for the purpose of documenting the presence of Southern tar plant in relation to the proposed auger locations. LSA noted that the annual Southern tar plant was not visible at the time of the winter survey but that the current tar plant locations were compared with recently mapped locations and concluded that none of the proposed auger locations overlapped tar plant areas. The June 3, 2011 LSA letter reviewed the tar plant locations based on the revised auger locations and concludes that the revised auger plan avoids tar plant impacts if the proposed minimization measures recommended in the March 3, 2011 letter are implemented, if the archaeological testing is done outside the Southern tar plant spring/summer growing season. LSA further recommends, among other things, that if the proposed testing is done during the tar plant annual growing season that the auger locations be marked in the field inspected by a biologist (Exhibit 6). However, the relocation of individual growing plants is not recommended because disruption of the root system during the annual growth period could lead to plant failure.

As conditioned by Special Condition 3 the applicant is required to abide by the biologist's recommendations of the above two letters and to submit an equipment staging and work plan that avoids areas of Southern tar plant and to require that the borings and excavations be backfilled so that the soil does not prevent or hinder tar plant seed germination. Further, as conditioned the proposed project is consistent with Section 30240(b) of the Coastal Act requiring protection of biological resources.

Raptor Nesting Habitat

Adjacent to the subject site, on the southern boundary, is a grove of Eucalyptus trees. The grove includes other non-native trees such as palm and pine trees. However, these trees are used by raptors for nesting, roosting, and as a base from which to forage. The Eucalyptus grove in the south as well as a northern grove, have been designated ESHA by both the Department of Fish and Game and the Coastal Commission because of their use by up to 17 species of raptors.

The Coastal Act requires that ESHA habitat be protected against any significant disruption of habitat values, including noise impacts. Accordingly, the Commission conditions this permit to protect any nesting raptors from construction noise, including mechanical augering. Special Condition 4 prohibits mechanical boring within 500 feet of an occupied nest during the nesting season (February 15 – August 31). The applicant is anxious to implement the proposed archaeological testing in order to have the field work completed before the winter rains. Therefore, the proposed field work will most likely be completed well before raptor nesting season begins in mid February. However, the applicant is also required to survey any trees of the Eucalyptus grove that are within 500 ft. of the proposed work area to determine if raptor nesting is occurring prior to commencement of any mechanical work. As conditioned the proposed project is consistent with Section 30240(a) of the Coastal Act.

3. Marine Resources

Coastal Act Sections 30230 and 30231 require the protection of marine resources and state:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231

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

The subject site is near the Bolsa Chica Ecological Preserve, a coastal wetland that provides habitat for threatened and endangered species. The proposed project includes the excavation of soil through mechanical auger boring and 1x1 meter hand excavated units. Although the soil will be backfilled upon completion of the field work, during field work there is the potential for the soil to adversely impact off-site marine resources if the site is not properly contained.

As conditioned by Special Condition 5 the proposed project will use standard construction best management practices (BMPs) and good housekeeping measures (GHMs) to prevent erosion and run-off of excavated soil into the adjacent restored Bolsa Chica Ecologic Preserve. The project, as conditioned, is therefore consistent with the marine resources protection policies of the Coastal Act.

4. California Environmental Quality Act

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

In this case, the County of Orange is the lead agency and the Commission is the responsible agency for the purposes of CEQA. The County of Orange issued a CEQA

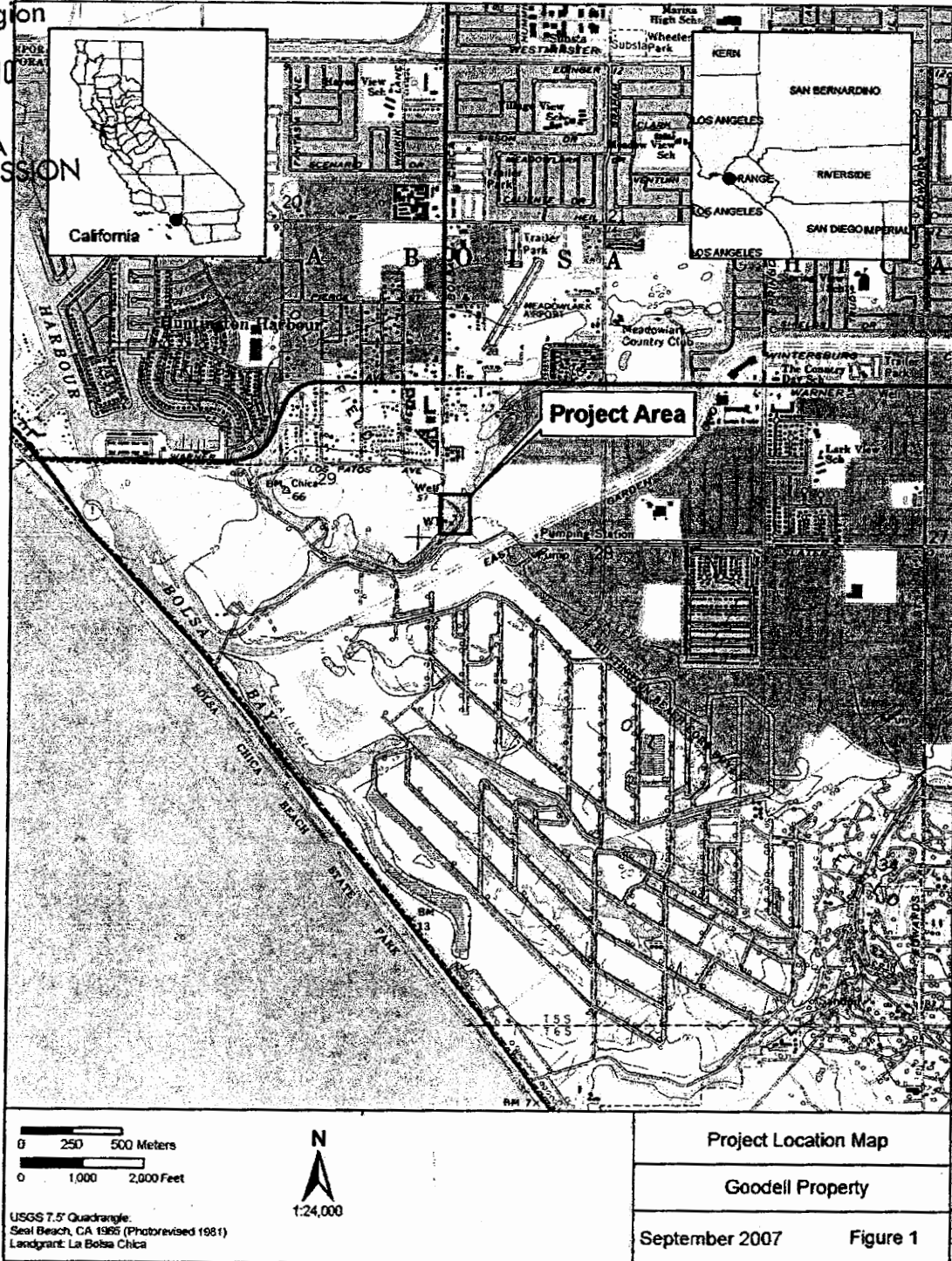
exemption for the proposed project. There are no other feasible alternatives or mitigation measures available which will lessen any significant adverse archaeological, biological, or marine resource impact the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with CEQA and the policies of the Coastal Act.

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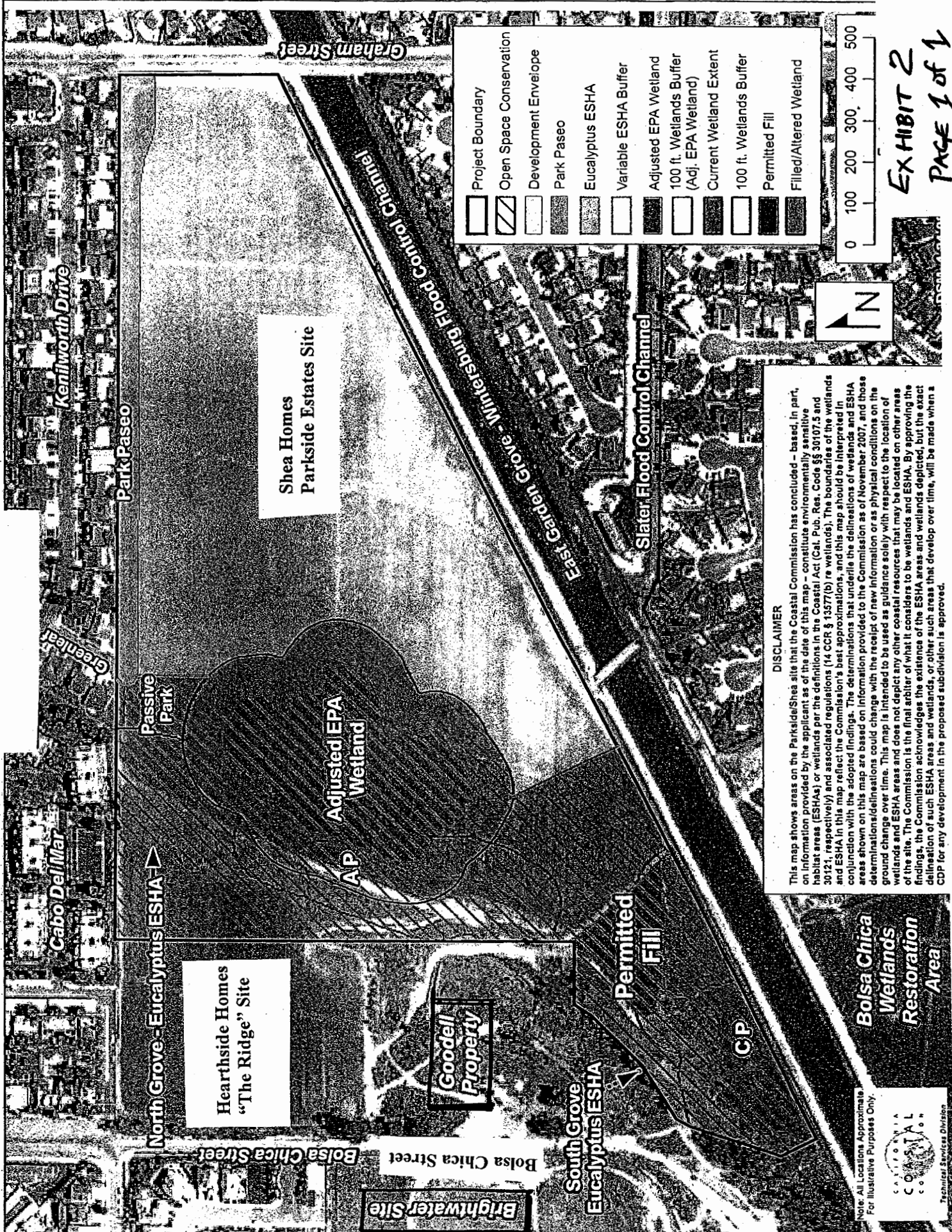
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COASTAL COMMISSION



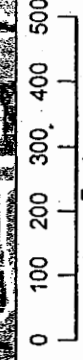
COASTAL COMMISSION

EXHIBIT # 1
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5-10-258(Goodell)



[Solid Black Box]	Project Boundary
[Diagonal Hatching]	Open Space Conservation
[Light Gray Box]	Development Envelope
[Dark Gray Box]	Park Paseo
[Medium Gray Box]	Eucalyptus ESHA
[White Box]	Variable ESHA Buffer
[Dark Gray Box]	Adjusted EPA Wetland
[Light Gray Box]	100 ft. Wetlands Buffer (Adj. EPA Wetland)
[Medium Gray Box]	Current Wetland Extent
[White Box]	100 ft. Wetlands Buffer
[Dark Gray Box]	Permitted Fill
[Medium Gray Box]	Filled/Altered Wetland



DISCLAIMER

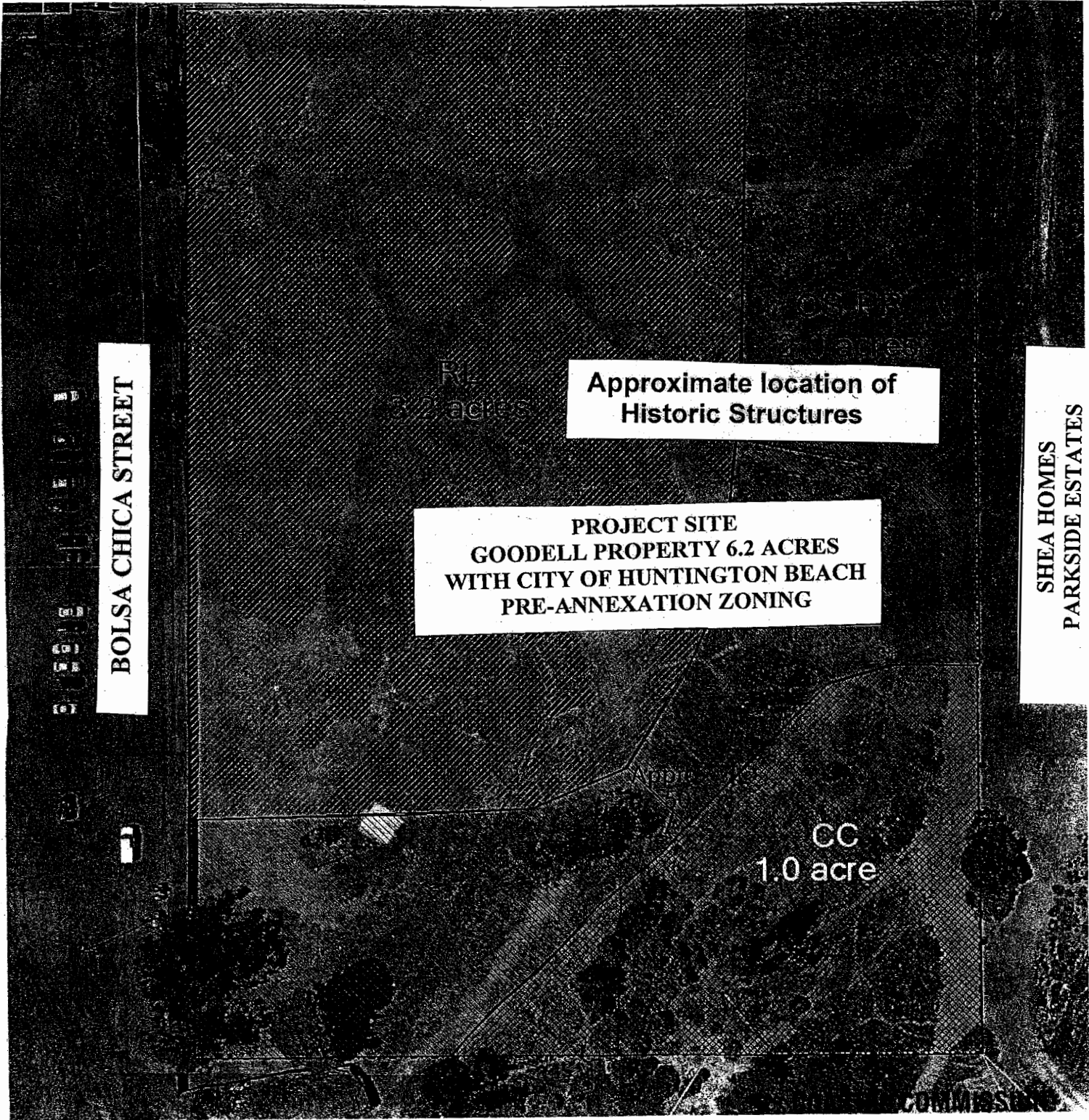
This map shows areas on the Parkside/Shea site that the Coastal Commission has concluded - based, in part, on information provided by the applicant as of the date of this map - constitute environmentally sensitive habitat areas (ESHAs) or wetlands per the definitions in the Coastal Act (Cal. Pub. Res. Code §§ 30107.5 and 30121, respectively) and associated regulations (14 CCR § 13577 (b) re wetlands). The boundaries of the wetlands and ESHA in this map reflect the Commission's best approximations, and this map should be interpreted in conjunction with the adopted findings. The determinations that underlie the delineations of wetlands and ESHA areas shown on this map are based on information provided to the Commission as of November 2007, and those determinations/delineations could change with the receipt of new information or as physical conditions on the ground change over time. This map is intended to be used as guidance solely with respect to the location of wetlands and ESHA areas and does not depict any other coastal resources that may be located on other areas of the site. The Commission is the final arbiter of what it considers to be wetlands and ESHA. By approving the delineation of such ESHA areas and wetlands, or other such areas that develop over time, will be made when a CDP for any development in the proposed subdivision is approved.

EXHIBIT 2
PAGE 1 of 1

Bolsa Chica Wetlands Restoration Area

Note: All Locations Approximate For Illustrative Purposes Only.

**HEARTHSIDE HOMES
"THE RIDGE" SITE**



BOLSA CHICA STREET

**Approximate location of
Historic Structures**

**PROJECT SITE
GOODELL PROPERTY 6.2 ACRES
WITH CITY OF HUNTINGTON BEACH
PRE-ANNEXATION ZONING**

**SHEA HOMES
PARKSIDE ESTATES**

**CC
1.0 acre**

CALIFORNIA COASTAL COMMISSION

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

**EXEMPTION LETTER**

Date: April 16, 2010
Reference Number: 5-10-035-X
Applicant Name: Donald Goodell
Project Location: Near and Southeast of the intersection of Bolsa Chica Street and Los Patos Avenue, Orange County.
 APN 110-014-20

Project Description: Implementation of a geophysical program intended to provide data for archaeological research. The program includes use of ground penetrating radar (GPR) and conductivity instruments. The results of the data collection are expected to provide two and three dimensional subsurface images of historic and prehistoric features that may be present on the site. In addition, a pedestrian surface survey will be conducted. The information gathered through the above described methods will be used to generate archaeological maps of the subject site. The maps generated are proposed to display multi-layer representations of the geophysical data to demonstrate any corresponding anomalies identified by the various instruments. Also included in the maps will be site boundaries, location of surface artifacts and other relevant GPS data collected through the proposed geophysical program and surface review. Other than placement of stakes to mark grids, no ground disturbing, or sub-surface excavation/earth movement will occur.

This is to certify that this location and/or proposed project has been reviewed by the staff of the Coastal Commission. A coastal development permit is not necessary for the reasons checked below:

___ The site is not located within the coastal zone as established by the California Coastal Act of 1976, as amended.

___ The proposed development is included in **Categorical Exclusion No. E-82-1** adopted by the California Coastal Commission.

___ The proposed development is judged to be repair or maintenance activity not resulting in an addition to or enlargement or expansion of the object of such activities and not involving any risk of substantial adverse environmental impact (Section 30610(d) of Coastal Act).

___ The proposed development is an improvement to an existing single family residence (Section 30610(a) of the Coastal Act) and not located in a coastal

COASTAL COMMISSION

EXHIBIT # 4
 PAGE 1 OF 2

between the sea and the first public road or within 300 feet of the inland extent of any beach (whichever is greater) (Section 13250(b)(4) of 14 Cal. Admin. Code).

___ The proposed development is an improvement to an existing single family residence and is located in the area between the sea and the first public road or within 300 feet of the inland extent of any beach (whichever is greater) but is not a) an increase of 10% or more of internal floor area, b) an increase in height over 10%, or c) a significant non-attached structure (Sections 30610(a) of Coastal Act and Section 13250(b)(4) of Administrative Regulations).

___ The proposed development is an interior modification to an existing use with no change in the density or intensity of use (Section 30106 of Coastal Act).

___ The proposed development involves the installation, testing and placement in service of a necessary utility connection between an existing service facility and development approved in accordance with coastal development permit requirements, pursuant to Coastal Act Section 30610(f).

___ The proposed development is an improvement to a structure other than a single family residence or public works facility and is not subject to a permit requirement (Section 13253 of Administrative Regulations).

___ The proposed development is the rebuilding of a structure, other than a public works facility, destroyed by natural disaster. The replacement conforms to all of the requirements of Coastal Act Section 30610(g).

X **Other:** The proposed development does not constitute development as defined in Section 30106 of the Coastal Act.

Please be advised that only the project described above is exempt from the permit requirements of the Coastal Act. Any change in the project may cause it to lose its exempt status. This certification is based on information provided by the recipient of this letter. If, at a later date, this information is found to be incorrect or incomplete, this letter will become invalid, and any development occurring at that time must cease until a coastal development permit is obtained.

Sincerely,

PETER M. DOUGLAS
Executive Director

Meg Vaughn
Coastal Program Analyst

COASTAL COMMISSION

EXHIBIT # 4
PAGE 2 OF 2

MEMORANDUM

DATE: March 3, 2011

TO: Douglas Goodell

FROM: Ingri Quon, Senior Biologist

SUBJECT: Results of General Biological Surveys and Minimization Recommendations in Preparation for the Auger Program – Goodell Property, City of Huntington Beach, California

This memo transmits the results of a supplemental biological survey conducted by LSA Associates, Inc. (LSA) on the Goodell property and concludes with measures to minimize impacts to biological resources (Figure 1; figure attached). The purpose of the survey was to describe the existing site conditions, particularly with regard to the proposed auger locations in the northern and western sections of the property. Many general and focused surveys have been conducted on the property. Survey reports have included a general biological resources assessment, protocol coastal California gnatcatcher (*Polioptila californica californica*) surveys following the United States Fish and Wildlife Service protocol, vegetation mapping; and, most recently, a supplemental botanical survey was conducted in the fall of 2010 to determine the on-site status of the southern tarplant (*Centromadia parryi* ssp. *australis*), a California Native Plant Society List 1B.1 species.

METHODS

On the afternoon of February 12, 2011, Senior Biologist Ingri Quon conducted a general biological survey of the subject property to determine the current site conditions with special consideration of the areas mapped for the auger locations (see Figure 1). During the pedestrian survey, Ms. Quon visually surveyed the entire property noting bird species and dominant plants, as well as the overall site conditions with awareness to changes in disturbances or vegetation communities.

Prior to the survey, the biologist was aware that the project area is in proximity to an historic California gnatcatcher territory, burrowing owl (*Athene cunicularia*) wintering habitat, and that the mature trees and palms on site are sometimes used by perching raptors. In addition, the southern tarplant population areas, located and quantified in October 2010, were checked and mapped in relation to the proposed auger locations (see Figure 1).

RESULTS

The biological conditions on site were very similar to the previously documented site conditions (SWCA Environmental Consultants [SWCA] 2007; LSA 2007, 2009, 2010); however, unauthorized dirt bike ramps have continued to expand slightly, both in overall area and height.

COASTAL COMMISSION

With regard to vegetation, the proposed auger locations are all within disturbed habitat currently dominated by ruderal, nonnative plant species. However, the annual southern tarplant was not visible at the time of this winter survey. When comparing the recently mapped southern tarplant population areas and the proposed auger locations, none of the tarplant areas overlap the proposed auger locations, but some are nearby (Figure 1). It is possible that the current tarplant seed bank is within the topsoil that might be affected at some of the auger locations, specifically the southern auger grouping (Figure 1: Area B).

Wildlife activity was relatively high during the field survey, with bird species and numbers typical of those expected in an urban edge location; a merlin (*Falco columbarius*), a less common, but regularly occurring species in the area was observed perched in a eucalyptus near the central part of the project area. California ground squirrel (*Spermophilus beecheyi*) burrows were common throughout the project area, and numerous squirrels were seen on site. Ground squirrels are suitable prey for some raptors, coyotes (*Canis latrans*), and other mammals, and their burrows can be modified and used by burrowing owl. Because burrowing owls are a California Species of Special Concern and are known from the area, all detected burrows were investigated for burrowing owl use; however, no burrowing owl sign (e.g., tracks, pellets, feathers) was detected.

Overall, the proposed auger locations are in disturbed habitat areas, and the property is regularly visited by recreationalists (e.g., pedestrians, dirt bikers). Auguring at the proposed locations is not expected to substantially impact the project site, particularly if the southern tarplant seed bank can be protected from this temporary disturbance.

RECOMMENDED MINIMIZATION MEASURES

To reduce and minimize potential impacts to southern tarplant, it is recommended that topsoil impacts be minimized. Southern tarplant is an annual species; therefore, the population is dormant as seed in the topsoil during most of the year. The following measures are recommended to minimize impacts to the seed bank:

- Prior to ground disturbance, and in the auger locations within 10 feet (ft) of the previously located southern tarplant (see Figure 1), plywood or plastic tarps shall be laid down on the ground to temporarily store the auger spoils. The ground (topsoil) should not be cleared or disturbed prior to laying down the plywood or tarp.
- When the sampling is complete, the hole should be filled with the collected dirt (spoils) stored on the plywood or tarp. The plywood or tarp can be reused at the next auger location.
- Extra dirt (spoils) should be thinly (no more than 0.25 inch thick) spread over the ground since this may cover the seed bank in the topsoil, and thicker fill may prevent or hinder germination.

Please do not hesitate to call Art Homrighausen or me if there are any questions about this memo or if additional information is required.

Attachments: Figure 1: Vegetation and Auger Locations

COASTAL COMMISSION

EXHIBIT # 5
PAGE 2 OF 3



LSA

LEGEND

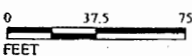
- Site Boundary
- Revised Auger Program from SRS
- Tarplant Populations (10/10)
- Tarplant Populations (6/09)

Vegetation/Habitat/Communities

- AG - Agriculture
- CS - Chenopod Scrub
- CUT - Previously Cut Tree
- ELM - Chinese Elm

- EUC - Eucalyptus
- EUC-r - Eucalyptus (Removed)
- FIG - Fig
- MF - Mulefat
- MYP - Myoporium
- OF - Old Foundation

- OLIVE - Olive
- P - Palm
- PINE - Pine
- PrP - Peruvian Pepper
- R - Ruderal



SOURCE: EagleAerial (4/08); LSA (Vegetation: 1/2007, Tarplant Survey: 6/2009, 10/2010); SRS Corp. (2/2011)
 I:\DGL530\GIS\Veg_Auger.mxd (2/16/2011)

FIGURE 1

EXHIBIT 5
PAGE 3 of 3

Goodell Property

Vegetation and Proposed Auger Locations

MEMORANDUM

DATE: June 3, 2011

TO: Douglas Goodell

FROM: Art Homrighausen, Principal

SUBJECT: Supplement to Results of General Biological Surveys and Minimization Recommendations in Preparation for the Auger Program – Goodell Property, City of Huntington Beach, California

This memorandum supplements the memorandum of March 3, 2011, regarding biological surveys conducted by LSA Associates, Inc. (LSA) on the Goodell property. The purpose is to respond to requests for clarification or additional information from the California Coastal Commission (CCC) Staff (letter dated April 6, 2011), and this memorandum includes additional measures to minimize impacts to biological resources.

COASTAL CALIFORNIA GNATCATCHERS

LSA biologists continue to make very frequent visits to the project vicinity, in connection with LSA's work on the subject parcel, the Parkside Estates project, the Ridge project site, monitoring of the hydrology and vegetation on the so-called "County Parcel," and monitoring the development of the habitat restoration on the Brightwater Property. LSA is confident that any presence of coastal California gnatcatcher throughout these areas would have been detected. The last observation of a single California gnatcatcher, which was in the area for a few months, was the spring of 2007. Protocol surveys were conducted in 2009. Based on all of these observations, LSA concludes that this species is not currently present.

RELATIONSHIP OF GROUND-DISTURBING ARCHAEOLOGICAL ACTIVITIES TO VEGETATION

All of the proposed ground-disturbing activities are in areas dominated by non-native, ruderal vegetation. The revised sampling grid actually retracts two of the sampling locations from areas where southern tarplant has been mapped. One new auger location nearly coincided with one small tarplant location that has been previously mapped; this auger location was revised to avoid impacts. Figure 1 shows the revised auger locations in relation to the tarplant locations and other vegetation on the site. If the sampling is done outside the spring/summer growing season for southern tarplant, the minimization measures recommended in LSA's memorandum of March 3, 2011, are still appropriate. If the archaeological sampling is done during the annual growing season (May through September), LSA recommends that the sampling locations be marked in the field and inspected by a biologist to determine if any actively growing or flowering southern tarplant would be affected. If southern tarplant is visible nearby, it should be protected with silt fencing or other suitable delineating barrier.

COASTAL COMMISSION

If southern tarplant occurs within the area that would be directly affected by the sampling (not expected), the sampling location(s) should be adjusted, through consultation between the archaeologist and biologist, to avoid the direct impact, and the tarplant should be protected as described above. Relocation of individual growing plants of this species is not recommended, because it is an annual plant, and disruption of its root system during its annual growth period would likely lead to plant failure.

PREVIOUS TREE REMOVALS

The unauthorized tree removals of 2005 occurred near the southern edge of the mesa, well outside of the currently proposed sampling grid. Therefore, the proposed sampling grid would not have any direct effect on the former tree locations, even if the trees were still there. Similarly, given the ruderal nature of the vegetation on the mesa, and the relatively short-term effects of the proposed sampling program, there would be no substantial effect on habitat that might be used for foraging by birds that may have occupied those trees.

An informal inspection of the trees, which were planted as mitigation for the unauthorized tree removals, was performed by LSA in the fall of 2010, during other surveys. The trees were alive and exhibiting evidence of growth at that time.

COASTAL COMMISSION

EXHIBIT # 6
PAGE 2 OF 2

April 13, 2011; May 3, 2011

PHONECONS

FROM: David Belardes, Chief, Chairman and MLD Juaneno Band of Mission Indians
Joyce Perry, Cultural Resource Director, Juaneno Band of Mission Indians

TO: Dr. Nancy Anastasia Wiley, Principal Investigator, SRS, Inc.

RE: CCC Letter dated April 6, 2011 regarding Archaeological Constraint Study: Goodell Property

The Juaneno Band of Mission Indians have two issues regarding the recent California Coastal Commission review and recommendations regarding the SRS proposed Constraint Study for the Goodell Parcel:

1] The CCC might be out of their jurisdiction in regards to what archaeology should occur on the Goodell Parcel. It is our understanding that that's what the three peer reviewers are there for; we are confused as to why peer-reviewed test plans are being questioned and changed by Coastal Commission staff. We are now being asked to review another program, when in fact the Juaneno were quite satisfied with the original hand excavation program.

2] In this regard, the Juaneno Band has a serious problem with the use of a mechanical auger on an extension of a site known to contain burials. We have monitored many auger programs and know quite well that even a hollow auger destroys artifacts as it bores a hole; such an implement would be devastating to a burial. For this reason, we are in agreement with the Gabrielino representatives that hand excavated units should be used to define site boundaries and in any areas thought to be sensitive based on earlier studies on this parcel.

3] And now we are being asked to even increase the number of auger holes to a 5m grid pattern which is contradictive to preservation efforts. We viewed the small size of a 5m grid in the field on this site with SRS and all determined it to be unmanageable. Clearly whoever is advising the CCC and Mr. Morales is an archaeologist that has not worked extensively in the field.

4] In conclusion, it is our hopes that this can be resolved quickly and start the process. Quite frankly this simple process has had 6 previous recommendations and now a 7th which we approve; it is time to move on.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 1 OF 4

May 6, 2011

PHONECON

FROM: Anthony Morales, Chief, Chairman and MLD Gabrieleno Tongva Mission Indians
Adrian Morales, Tribal Representative, Gabrieleno Tongva Mission Indians

TO: Dr. Nancy Anastasia Wiley, Principal Investigator, SRS, Inc.

RE: CCC Letter dated April 6, 2011 regarding Archaeological Constraint Study: Goodell Property

The Gabrieleno Tongva have reviewed the new auger program outlined by SRS Corp and find it to be in compliance with the changes requested by the Coastal Commission. We believe that the five meter auger pattern provides thorough coverage of the site area. We also think that replacing auger holes with hand units along Bolsa Chica Road and on the possible midden boundary addresses our previous concerns.

Because we do not know where other areas of concern may be until the auger program is in process, we reserve the right at that time of replacing other auger holes with hand units. Also, once the vegetation is removed from the mesa, we may find other areas which need auger testing.

With those stipulations, we approve the five meter auger pattern and hand unit excavations on the Goodell Property.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 2 OF 4

From: "Dave Singleton" <ds_nahc@pacbell.net>
Subject: Re: Goodell Property Constraint Study, Huntington Beach, CA
Date: Fri, May 20, 2011 4:11 pm
To: wileycoyote@srscorp.net
Cc: "Ed Mountford" <emountford@hearthside-homes.com>, "Teresa Henry"
<thenry@coastal.ca.gov>, "Joyce Perry"
<kaamalam@gmail.com>, GTTribalcouncil@aol.com

May 20, 2011

Dear Nancy:

The NAHC has reviewed the Goodell Property Field Plan for a Constraints Analysis, including the May 2001 chapter for "Predictive Modeling."

The NAHC approves the plan with the changes requested by the California Coastal Commission. The Plan, we note, includes approvals and comments from both the Juaneno and Gabrielino Tongva tribal groups involved as Native American Monitors and Most Likely Descendants (MLDs) with the project.

Dave Singleton
Program Analyst
California Native American Heritage Commission
915 Capitol Mall, Room 364
Sacramento, CA 95814
(916) 653-6251 (916) 653-6251

COASTAL COMMISSION

EXHIBIT # 7
PAGE 3 OF 4

May 6, 2011

Dr. Nancy Anastasia Wiley
Scientific Resource Surveys, Inc.
2324 N. Batavia Street, Suite 109
Orange, CA 92865

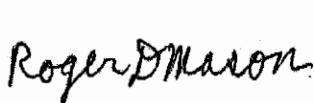
Re: Peer Review of Proposed Archaeological Constraints Analysis on the Goodell Parcel,
Bolsa Chica Area, Orange County

Dear Dr. Wiley:

We, the undersigned members of the Bolsa Chica Peer Review Committee, have reviewed a document entitled 'Predictive Modeling'; a new chapter for the May 2011 version of "Cultural Resource Constraint Analysis on Archaeological Site CA-ORA-144, 'the Water Tower Site' [A Part of CA-ORA-83 "the Cogged Stone Site"] the Goodell Parcel", prepared by Scientific Resource Surveys, Inc. (SRS). The document consists of a plan to determine whether there are subsurface intact prehistoric deposits on the property and, if so, to help define their distribution and boundaries. In addition, the plan will also verify if geophysical anomalies correspond to the foundations of structures from the historic period.

The plan to use bucket augers at a 5 meter spacing, supplemented with 1 by 1 meter hand excavated units, where appropriate, will address the concerns of the Most Likely Descendant Anthony Morales while maximizing information about the distribution of subsurface cultural material and minimizing disturbance of any human remains and intact cultural deposits that may be encountered.

Sincerely,



Roger D. Mason, Ph.D., RPA
Archaeologist



Paul G. Chace, Ph.D., RPA
Archaeologist



Henry C. Koerper, Ph.D.
Archaeologist

COASTAL COMMISSION

EXHIBIT # 7
PAGE 4 OF 4



California Cultural Resource Preservation Alliance, Inc.

P.O. Box 54132
Irvine, CA 92619-4132

An alliance of American Indian and scientific communities working for
the preservation of archaeological sites and other cultural resources.

RECEIVED
South Coast Region

SEP 01 2011

CALIFORNIA
COASTAL COMMISSION

August 30, 2011

California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Re: Huntington Beach Local Coastal Program Amendment No. 3-10 The Ridge and Coastal Development Permit application No. 5-10-258 the Goodell property.

Honorable Commissioners:

Both Coastal permit applications affect CA-ORA-83 the 9,000 year old village complex and burial grounds also known as the cogged stone site. This site was listed as eligible on the National Register of Historic Places on July 17, 2009, and it has been designated by the Native American Heritage Commission as a sacred site.

We are writing to request that you adopt the following recommendations for these permits regarding the treatment of cultural resources to prevent a repeat of the tragic destruction of the burials and archaeological features that occurred at the Brightwater portion of the cogged stone site: (1) Assumptions that the properties are too disturbed to contain intact cultural resources should be questioned based on the discovery of intact cultural features and artifacts at the Brightwater and Sandover portions of the site that were protected from plowing and historic construction by a hard clay layer.

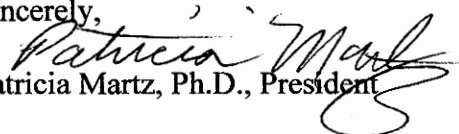
(2) Archaeological testing methods should be designed to locate, but not excavate or remove burials and intact archaeological features. The burials and cultural features should be documented without further disturbance, the boundaries be mapped, and the burials and features covered, protected, and preserved in place.

(3) An archaeological report documenting the 30 years of previous investigations at the Brightwater and Sandover portions of the site that meets the State of California Office of Historic Preservation Planning Bulletin #4 "Archaeological Resource Management Reports (ARMR): Recommended Contents and Format" should be prepared and disseminated to the Coastal Commission and the South Central Coastal Information Center at Cal State Fullerton, prior to any further archaeological investigations.

(4) Archaeological reports meeting ARMR should be prepared for any investigations at the Ridge and Goodell properties.

(5) A curation plan that designates a repository for any recovered artifacts not associated with preserved burials and features and all site notes, photos, and records should be a requirement (See State of California guidelines for the Curation of Archaeological Collections, State Historical Resources Commission 1993).

Sincerely,


Patricia Martz, Ph.D., President

COASTAL COMMISSION

EXHIBIT # 8
PAGE 1 OF 1

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
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Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net



RECEIVED
South Coast Region

October 5, 2011

OCT 10 2011

CALIFORNIA
COASTAL COMMISSION

Ms. Teresa Henry, District Manager
California Coastal Commission
South Coast District
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Dear Teresa:

Enclosed are the NAHC "Guidelines for Native American Monitors/Consultants" that we tried to send to you by facsimile October 4th. As you can see, the fax did not go through. The "Guidelines" have generally been well-received by 'lead agencies' and their project applicants. There is a good lists of requisites for the positions and a substantial list of duties, responsibilities and project documentation/outputs.

Let me know if you have any questions about the "Guidelines."

Best regards,

Dave Singleton
Program Analyst

Enclosures

COASTAL COMMISSION

EXHIBIT # 9
PAGE 1 OF 4



**NATIVE AMERICAN HERITAGE COMMISSION
GUIDELINES FOR NATIVE AMERICAN
MONITORS/CONSULTANTS**



When developers and public agencies assess the environmental impact of their projects, they must consider "historical resources" as an aspect of the environment in accordance with California Environmental Quality Act (CEQA) Guidelines section 15064.5. These cultural features can include Native American graves and artifacts; traditional cultural landscapes; natural resources used for food, ceremonies or traditional crafts; and places that have special significance because of the spiritual power associated with them. When projects are proposed in areas where Native American cultural features are likely to be affected, one way to avoid damaging them is to have a Native American monitor/consultant present during ground disturbing work. In sensitive areas, it may also be appropriate to have a monitor/consultant on site during construction work.

A knowledgeable, well-trained Native American monitor/consultant can identify an area that has been used as a village site, gathering area, burial site, etc. and estimate how extensive the site might be. A monitor/consultant can prevent damage to a site by being able to communicate well with others involved in the project, which might involve:

1. Requesting excavation work to stop so that new discoveries can be evaluated;
2. Sharing information so that others will understand the cultural importance of the features involved;
3. Ensuring excavation or disturbance of the site is halted and the appropriate State laws are followed when human remains are discovered;
4. Helping to ensure that Native American human remains and any associated grave items are treated with culturally appropriate dignity, as is intended by State law.

By acting as a liaison between Native Americans, archaeologists, developers, contractors and public agencies, a Native American monitor/consultant can ensure that cultural features are treated appropriately from the Native American point of view. This can help others involved in a project to coordinate mitigation measures. These guidelines are intended to provide prospective monitors/consultants, and people who hire monitors/consultants, with an understanding of the scope and extent of knowledge that should be expected.

DESIRABLE KNOWLEDGE AND ABILITIES:

1. The on-site monitor/consultant should have knowledge of local historic and prehistoric Native American village sites, culture, religion, ceremony, and burial practices.
2. Knowledge and understanding of Health and Safety Code section 7050.5 and Public Resources Code section 5097.9 et al.

COASTAL COMMISSION

EXHIBIT #

9

PAGE

2

OF

4



**NATIVE AMERICAN HERITAGE COMMISSION
GUIDELINES FOR NATIVE AMERICAN
MONITORS/CONSULTANTS**



3. Ability to effectively communicate the meaning of Health and Safety Code section 7050.5 and Public Resources Code section 5097.9 et al. to project developers, Native Americans, planners, landowners, and archaeologists.
4. Ability to work with local law enforcement officials and the Native American Heritage Commission to ensure the return of all associated grave goods taken from a Native American grave during excavation.
5. Ability to travel to project sites within traditional tribal territory.
6. Knowledge and understanding of CEQA Guidelines section 15064.5 and Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended.
7. Ability to advocate for the preservation in place of Native American cultural features through knowledge and understanding of CEQA mitigation provisions, as stated in CEQA Guidelines section 15126.4(b)(A)(B), and through knowledge and understanding of Section 106 of the NHPA.
8. Ability to read a topographical map and be able to locate sites and reburial locations for future inclusion in the Native American Heritage Commission's (NAHC) Sacred Lands Inventory.
9. Knowledge and understanding of archaeological practices, including the phases of archaeological investigation.

REQUIREMENTS:

1. Required to communicate orally and in writing with local Native American tribes, project developers, archaeologists, planners and NAHC staff, and others involved in mitigation plans.
2. Required to maintain a daily log of activities and prepare well written progress reports on any "findings" at a project site (i.e., human remains, associated grave goods, remains, bone fragments, beads, arrow points, pottery and other artifacts).
3. Required to prepare a final written report describing the discovery of any Native American human remains and associated grave goods, and their final disposition. This report shall contain at a minimum the date of the find, description of remains and associated grave goods, date of reburial, and the geographical location of reburial, including traditional site name if known. The report shall include a discussion of mitigation measures taken to preserve or protect Native American cultural features and, if applicable, a comparison with mitigation measures described in the environmental impact report. This report shall be submitted to NAHC after the completion of the project. Information from the report may be included in the NAHC Sacred Lands Inventory.
4. Ability to identify archaeological deposits and potential areas of impact.

COASTAL COMMISSION

EXHIBIT # 9
PAGE 3 OF 4



**NATIVE AMERICAN HERITAGE COMMISSION
GUIDELINES FOR NATIVE AMERICAN
MONITORS/CONSULTANTS**



EXPERIENCE:

It is recommended that each monitor/consultant have experience working with Native American cultural features under the guidance of an archaeologist that meets the professional qualifications, as defined in the in the *Secretary of the Interior's Standards and Guidelines* for archaeology. Letters from an on-site archaeologist should be submitted with a copy of the archaeologist's resume. Experience and knowledge regarding cultural, traditional, and religious practices can be gained by training from tribal elders. This experience and knowledge may be verified by the submission of such things as copies of contracts, reports, and letters from elders. Formal education in an appropriate field, such as anthropology, archaeology, or ethnology, may be substituted for experience.

PREFERENCE:

It is recommended that preference for monitor/consultant positions be given to California Native Americans culturally affiliated with the project area. These Native Americans will usually have knowledge of the local customs, traditions, and religious practices. They are also aware of the local tribal leaders, elders, traditionalists, and spiritual leaders. Since it is their traditional area being impacted, culturally affiliated Native Americans have a vested interest in the project.

Approved by the Native American Heritage Commission: 9/13/2005

COASTAL COMMISSION

EXHIBIT # 9
PAGE 4 OF 4

responsible agencies and property owner to facilitate site clean-up. (I-C 1, I-C 2, I-C 12)

HISTORIC AND CULTURAL RESOURCES

Goal

C 5

Promote the preservation of significant archaeological and paleontological resources in the Coastal Zone.

Objective

C 5.1

Identify and protect, to the maximum extent feasible, significant archaeological, paleontological and historic resources in the Coastal Zone.

Policies

C 5.1.1

Coordinate with the State of California Historic Preservation Office to ensure that archaeological, paleontologic and historically significant resources within the Coastal Zone are identified. (I-C 12, I-C 22I)

C 5.1.2

Where new development would adversely impact archeological or paleontological resources within the Coastal Zone, reasonable mitigation measures to minimize impacts shall be required. (I-C 8)

C 5.1.3

In the event that any Native American human remains are uncovered, the County Coroner, the Native American Heritage Commission, and the Most Likely Descendants, as designated by the California Native American Heritage Commission, shall be notified. The recommendations of the Most Likely Descendants shall be obtained prior to the disposition of any prehistoric Native American human remains. (I-C 12)

C 5.1.4

A completed archeological research design shall be submitted along with any application for a coastal development permit for development within any area containing archeological or paleontological resources. The research design shall determine the significance of any artifacts uncovered and make recommendations for preservation. Significance will be based on the requirements of the California Register of Historical Resources criteria, and prepared based on the following criteria: (I-C 2, I-C 3, I-C 22i)

- a) Contain a discussion of important research topics that can be addressed; and
- b) Be reviewed by at least three (3) County-certified archeologists (peer review committee).
- c) The State Office of Historic Preservation and the Native American Heritage Commission shall review the research design.
- d) The research design shall be developed in conjunction with affected Native American groups.
- e) The permittee shall comply with the requirements of the peer review committee to assure compliance with the mitigation measures required by the archeological research design.

C 5.1.5

A County-certified paleontologist/ archeologist, shall monitor all grading operations where there is a potential to affect cultural or paleontological resources based on the required research design. A Native American monitor shall also monitor grading operations. If grading operations uncover paleontological/archeological resources, the paleontologist/archeologist or Native American monitor shall suspend all development activity to avoid destruction of

COASTAL COMMISSION

resources until a determination can be made as to the significance of the paleontological/ archeological resources. If found to be significant, the site(s) shall be tested and preserved until a recovery plan is completed to assure the protection of the paleontological/ archeological resources. (I-C 2, I-C 3, I-C 8)

C 5.1.6

Reinforce downtown as the City's historic center and as a pedestrian-oriented commercial and entertainment/recreation district, as follows: (I-C 1, I-C 2, I-C 4)

1. Preserve older and historic structures;
2. Require that new development be designed to reflect the Downtown's historical structures and adopted Mediterranean theme;
3. Amend the Downtown Specific Plan (as an LCP amendment subject to Commission certification) to:
 - a. Coordinate with the Citywide Design Guidelines; and
 - b. Incorporate historic preservation standards and guidelines.
 - c. Coordinate Downtown development and revitalization with polices and programs of the Historic and Cultural Resources Element.

WATER AND MARINE RESOURCES

Goal

C 6

Prevent the degradation of marine resources in the Coastal Zone from activities associated with an urban environment.

Objective

C 6.1

Promote measures to mitigate the adverse impacts of human activities on marine organisms and the marine environment through regulation of new development, monitoring of existing development, and retrofitting necessary and feasible.

Policies

C 6.1.1

Require that new development include mitigation measures to enhance water quality, if feasible; and, at a minimum, prevent the degradation of water quality of groundwater basins, wetlands, and surface water. (I-C 2, I-C 8)

C 6.1.2

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. (I-C 6, I-C 8, I-C 12, I-C 15, I-C 22e)

C 6.1.3

Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes. (I-C 7, I-C 8)

C 6.1.4

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain organisms and for the protection of human health shall be maintained and, where feasible, restored. (I-C 7, I-C 8, I-C 12)

C 6.1.5

Require containment curtains around waterfront construction projects on inland

COASTAL COMMISSION



California Cultural Resource Preservation Alliance, Inc.

P.O. Box 54132
Irvine, CA 92619-4132

An alliance of American Indian and scientific communities working for
the preservation of archaeological sites and other cultural resources.

October 24, 2011

Ms. Teresa Henry, District Manager
California Coastal Commission
200 OceanGate, 10th Floor
Long Beach, CA 90802-4415

Sent by Fax to 562-590-5084
No. of Pages: 3

RE: California Coastal Development Permit Application No. 5-10-258; DE Goodell

Dear Ms. Henry:

The CCRPA supports the special conditions for the implementation of the archaeological research plan (ARP) that require preservation in place and protection through covering with a protective material and soil of human remains, archaeological features, and intact midden that may be present on the Goodell property. However, we oppose the implementation of the ARP in the absence of a comprehensive report of findings of the extensive archaeological excavations carried out at the Hearthside/Brightwater portion of the archaeological site known as CA-ORA-83.

We also have the following concerns regarding the ARP:

The Staff recommendations regarding the requirements of Condition 1: That if any intact midden, human remains or archaeological features are encountered, exposure of the resources shall be minimized to the maximum extent feasible, and they should be documented, left in place, and reburied as soon as possible is very good, but there are some areas of concern.

For example: The ARP is designed to document intact midden, human remains and archaeological features, limiting disturbance to these resources, determine and map their boundaries and then cover and preserve any human remains and/or features in place.

Intact midden should be preserved in place as well. Since the majority of the clogged stone site has been excavated and destroyed, it is important to preserve a large area of intact midden for future archaeological studies that are less destructive and will be able to recover more information using advances in technology. 50 years ago, we didn't have radiocarbon dating techniques. Many other scientific methods will be available 50-100 years from now.

Previously SRS ignored the permit conditions for the geophysical investigation that said there was to be no ground disturbance other than the placement of stakes. Instead they excavated 16 trenches. The fine

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Received Oct-24-11 11:50pm

From-949 559 8139

To-California Coastal

EXHIBIT #11

PAGE 1 OF 3

was minimal. This is cause for concern regarding compliance with this permit if granted.

Pg. 5 The Staff recommends that the Coastal Commission adopt a two-part resolution. Part one: the ARP is approved providing it will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal program conforming to the provisions of Chapter 3 of the Coastal Act.

This is out of our area of expertise, but would this allow the city to say the archaeological deposits can be cleared out to allow more houses as "reasonable mitigation measures" See pg. 13

There are no requirements for curation of the materials that are recovered in the test excavations, as well as field notes, photos and other materials generated during the implementation of the ARD at a curation facility that meets the State Guidelines for Curation of artifacts, etc. recovered under compliance with CEQA.

Pg. 20: " Collected materials will consist of materials recovered from the auger coring and hand excavations necessary to determine the location and boundaries of intact cultural midden and do not include intact midden constituents, features, or human remains." Therefore, they should be curated at an appropriate repository.

Pg. 10, last paragraph: again no provisions for curation of recovered materials and generated records and photos. The reason may be that the MLD's wanted everything recovered on the excavation for the Brightwater project reburied, but the laws only require materials associated with burials or religious artifacts to be reburied, if this is what the MLDs want, not midden materials and certainly not records generated from the ARD.

Pg. 18: The suggestion by the consulting archaeologist (SRS) that for midden deposits to be deemed significant, the deposit should have artifacts and/or features (including human or animal bone) so that meaningful data can be gleaned from the cultural materials and their context."

According to the determination of eligibility listing for the National Register of Historic Places, any intact midden at the site has the potential to provide important information (criterion d). Intact midden should be preserved as an archaeological witness area and as a place where the Native American descendants can come to honor their ancestors.

Pg. 18: Units will be excavated to a depth of 150 cm. The units should then be augered into clearly defined sterile soils (Pleistocene terrace deposits). to allow for deep penetration beneath any historic development and any hard clay layer that maybe be present on the site. This is where burials and other features were found in the Brightwater project area.

Pg. 18 If bone fragments are uncovered..." The human remains should not be covered with a permeable membrane and then soil until after they have been inspected by the coroner. **The purpose of covering the human remains with a permeable membrane and then soil, is to preserve them in place in perpetuity.**

Page 19: The reburial of human bone isolates, if further excavations can't find a burial, could be a way to get out of the requirements to preserve human remains in place. Based on the excavations of the human remains at the Brightwater project, the bones were in poor condition and highly

COASTAL COMMISSION

EXHIBIT # 11
PAGE 002 2 OF 3

fragmented, after all they are probably 9,000 years old. SRS called them "human bone concentrations". Therefore, the term "isolates" should be defined to mean a single bone, not "human bone concentrations".

Here are some requirements that are really good:

Pg. 2: The project archaeologist, SRS, agrees that CA-ORA-144 is part of CA-ORA-83 the 9,000 cogged stone site.

Pg. 2: The purpose of the ARP is to identify portion of the subject site that contain intact cultural/archaeological resources and to define the boundaries of these areas using techniques that avoid impacts to these resources, if they are present.

Pg. 7: If any intact midden, human remains or archaeological features are encountered, exposure of the resources shall be minimized to the maximum extent feasible, documented, left in place, and reburied as soon as possible.

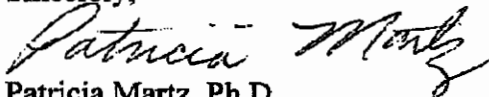
Pg. 7 Human remains shall be left in situ (in place) and shall be excavated only to the extent necessary for the archaeologist and Coroner to make the necessary determination as to whether the bone is human and whether it represents a modern forensic case. Unless required by the County Coroner, subsequent human bones shall not be excavated unless excavation is necessary to determine whether they are human in origin and the extent of excavation shall be the minimum necessary to make the determination.

Pg. 16: Pg.16: "Increasingly, Native Americans, as well as some archaeologists and environmental organizations have found these mitigation measures to be objectionable (data recovery excavations) and have petitioned the commission to avoid impacts by allowing the archaeological resources to remain in place, especially when the archaeological resources are Native American human remains."

" The proposed ARP has been modified by the applicant, and is conditioned by Special Condition 1, to avoid encroachment into known 'intact midden' deposits since development within intact midden, even testing, would not be most protective of archaeological resources."

Pg. 17: Auger borings deep enough to go below the hard pan clay layer as experience on the adjacent Brightwater site found burials beneath the hard clay layer despite the fact that the site was thought to contain limited intact prehistoric resources due to plowing and the construction of subsurface historic WWII facilities.

Sincerely,



Patricia Martz, Ph.D.
President

COASTAL COMMISSION

EXHIBIT # 11
PAGE 3 OF 3

STATE OF CALIFORNIA

Edmund G. Brown, Jr. Governor

NATIVE AMERICAN HERITAGE COMMISSION

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 SACRAMENTO, CA 95814
 (916) 653-0251
 Fax (916) 657-5390
 Web Site www.nahc.ca.gov
 ds_nahc@pacbell.net



October 24, 2011

Ms. Teresa Henry, District Manager
CALIFORNIA COASTAL COMMISSION
 200 Oceangate, 10th Floor
 Long Beach, CA 90802-4415

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OCT 24 2011

Sent by FAX to 562-590-5084
 No. of Pages: 3

CALIFORNIA
 COASTAL COMMISSION

Re: California Coastal Development Permit Application No. 5-10-258; DE Goodell;
Agent: Ed Mountford of Hearthside Homes, Inc. and SRS, Inc. Bolsa Chica area; Orange
County, California

Dear Ms. Henry:

The Native American Heritage Commission (NAHC), the State of California 'Trustee Agency' for the protection and preservation of Native American cultural resources pursuant to California Public Resources Code §21070 and affirmed by the Third Appellate Court in the case of EPIC v. Johnson (1985: 170 Cal App. 3rd 604). The court held that the NAHC has jurisdiction and special expertise, as a state agency, over affected Native American resources, impacted by proposed projects including archaeological, places of religious significance to Native Americans and burial sites. The NAHC wishes to comment on the proposed application for a Coastal Development Permit.

The proposed project site, on the east side of the intersection of Brightwater Drive and Bolsa Chica Street (APN 110-016-18), is a highly sensitive area, culturally. The site is adjacent to that of the Brightwater Development that included archaeological sites CA-ORA-83 and CA-ORA-85. In fact, the NAHC records indicate that the Orange County Coroner's office reported to the NAHC that human remains, determined Native American, were inadvertently discovered in Bolsa Chica Street near the fence line of the Goodell property. The 6.2-acre site contains the archaeological site, CA-ORA-144, but the CA-ORA-83 impinges upon it. The California Coastal Commission (CCC) Staff Report indicates that "Therefore, there is a high likelihood that archaeological/cultural resources are on the project site...." With regard to such sites with well-known Native American cultural resources, the preference of the NAHC is *avoidance* as defined by CEQA Guidelines §155370(a) when groundbreaking activity encounters items of archaeological significance or evidence of possible human remains. The NAHC approved the Archaeological Research Plan (ARP) prepared by the project archaeologist, Scientific Resources Surveys, Inc. (SRS).

COASTAL COMMISSION

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 PAGE 1 OF 3

The NAHC wishes to offer the following comments and/or suggestions to the CCC for consideration:

Archaeological Features

- The NAHC support the ARP project design to document and preserve, 'in place,' any intact midden, human remains and archaeological features discovered, including mapping the sites, in order to limit disturbance to these areas of sensitivity' thus avoiding the kind of destruction of these resources that occurred on other nearby projects;
- The NAHC recommends Native American Monitors for the proposed project, representing both the Gabrielino Tongva and Juaneno Native American cultures;
- Affirming the first suggestion by the NAHC, any intact midden discovered during groundbreaking activity should be preserved 'in place.' Therefore, the NAHC questions the consulting archaeologist's suggestion on page 18 that "meaningful data" be gleaned from discovered "cultural materials and their context."
- Also on page 18, a description of the plan to excavate units to a depth of 150cm. The NAHC suggests that the units be augured into clearly defined sterile soils (e.g. Pleistocene terrace deposits) to allow for deep penetration beneath any historic development and any hard clay layer that may be present where often ancient burials are found;
- "Isolates" should be defined as single *bone*, rather than *human bone concentrations*;

Inadvertently Discovery of Remains

- In the event of an inadvertent discovery of bones, remains, the remains should be left in place and the County Sheriff-Coroner contacted to make an investigation by the Coroner's staff or the Coroner's representative. California Government Code §27491 gives exclusive jurisdiction and authority to county coroners over all unidentified remains, no matter where discovered. It is noncompliant with state law for project staff to assume control of remains, make a determination as to the properties of the remains unless they are acting on behalf of the County Coroner;
- Moreover, the NAHC suggests that remains not be covered with a permeable membrane and then soil (e.g. see page 18) until they have been inspect by the County Coroner. After the Coroner's inspection and determination, it is highly desirable to then cover the remains with membrane and soil to preserve them in perpetuity;
- Reburial of Native American human remains, if so determined by the County Coroner: Once remains are determined by the County Coroner that they are likely Native American in origin, ancient remains, the County Coroner will notify the NAHC pursuant to California Health and Safety Code §7050.5. In turn, the Native American Heritage Commission will designate Most Likely Descendant(s), one from each cultural tribe, pursuant to California Public Resources Code §5097.98. It is the responsibility and duty of the MLDs to make a recommendation to the property owner, within 48 hours of their NAHC designation, regarding where and how the remains should be reburied.

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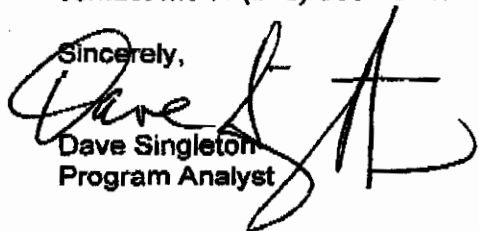
EXHIBIT # 12
PAGE 2 OF 3
Page 002

The NAHC recommends to the CCC that it consider special conditions that would incorporate the suggestions noted above in order to prevent or limit damage or destruction to Native American cultural resources and also require documentation, data recovery of cultural resources, pursuant to CEQA Guidelines §2183.2

Finally, the NAHC considers the project site identified as Application 5-10-258 as part of a cultural landscape involving numerous nearby archaeological and historical sites in this sub region of Southern California, a cultural landscape as defined by the 1992 Secretary of the Interiors Standards for the Treatment of Historic Properties, and also, federal Executive Order No. 11593 (preservation of cultural environment). The NAHC feels it is important for all the stakeholder agencies of proposed development projects to consider the importance of the historical context and cultural landscape in which project locations are situated.

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely,


Dave Singleton
Program Analyst

COASTAL COMMISSION

EXHIBIT # 12
PAGE 3 OF 3



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OCT 25 2011

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ENDORSEMENTS

Amigos de Bolsa Chica
Algalita Marine Research
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Anza Borrego Foundation
Ballona Wetlands Land
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Huntington Beach
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Huntington Beach Tomorrow
Orange Coast League of
Women Voters
Orange County
Coastkeeper
Peninsula Open Space Trust
Sea and Sage Audubon
Sierra Club
Angeles Chapter
Surfrider Foundation

October 25, 2011

California Coastal Commission
200 Oceangate #1000
Long Beach, Ca 90802-4316

Dear Commissioners:

Re 16.b Application No 5-10-258 (Goodell, Huntington Beach) CDP for ARP
Dear Commissioners:

The Bolsa Chica Land Trust has concerns about the ARP. We have summarized our concerns here, and then provided more detailed explanations later in this letter.

I. Background

In July, 2009, the United States Department of Interior designated 17 acres (including Mr. D.E. Goodell's six acres) of ORA 83 - the 9,000 year old "Cogged Stone Site"- as eligible for listing on the National Registry of Historic Places. It is the only such National Historic site on the coast of Southern California from Ventura to San Diego. As such, the site is unique. Additionally, because of the high number of Native American burials which have been located there, the Native American Heritage Commission (NAHC) has determined that the "Cogged Stone Site" is a Native American cemetery subject to provisions of the Public Resources Code Section 5097.98. (Attachment 1)

Further, after twenty years of minimizing the importance of this site both to the public and the Commission, the applicant's archaeologist, Nancy DeSautels Wiley, now is effusive in her recognition of the importance of the site. She has also stated in her 2010 presentation before the Pacific Coast Archaeological Society that archaeological resources- including human remains- will be found on the six acres of the Cogged Stone Site which are subject of the application. (Attachment 2)

The Bolsa Chica Land Trust believes that the proper mitigation for the Brightwater development of the adjacent 11 acres of the Cogged Stone Site is **avoidance and preservation of the entire remaining 6.2 acres of the site located on D.E. Goodell property.**

Short of that, the **Land Trust supports the staff recommendation to deny the After the Fact (ATF) permit for hand excavation of 16 soil profiles due to lack of compliance with Chapter 3 of Coastal Act and with the California Coastal Commission Environmental Quality Act (CEQA).**

II. The Land Trust requests you delay your consideration

Please postpone your consideration whether to approve the ARP. According to the staff report page 12 the final archeological report for ORA 83 is still pending. Had the applicant's archaeologist submitted the Final Brightwater Archaeological Report (due February 2010 and now due December 2011), the unique nature of the archaeological site ORA 83 would be clear. The Land Trust urges you to postpone your consideration of this ARP until such time as the long- awaited Final Archaeological Report is submitted to you. We understand that the public won't have access to the report, but it is critical to your decision- making.

III. The Land Trust's position upon approval

Should the commission decide to approve the ARP , the Land Trust believes further additional protections should be added.

- A. Permit no human "isolate" to be removed and reburied at a later time with other isolates. Rather, they must be left insitu and reburied. (Staff report page 19)
- B. We also request that all human remains must be identified by the Coroner. Merely sending a report to the Coroner is insufficient. (Staff report page 19)
- C. Deem no additional application for a Coastal Development for the Goodell site complete until submittal of the final report for the ARP considered under this application.
- D. Require submittal of final reports regarding resources on the site prior to publication or presentation at large of information learned as a result of investigations conducted pursuant to Application No 5-10-258.

Please see below for more detailed information

I. Background

In 2009, the Cogged Stone Site was added to the Registry of National Historic Places as eligible to be listed under Criterion A and D of the National Register of Historic Places. Under Criterion D it states the site has potential to provide important information regarding prehistory. Discovery of numerous subterranean house pits beneath the middens are extremely rare especially in Southern California. This site was occupied during the Early Holocene/Millingstone Horizon of California prehistory(over 9,000 years ago). These features have the potential to address important questions regarding village structure, social organization, settlement patterns, gender activities and demographics as well as the relationship of the structures to astronomical features. All the subterranean house pits uncovered at Brightwater by SRS have been fully excavated. (destroyed)

For over 28 years SRS, the archaeological consulting firm hired by the applicant, has adopted a strategy which was quite simply **the sites were depleted. There is nothing there**, thus paving the way for development. The same strategy is followed for the Ridge project and D.E.Goodell project before you. Please see quotes below:

1982 from SRS (Ms.DeSautels business name) "the integrity of ORA 83 has been destroyed"

1983 from Nancy DeSautels "site was too disturbed to be significant. *DeSautels speaking in opposition to nomination to National Register of Historic Places.* **in 1983** "site was too disturbed to be significant." (See the Minutes of the 1983 SHPO meeting)

1989 DeSautels "We can confidently state that subsurface prehistoric remains do not exist in this area.

(Whitney-Desautels letter to Signal Landmark, Inc., June 27, 1989).

1989 Coastal Commission November 16, 1989 The site is heavily disturbed. All cogstones “now long since collected” Final mitigation on ORA 83 CC report permit November 16, 1989
Represents the final mitigation on ORA 83 . “ It was determined that the greatest amount of cultural material (which consists mostly of shell) is located within the eucalyptus grove. The site is heavily disturbed. All cogstones “now long since collected”

July 27, 1992 , Susan Hori(attorney for landowner) to Cindi Alvitre
“No human remains were found during the course of any of the excavations”.

November 9, 1994 DeSautels “Data recovery is now complete on this project.”
“our company (SRS) has been involved on excavations of Bolsa Chica mesa and particularly the Cogstone site for the last 17 years. On the whole area there have been a total of 9 surveys, 7 surface collections and 7 excavation programs either for the testing or data recovery. Data recovery is now complete on this project

EIR 1994 human remains- none reported

November 1994 DeSautels to Coastal Commission “Between 1990-1994, an extensive data recovery program was conducted... providing full mitigation for ORA 83”

April 3, 1995 by Koll Real Estate Group“ORA 83 is not a cemetery.

June 1997 in letter to County Koll Real Estate Group states: “In 1994, the Coastal Commission-appointed Peer Review Team determined that no further excavations were required and that all data recovery work for ORA 83 was completed.”

1999 letter from Susan Hori to Coastal Commission “The property owner and its archaeologist will submit the final report on the excavation an analysis after it has been completed a peer reviewed.”

April 2005 applicant contends that the Brightwater development project will not adversely impact either of the two on-site identified archaeological sites due to the fact that a series of measures to mitigate the impacts of future development have been implemented completely in the case of ORA-85, and at the time of the October 2004 hearing, 97% complete in the case of ORA-83 as approved by the County of Orange, and the Coastal Commission.

This strategy worked. **April 2005**, the Coastal Commission approved the Brightwater development to allow development of 349 homes on 65 acres of the Bolsa Chica Mesa including 11 acres of Cogged Stone site. However, as work on the site began a completely different picture of the importance of the site, and what was located there emerged.

In a January 2007 internal memo from Nancy Wiley to Ed Mountford, Ms. Wiley states “Ted and I will wrap each burial with its grave goods.... Each individual will be wrapped again in colored burlap coded to male (blue), female (red) and unknown (beige). Children will additionally have a color separation or other designator.”

In a **November 2007** memo from the developer’s archeologist to Ed Mountford et al it was disclosed that the following had been recovered at the Brightwater site. The following is stated:

There are 87 human remains that need to be reburied
There are 83 prehistoric features that were uncovered with the burials
There are 4,217 artifacts that were found during grading monitoring on ORA 83
There are 1,622 artifacts that were found during the grading monitoring ORA 85
There are approximately 2,000 boxes of materials
There are over 100,000 artifacts that have been collected.

COASTAL COMMISSION

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PAGE 3 OF 36

December 12, 2007

DeSautels tells Native American Heritage Commission (NAHC) staff that “ Ed Mountford has said that I cannot prepare a chronology for you until he talks to his attorney”, Susan Hori.

Letters from NAHC April 4, 2008, April 8, 2008, November 6, 2008 raise concerns that the site is a “probably a cemetery” and that “Native American cultural resources at the site have been understated”. “NAHC executive secretary requested certain information from the site and project owner,.. to date this requested information has not been provided to the NAHC. “

“According to the applicant’s chronology, all of the human burials were discovered by no later than November 2006.” AB 2641 became effective January 2007.

In 2010 Nancy Anastasia DeSautels Wiley wrote an article *Saved By the Well*. (See attachment 1) She also gave two lectures at the PCAS meetings. You have received a 7 minute video of her statements. It is important because at those meetings she stated clearly--- There is 100% chance to find Cogged Stones and a high probability to find human remains on D.E.Goodell property.

Therefore the Land Trust is requesting that avoidance and preservation be the focus at this time.

The staff of the Coastal Commission stated in the Staff letter of April 6, 2011 to the applicant.-

“Because the site has already been determined as significant (eligible for the National Register of Historic Places under criterion d- ‘as the potential to provide information important in prehistory, excavations to determine significance are not necessary and could result in further destruction of the site’. Avoidance and preservation should be the focus at this time.” The BCLT concurs.

As stated in Staff summary (page 2)

“The purpose of the proposed ARP on the Goodell site is not to excavate intact cultural/ archaeological resources as was done on the adjacent Brightwater project site. Any intact cultural/archaeological resources found on the subject site will be left in place and any subsequent development of the site will be designed to avoid further impacts to these resources”. The BCLT concurs.

AFT unpermitted development

While the Land Trust believes avoidance and preservation of the entire 6.2 acre site is the appropriate action for this land, we do support the staff recommendation to deny the After the Fact (ATF) permit for hand excavation of 16 soil profiles due to lack of compliance with Chapter 3 of Coastal Act and with the California Environmental Quality Act (CEQA). **These pits were dug with no permit, no Native American monitor, and were not backfilled when the work was completed. The Trust strongly believes that enforcement action should be taken, and no After the Fact permits granted.**

II. Postpone your consideration of whether to approve the ARP.

According to the Staff report page 12 **“The final archaeological report for ORA 83 is still pending.”** Had SRS(Nancy DeSautels company) submitted the Final Archaeological Report due February 2010 and now due December 2011 the unique nature of the archaeological site ORA 83 would be clear. We urge you to postpone your consideration of this ARP until such time as the long awaited Final Archaeological Report for the Brightwater site is submitted to you. We understand that the public won't have access to the report but it is critical to your decision making.

COASTAL COMMISSION

EXHIBIT # 13
PAGE 4 OF 36

From Staff Report page 12

“The Cogged Stone Site also lies on three other adjacent sites: the Hearthside Homes “Brightwater” site, located on the west side of Bolsa Chica Street; Hearthside Homes the “Ridge” project site, located on the east side of Bolsa Chica Street, adjacent to Los Patos Avenue; and the Parkside Estates site, located immediately east of the subject Goodell site” (Exhibit 1).

“The predecessor companies to Hearthside Homes received several coastal development permits, beginning in the early 1980’s, to conduct archaeological research, salvage and relocation (on-site) of any human remains, features and artifacts that were found. The archaeological research, salvage and on-site reburial took place over the course of approximately 28 years with the final reburial occurring in spring 2009. The State of California Office of Historic Preservation has determined that the site was eligible under Criteria A and D for listing as a National Historic Site. Under Criteria A, as a type site for production, manufacture and distribution of the cogged stone artifact and an historic site that represents an Early Holocene ceremonial complex important to the local Native American communities; and **under Criterion D since the site has produced hundreds of cogged stones, human remains, numerous semi-subterranean pit houses, and other artifacts, the site is considered highly significant with regard to research potential particularly if this information is combined with other archaeological and ethnographic evidence.**”

“During the 2008 revocation hearing for the Brightwater CDP [R5-05-020(Hearthside Homes)] the Commission found that approximately 160 human burials, and several animal burials, over 100 significant archaeological features such as house pits, rock pits, hearths and tens of thousands of beads, charmstones, cogged stones and other artifacts have been found on CA-ORA-83. The final archaeological report for ORA-83 is still pending”.

Archaeological excavations on Brightwater development were completed in 2006 and yet in 2011 there is still no final report. The information in this final report will directly inform you of what is left on the Goodell property and should be made available to you prior to the commission considering the ARP on the property.

III. If the Commission decides to approve this ARP we request the following:

A. The Land Trust believes that it is imperative the Final Report for the ARP be given a specific date to be completed. On page 7 of the staff report, staff addresses a draft report of the proposed archeological work on the Goodell property, but does not specify a date or timeline for the final report. Given the long delay in providing a report to the Commission regarding the resources discovered during the Bright water development, the BCLT believes it is imperative the final report for the ARP be given a specific date to be completed.

Further on page 7 of staff report

“As proposed by the applicant, a draft ARP report shall be prepared within three months of completion of field excavation and matrix sorting, and analysis. Review copies of the draft shall be submitted to the Juaneno and Gabrielino Most Likely Descendants, the Peer Review Team, the Native American Heritage Commission, the State Historic Preservation Office, the landowner and their representative and the Executive Director. After review, comment and incorporation of comments of all parties and any necessary revisions, **the final report will be distributed** to involved agencies (e.g. NAHC, SHPO, CCC), local government entities (e.g. County of Orange, City of Huntington Beach), the designated archaeological information center (SCIC at California State University, Fullerton), affected Native American groups (Juaneño and Gabrielino tribes) and interested professionals (Peer Reviewers and other local archaeologists). The report shall be used in consideration of the determination of the appropriate

type, location and intensity of development allowed in conjunction with any subsequent coastal development permit application for the subject site.

As you can see there is no deadline set for the final report. Given that SRS has not yet been able to provide the commission with a final report for the Brightwater site, the BCLT requests the ARP be given a specific date to be completed.

B. We are also requesting that the commission permit no human "isolate" to be removed and reburied at a later time with other isolates. Rather they must be left in situ and reburied.

Staff report page 19

Regarding human remains, the applicant further states, it is of paramount importance that the context of any discovered bone is examined by the various participants. Previous experience on this archaeological site has shown that isolated pieces of human bone may be found which have lost their original context and have been dislodged from their source by rodent activity or historic disturbances. The applicant suggests, in the event that isolated pieces of bone are found, and as determined by agreements between the landowner and Native American representatives, these will be documented, left in situ, and adjacent excavations will be conducted in order to locate the original source of the isolate. If the burial can be located, the isolate will be left in-situ and reburied. If the burial can not be located, the isolate will be removed and reburied at a later time with other isolates.

The Land Trust would request that no human "isolate" be removed and reburied at a later time with other isolates. Rather they be left in situ and reburied.

C. All subsequent reports of discoveries are noted by the Coroner's office and the reports must continue to be made.

Staff report page 19

Ms. Williams stated that while every case is different, the Coroner's Office also agrees with the goal of leaving burials in place, to the maximum extent possible in order to minimize impacts to prehistoric archaeological resources. She further stated that after the Coroner's Office has made an initial visit due to the discovery of human remains, in working with the project archaeologist, if it is established that the area is an archaeological site, that subsequent visits are not always necessary upon subsequent discoveries of human bones or bone fragments. However, all subsequent reports of discoveries are noted by the Coroner's Office and the reports should continue to be made.

The Land Trust believes that in light of previous irregularities with regard to coroner participation in identification of human remains on Bolsa Chica Mesa that all such discoveries must require Coroner inspection and determination. Merely to require a report to be sent to the Coroner by the developer archaeologist is unacceptable.

We agree with Staff letter to applicant dated April 6, 2011
"The testing plan should be designed to locate and minimally expose human burials and features, document them without further disturbance, determine and map the boundaries, and then cover and preserve the burials and features in place. The Constraints Analysis should also recognize that when any human remains are first exposed, work must stop and coroner and Native American Heritage Commission are to be notified in accordance with state law".

COASTAL COMMISSION

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Respectfully submitted,



Connie Boardman, President

ATTACHMENT 1
Letters and articles from experts on importance of ORA 83

- 2011 Letter from Gabrieleno/Tongva Tribal Chairman Anthony Morales
- 2010 Article from *Current World Archaeology* by UCSB, anthropologist **Brian Fagan**
- 2009 - Article - "Saved By The Well: The Keystone Cache at CA-ORA-83"
from the *Proceedings of the Society for California Archaeology*
by Jeffrey Couch, Joanne Couch, and Nancy Wiley
- 2008 Letter from **Larry Myers** of the **Native American Heritage Commission** about ORA-83
- 2007 Internal Memo from SRS to Ed Mountford on human remains at ORA 85,83
- 2001 Letters written by **Daniel Rogers, Ph.D.**,
Archaeologist of the Smithsonian, National Museum of
Natural History in support of saving ORA-83 from development
- 2001 State Archaeologist staff report on ORA nomination to National Register
- Nov 1997 - *Los Angeles Times* op-ed article by archaeologist Nick Spain
"Controlling the Present; Selling Out the Past," about how
"contract archaeologists" working for developers dismantle
archaeological sites to make way for development
- Feb 1994 Linden Farley notarized statement on irregularities SRS excavations
- Feb 1994 Letter from Constance Cameron, California State University Fullerton'
- Jan 1994 - Letter of a Signal Landmark Temp. Receptionist
Rosemary Kraemer concerning a memo urging the removal
of human remains found on the mesa to avoid delay of
development project [3 pages]
- Oct. 1993 - Report by O.C. Forensic Anthropologist **Judy Suchey, Ph,D**
authenticating 8000 year-old human remains at ORA-83
[1 page]
- Sept 1993 Keith Dixon, CSULB Professor, former Peer Review team member for ORA 83

COASTAL COMMISSION

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GABRIELENO/TONGVA
BAND OF MISSION INDIANS - SAN GABRIEL

February 9, 2011

To Whom It May Concern:

The *Save our Sacred Site Committee* of the *California Cultural Resources Preservation Alliance* (CCRPA) asks for your help in saving the last remaining eleven acres of a 9,000 year old internationally known archaeological site located in Orange County, California. This site is famous for the mysterious stone sculptures known as "cogged stones" to our people and is sacred to our tribe.

The "Cogged Stone Site", designated CA-ORA-83, is situated on the upper bench of the Bolsa Chica Mesa in Huntington Beach where it overlooks the Bolsa Chica Ecological Reserve and the Pacific Ocean. The site was a village and cemetery. It represents the remarkable achievements of our people. The famous cogged stone sculptures at this site are important because: 1) they have only been found at this site - only a few have been found at other sites in the region. 2) The cogged stones are time markers for the misunderstood Millingstone Period in Southern California. 3) There is evidence that CA-ORA-83 was the manufacturing and distribution center for the cogged stones and the center of an ancient ceremonial complex that extended along the coast and into the Mojave Desert. 4) A few cogged stones have been found at sites dating to 9,000 years ago in Chile. The connection remains a mystery. 5) There is evidence to suggest that site and the cogged stones were involved in astronomical observations.

Eleven acres of this important site have been destroyed to make way for a housing development. Over 178 human burials, semi-subterranean house pits, caches of cogged stones, and over 100,000 artifacts have been excavated and have been reburied and it is doubtful that a comprehensive report documenting the finds will ever be written. Eleven acres of this unique site remain intact but are threatened by future development. Based on where the other human burials were found, additional burials are almost certain to be present within the eleven remaining acres. The site is of great scientific importance and should be preserved for a future archaeology that is less destructive than is practiced today.


Mailing Address: P.O. Box 693, San Gabriel, CA 91778-0693
Email: Chiefrbwife@aol.com
Phone:(626) 286-1632 Fax:(626) 286-1262

COASTAL COMMISSION

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Most important, the site holds great cultural and religious importance to our tribe. We do not have many sacred sites left, due to the destruction of the California Coast. We have been holding vigils at site for several years. Six acres of the eleven are owned by a private individual and has been appraised at four million dollars. Please help us to purchase and preserve these remaining six acres as part of the Bolsa Chica Ecological Reserve.

Sincerely,



Anthony Morales
Tribal Chairman

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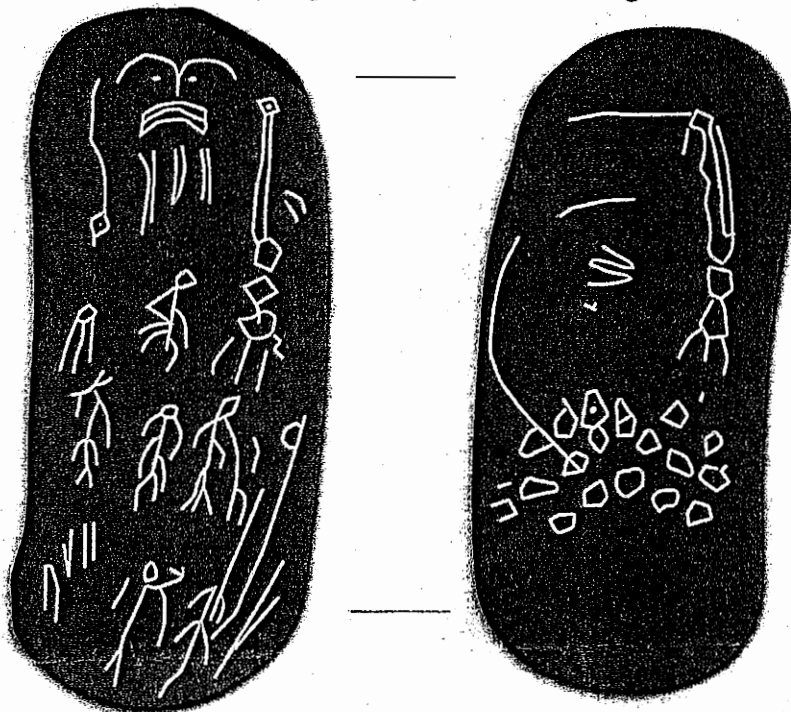
Brian Fagan

Digs deeper



In Brian Fagan's latest instalment of all things archaeological that are both exotic and illuminating he freezes in Alaska, fumes in California and brings us the latest progress report on the enigmatic *Bismarck*.

IMAGE: City of Kodiak/The Alutiiq Museum



ABOVE Incised greywacke pebble from the Monashka Bay site, Kodiak Island, Alaska, showing a person with labrets, a decorative headdress, and a bird skin parka (left). The reverse has a partial image that may also represent a person in festival dress (right). Early Koniag tradition, c.650 – 400 BP.

Freezing on Kodiak

My travels sometimes take me to relatively exotic places, like a recent brief stay on Kodiak Island, Alaska, which is a hotbed of archaeological research. Some of the earliest maritime societies in the arctic flourished here 7,500 years ago, not as early as at Anangula out off Umnak Island in the central Aleutians, where fishers and sea mammal hunters dwelt 9,000 years ago

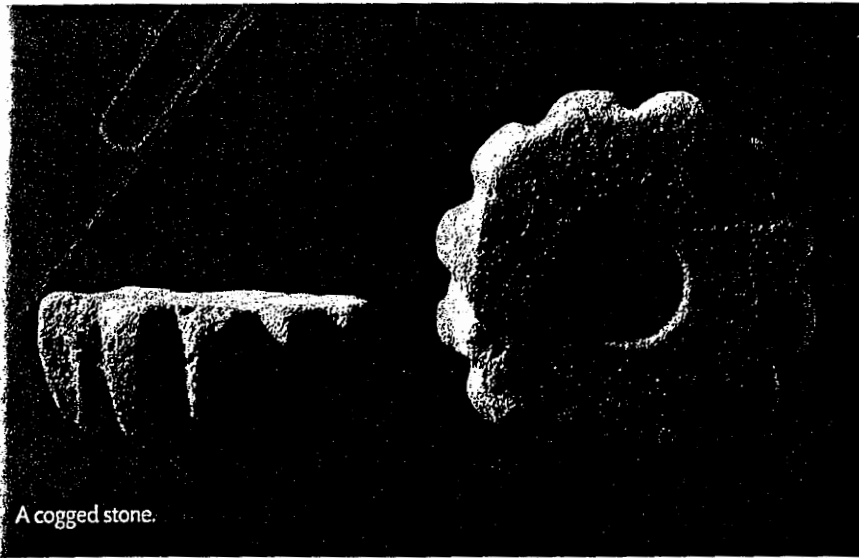
or more, but pretty early all the same. The small but extremely active Alutiiq Museum in Kodiak is doing all it can to preserve traditional native culture and is well worth a visit. Director Sven Haakanson and his colleague Patrick Saltonstall took me on an archaeological tour, which revealed local field conditions. We examined a midden and house pit dating to about AD 1500 at the back of a bay where it

was blowing 30 miles an hour or more and snowing. I wager the wind chill factor was near zero. Not my favorite field conditions, but fascinating all the same, especially since Patrick found an incised pebble eroding from the midden.

We also visited an historic site from the Russian contact period dating to the 1820s, probably an Aleut hunting camp. A more sheltered location, but it was distressing for different reasons. Irresponsible All Terrain Vehicle drivers have careered over the middens and carved deep ruts into the deposits. What can one do to regulate such behaviour? I realised once again how here, as everywhere else, archaeological sites are under threat. Nevertheless, it was a wonderful day, revealing dynamic, ever-changing maritime societies and the complex shoreline topography that helped govern where village sites prospered.

The case of ORA-83, Orange County, CA

Returning to the destruction issue, there's a curious apathy abroad among many archaeologists, surrounded as they are by inexorable destruction of the archives of the past. Orange County, California, is a case in point, once home to some of the densest concentrations of coastal sites in



A cogged stone.

southern California. Few of the vast wetlands that lay just inland from the Pacific still survive intact. The powerful forces of land development press on the undisturbed settlements that remain. The Bolsa Chica wetlands in the city of Huntington Beach, south of Los Angeles, were saved by the herculean, largely volunteer, efforts of the Bolsa Chica Land Trust. Much of the wetlands are still intact but developers have their eyes on the few undisturbed plots overlooking it, where they want to change the land zoning and build suburban mansions.

There is a huge complex of inadequately explored archaeological locations overlooking Bolsa Chica, most of which now lie under housing. A few tracts remain, including site ORA-83, part of which lies on an undeveloped bluff. The site is considerably disturbed, but some intact deposits survive, a priceless archive of the so-called Milling Stone Period, with occupation said to date back at least 9,000 years. Still largely unpublished surveys and excavations elsewhere on the site have revealed concentric circles of human burials, and undisturbed traces of other ceremonial activities, so it is clear this was a major area both for settlement and for ceremonial activities.

ORA-83 is also remarkable for its so-called cogged stones, which are almost unique to this site. What was their function? Were they ceremonial artifacts or did they have a more prosaic use? All of this site and its priceless information are in danger of being permanently destroyed if

the current permit process is allowed to proceed. Should any form of excavation be allowed on this last surviving patch of a once enormous site of great historical importance? Surely the answer is a firm no, but the developer's archaeologists seem determined, probably wrongly, to prove that nothing remains.

What disconcerts me is the apparent lack of concern in the larger archaeological community. Why is there not outrage? Why have other archaeologists, experts in this important period, not perused the unfortunately incomplete reports, the artefacts, the available data, at least some of which is in official repositories? Where are the letters of protest to the responsible

agencies, to the press? Except for the Bolsa Chica Land Trust, there is a deafening silence. There are times when I really wonder where our heads are at: if we want the past to have a future, we need to protest, shout loudly, and defend it, however time consuming it is. Cultural Resource Management with its legal requirements is one thing. Actually saving the past is another – and this is what must happen at Bolsa Chica.

Bismarck?

Bismarck (see CWA 39) is still on the slipway, construction having been delayed by other commitments. The builder tells me that he is working on the gun turrets and that the pace of construction will pick up during the summer. The tension rises ...

Brian Fagan is Emeritus Professor of Anthropology at the University of California, Santa Barbara, and the author of many popular books on the past. His latest is Cro-Magnon: How the Ice Age gave birth to Modern Humans (Bloomsbury Press, New York).

MEADOWCROFT REVISITED

Meadowcroft rockshelter in Pennsylvania is one of North America's most important archaeological sites. It is best known for human occupation as early as 15,000 years ago, but also contains a remarkable sequence of later occupation, which ends with a hearth dating to George Washington's time. Jim Adovasio led the multidisciplinary team that explored Meadowcroft during the 1970s and 1980s. Research continues to this day on a site of daunting complexity.

Adovasio embarked on the project with no expectation of deep deposits or early occupation, intending simply to test methods first developed in the dry sites of the Great Basin like Danger and Hogup Caves. Instead, he found himself probing deep into very early, sporadic occupation levels, some of the earliest in North America. The profiles have survived so well that you can now visit the site, which is protected by a state-of-the-art shelter. Walkways lead into the depths of the serried occupation layers, but this is very much a place where guided tours are recommended. Rarely have I seen a more telling example of the sheer complexity of what so many of us do day by day. Lying 49km from Pittsburgh International Airport, the site is somewhat off the beaten track, but easily accessible by car.

Strongly recommended to readers interested in caves, rockshelters, and the first Americans.

SAVED BY THE WELL: THE KEYSTONE CACHE AT CA-ORA-83, THE COGGED STONE SITE

JEFFREY S. COUCH, JOANNE S. COUCH, AND NANCY ANASTASIA WILEY

The largest cache of cogged stones ever discovered was unearthed in late 2006, while archaeological grading and monitoring operations were under way at CA-ORA-83, the famed Cogged Stone Site in coastal Orange County, California. This cache, along with other cogged stone caches and individual cogged stones uncovered at the site, has allowed researchers to develop a new cogged stone typology. A comparison of the cogged stone artifact to its nearest relative, the discoidal, as well as a cogged stone regional distribution study, indicates possible clan or group identification. Interestingly this particular cache, which enabled this classification and functional explanation of these enigmatic artifacts, was actually preserved by an oil well and other historic-period disturbances, disturbance which wreaked havoc on the rest of the site. While research is ongoing and cursory, the authors thought it important to bring this information to light as soon as possible.

THE SITE

Site CA-ORA-83 (commonly known as the Cogged Stone Site) consists of a shell midden located on the southeastern tip of Bolsa Chica Mesa in Orange County, California (Figure 1). Historically, the site had been the subject of intensive archaeological investigations that included nine surveys, seven surface collection events, and five excavation programs. The first investigations were conducted in the 1960s by amateur archaeologist Alike Herring and the Pacific Coast Archaeological Society, in conjunction with Professor Hal Eberhart of California State University-Los Angeles (CSULA). In the 1970s cultural resource management firm Archaeological Research, Inc. conducted initial surveys and preliminary test programs. Scientific Resource Surveys, Inc. (SRS) then carried out a multi-staged data recovery program that spanned the next 30 years. From the 1980s onward, archival research and reviews of historical maps and aerial photograph were conducted (Desautels 1982; Desautels and Wiley 1981), in addition to the completion of three research designs (Mason 1987; Wiley 1983, 2003). Additional fieldwork included further site surveys, three supplementary surface collections (Wiley and Mason 1986), and five subsurface excavation programs (Wiley and Mason 1986; Wiley 1995). During this period 21 reports were written by SRS, including 16 agency reports and five formal publications (see bibliography). A series of technical reports are anticipated within a year after completion of the final burial analyses and artifact cataloguing. It is anticipated that these will include a full volume for publication on the cogged stones and cogged stone caches found at Bolsa Chica.

During the 1990-1994 and 1999-2002 investigations on Bolsa Chica Mesa, Scientific Resource Surveys, Inc. hand excavated large volumes of earth that were subsequently water-screened through 1/8- and 1/16-inch mesh screens. The

recovered materials were then catalogued and subjected to a series of special studies. Although analyses of the recovered materials are still ongoing, some preliminary conclusions are available for the site. The periods of occupation have

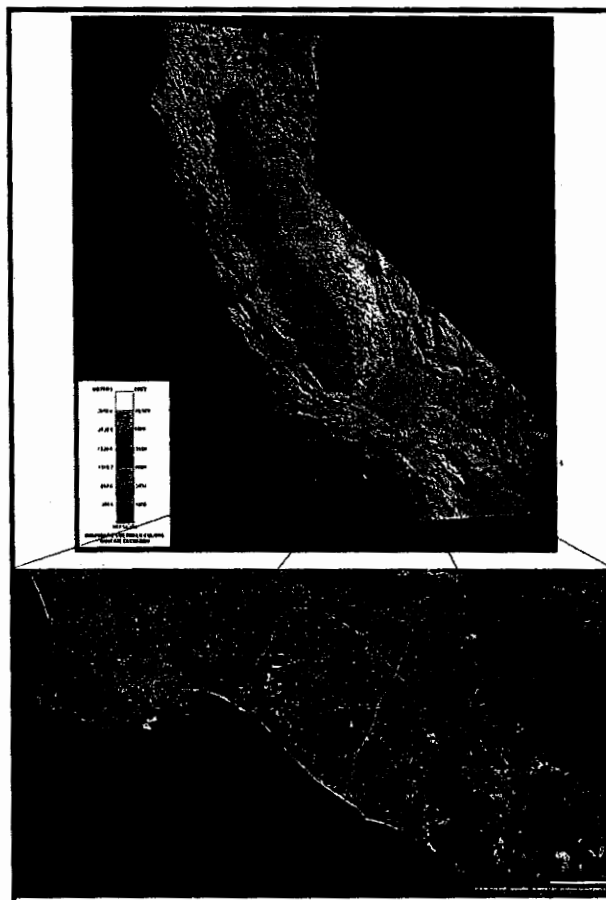


Figure 1. Location of ORA-83, the Cogged Stone site, Orange County, California.

been established, initial information relative to subsistence patterns has been formulated, and preliminary artifact inventories have been compiled which indicate the diversity of activities that occurred at the site. Radiocarbon dating has demonstrated that the Cogged Stone Site was occupied over a 7,700-year period encompassing the entire Millingstone Horizon and Intermediate Horizon, and with additional light occupation reaching into the Late Prehistoric period.

The geographic position of ORA-83 was ideal for prehistoric habitation, as the surrounding bays and ocean offered three distinct marine zones providing year-round marine animal and plant resources. Bolsa Chica Mesa also lies within the Orange County "Artesian Basin," an area of extensive groundwater resources containing numerous springs and freshwater seeps. The presence of fresh water was essential for habitation and also attracted terrestrial animals and supported land and marsh vegetation. Preliminary geological studies have shown that the adjacent Palos Verdes peninsula to the north and the San Joaquin Hills to the south could have provided sufficient outcrops of rocks and minerals for the manufacture of stone tools. Lithic material in nodule form could also be found in the various drainage branches of the Santa Ana River. The physiographic setting of this site area clearly would have been attractive to the initial inhabitants of Orange County, since it contained all of the essential elements for subsistence.

The site itself is situated on a mesa underlain by geologic formations containing pockets of black, white, and a variety of red pigments. This formation crops out on the mesa edge and appears to have provided ample pigments for paints required for ceremonial activities. The presence of numerous circular features that appear to be remnants of semi-subterranean structures at the site, special subsurface 'caches' of possible ritual items, exotic materials, and distinct burial and reburial areas, strengthens the interpretation of use of this mesa for ceremonial purposes as well as day-to-day subsistence activities.

BOLSA CHICA TIMELINE

A cursory analysis of materials recovered from the Cogged Stone Site and the Eberhart Site (ORA-85, also on Bolsa Chica Mesa), the Borchard Site (ORA-365), the Edwards Hill Burial Site (ORA-82), and the Bolsa Processing Facility (ORA-88) on Huntington Beach Mesa, has allowed for compilations and preparation of a timeline or cultural chronology for the Bolsa Chica Region. Collectively, the five sites provide an uninterrupted 8,000-year sequence from approximately 9,000 years to about 1,000 years ago. Seven periods of occupation can be reconstructed from the data from this composite of sites, six of which occur at Bolsa Chica Mesa and are discussed here. The seventh period is the Protohistoric, materials from which are essentially

lacking from ORA-83 and ORA-85. All dates are based on uncorrected radiocarbon dates and therefore represent periods of occupation that in all likelihood are chronologically older than the dates imply.

Period I

The earliest radiocarbon dates from ORA-83 extend back to approximately 9,000 years ago. Initially, Bolsa Chica Mesa appears to have been recognized as a unique area based on the prominence of the cliff face on the horizon and the cropping out of geological veins of multi-colored pigments. Within this time period (IA, IB) the shoreline was several miles distant, and sandy beaches prevailed around the base of the mesa. Large colonies of thick-walled clam were prevalent at the water's edge, including *Tivela* sp., whose remains could be found in quantity on the mesa at this time and were often used for the production of beads. It was also at this time that a bivalve bead industry was established at the Cogged Stone Site. At the present time, nearly 2,000 beads, including 165 preforms and blanks, and numerous micro-lithic cores and drills have been recovered from the site deposits. Several portable, hand-held, bead-shaping tables or planes were also identified within the same deposits, establishing a bivalve clam bead production kit. Evidence of a late Pleistocene flightless auk, *Chendytes lawii*, was also recovered from the deposits. This evidence further suggests that the first period of use of the mesa was at a time transitional between the Pleistocene and Holocene in northern Orange County.

Period II

At approximately 7500 B.P. an embayment formed around Bolsa Chica Mesa, effectively changing the shoreline and ocean fauna. This resulted in the development of an *Olivella* sp. bead industry that replaced the earlier bivalve clam bead industry. In addition, sea mammals, at least as beached animals, now became available. Exploitation of the pigment veins may have been a normal practice, since two deep areas of the site appear to have been formed by prehistoric excavations. A cemetery area at the western portion of the site consists of delayed and reburial interments represented by extremely fragmented human remains. These interments form a series of concentric circles or arcs, open along the eastern perimeter of the circle, enclosing a dolphin burial. Two female burials contained evidence of what may be a tattooing kit and a pigment preparation kit. The site at this time in all likelihood became a traditional source for pigment collection and preparation. The spiritual significance of the site is exemplified by its use for interring human and other animal burials.

Manufacture of the famed "cogged stone" began in this period. Several "caches" and hundreds of single cogged stones were located below the surface of ORA-83 during the SRS final data recovery program from 1990 to 2007. It is

postulated that cogged stones were ceremonial talismans, and that the inhabitants cached them below ground, presumably in order to control their power (a theory originally postulated by Dr. Keith Dixon, Professor Emeritus, California State University, Long Beach). A "deconstruction" of the scatter of single cogged stone finds may prove that all cogged stones at this site were originally cached, since the scatters consists of several loose clusters.

Period III

During Period III (approx. 6000-5000 B.P.), the site use changed again, building on the previous notion of site spirituality. Several ceremonial areas have been identified, such as an area with numerous talismans for healing. Artifacts recovered from this locale include various charmstones, a possible rattlesnake talisman, an incised tablet pendent, a 'donut' stone, lithic spheroids, a painted rock, a "singing" rock, and several discoidals. In addition, human burials of extraordinary individuals are present, including four women who may have belonged to a society of undertakers, based on their presumed body strength and unusual characteristic of filed teeth or patterned tooth wear unique to these individuals. Associated with these ceremonial items and special people are what appear to be shallow dance areas, one with a post hole in the approximate center, and multiple small structures that appear to be burial-related, perhaps for body preparation. Contiguous with these structures are one or more human burials. Larger (and proportionately deeper) structures are also present which may have been used for storage of ceremonial regalia for healing and burial activities. Although dating squarely within the Millingstone Horizon, utilitarian objects are present only in small quantities; most functioned as tools for the production of talismans.

Period IV

Use of the Bolsa Chica region for human interments continued in this period, but several are "cached" under thousands of rocks, as at ORA-365, a neighboring site on Huntington Beach Mesa. New types of talismans appeared, including phallic pestles or "spikes," a steatite pelican stone, notched projectile points versus spearheads, and grooved rectangular beads. The structures on Bolsa Chica Mesa increased in size and may have functioned as sweatshouses, since both hearths and whole structures from this period are lined with calcium carbonate.

Period V

By 4000 B.P., the western burial area at ORA-83 was abandoned, and dense shell deposits suggest that intense shellfish exploitation occurred on a limited portion of the site. An animal bone concentration included three articulated deer vertebrae. Mortars and pestles were introduced, appearing as a ceremonial pestle, a killed mortar (on ORA-83), and

fragmented bowls and pestles on ORA-85 (broken by the plow). Shell whistles and rattles and crystals are also prevalent at ORA-85. Occupation on the mesa essentially shifted to that site and away from ORA-83.

Period VI

During the last period, occupation on Bolsa Chica Mesa again shifted, this time from ORA-83 and ORA-85 to site ORA-86, northeast of ORA-83. Subsurface remains of a single large structure with an indoor lined hearth were identified here. Associated with the structure, at a minimum, was an asphaltum-lined pipe plug and ear spool. Steatite beads were also manufactured here and at Huntington Beach Mesa; ORA-83 has produced only an occasional projectile point or bead dating to this period. The site received minimal use and may have functioned as a retreat area. Use of the site seems to have come full circle and now apparently was a location of personal or small group use, perhaps as a questing/power site.

HISTORIC DISTURBANCE, HISTORIC SALVATION

SRS Phase One work at ORA-83 included a full site survey and a comparison and mapping of historic-period features indicated on a series of 26 aerial photographs ranging in time from 1927 to 1977. Field evidence for any of the historic-period features was recorded and an extensive geophysical survey was conducted in order to locate subsurface anomalies related to the historic-era disturbance. An auger-boring program was then implemented to assess the subsurface character of the site and ground-truth any recorded anomalies.

The early series of aerial photographs show that by 1934, prior to World War II, a deep arroyo with check bridges physically separated the Cogged Stone Site from land to the west. Other significant features at that time included a large complex of historic-era structures approximately 200 ft. north of a concrete reservoir that was located on the bluff edge. The northern portion of the archaeological site was all but destroyed by the construction of this complex. The complex itself was then demolished between 1939 and 1947 as a result of construction of facilities related to the Bolsa Chica Military Reservation. A 1947 aerial photograph shows the World War II bunker, Battery 128. The bunker is located on the land west of the arroyo and separated by about 500 ft. from the center of the archaeological site, as recorded by amateur Alike Herring in 1963. Underground pipes, cables, and pull boxes associated with the bunker are numerous and crisscross the entire archaeological site from east to west. These utilities also heavily impacted ORA-83.

Extensive agricultural activities were conducted before and after the war years, as evinced by plowing patterns

apparent on the aerial photographs from the 1950s through the 1970s and described in 1963 by Cogged Stone collector Alika Herring:

Unfortunately, no artifacts were found "in situ," all having been brought to the surface as a result of the agricultural operations. These operations will be described, as they have a direct bearing on the manner and location in which the artifacts were found. The first step in the process consisted of loosening the earth with a subsoiler, which penetrated to depths of 18 to 24 inches. This action dislodged the buried artifacts from their original positions, and once loosened, the stones eventually worked their way to the surface during subsequent subsoiling operations. The large clumps of earth left by the subsoiler were further reduced in size by a disc cultivator and finally pulverized by towing a "drag" over the ground, after which the soil was then ready for the planter. These various operations were not only quite severe in their treatment of the artifacts, many of which are badly broken, battered, and scarred, but it was also possible for the dragging operation in particular to displace them considerably in position from their original points of emergence.

Based on the extensive site damage as shown by the Phase One studies, a multi-staged investigatory program was designed to thoroughly investigate the site and locate basal remnants of the midden deposit, if such existed. It was postulated that: 1) if undisturbed remnants of basal strata were located, and 2) if these remnants contained cultural materials and materials suitable for dating, and 3) if the cultural materials included cogged stones; then it would be possible to establish the nature of the relationship between the cogged stone artifacts and the site. The basic concept underlying the SRS approach was to obtain the maximum amount of information on the cogged stones at this site by attempting to locate undisturbed remnants of the midden and then study these remnants in detail. The bias was definitely in favor of disturbance location and thus avoidance.

Almost 15 years later, the Keystone Cache was located during purposeful grading at the site in a setting that belied the previous assumptions. Five major historic-period features surrounded the cache, encroaching up to 12 cm from the cogged stones and including an 8-in.-wide concrete irrigation line 1 m to the west and another 8-in. line 2.5 m to the east, both at the same depth as the cache; a WWII electrical junction poll box (3 m south); and a metal spike tie-down for a post in cement (12 cm west). An 8-in. well (3 m southeast) with footings, derrick, etc. existed at one time, probably covering a footprint 6 m square). In reality, WWII electrical lines, pre- and post-War agricultural water lines, and historical oil operations all converged at the exact location of the Keystone Cache. Evidently, agricultural ripping, disking

and dragging could not be conducted at this spot due to the multitude of surface and subsurface historic-period features. The concentration of cogged stones was then left nearly intact and not scattered and dispersed throughout the field as had been done so many times in the past. In that sense the historical disturbance was its salvation.

THE KEYSTONE CACHE

Prehistoric Feature #84, later to be dubbed the Keystone Cache, was recovered during grading monitoring on September 15, 2006 in the east-central portion of the site at a depth of approximately 30 cm below ground surface (Figure 2a-b). It consisted of 17 cogged stones and one handstone and is thus the largest cogged stone cache yet discovered. The cache was organized in and around a small mound of dirt that encapsulated and was topped by a specific set of cogged stones that were rectangular in cross section and exhibited strong margin grooves. These cogged stones tended to be the smaller ones in the group. This central mound was then surrounded with cogged stones that were trapezoidal in cross section. Only half of this group was grooved on the margins. Many of these are so pronounced in their

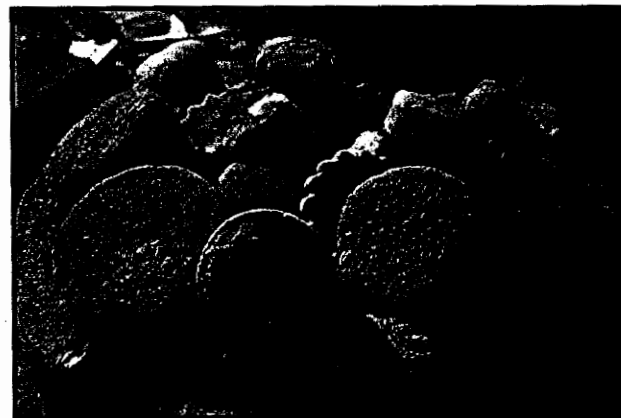


Figure 2. a (top), an overhead view of the Keystone Cache after extensive excavation. b (bottom), an oblique view of the Keystone Cache.

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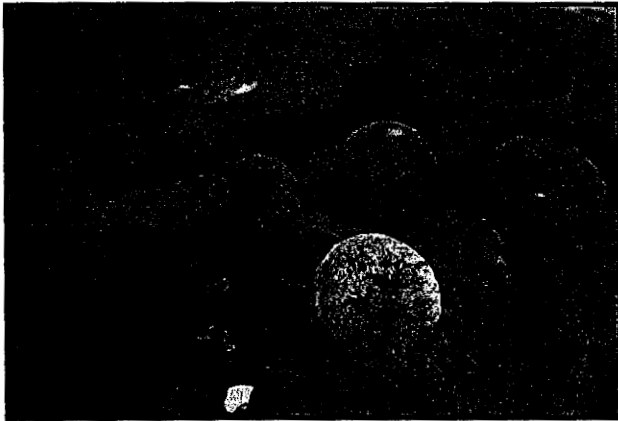


Figure 3. Another oblique view of the Keystone Cache. Note the verticality and provenance of the trapezoidal cogged stone atop the center of the cache. The white nick on the margin of this cogged stone is the only damage caused by the grading equipment.

trapezoidal crosssection that they resemble "Jell-O" molds. Finally, placed atop and in the center of the entire group was one trapezoidal, non-grooved cogged stone (Figure 3). This stone, later cataloged as Item #10, was the only item struck by the road grader. Furthermore, though Item #10 was set on its side, the large road grader did not topple the artifact from its original placement, because approximately three-quarters of the cogged stone was supported and encased on its southern side by a hard, dense, dark-grey mud layer. This layer was pinched or lipped up to the tip of the cogged stone (Figure 4) and provided evidence of how the prehistoric individuals who buried the cache deliberately pressed mud onto and around the cogged stones to hold them in place.

Further excavation of the 1 x 1-m unit revealed more of the dense soil variation which was fashioned into a 2-cm-thick layer of hardened dense grey mudpack (Figure 5). Although the edge of the mudpack was easily revealed, in that the soil to the east was a softer, aerated, punky, somewhat

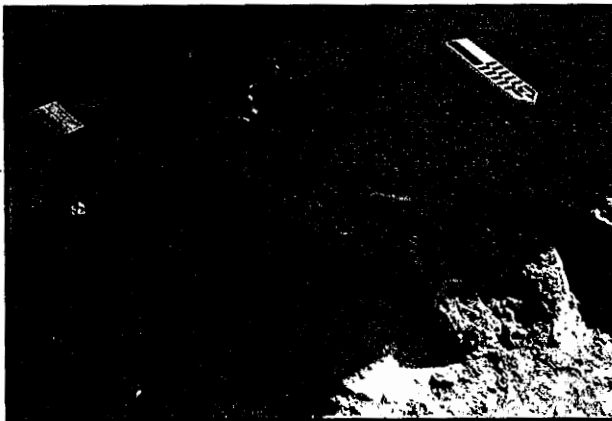


Figure 4. The Keystone Cache during excavation to reveal the mudpack layer. Note how the mud was pressed up to the edges of the cogged stones.

friable soil that excavated easily, the top of the mudpack was more difficult to assess in that there were few other soil layers atop it which feathered to its edges.

A new excavation methodology, which employed lightly tapping the mudpack layers with a geology hammer, provided an acoustical variation of the normal underlying soil from the interred cogged stones, and allowed prediction of the location of an additional cogged stone or other artifact. Moreover, this methodology facilitated the study of the mud-packing behavior for the first time in the site's history.

To delicately remove the soils overlying the packed-mud layer, a biological dissecting needle, metal awl, and various gages of bamboo knitting needles were utilized. It is important to note that no metal instruments were used to remove the cogged stones from their cached position; rather, the various bamboo knitting needles were used to gently pry the cogged stones from their encasement. The mudpack layer withstood the tapping and, as an added benefit, the tapping gently loosened the mottled overburden soil atop the dark grey packed mud. This was a tremendous aid in helping the mottled, softer, less consolidated soil break off the plane surface of the mudpack layer, with slight assistance of the biological dissection needle and metal awl.



Figure 5. An oblique view of the mudpack layer during excavation demonstrating the encasement of cogged stones.

While gingerly prying the mottled, less consolidated, soil atop the mudpack layer, it was observed that the soil actually was laid in alternating layers of orange and brown soil. The deepest area of this soil was recorded at 3 cm, which happened to be in the approximate center of the mudpack layer (Figure 6), and the shallowest of this soil seemed to feather out to the edges of the mudpack layer tapering in the brown soil layer. While studying the color variation of the mottled soil, enough of the dense, grey mudpack layer was uncovered to unveil that it was not just a mudpack layer but rather something more unique and telling of the purpose of the Keystone Cache: the grey "mudpack" layer was actually a concave mud basin.



Figure 6. Close-up oblique view of the mudpack layer during excavation.

Once the mottled soils were removed, the full concavity of the mud basin was revealed, and the nature of the basin was evident. Measuring 2 cm at its eastern edge radiating off of one of the cogged stones, the mud became extremely dense and strong at its center point, with a thickness of 5 cm. Additionally, the deliberate interment of five other cogged stones was evident, in that the prehistoric behavior still displayed the hard mud basin carefully “lipping” up to these cogged stones edges. Moreover, in the case of another cogged stone, 7 cm of the hardened mud basin from the top to bottom encased it completely. Extracting this cogged stone was most difficult, but perhaps this purposeful interment can be explained by the fact that this artifact, which capped the southwestern end of the feature, may have been broken prehistorically and then entombed in the dense mud basin. This proposition is posited herein because of the fact that it was not the highest point of the feature and the fact that although it was securely entombed completely in the mud basin, the piece was broken (Figure 7). In addition, not all the pieces of this artifact were recovered from the encapsulated soil or surrounding areas.

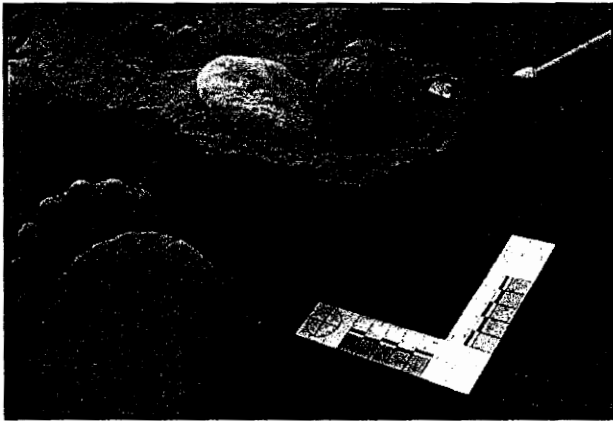


Figure 7. Broken cogged stone (right) encased in the mudpack layer.

Finally, during SRS ethnographic studies for the Bolsa Chica Archaeological Project, a Luiseño Elder had told SRS staff that the Luiseño would come to the beaches of Bolsa Chica when the grunion would run and collect the small oil-rich fish and use it to make ochre. They would grind up pigment and then grind the fish whole with a handstone and utilize the oily residue as a binder for the pigment. Protein residue analysis is still to be conducted on these artifacts, but underneath the mottled orange/brown soil slightly embedded atop the grey mud basin was a small fish otolith (approximately the size of a grunion). Most of the Keystone cogged stones exhibit residues of either orange ochre, white calcium carbonate, asphaltum, and/or a combination thereof. In addition to the 17 cogged stones, one handstone was recovered from the cache. Also, one of the cogged stones was bowl-shaped and appears under low-power binocular microscopic inspection to be coated in a substance resembling dried blood. Interestingly, in our previous collections from ORA-83, any antisera returned from cogged stones or charms were human, while the handstones have all have had fish antisera.

NOTES ON CA-ORA-83 COGGED STONES AND CACHE ANALYSIS

Although analysis on this cache, as well as other cogged stone caches and individual cogged stones recovered from the site, is still in progress, there are some strong trends emerging. The quantity and in situ recovery of cogged stones found during recent research at ORA-83 have allowed for a more robust analysis and interpretation of these enigmatic artifacts.

Typology

In the past, cogged stone typologies revolved around these morphological aspects: the presence of grooves, whether the grooves could be seen from a plan-view of the object, and whether the object was perforated (see Eberhart 1961). These aspects also separated cogged stones from their nearest cousins the discoidals. However, such typologies are extremely limited.

A simple scattergram (Figure 8) indicates that there is a correlation between the circumference of a cogged stone and the quantity of grooves. Cogged stones tend to cluster in circumference between 220 and 350 mm which bind the number of grooves on the upper end if the grooves ground into the side are to have any appreciable depth; on average between 11 and 17 grooves. However, of the 47 cogged stones studied thus far, 34 percent (n=16) have no grooves on their margins at all. Thus, there seems to be a much more powerful argument for the importance not of the number of grooves, but of their presence/absence.

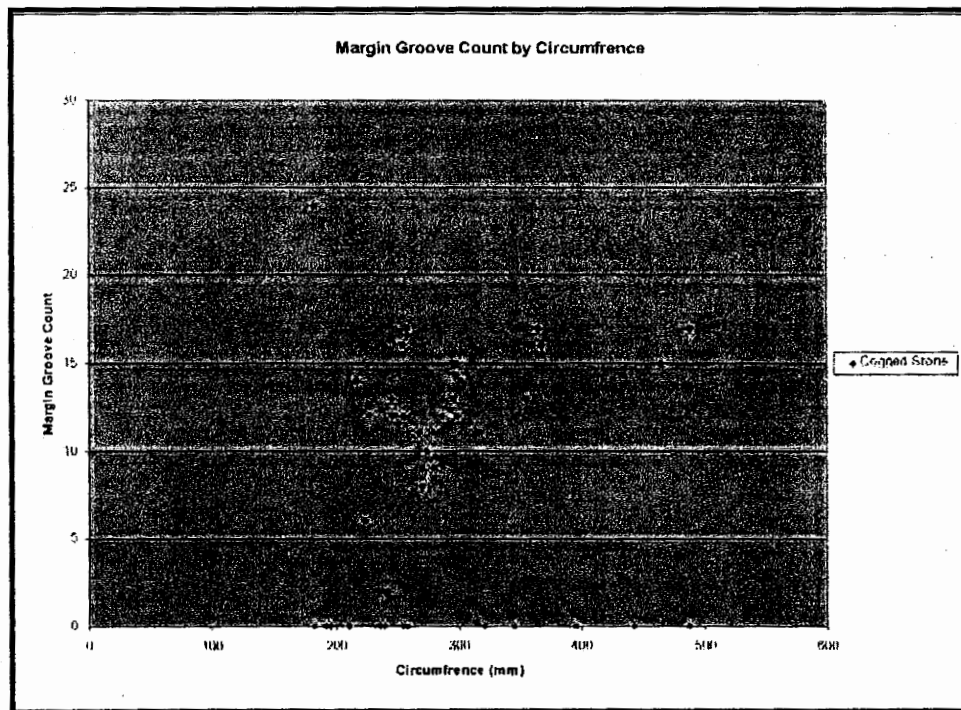


Figure 8. Scattergram of margin groove count by cogged stone circumference.

Cogged stones are defined as much by their material, cross section, and manufacture as they are by modifications to their margins. Cogged stones have long been known to have been made of vesicular basalt, tuff, and andesite, most likely from the El Modena Formation (Miocene volcanics) which outcrops in various locations around the Orange County area. However, the cogged stones recently unearthed have also included tonolite, rhyolite, diorite, talc schist, sandstone, and most interestingly, calcium carbonate concretions native to the site. These materials stand in contrast to the granites, metavolcanics, and metasedimentary rocks of the cogged stones' nearest cousins, the discoidals (see collection from ORA-64: Macko et al. 1998).

It is believed by the authors that the material from which the cogged stones are made held as much significance to the prehistoric manufacturers of these artifacts as did the shape. Thus, we posit that the stark differentiation between cogged stone and discoidal materials that can be seen in the assemblages at ORA-83 and its sister site ORA-64 may be indicative of group/clan affiliation. Occupants of both locales had ample access to the various material groups but choose separate materials from which to fashion the artifacts that were to become the hallmarks of their sites during the same time period.

Another typological factor is cross section. While both cogged stones and discoidals are circular in plan-view (with some notable exceptions), their cross sections differ. Discoidals typically exhibit a very symmetrical,

slightly convex margin, while cogged stones have either a symmetrical, slightly convex margin or a tapered to strongly tapered margin, often resulting in a cogged stone reminiscent of a "Jell-O" mold.

While both cogged stones and discoidals were pecked and ground into shape, only the cogged stones show a pattern of deliberate repair. Many have asphaltum in the breaks, and a few actually have the patched rock still "glued" in place. This contrasts strongly with the discoidals, in which surface polish continues onto the broken surfaces. In other words, no attempt was made to patch or mend the discoidals; instead, the makers continued with the manufacturing process, even polishing into the edges of the breaks (see collection from ORA-64: Macko et al., 1998).

Based on these factors, a unique and preliminary cogged stone typology has been developed. This typology separates cogged stones into five types (Figure 9a-e):

- Trapezoidal – Trapezoidal cross section, sometimes grooved
- "Jell-O" mold – Trapezoidal in cross section, thicker than Trapezoidal, sometimes grooved, ≥ 70 percent exhibit a pit, pecked offset in the smaller face, while the other ≤ 30 percent have concave faces

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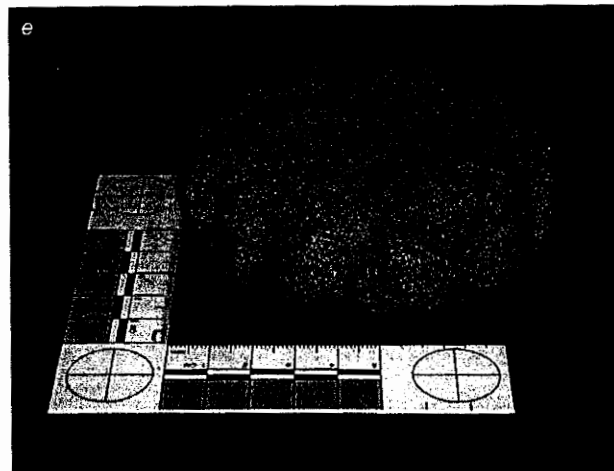
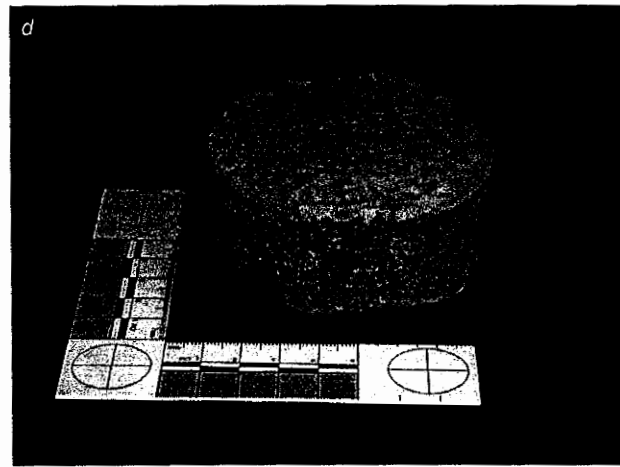
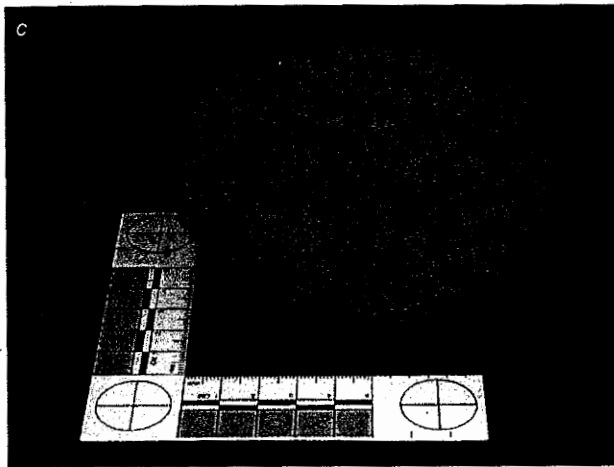
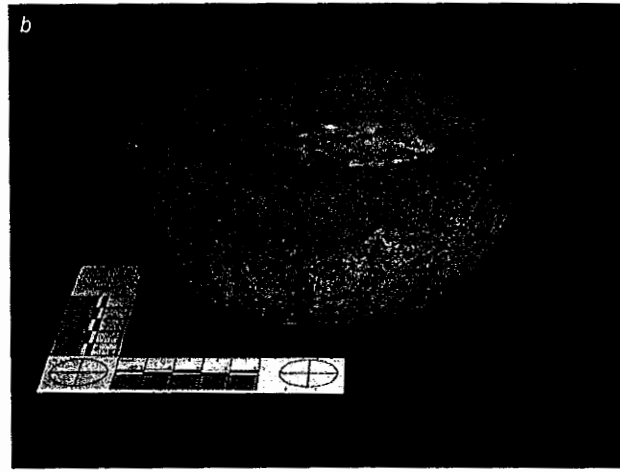
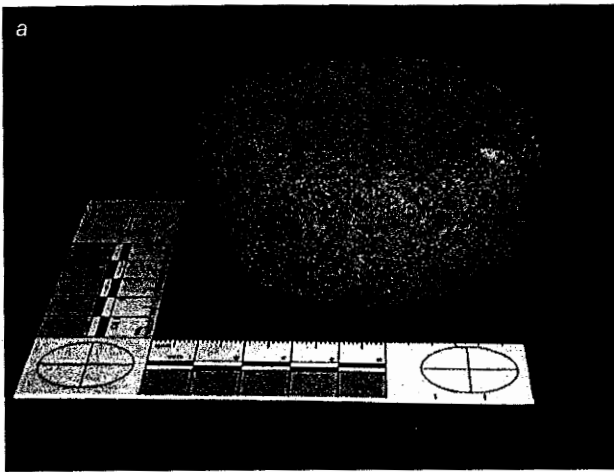


Figure 9. Examples of cogged stone types: a. trapezoidal b. Jell-O mold c. bowl d. top knot/spool e. rectangular.

- Bowl – Trapezoidal in cross section, no grooves, all have a pit, pecked offset in the smaller face
- Top Knot/Spool – cross section is that of a top knot or thread spool, no grooves, never made of the more frequent vesicular basalt
- Rectangular – Rectangular in cross section, almost always grooved, sometimes with pits or perforations

These five types can be grouped into two major categories based on shared or similar attributes as well as implied meaning from their locations within caches. The first is the Rectangular group and the second encompasses all other types. Some interesting observations about these groups include the fact that the larger the cogged stone, the more likely it will have a “Jell-O” mold or a cross section.

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Caching Correlates

The typology offered here is supported by the grouping pattern found within the Keystone Cache and four other caches from the site. There is a distinct spatial separation between Rectangular cogged stones and the others. Rectangular group members are located in the center of the caches, surrounded by members of the other types. There is always a trapezoidal and/or Jell-O mold atop all the other cogged stones in the features. Approximately 50 percent or more of all Jell-O molds have white pigment residue on their larger faces. This is the only consistent painting/paint residue pattern among the cogged stones. One Jell-O mold is always upside down in each cache. None of the three or more caches contain any odd-shaped cogged stones (such as those that are star-shaped).

While the significance and meaning of these caching characteristics can be debated, what is evident is the consistency of the patterns observed. At a minimum, these patterns can help us properly associate and type these objects with greater fidelity than ever before.

CONCLUSIONS

The Cogged Stone Site, ORA-83, has undergone extensive scientific investigation for several years. Only recently, and despite over a century of intensive disturbance, was the single largest cache of cogged stones revealed. In fact, historic disturbances, unlike the rest of the site, may have been the only reason that this particular cache was preserved.

The Keystone Cache and her sister caches from ORA-83 have shed new light on a unique artifact type in southern California. A new cogged stone typology has been developed, based on the spatial arrangement and recurring patterning of cogged stones within caches. Grooved or cogged margins need not the cogged stone make—raw material, cross section, and salvage efforts also play an important role in typological assignment and separation from their nearest artifactual relative, the discoidal.

Encapsulating objects and caches of potential ceremonial or religious significance with mud slurries now seems to have been an established pattern during the occupation of the site, as witnessed by this cache as well as other caches of ceremonial objects from the region dating to this time period (see Desautels et al. 2005).

The consistent use of red/orange ochre, white calcium carbonate pigments, and black asphaltum interestingly correlates with the use of these same colors by the Luiseño and Juaneño to this day (see Applegate 1979).

A handstone in line with Jell-O mold and trapezoidal type cogged stones on the perimeter of the Keystone cache can arguably associate this ubiquitous artifact type with the non-rectangular cross-sectioned types of cogged stones.

There is clearly much more to do with this fascinating material. We have but scratched the surface with this presentation but thought it important enough to get this information out to the community quickly, rough spots and all.

ACKNOWLEDGEMENTS

We are grateful to Hearthside Homes for their unfailing support of research on the Cogged Stone Site and in particular thank CEO Ray Pacini, Senior Vice President Ed Mountford, and Project Manager Brian Bartlett for their overtaxed patience as we continued to find the most significant cogged stone caches literally on the last day of the planned project. Encouragement to prepare a digital poster for the 2007 Annual SCA Meetings was continually offered by Asst. Professor Paul Langenwalter II, and much needed revisions to this draft were made by Tracy Stropes. The keen eyes of Daniel Bonaventure spotted the small knick on the top cogged stone within the cache when less than a centimeter square was exposed by Cheifan grading equipment. And lastly, several Native American tribal elders and scholars helped guide our efforts and we especially thank Vincent Ibanez [Luiseño], David Belardes and Joyce Perry [Juaneño], Robert Dorame [Gabrielino]. To all of these and numerous unnamed others without whom this project would have failed, we are very appreciative

REFERENCES CITED

- Applegate, R. B.
1979 The Black, the Red, and the White: Duality and Unity in the Luiseño Cosmos. *Journal of California and Great Basin Anthropology* 1:71-88.
- Desautels, R. J.
1982 *ORA-83: An Archaeological Re-evaluation for National Register Status*. Scientific Resource Surveys, Orange, California.
- Desautels, R. J., and N. A. [Whitney-Desautels] Wiley
1981 *Ora-83: An Archaeological Evaluation for National Register Status*. Scientific Resource Surveys, Orange, California.
- Desautels, Nancy, A., Henry C. Koerper, and Jeffrey S. Couch
2005 A Birdstone and Phallic Pestles Cache from ORA-365. *Journal of California and Great Basin Anthropology* 25:109-118.

Eberhart, H.

1961 The Cogged Stones of Southern California. *American Antiquity* 26:361-370.

Herring, A. K.

1968 Surface Collections from Ora-83, a Cogged Stone Site at Bolsa Chica, Orange County, California. *Pacific Coast Archaeological Society Quarterly* 4(3):3-38.

Macko, M. E., with Jeffrey S. Couch, Owen K. Davis, Henry C. Koerper, Paul E. Langenwaller II, and Glenn S. Russell

1998 *Executive Summary of Mitigation Measures Implemented Pursuant to the Operation Plan and Research Design for the Proposed Newporter North Residential Development*. Macko, Inc. Submitted to Irvine Community Development Company. Copies available from South Central Coastal Information Center, Department of Anthropology, California State University, Fullerton.

Mason, Roger D.

1987 *Research Design for Evaluation of Coastal Archaeological Sites in Northern Orange County, California*. Scientific Resource Surveys, Orange, California.

Wiley, Nancy Anastasia [Desautels]

2003 *The Bolsa Chica Archaeological Project, Vol. 1: Research Design and Implementation*. Scientific Resource Surveys, Orange, California.

Wiley, N. A. [Whitney-Desautels]

1983 *Archaeological Research Design. ORA-83: "The Cogged Stone Site," Final Research and Salvage Program*. Scientific Resource Surveys, Orange, California.

1995 *Site Boundaries: ORA-83: The Cogged Stone Site*. Scientific Resource Surveys, Orange, California.

Wiley, N. A. [Whitney-Desautels], and Roger D. Mason

1986 *Archaeological Evaluation of ORA-83: The Cogged Stone Site on Bolsa Chica Mesa, Orange County, California*. Scientific Resource Surveys, Orange, California.

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NATIVE AMERICAN HERITAGE COMMISSION

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April 8, 2008

Theresa Henry
The California Coastal Commission
South Coast Area Office
200 Oceangate Suite 1000
Long Beach CA 908024302
Fax (562) 590 5084

Re: Brightwater-Bolsa Chica Project

Dear Ms. Henry:

The Native American Heritage Commission (NAHC) is informed by the NAHC appointed Most Likely Descendent, Anthony Morales, that Hearthside Homes has proposed reburial of 87 human remains from ORA-83 on April 21, 2008. The NAHC is also informed that documentation on the associated grave goods has been substantially done but is not complete. These associated grave goods include cogged stones, charm stones, beads and discoidals and other items.

The NAHC supports the Most Likely Descendants' request that documentation on all associated grave goods be completed before reburial and that all grave goods be reburied with remains. In this regard, the NAHC notes that the Cultural Resources Grading Monitoring Plan at page 6 dated 12-12-05 adopted pursuant to Special Condition No. 23, of the Coastal Permit indicates that human remains and any "artifacts associated with human remains" will be reburied after documentation is complete. It is also noted that the above 12-12-05 Monitoring Plan at page 7 also specifies that the location of the artifacts (associated with human remains) in the ground in relationship to the human remains will be documented so that when the human remains are reburied, the artifacts can be placed in the same relationship to the remains as they were when discovered. The Monitoring Plan also specifies that the artifacts (associated grave goods) will be kept with the human remains and examined and documented, and will be reburied together with the human remains.

The NAHC notes that based on information received from the project archaeologist, 22 cogged stones were discovered in a large burial pit. These are clearly associated with the human remains. The NAHC also notes that there are approximately 4217 artifacts that were found on ORA-83 including numerous cogged stones (over 400 on the project) and the NAHC is informed that only artifacts associated with remains are being processed at

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COASTAL COMMISSION

this time. Based on information received from the project archaeologist, the NAHC believes that there are numerous other artifacts that must be analyzed and documented and that many of these maybe determined to be artifacts associated with human remains and should be reburied with remains. NAHC is aware of information that indicates there were numerous bone clusters where cogged stones were present, which suggests these features are burial areas.

As you are aware Public Resources Code 5097.98 requires that the recommendation of the Most Likely Descendant with regard to treatment of remains and associated items be given great deference by the land owner and that if an agreement as to disposition cannot be reached, the law mandates hat the remains and associated items be reburied on the property in a dignified manner not subject to subsurface disturbance. The NAHC strongly supports the recommendations of the Most Likely Descendants in determining which artifacts are artifacts associated with human remains and that otherwise pertain to the burial. The Most Likely Descendent has specialized knowledge of the local tribal community burial practices and beliefs.

The NAHC is informed that both Most Likely Descendants support waiting 6 months for the first reburial until major features that are clearly associated with individual burials can be studied and documentation on these completed. The NAHC supports this disposition.

The NAHC remains concerned about the Brightwater -Bolsa Chica Project. Although the NAHC has been in contact with the project archaeologist and has received a January 2007 and a November 5, 2008 status report, as of this date the NAHC has not received a promised map from the project archaeologist showing burials, house pits, photos and features. The NAHC has not received a report clearly showing the dates, locations and details of burial discoveries. At this point based on information available and the large number of burials recovered and associated items, it appears that the whole area may be a burial ground. Southern California Indians created and used discrete areas as cemeteries. The NAHC understands that the Coastal Commission will be reviewing its permit for the Brightwater Project. The NAHC suggests that the Coastal Commission consider requiring some sort of guarantee or performance bond in order to assure that all required reports are provided on a timely basis and that documentation is completed and reburials of remains and artifacts occur as agreed.

Sincerely,

original signature on file

Larry Myers, Executive Secretary NAHC

Cc: Bill Mungry, Chairman NAHC
Anthony Madrigal, General Counsel NAHC
Dave Singleton, NAHC
Susan Hori, Counsel Brightwater Homes
Nancy Anastasia Wiley, Project Archaeologist

COASTAL COMMISSION

2007

November 5th: Memo

To: Ed Mountford, Hearthside Homes
David Belardes, Juaneno Band
Anthony Morales, Gabrielino Band
Prof. Paul Langenwalter

CC: Jeff Couch
Tracy Stropes

This memo is to inform you that Ed Mountford has requested that only himself and the two most likely descendants attend the meeting on Tuesday the 6th. I will, therefore, not be attending. In accordance with a request from all three of you, I am submitting a tentative listing of concerns that should be resolved at this meeting.

1. Status of SRS Archaeological Work:
 - a. There are 87 human bone concentrations that need to be reburied
 - 83 are completely removed from stretcher pedestals and pod
 - 4 remain to be removed from pods- completion expected mid-December
 - Prof. Langenwalter cannot complete his studies until the last 4 are done
 - Prof. Langenwalter will need 4-6 weeks to complete his work when the last four are done- completion expected mid-February
 - Coroner must see all 87 burials; last 4 must be completed for Coroner and examined by Langenwalter prior to Coroner's visit
 - All 87 will be laid out at once for Coroner, in all three bone trailers
 - b. There are 83 prehistoric features that were uncovered with the burials
 - All 83 features have not been processed yet—
some have artifacts, some do not.
 - These include 4 cogged stones features
 - c. There are 4217+/- artifacts that were found during the grading monitoring on Ora-83
 - Only the artifacts directly associated with the burials are in the processing of being processed and prepared for reburial.
 - These include cogged stones, discoidals, charmstones and beads
 - d. There are 1622+/- artifacts that were found during the grading monitoring on Ora-85
 - Only the artifacts directly associated with the have been processed and reburied.
 - Artifacts to be processed include discoidals, charmstones and beads
 - e. There are approximately 2,000 boxes of materials [including soils samples, rock features, shell features, shell samples and animal bone] from all 30 years of excavations on Bolsa Chica Mesa in a trailer on-site.
 - These have not been culled for distribution to the County of Orange or for reburial since there has not been any electricity in this trailer.
 - f. There are over 100,000 artifacts [including debitage and other smaller items] that have been collected for the last 30 years on Bolsa Chica Mesa.
 - These have not been fully catalogued or fully analyzed.
 - Some were collected before computers were in common use and the information is not in the site database.
 - Some still have field numbers from surface collections, etc.
 - Includes cogged stones, discoidals, charmstones and beads.



Smithsonian
National Museum of Natural History

Department of Anthropology
NHB 112

October 14, 1999

Ms. Juana R. Mueller, Vice-President
and
Mr. Donald E. Mueller, Chair, Governmental Affairs
Bolsa Chica Land Trust
207 21st Street
Huntington Beach, CA 92648

Dear Ms. and Mr. Mueller:

I would like to thank you and Dr. Stanford, of our staff, for bringing to my attention the circumstances surrounding the archaeological site in Huntington Beach known as ORA 83. It is my understanding that the remaining portions of this site are slated to be destroyed as the result of an impending housing development project. I am not sure how much of the site remains, but over the last few weeks I have reviewed several key archaeological issues concerning this site. As a result I am now convinced that every effort should be made to preserve as much of the site as possible. I come to this conclusion because of the site's unique characteristics and the clear importance it had in the ancient history of California. ORA 83 is almost certainly the last remaining major coastal habitation site between Los Angeles and San Diego. It was probably such an important place in prehistory because of its location at the coastal end of a natural transportation corridor that stretched out into the Mohave Desert. As such, the people who lived at ORA 83 most likely also traversed a very large inland region. From a broader perspective there is much interest in understanding how people in the past made use of coastal resources to develop complex societies. ORA 83 is the kind of site that could significantly broaden our understanding of human cultural history with implications that extend far beyond California.

Considering the importance of this site I respectfully urge your local officials to carefully consider what its loss will mean to California and the Nation. I am familiar with the recent and regrettable loss of site ORA 64. The tragedy would only be compounded if we did not do everything in our power to preserve ORA 83. I sincerely hope there is room for remembering the past in our vision of the future.

Best regards,

Daniel Rogers, Ph.D.
Head, Division of Archaeology
Phone: 202-786-2511
FAX: 202-357-2208
cc: Dr. Dennis Stanford

COASTAL COMMISSION

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Smithsonian Institution
National Museum of Natural History

Department of Anthropology

Department of Anthropology
NHB 112

December 6, 2001

Ms. Carol D. Schull, Keeper of the Register
National Register of Historic Places
National Park Service
1849 C Street NW, Room NC 400
Washington, DC 20240

Dear Ms. Schull:

I am writing in support of the nomination to the National Register of an archaeological site in California known as CA ORA 83, the Cogged Stone Site. Since 1999 I have followed the debates surrounding the proposed residential development project and I have previously commented on the archaeological significance of this site from a California and greater Southwest perspective (see attached letter). I believe the site to occupy a unique place in California prehistory, as well as being one of the few such sites remaining in a coastal habitat in Southern California. For these reasons there is substantial justification for according the site national recognition. I hope that after reviewing the materials you will agree that it does meet the criteria and spirit of the law that established the National Register.

Currently, it seems there is significant local support for finding well-informed and fair compromises between development and preservation. These seemingly divergent objectives do not need to be in opposition. Through the recognition afforded by National Register status I sincerely hope that members of the Native American community, the historic preservation community, and local residents in California will have the opportunity to continue a productive dialogue with development interests that eventually lead to the long-term care of this rare and significant site.

Sincerely,

J. Daniel Rogers, Ph.D.

Chairman-Elect
202-786-2511

enclosure

COASTAL COMMISSION

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Cogged Stone Site
CA-ORA_83
Huntington Beach, Orange County

Staff Evaluation

The Cogged Stone Archaeological Site (CA-ORA-83) is a large prehistoric village site and cemetery situated on the upper bench of the Bolsa Chica Mesa overlooking the Bolsa Chica wetlands and, in pre-Contact times, the mouth of the Santa Ana River. The site was occupied from ca. 8000 to 2000 years before present and takes its name from the over 400 unique artifacts known as cogged stones that have been recovered from deposits within the site, some of which appear to represent various stages of production. The cogged stones show no recognizable signs of wear and some have been found within the context of Native American human burials. Smaller numbers of the cogged stones have been found throughout the region with the majority of them found in sites along the Santa Ana River drainage.

The Cogged Stone Site is significant under Criteria A and D. The site is significant under Criterion A in the area of native American history and tradition for its association with the traditional oral history and folklore of the Maritime Shoshone as the burial ground of exalted beings and the site of the cogged stones (called "star stones" by the elders), which were part of an astronomically-based religion; and because of its association with a strong emphasis on plant food procurement and processing, along with new cultural concerns relating to non-utilitarian artifacts such as beads, pendants, charmstones, discoidals, and cogged stones. As such, the site is significant to the cultural traditions of the contemporary Maritime Shoshone community and plays a role in their historically rooted beliefs, customs, and practices.

The site is significant under Criterion D in the area of prehistoric archaeology because, although the property has been previously subjected to limited archaeological excavations that have yielded important scientific data, the site contains intact cultural deposits. Site CA-ORA-83 has the potential to provide important information regarding an Early Holocene transportation corridor and ritual interaction sphere that extended from the Orange County coast along the Santa Ana River drainage to the Mojave Desert. The numerous time-sensitive artifacts recovered from deposits within the site may be used to assess the chronological placement of many sites in the southern California region that do not have datable materials, but have yielded some time-sensitive artifacts. Additionally, because the site was occupied during periods of significant environmental change, it has the potential to provide important information regarding cultural responses to major environmental change.

The Cogged Stone Site (CA-ORA-83) is the earliest-dated occupation and cemetery in the region and one of the last remaining early Holocene-era sites along the Orange County coast of southern California. Staff recommends listing at the state level of significance.

J. Charles Whatford
Associate State Archaeologist
October 14, 2001

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ORANGE COUNTY VOICES

Controlling the Present; Selling Out the Past



Lost archeological sites in O.C. are examples of cozy relationship between developers and contract scientists.

By NICK SPAIN

The archeological site, known as ORA-64, which sat atop a bluff overlooking Newport Bay, no longer exists. This sad fact is the result of "contract science," an all too common contractual agreement between land developers and archeologists to comply with legislative guidelines by "scientifically" investigating a prehistoric or historic site out of existence.

Harbor Cove (ORA-64), San Joaquin Hills (Newport Coast Archeological Project), Hellman Ranch, Bolsa Chica and countless other tracts cradling our region's prehistory are either under relentless attack or already have succumbed to the development industry and their facilitators, the "contract scientists."

Contract science, born in the environmental movement of the 1960s and '70s, was created as an offshoot of state and federal legislation established to protect the environment from increasing depredations by building and industry. This body of legislation was designed to "ameliorate adverse impacts" to natural, cultural and historical resources.

These efforts were supposed to ensure protection of important resources for ours and future generations. Avoidance, accommodation, conservation and preservation characterize the vocabulary and philosophy of these legislative mandates. However, in Orange County, and Southern California generally, where private property bounds and property rights hold sway, environmental issues and implementation of environmental law have in recent years deviated from this path. The best example being that of "contract archeology."

Enter the world of Orwellian "newspeak." Mitigation, the lingua franca of contract science, is the life-blood of contract archeologists and developers alike. Successfully negotiating the mitigation maze means happy hunting for the landowner/developer and full larders for the contract archeologist.

But what of the resource, the archeological site? What does "mitigation" mean for it? Extraction. Elimination. Extinction. This is the unfortunate fate for most archeological sites for which mitigation measures are applied. Preservation of the resource it seems is no longer an important part of



VAL B. MINA / Los Angeles Times

the "cultural resource management" process where private land is concerned.

The view that scientific investigation is an acceptable alternative to the protection and preservation of sites is implicit in the day-to-day operations of most contract archeologists and is reflected in their recommendation to clients. These practitioners appear to have lost sight of one of the overarching themes in modern archeology: conservation of the resource. Good conservation requires preservation of sites, as well as thorough study. One without the other does little to enhance our knowledge and understanding of the past.

Where history is often revisionist one needs occasionally to revisit the sites to assess what information or meaning it holds for the current generation. It's much easier for those who "control the present" to "control the past" if the past no longer exists. Archeologists are in a position to contribute significantly to the maintenance of a free and democratic society by simply assuring that there is a past to be studied. Collections of artifacts and records of their extraction are only a part of that past, a part that cannot supplant the actual physical record existing in the ground. This bank of prehistory is being depleted and replaced by mutable, and often unverifiable, historical narratives.

During the last three decades, archeology by contract has increased as a portion of prehistory. The result has been the creation of an unholy

trinity consisting of industry, archeologist and the past. I would argue the loser in this uneasy triumvirate is the latter. Archeologists are too willing to capitulate to the client and regularly form cozy consulting relationships with developers. In the arena of environmental preservation, these practices cannot be tolerated. They invariably compromise the archeological resources in question. Careful scrutiny is required on the part of a concerned archeological community and the public if things are to improve.

If the early promises of the environmental movement are ever to have meaning for the few remaining archeological sites of the Southern California coast, two things must happen. First, cultural resources must cease to be viewed as impediments to progress. Such an outlook only entrenches the quid pro quo between developers and contract archeologists. Under these conditions, mitigation studies seem to be mere autopsies conducted on sites pronounced dead by the real estate industry. Second, archeologists need to be cultural preservationists, first and foremost, not handmaidens to the destruction of our shared cultural heritage. We must stand actively for site preservation. Preservation, not simply mitigation, must be the goal of any true "cultural resource management."

Nick Spain is on leave as an archeology instructor at Santa Ana College. He has practiced archeology in Southern California for 25 years.

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FEB 14/94

IN MID-SUMMER OF 1990 I WAS EMPLOYED BY SCIENTIFIC RESOURCE SURVEYS, INC OF HUNTINGTON BEACH, CALIFORNIA AS A "MONITOR" AT AN ARCHAEOLOGICAL SITE DESIGNATED AS ORA-83. THE FOLLOWING INCIDENTS AND EVENTS OCCURRED:

- (1) SRS MANAGEMENT SPECIFICALLY REQUESTED THAT DAILY REPORTS WERE NOT TO BE FILED, OR EVEN GENERATED, REGARDING THIS PROJECT.
- (2) SRS MANAGEMENT SHOWED ME A COPY OF A REPORT THAT INDICATED A STRONG POSSIBILITY OF BURIAL SITE(S) AT ORA 83. THIS REPORT WAS THE RESULT OF A TECHNIQUE REFERRED TO AS "SEISMIC IMAGERY."
- (3) BONE AND SHELL BEADS AND ORNAMENTS, LITHIC ARTIFACTS AND POSSIBLE HUMAN REMAINS WERE FOUND AT ORA-83. SRS MANAGEMENT INDICATED A DATING HORIZON OF 6,000 - 9,000 YEARS OLD.

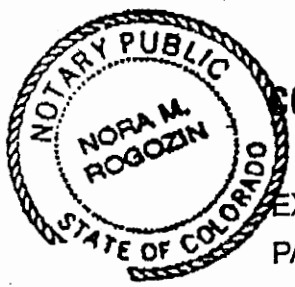
Cheryl A. Miller dated 2/14/94
CHERYL A. MILLER

Linden Fraley DATE FEB 14/94

WELCOME "LINDEN" FRALEY:111

Sworn to before me and subscribed in my presence this 14th day of February 1994

SEAL



COASTAL COMMISSION

Linden Fraley NOTARY PUBL

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116 Commission
5-3-97

(6)

Archaeological Research Facility
California State University
Fullerton, California 92634
(714) 773-3977, 773-3976

February 15, 1994

Paul Lanning
Environmental Mgmt. Agency
Box 4048
Santa Ana, CA 92702

RE: DEIR COUNTY PROJECT NUMBER: 551 - THE BOLSA CHICA PROJECT

I am writing to express my concerns about the subject DEIR. CA-Ora-83 (the Cogstone Site) has always been considered significant by archaeologists and avocationalists alike. Those interested in the prehistory of California realize that the combination of age, unique artifacts, and human remains gives an unparalleled opportunity for knowledge. All of the great archaeological discoveries have encompassed one or two of these things but this site contains all of them.

I am concerned about the number of interested parties who were not sent copies of this DEIR by your office. I am concerned that, even now, advice has not been sought from independent archaeologists on such an important site. I am concerned by the apparent covert handling of this situation. I am concerned that the DEIR appears deficient in not disclosing all of the archaeological evidence uncovered on the subject site. I am concerned about the lack of information available to the scientific public about the archaeological investigations on this site. I am concerned about the apparent lack of any attempt to preserve even part of this site.

There is an excellent reason that sites like this are called "non-renewable resources". Our children, and all of those who follow, will surely wonder why, having knowledge of the situation, we persisted and finally destroyed all evidence of our nation's prehistoric past.

RECEIVED

FEB 17 1994

ORANGE COUNTY EMA
ENVIRONMENTAL PLANNING
DIVISION

Sincerely,

Constance Cameron

COASTAL COMMISSION

RECEIVED
FEB 17 1994

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EMA

1/29/94

To The Huntington Beach City Council:

Several days ago, I began reading in the newspaper about the finding of human remains in the Bolsa Chica area. (Tuesday, Jan 25, Los Angeles Times, Orange County Edition). The article indicated the Koll Company might be handling this discovery in a questionable manner, and it brought to mind another incident I had some knowledge of in August of 1990.

At that time, I was a "temp," hired by the then dissolving Signal Landmark Co. to be their switchboard/receptionist until the transition to the Koll Company was complete.

Mr. Joe Stucker, who was in charge of "Land Development" for the company was leaving permanently within a few days. A Mr. Pacini had been sent from the parent Fenley Corporation to effect the transfer to Koll and final dissolution of Signal Landmark.

A memo was placed on my desk by an outgoing secretary and I was told to give it to Mr. Pacini as soon as he came in. This memo was a single sheet placed face up unfolded on my desk without an envelope. Mr. Pacini did not come in for at least two hours and so, yes, I did read the memo. At the time I thought it was odd that I should be allowed to see a memo like this but I attributed it to the general harum-scarum atmosphere of a company where everyone was on very short notice.

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The memo was approximately 4 paragraphs long. Its tenor was instructional, from the outgoing head of his department (Mr. Stucker) to the new Director (Mr. Pacini).

The memo was introducing Mr. Pacini to the fact that human remains had been unearthed on their Bolea Chica land. They had Coastal Commission permits to bulldoze the land. There was a specific numerical designation given for the location, which I believe was preceded by the word "tract" or "parcel", but I cannot recall this number.

Mr. Stucker was strongly urging Mr. Pacini to complete all removal of human remains within a week because if interested parties, particularly (it stated) Native Americans, ever got wind of this find, there might be an indefinite delay, and perhaps never further development of this property. The bones, it suggested, could then be handed over to the proper parties after their removal was a fact accomplished, thus nullifying the time consuming, at the least, examination of the site with the remains intact.

I remember this incident very well because I was frankly rather shocked by that kind of corporate attitude and, as I have said the memo was in front of me for quite some time.

I had heard of a group called the "Amigos de Bolea Chica" for several years. I thought they would understand what course of action this information might indicate, so I called them and left my phone number on their recording.

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A lady returned my call but seemed rather disappointed I couldn't produce a copy of the memo. She was very polite but I never heard from anyone regarding this again, so I did not pursue it further.

Of course, I still do not have a copy of the memo. But Mrs. Horgan asked me to write this letter, reproducing my information to the best of my ability.

I do stand ready to answer any questions on what I have stated in this letter.

COASTAL COMMISSION

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Judy Myers Suchey, Ph.D

FORENSIC ANTHROPOLOGIST

CONSULTANT TO THE MEDICAL EXAMINER/CORONER

FOR THE COUNTIES OF LOS ANGELES, ORANGE, RIVERSIDE AND SAN BERNARDINO

J. M. Suchey
10-16-93

ASSOCIATE PROFESSOR
DEPARTMENT OF ANTHROPOLOGY
CALIFORNIA STATE UNIVERSITY
EATON, CA 92634

EXAMINATION OF HUMAN SKELETAL REMAINS FROM CA-Ora-83
Site visitation on October 12, 1993

PHONE 714-524-1265
714-524-5150
FAX 714-295-0591

On October 12, 1993 I visited the site of CA-Ora-83, located in the beach area near the intersection of Bolsa Chica and Warner. I spoke with Nancy Desautels, Archaeologist with SRS (Scientific Resource Surveys, Inc); David Kice, Human Osteologist working with SRS; and Phillip Ibanez, Native American Monitor. I examined the excavation pits and photographed burial 19 (BB9) which had been pedestalled and partially exposed. I photographed overall views of the excavation including the wet screening processing area. I examined briefly the skeletal material which had previously been excavated in the laboratory facility and spoke with both Nancy Desautels and David Kice regarding the analysis to date.

The skeletal remains coming from this site are very old, approximately 8000 years old as indicated from some current dating procedures. The remains resemble the Early Horizon material from Central California regarding the heavy mineralization of the material. The bone comes from a uniform layer, the upper part of the Pleistocene terrace deposit. For this reason, the bone is clearly prehistoric and cannot be confused with modern skeletal material of forensic interest to the Coroner. The mineralization and the poor preservation (usually the only bone remaining is long bone midshafts and cranial vault) make determination of prehistoric status a reliable procedure. Mr. Kice, currently working with SRS, has a good background in osteological procedures. His experience allows him to determine the nature of the bone and if any modern forensic material is ever found at the site there is no doubt that he will recognize it at once. I instructed both Nancy Desautels and David Kice to immediately inform the Coroner if such should occur. Further site visitation should not be necessary if the remains continue to be highly diagnostic and prehistoric.

I spoke with Phillip Ibanez, Native American monitor and we discussed general outlines of the Coroner responsibility including why I take photographs to legally document my conclusions.

Finally, I photographed and examined a cranial fragment in the laboratory which had an enigmatic feature which resembled, in part, trephination. At the excavation (sometime during 1993 or early 1994) it was decided that David Kice and I would submit this material to Steve Dowell at the L. A. Coroner's office for examination of the defect with the dissecting microscope. The National Indians of California are in agreement with the importance of examining this feature in order to properly interpret past events at the site.

Judy Myers Suchey, Ph. D.

Forensic Anthropologist

Report written on October 16, 1993

Attachments: map of bone concentrations on CA-Ora-83 and res.

COASTAL COMMISSION

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Pat Ware, President
Pacific Coast Archaeological Society
P.O. Box 10926
Costa Mesa, CA 92627

19 September 1993

Dear Pat:

I am very concerned to hear of the further disturbance of archaeological site Ora-83, The Cog Stone Site. Although I had been hearing rumors of inadvisable procedures on the site, your information suggests that something has indeed gone wrong. Apparently, there have been impacts on the National Register-eligible site associated with the removal of the gun emplacements.

I am concerned as a member of the Orange County Historical Commission for the Second District, since Orange County has become the lead agency, and I am concerned because of previous familiarity with the site and the mitigation problems.

Several years ago, the Coastal Commission created an Independent Review Committee as a special condition of Coastal Commission Permit Application 5-89-772. I was a member, as were you and Dr. Martz. The purpose was to review the work and recommendations of the archaeological consultant, independently of the consultant's own contracted peer review committee.

As you will recall, we filed an analysis dated 7 January 1991 which concluded by requesting that the Coastal Commission have the consultant bring their mitigation program up to standard and supply the missing information and complete their documents.

We were never notified when the condition establishing our committee was removed, nor did we ever receive a response to our analysis. Also, we have no information about any revisions of procedures nor any information on the results of the archaeological excavations which apparently have continued since our report.

I suspect the present problem might not have occurred had our recommendations been followed. It is important to be sure that all appropriate standards and procedures are being met under County, Coastal Commission, and CEQA regulations. I urge that careful consideration be given to evaluating compliance with the applicable policies and performance standards, and I would appreciate your including my expression of concern with your transmittals.

Sincerely,

Keith A. Dixon, Ph.D.
Professor Emeritus

COASTAL COMMISSION

ATTACHMENT 2

Bolsa Chica Mesa Presentation by Nancy Wiley to Pacific Coast Archaeological Society April 25, 2010 and May 13, 2010

These are approximate quotes from Nancy Wiley's presentation to the Pacific Coast Archeological group on April 25 and May 13, 2010. These quotes are not exact but are a truthful representation. You have received a link to a condensed version of her presentation. We have two DVDs of the entire lectures which we attempted to submit with this letter, but were informed by staff they could not be accepted. Members of the BCLT will provide you with a DVD of the 7 minute version if we have an opportunity to meet with you. When viewing the 7minute condensed version, click on the yellow box to move from section to section.

The Land Trust hopes that you will review this video and become educated to what is really going on with this internationally significant site. Here we have a 7500 year old site which is being destroyed. Would we have allowed this to happen to the 3000 year old Pyramids if they were at the Bolsa Chica?

Nancy Wiley speaking about ORA-85

The moral of the story is that disturbance is not necessarily bad.

Disturbance can actually save archeology. Something that looks to you like having been totally disturbed can possibly be where things are preserved. That is definitely like the case here.

Speaking about the Goodell property

This parcel has been looked at by everyone but has only received two hand excavation units. He hit hardpan and it became too hard and he stopped the investigation. The hardpan clay that they found doesn't mean that that's the end.

Where you see the concentration of artifacts next to the road (Bolsa Chica road) this is right next to the boundary line of the Goodell property. **He is well aware that there is a possibility that there is a 100% chance that he will find cogged stones and a large possibility that he will actually find burials. No one has ever excavated on that property except Herring and he hit hardpan and stopped. The burials are below the hardpan.** I have explained all this to the Coastal Commission, City of Huntington Beach, and the Goodell family themselves that the chances are good that they will find something.

ORA 86 is the next parcel located at the corner of Los Patos and Bolsa Chica. The next parcel is ORA 83. It is obvious by looking at this it is possible this is all one site.

This whole mesa was utilized by groups of people. You will see that when you look at the C14 dates you can see that we are looking at 7500 years of occupation so the whole mesa edge at one point or another has been used by these people, so to separate them is in a sense silly but for political reasons it is good to have labels.

RECEIVED
South Coast Region

OCT 24 2011

October 20, 2011

Coastal Commission
200 Oceangate #1000
Long Beach, CA 90802-4316

CALIFORNIA
COASTAL COMMISSION

Re: Agenda Item 16b CDP Application # 5-10-258

Honorable Commissioners,

In a report: 1998-2003 Field Work:Data Recovery Program: Science Resource Survey, Inc. (SRS) states "Final data recovery was completed on CA ORA 83 in 2003 under the final research design for recovered material evaluation [2003a]....". In an Analytical Report, 2006-2010, SRS states " Final laboratory Analysis and Data Reports in Progress. Completion expected in 2010.

Special Condition #24 of Revised Findings for 5-05-020 (Brightwater) Hearthside Home/Signal Landmark required Dissemination of Cultural Information. "Incorporation of the data at CA ORA 85 and CA ORA 83 as required by County of Orange as part of the EIR process for this project by February 1, 2010.

SRS, Inc. has taken, to date, 8+ years and have not produced completed documents as required by Special Condition #24. A new due date of December 2011 will make them 22 months overdue.

The information in these documents is vital to the Commission in deciding if the Archaeological Research Plan for the Goodell property, CDP Application # 5-10-258, should be approved. The "Cogged Stone Site", CA ORA 83, is recognized locally, nationally and internationally as a highly significant Archaeological Site, with 9000 years of history. The documents being withheld by SRS, Inc. will substantiate all claims of it's importance in the history of some of the earliest people in the Americas. Any less than in-situ preservation should not be a consideration..

Respectfully,



Michael McMahan
4892 Maui Circle
Huntington Beach, CA 92649

COASTAL COMMISSION