

CALIFORNIA COASTAL COMMISSION

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original staff report

W9 & 10

April 14, 2015

TO: Coastal Commissioners and Interested Parties

FROM: Lisa Haage, Chief of Enforcement

SUBJECT: ADDENDUM TO ITEM NOS. W9 & 10 – CONSENT CEASE AND DESIST
ORDER NO. CCC-15-CD-02 AND CONSENT RESTORATION ORDER NO.
CCC-15-RO-02 (HAYES)
FOR THE COMMISSION MEETING OF April 15, 2015

The objectives of this addendum are: (1) to update the record for the above-referenced matter by supplementing it with documents that Commission staff received after the staff report was issued, and (2) to make a minor addition to one footnote, which is hereby incorporated into the March 27, 2015 “Recommendations and Findings for Consent Cease and Desist and Consent Restoration Order.”

I. Documents Received. Documents included in this addendum are:

Letters of support of Staff’s Recommendations (in order of date received):

1. *Letter from Mountain Restoration Trust dated April 14, 2015*
2. *Letter from Marie Virginie Macias Snyder and Douglas Snyder dated April 14, 2015*



From: Robin Berman
Sent: Tuesday, April 14, 2015 1:50 PM
To: Derek Schaible
Subject: Red Rock Canyon Property

RE: Property at 23200 Red Rock Canyon Road, Topanga, Los Angeles, CA

Dear Mr. McLendon,

Mountains Restoration Trust supports the California Coastal Commission recommendations and plan for restoring the site on Red Rock Canyon Road. We have reviewed the plan and find that it is comprehensive, taking into consideration the impacted areas.

The site at 23200 *Red Rock Canyon Road* in the Santa Monica Mountains is adjacent to Cold Creek Preserve, an environmentally sensitive area, owned and managed by Mountains Restoration Trust, a nonprofit land trust. The plan for restoring the site on Red Rock Canyon Road would be beneficial to the adjacent ecosystems of the Santa Monica Mountains.

Robin M. Berman
(818) 591-1701 x207

Mountains Restoration Trust
Preserving the wildlands of the Santa Monicas

www.mountainstrust.org
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From: Virginie Snyder
Sent: Tuesday, April 14, 2015 3:46 PM
To: Derek Schaible
Subject: Support of the Plan

Mr. Dereck Schaible,

I reviewed the staff rapport, and I recommend and support the Plan contained in the Order.

Sincerely,
Marie Virginie Macias Snyder and Douglas Snyder.

APN 4438-005-005

II. Change to Recommendations and Findings:

Append the following sentence to the end of footnote 11 on page 15:

“The Santa Monica Mountains LCP allows for the approval of various types of development within SERAs under appropriate circumstances.”

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W9 & 10

Staff: Aaron McLendon & Derek Schaible – SF
Staff Report: March 27, 2015
Hearing Date: April 15, 2015

STAFF REPORT: Recommendations and Findings for Consent Cease and Desist and Consent Restoration Orders

Consent Cease and Desist Order No.:	CCC-15-CD-02
Consent Restoration Order No.:	CCC-15-RO-02
Related Violation File:	V-4-07-010
Person Subject to These Consent Orders:	Conan Hayes, as Trustee for the Conan Hayes Revocable Living Trust.
Location:	23200 Red Rock Road, Topanga, Los Angeles County, Assessor's Parcel Number ("APN") 4438-005-022; 23130 Red Rock Road, APN 4438-005-023; APN 4438-005-005.
Violation Description:	Unpermitted development including, but not necessarily limited to: construction of two houses and associated septic systems, building pads, utility lines, two sheds, retaining walls, gates, fences, and paved and unpaved roads and driveways; installation of a water pump, water tank, and two propane tanks; planting of non-native vegetation; grading for building pads and road expansion and improvements; and removal of major vegetation.
Substantive File Documents:	<ol style="list-style-type: none">1. Public documents in Cease and Desist Order file No. CCC-15-CD-02 and Restoration Order file No. CCC-15-RO-02.2. Exhibits 1-21 and Appendix A of this staff report.

CEQA Status:

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

SUMMARY OF STAFF RECOMMENDATION AND FINDINGS

These proceedings address development that occurred in the Santa Monica Mountains without the required coastal development permit (“CDP”), which is also inconsistent with the Chapter 3 policies of the Coastal Act and is causing continuing resource damage, as explained in more detail below. The violations occurred in an environmentally sensitive habitat area (“ESHA”) in the Topanga Canyon region of the Santa Monica Mountains, primarily on property owned by Conan Hayes, as trustee for the “Conan Hayes Revocable Living Trust”¹ (“Respondent”), but also extending onto two adjacent private properties not owned by Respondent.

The Unpermitted Development occurred primarily on Respondent’s property at 23200 Red Rock Road in unincorporated Los Angeles County (“Respondent’s Property”), but prior to the time that Respondent acquired it. Respondent purchased the property in February 2014 with knowledge of the existence of Coastal Act violations on-site and with the understanding that the violations would need to be resolved and has worked closely with Commission staff since this time to reach this resolution. Respondent has not undertaken additional unpermitted development since purchasing the property and has agreed to resolve this matter through these Consent Orders.

The development that is the subject of these proceedings includes, but is not necessarily limited to: construction of two houses and associated septic systems, building pads, utility lines, two sheds, retaining walls, gates, fences, and paved and unpaved roads and driveways; installation of a water pump, water tank, and two propane tanks; planting of non-native vegetation; grading for building pads and road expansion and improvements; and removal of major vegetation (“Unpermitted Development”). Furthermore, the unpermitted expansion and paving of roads encroaches onto a neighboring parcel (APN 4438-005-005), a vacant residential lot adjacent to the western side of Respondent’s Property. Native southern maritime chaparral vegetation was also removed without a CDP from another neighboring residential lot (APN 4438-005-023), adjacent to the eastern side of Respondent’s Property.

Only one CDP has been issued to authorize development on Respondent’s Property. In 1981, the Commission approved CDP No. A-81-7601 for a “storage building” and a “breeding station” for horses on the site. However, instead of installing these two permitted structures, a former owner of Respondent’s Property placed numerous items of unpermitted development, including four houses² with supporting infrastructure such as water lines, septic systems, and propane tanks, among other things. Unpermitted grading of the property and removal of major vegetation occurred as well.

Commission staff recommends that the Commission approve Consent Cease and Desist Order No. CCC-15-CD-02 and Restoration Order No. CCC-15-RO-02 (hereinafter collectively referred to as “Consent Orders”), which will establish a process by which Respondent will resolve the Coastal Act violations. These Consent Orders are included as Appendix A of this staff report. Through the execution of these Consent Orders, Respondent has agreed to, among other things: 1) cease and desist from conducting any further unpermitted development; 2) remove

¹ U/A dated January 28, 2010.

² Two of the four houses were removed prior to Respondent purchasing Respondent’s Property.

unpermitted items of development; 3) restore areas impacted by Unpermitted Development with appropriate native vegetation; 4) undertake measures to protect and enhance coastal resources on-site and in the surrounding areas; and 5) take all steps necessary to ensure compliance with the Coastal Act and these Consent Orders. Commission staff has worked closely with the Respondent and his counsel to reach an amicable settlement of the Coastal Act violations on the Properties. Respondent has been active in working with enforcement staff to resolve the violations even prior to purchasing the property. These Consent Orders are the result of those cooperative efforts to resolve the violations amicably and without the need for a contested hearing or any litigation.

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EXHIBITS

Exhibit 1 Vicinity Map

Exhibit 2 Properties Location Map

Exhibit 3 CDP A-81-7601

Exhibit 4 Photograph: 1983 Aerial of Respondent’s Property

Exhibit 5 Photograph: 1986 Aerial of Respondent’s Property

Exhibit 6 Photograph: 2001 Aerial of Respondent’s Property

Exhibit 7 Photograph: 2014 Aerial of Respondent’s Property

Exhibit 8 Photographs: Unpermitted Sheds

Exhibit 9 Photographs: Unpermitted Propane Tanks

Exhibit 10 Photograph: Unpermitted Septic System

Exhibit 11 Photograph: Unpermitted Water Pump

Exhibit 12 Photograph: Unpermitted Water Tank

Exhibit 13 Photographs: Non-Native Vegetation

Exhibit 14 Form: Los Angeles County Fire Department Citation dated March 3, 2006

Exhibit 15 Letter from Los Angeles County Fire Dept to Robert D’Elia dated August 3, 2005

Exhibit 16 Recorded Notice of Violation of the Coastal Act dated June 18, 2007

Exhibit 17 Letter from Coastal Commission to Thomas Rainey dated May 19, 2008

Exhibit 18 Emergency CDP 4-08-048-G dated July 30, 2008

- Exhibit 19 Letter from Coastal Commission to Chryssa Lighthouse dated April 29, 2014 (w/o enclosure)
- Exhibit 20 Letter from Coastal Commission to Conan Hayes dated May 15, 2014 (w/o enclosure)
- Exhibit 21 Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings and to Record a Notice of Violation of the Coastal Act dated November 14, 2014

I. MOTION AND RESOLUTION

Motion 1: Consent Cease and Desist Order

I move that the Commission issue Consent Cease and Desist Order No. CCC-15-CD-02 pursuant to the staff recommendation.

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

Resolution to Issue Consent Cease and Desist Order:

The Commission hereby issues Consent Cease and Desist Order No. CCC-15-CD-02, as set forth below, and adopts the findings set forth below on grounds that development has occurred without a required coastal development permit, in violation of the Coastal Act, and that the requirements of the Order are necessary to ensure compliance with the Coastal Act.

Motion No. 2:

I move that the Commission issue Consent Restoration Order CCC-15-RO-02 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the Consent Restoration Order and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Issue Consent Restoration Order:

The Commission hereby issues Consent Restoration Order No. CCC-15-RO-02, as set forth below, and adopts the findings set forth below on grounds that: 1) development has occurred without a coastal development permit from the Commission; 2) the development is inconsistent with the Coastal Act; and 3) the development is causing continuing resource damage.

II. HEARING PROCEDURES

The procedures for a hearing on a Cease and Desist Order and Restoration Order are outlined in Section 13185 and Section 13195 of Title 14 of the California Code of Regulations (“14 CCR”), respectively.

For a Cease and Desist Order and Restoration Order hearing, the Chair shall announce the matter and request that all parties or their representatives present at the hearing identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the

proceeding, including time limits for presentations. The Chair shall announce the right of any speaker to propose to the Commission, before the close of the hearing, any question(s) for any Commissioner, at his or her discretion, to ask of any other party. Staff shall then present the report and recommendation to the Commission, after which the alleged violator(s) or their representative(s) may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons, after which time staff typically responds to the testimony and to any new evidence introduced.

The Commission will receive, consider, and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in 14 CCR Sections 13186 and 13195, incorporating by reference Section 13065. The Chair will close the public hearing after the presentations are completed. The Commissioners may ask questions to any speaker at any time during the hearing or deliberations, including, if any Commissioner so chooses, any questions proposed by any speaker in the manner noted above. Finally, the Commission shall determine, by a majority vote of those present and voting, whether to issue the Cease and Desist Order and Restoration Order, either in the form recommended by the Executive Director, or as amended by the Commission. Passage of the motion above, per the staff recommendation or as amended by the Commission, will result in issuance of the Cease and Desist Order and Restoration Order.

III. FINDINGS FOR CONSENT CEASE AND DESIST ORDER NO CCC-15-CD-02 AND CONSENT RESTORATION ORDER NO. CCC-15-RO-02³

A. DESCRIPTION OF PROPERTY

The properties involved in this matter are located in the Topanga Canyon region of the eastern Santa Monica Mountains, approximately six miles inland of the coast (Exhibit 1) on the southern side of Red Rock Road between Rose Lane and Old Topanga Canyon Road. The unpermitted items of development are located on three separate lots, with almost all such development being located on the first property listed, Respondent's Property: 1) Respondent's Property located at 23200 Red Rock Road (Los Angeles County APN 4438-005-022); 2) a 10.12-acre property located along Respondent's eastern property boundary (Los Angeles County APN 4438-005-023); 3) and an approximately 10-acre property located along Respondent's western property boundary (Los Angeles County APN 4438-005-005) (Exhibit 2) (herein collectively referred to as "the Properties"). The Properties are generally located between Red Rock Canyon State Park to the northwest and Cold Creek Canyon Preserve, which is owned by Mountains Restoration Trust, to the south.

Respondent's Property is a rectangular, 19.88 acre lot. At its northern extreme, the parcel is crossed by Red Rock Road, a public road, which separates a small portion of Respondent's Property on the northern side of the road from the rest of the property on the southern side of the road. Through the portion of Respondent's Property north of the road, Red Rock Canyon Creek, a USGS designated "blue-line" stream, runs parallel and adjacent to Red Rock Road. Associated

³ These findings also hereby incorporate by reference the sections "Summary of Staff Recommendation and Findings" at the beginning of this March 27, 2015 staff report ("STAFF REPORT: Recommendations and Findings for Consent Cease and Desist and Consent Restoration Orders") in which these findings appear.

riparian vegetation, which makes up an ESHA, grows on this northernmost portion of Respondent's Property.

Respondent also owns an approximately .25 acre parcel directly to the northwest of and adjacent to Respondent's Property. It appears that at some point prior to the Coastal Act, a home was constructed on this .25 acre parcel but appears to have burned down in the 1980s. The only thing remaining of this home is a concrete foundation and a chimney. Respondent purchased this small parcel at the same time he purchased Respondent's Property. As discussed in more detail in the Consent Orders attached to this staff report as Appendix A, as part of the settlement, Respondent has agreed to remove the remaining portions of the house, restore the area where the house was located, combine this .25 acre property with Respondent's Property, and record a deed restriction covering the entire approximately .25 acre area to preserve its open space and habitat values.

On the portion of Respondent's Property south of Red Rock Road, natural gradients lead from the flatter portion of Respondent's Property near Red Rock Road and climb approximately three hundred feet in elevation along a steep ridgeline on the western side of Respondent's Property towards the flat crest of a knoll. From the crest of the knoll, the topography then generally slopes downhill roughly one hundred feet towards a blue-line tributary of Topanga Canyon Creek which crosses the southeastern tip of Respondent's Property and continues flowing southwest through land owned and controlled by the Mountains Restoration Trust, as part of the over one thousand acres, maintained as open space, that comprise Cold Creek Canyon Preserve.

The areas surrounding the Properties to the west, south, and east, including the adjacent properties impacted by Unpermitted Development, are characterized primarily by undeveloped hillside terrain covered in southern maritime chaparral vegetation. The Camp Slauson Connector Trail, mapped in the Santa Monica Mountains LCP, is proposed to cross the western portion of Respondent's Property and connect the Backbone Trail (located southeast of the Properties) to the Stokes Ridge Trail (located west of the Properties).⁴

B. PERMIT HISTORY

Only one CDP has been issued by the Commission⁵ authorizing development on Respondent's Property, but none of the Unpermitted Development at issue in the current enforcement matter was authorized by this CDP. On March 18, 1981, the Commission issued CDP No. A-81-7601 for construction of a "484 sq. ft. storage building and a 2-level, 27 ½' high, 484 sq. ft. breeding station (total 968 sq. ft.)" (Exhibit 3). The development authorized under CDP No. A-81-7601 consisted only of these aforementioned structures, and the CDP did not approve any other development on Respondent's Property or on adjacent properties impacted by the Unpermitted Development.

⁴ Through these Consent Orders, Respondent has agreed to, among other things, record an "Offer to Dedicate" public access trail easement over the portion of this trail that crosses Respondent's Property.

⁵ In addition, on July 31, 2008, the Executive Director of the Commission issued emergency CDP No. 4-08-048-G for two temporary, 3,000-gallon capacity water tanks. The emergency permit required submittal of a complete application for a regular CDP within 120 days and removal of the temporary water tanks within 180 days if no CDP was obtained for their permanent retention. No follow-up CDP for permanent authorization was ever submitted, and the temporary water tanks were removed in 2013.

C. DESCRIPTION OF COASTAL ACT VIOLATIONS

The violations of the Coastal Act and the Santa Monica Mountains LCP that are being addressed by these Orders constitute development that was undertaken without a CDP. The violations include, but are not necessarily limited to: construction of two houses and associated septic systems, building pads, utility lines, two sheds, retaining walls, gates, fences, and paved and unpaved roads and driveways; installation of a water pump, water tank, and two propane tanks; planting of non-native vegetation; grading for building pads and road expansion and improvements; and removal of approximately eight acres of major vegetation.

D. HISTORY OF VIOLATION/SETTLEMENT DISCUSSIONS

This violation case has a long history that spans numerous property owners. The Respondent purchased the property with knowledge⁶ of the existence of Coastal Act violations and with the understanding that the violations would need to be resolved. Even before purchasing the property, Respondent has worked with Commission staff to agree to the Consent Orders.

In August 2005, Los Angeles County Fire Department (“LACFD”) staff informed Mr. Robert D’Elia, who was a previous owner of Respondent’s Property, that for purposes of fire protection, the residences on Respondent’s Property were distant from water (Exhibit 15). A March 2006 inspection by LACFD (Exhibit 14) concluded that fire protection was inadequate for the structures on Respondent’s Property. At the time, four unpermitted residences, as well as several sheds, existed on Respondent’s Property.

In June 2006, prompted by the LACFD inspection, Mr. D’Elia submitted a CDP application (CDP No. 4-06-077) for a 10,000 gallon water tank and fire hydrant on the crest of the knoll on the southern portion of the site. In the course of processing this CDP application, Commission staff became aware of development on Respondent’s Property for which no CDP had been issued.

In April 2007, Commission staff met at Respondent’s Property with Mr. D’Elia’s agent and confirmed the presence of Unpermitted Development. Shortly thereafter, Commission staff learned that Respondent’s Property was on the market for sale and informed Mr. D’Elia that Commission staff planned to send him a letter that same day that would give notice of the Executive Director’s intent to record a Notice of Violation on the property in order to notify any prospective purchasers of the existence of Coastal Act violations on the property. He did not object to recordation, and, pursuant to Section 30812 of the Coastal Act, the Notice of Violation was subsequently recorded with the Los Angeles County Recorder’s Office on June 18, 2007 (Exhibit 16). The 2006 CDP application for a 10,000 gallon water tank was withdrawn on the same date as the Notice of Intent to Record a Violation letter: April 23, 2007.

⁶ Pursuant to Section 30812 of the Coastal Act, a “Notice of Violation” was recorded in the chain of title on Respondent’s Property providing notice to future purchasers of the property. Upon discovering that the property was for sale, enforcement staff contacted the listing realtor to inform her of the violations on the property and requested that she inform prospective buyers of the existence of the Unpermitted Development.

In May 2008, Commission staff sent a letter to Mr. D'Elia describing Commission staff's concerns for the safety of the residents living in the unpermitted structures due to the absence of an emergency water supply for fire safety (Exhibit 17). The letter stated, "*Notwithstanding the illegal status of the four residential structures, we are aware that the Los Angeles County Fire Department has recommended that a water tank be immediately installed on site in order to provide for an emergency water supply for fire safety until this situation is resolved.*" This letter specifically suggested to Mr. D'Elia that he advise the tenants to vacate the unpermitted residences on Respondent's Property until such time as all existing dwelling units were either removed or properly permitted and the safety requirements of the LACFD were met.

On July 15, 2008, an application for an emergency CDP was received by Commission staff. The application requested authorization to install two temporary 3,000 gallon capacity water tanks on Respondent's Property. On July 31, 2008, an emergency CDP (4-08-048-G) was issued for two temporary 3,000 gallon capacity water tanks (Exhibit 18).

Between mid-2010 and through 2011, Commission staff, Mr. D'Elia, and his agent had numerous conversations about resolution of the violations on Respondent's Property. In late 2011, Mr. D'Elia became severely ill, and Commission staff put its enforcement activities on hold while he and his family attended to these medical matters. On January 31, 2012, several months before Mr. D'Elia passed away, a grant deed for the transfer of Respondent's Property was signed by Mr. D'Elia, conferring ownership to Ms. Charlotte Bjorlin D'Elia, the spouse of Mr. D'Elia, who then became the owner of the property.

On January 3, 2014, Commission staff sent a letter to Ms. Bjorlin D'Elia to restart discussions towards amicable and efficient resolution of the Coastal Act violations. On January 10, 2014, Commission staff met with Ms. Bjorlin D'Elia via telephone to discuss resolution. Ms. Bjorlin D'Elia expressed her willingness to work with Commission staff on resolving the violations. During conversations with Ms. Bjorlin D'Elia throughout February and March 2014, she expressed her interest and ongoing efforts to sell the property. Commission staff confirmed that the property had been listed for sale and, on February 12, 2014, Commission staff contacted the listing agent by telephone to inform her of the Notice of Violation recorded on Respondent's Property and to explain the need for any future owner to work with Commission staff to resolve the Coastal Act violations (Exhibit 19).

On April 22, 2014, final sale to Mr. Conan Hayes, as Trustee for The Conan Hayes Revocable Living Trust, the current property owner, was recorded in Los Angeles County. On May 16, 2014, Commission staff sent an introductory letter to Mr. Hayes, expressing its willingness to work with him to amicably and efficiently resolve the outstanding Coastal Act violations (Exhibit 20). In addition, as provided for in Sections 13180 through 13188 of the Commission's regulations, on November 14, 2014, Commission staff sent a "Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings and Notice of Intent to Record a Notice of Violation of the Coastal Act" (Exhibit 21). During conversations between Respondent, his attorney, and Commission staff from May 2014 through February 2015, Commission staff worked with Respondent and his counsel to resolve these issues through Consent Cease and Desist and Restoration Orders which the Respondent sign on February 27, 2015.

E. BASIS FOR ISSUANCE OF ORDERS

1. Statutory Provisions

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

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

(b) The cease and desist order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material

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

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

2. Factual Support for Statutory Elements

The following pages set forth the basis for the issuance of the Consent Cease and Desist and Restoration Orders by providing substantial evidence that the Unpermitted Development meets all of the required grounds listed in Coastal Act Sections 30810 and 30811 for the Commission to issue Cease and Desist and Restoration Orders.

a) Development Occurred Without a CDP

Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, and with limited exceptions not applicable here, any person wishing to perform or undertake any development in the Coastal Zone must obtain a CDP.

The term “development” is defined broadly in Section 30106 of the Coastal Act as follows:

“Development” means, on land, in or under water, the placement or erection of any solid material or structure... grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land... construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major

vegetation other than for agricultural purposes, kelp harvesting, and timber operations....(italics added)

The activities described in Section III.C, above constitute “development,” as defined in Section 30106 of the Coastal Act, and are subject to the requirements to obtain a CDP. The violations involve development that, at the time they occurred, required a permit from the Commission pursuant to Section 30600(c). Commission staff has verified that development on the Properties was conducted without the benefit of a CDP and is not exempt from obtaining such a CDP.

The Santa Monica Mountains LCP was effectively certified by the Commission on October 10, 2014. After an LCP is certified by the Commission, authority to review CDP applications for new development within the portion of the coastal zone covered by the LCP rests with the locality, with the Commission retaining limited appellate jurisdiction over those decisions and limited enforcement authority. The Properties are located within the certified LCP jurisdiction of the Santa Monica Mountains in unincorporated Los Angeles County. In this case, however, the Commission retains enforcement jurisdiction over this matter in its entirety because the violations involved development that, at the time it occurred, required a permit from the Commission, and none was obtained.

A review of aerial photographs indicates that Unpermitted Development occurred at numerous points after 1977. An aerial view of Respondent’s Property in 1983 (Exhibit 4) shows that grading and clearance of native vegetation were performed on the northern and southern portions of the site, including expansion of the access road beyond the western boundary of Respondent’s Property onto the neighboring western parcel (APN 4438-005-005) and grading and clearance of vegetation onto the eastern, privately-owned parcel (APN 4438-005-023). In a similar aerial view from 1986 (Exhibit 5), a retaining wall and two hexagonal structures used as residences, in the locations where they still exist today, are visible on Respondent’s Property. The access road on Respondent’s Property also appears to have been paved around this time, and a distinct, circular area west of this access road has been graded. By 2001 (Exhibit 6), two additional houses, with associated building pads, are visible in aerial photographs on the northern portion of Respondent’s Property⁷. Paved driveways leading to these unpermitted structures can also be seen. By this time, chaparral vegetation was removed from the slope on the northern side of the unpermitted house located atop the knoll on the southern portion of Respondent’s Property.

As seen in aerial views from different points in time between 2002 and 2014, additional unpermitted development was conducted on Respondent’s Property, including construction of three sheds (Exhibit 8), and placement of two propane tanks (Exhibit 9), septic systems (Exhibit 10), a water pump (Exhibit 11), a water tank (Exhibit 12), and fencing. The two remaining, unpermitted houses are further supported by unpermitted water, electric, and septic systems. In addition, the presence of non-native landscaping was confirmed by Commission staff during a site visit to Respondent’s Property on April 16, 2007 (Exhibit 13).

All of the items listed above occurred without the benefit of a CDP. Therefore, the criterion for issuance of the Consent Cease and Desist Order has been met, and the first of three criteria

⁷ During 2014, several items of unpermitted development were removed, including two of the four unpermitted residences and one of the three sheds (Exhibit 7).

necessary to support the Commission's issuance of the Consent Restoration Order has also been met.

b) The Unpermitted Development is Inconsistent with the Coastal Act

The Coastal Act includes policies to protect, maintain, enhance and restore the quality of coastal resources within the coastal environment. As described below, the Unpermitted Development is inconsistent with multiple resource protection policies of the Coastal Act, including, but necessarily limited to: Section 30231 (protection of biological productivity and water quality); Section 30240 (protection of environmentally sensitive habitat); Section 30250 (limitations of new development); and Section 30253 (minimization of risks to life and property), as well as corresponding policies of the certified Santa Monica Mountains LCP.

Environmental Sensitive Habitat Areas

The Unpermitted Development is inconsistent with Coastal Act Section 30240 which requires the protection of Environmentally Sensitive Habitat Areas ("ESHA"). Section 30240 states in part:

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

Coastal Act Section 30107.5 defines ESHA as:

'Environmentally sensitive area' means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

The Commission has found in multiple, previous CDP reviews and enforcement actions in the Santa Monica Mountains region, through concurrence with the determination of its senior ecologist, Dr. John Dixon, that the "Santa Monica Mountains ecosystem is itself rare and especially valuable because of its special nature as the largest, most pristine, physically complex, and biologically diverse example of a Mediterranean ecosystem in coastal southern California."⁸ The Commission has therefore determined that "because of the rare and special nature of the Santa Monica Mountains ecosystem,"⁹ the ecosystem roles of large, contiguous, substantially intact areas of specific constituent plant communities are "especially valuable" under the Coastal Act. Contiguous swaths of chaparral are one such plant community that has specifically been found to rise to the level of ESHA in the Santa Monica Mountains.

Respondent's Property is vegetated primarily with southern maritime chaparral, including big pod ceanothus (*Ceanothus megacarpus*), greenbark ceanothus (*Ceanothus spinosus*), laurel sumac (*Malosma laurina*), and chamise (*Adenostoma fasciculatum*). Chaparral within the Santa

⁸ John Dixon, Ph.D., "Designation of ESHA in the Santa Monica Mountains," (March 25, 2003), p. 5-6.

⁹ Id. at 6.

Monica Mountains provides critical linkages among riparian corridors, provides essential habitat for species that require several habitat types during the course of their life histories, provides essential habitat for sensitive species, and stabilizes steep slopes and reduces erosion, thereby protecting the water quality of coastal streams and drainages. The Commission has found that “because of its important roles in the functioning of the Santa Monica Mountains Mediterranean ecosystem and its extreme vulnerability to development, chaparral within the Santa Monica Mountains meets the definition of ESHA under the Coastal Act.”¹⁰

Commission staff has visited Respondent’s Property and confirmed that the native habitat on the Properties, including the areas of the removed habitat, is entirely ESHA¹¹. The area contains contiguous areas of chaparral and, as noted above, this type of chaparral within the Santa Monica Mountains has meets ESHA criteria pursuant to Section 30107.5 of the Coastal Act. Therefore, the removal of ESHA on the Properties is inconsistent Section 30240 of the Coastal Act. ESHA was removed and, in some cases where ESHA vegetation was removed, were replaced with houses, fences, concrete walls, and non-native plant species, among other things, all of which interrupt the habitat functions of the contiguous blocks of chaparral.

Under the Santa Monica Mountains LCP, “illegal development” cannot be used as the basis for depriving habitat types of their status and protection. Policy CO-40 of the Santa Monica Mountains LCP states:

Any area mapped as, or meeting the definition of, H1, H2, H2 High Scrutiny, or H3 habitat shall not be deprived of protection as that habitat category, as required by the policies and provisions of the LCP, on the basis that habitat has been damaged or eliminated by natural disaster (e.g. landslide, flooding, etc.), or impacted by illegal development or other illegal means, including removal, degradation, or elimination of species that are rare or especially valuable because of their nature or role in an ecosystem.

As such, although the H3 habitat type has been mapped throughout areas of Respondent’s Property, these areas coincide nearly exactly to those areas impacted by Unpermitted Development. Therefore, these H3 habitat areas would constitute SERA despite the impacts caused by the Unpermitted Development.

¹⁰ Id. at 17.

¹¹ Under the Santa Monica Mountains LCP, the Properties are designated as a Sensitive Environmental Resource Area (“SERA”), an equivalent designation to ESHA. Respondent’s Property is mapped to include SERA habitat types H1 and H2. H1 habitat consists of areas of highest biological significance, rarity, and sensitivity. H2 habitat consists of areas of high biological significance, rarity, and sensitivity that are important for the ecological vitality and diversity of the Santa Monica Mountains Mediterranean Ecosystem. H3 habitat is established for disturbed or isolated habitat areas that provide some important biological functions, but do not rise to a level of significance commensurate with H1 or H2 and is therefore not a SERA Developed areas of Respondent’s Property have been designated as H3 habitat; however, this designation reflects the state of Respondent’s Property as altered by Unpermitted Development. Review of the Properties must be analyzed as if the Unpermitted Development had not occurred; and therefore, the entirety of Respondent’s Property is ESHA. Except for those areas that have been altered by development, the Properties are covered primarily with large, contiguous swaths of native southern maritime chaparral constituting ESHA/SERA.

Furthermore, fencing has been installed in various locations on Respondent's Property, including along both sides of the long, narrow access road which leads from Red Rock Road to an unpermitted house on the crest of a knoll at the southern portion of the property. The unpermitted fencing is inconsistent with the Santa Monica Mountains LCP which limits the installation of fencing. Policy CO-82 states in part:

Development permitted within H2 or H3 habitat may include fencing, if necessary for safety, limited to the immediate building site area, and extending no further than the outer extent of Fuel Modification Zone B (100 feet from structures that require fuel modification).

The structures on Respondent's Property were not built with the benefit of a CDP and, therefore, are not legal structures entitled to the same structural fire protection of legally permitted structures nor would they fall within the provision cited above. Therefore, fencing in this area would not be permitted under this Policy. This is significant because fencing can completely preclude wildlife movement, leading to habitat fragmentation. Inappropriate fence design or placement leading to habitat fragmentation can reduce the carrying capacity of an area by dividing a large area into discrete subareas wherein resources are separated out. For organisms which have historically had ready access to the oak woodlands, chaparral, and riparian habitat in the vicinity of the Properties, dividing the resources into subunits can preclude access to elements vital to an organism's survival. As such, the fencing is inconsistent with the ESHA protection policies of Section 30240 and the LCP.

Location of New Development

The Unpermitted Development is inconsistent with Coastal Act Section 30250 which limits the siting of new development. Section 30250 states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

In addition, the Unpermitted Development is inconsistent with Policy CO-74 of the Santa Monica Mountains LCP which states in part:

New development shall be clustered to the maximum extent feasible and located as close as possible to existing roadways, services and other developments to minimize impacts to biological resources.

Unpermitted Development on Respondent's Property is not "located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it..." As the interconnectivity of various habitat types is essential to sustaining wildlife populations, siting new development in a manner that least intrudes upon this connectivity is essential; structures should be clustered together and in proximity to extant infrastructure. In this case, Unpermitted Development has not been clustered on Respondent's Property. Among other items of

Unpermitted Development, a 1,516 sq.ft. house has been placed on the crest of a knoll on the southern portion of Respondent's approximately twenty acre lot, distant from the point of access to Respondent's Property via Red Rock Road. This unpermitted house is accessible only by a steep access road, expanded and paved without a CDP, which has been graded through a chaparral-covered ridge on the western half of Respondent's Property. In addition to the unpermitted placement of the house, removal of chaparral vegetation was undertaken on the crest of the knoll itself and on its southern hillside. Other items of unpermitted development added in this location include, but are not necessarily limited to, fencing, a shed, a propane tank, and a water tank.

A number of the unpermitted structures were constructed in theretofore undisturbed areas of woodland or chaparral. As no CDP was obtained for the development subject to these Consent Orders, the Commission was deprived of the opportunity to ensure that development was clustered so as to minimize impacts to coastal resources. Therefore, the Unpermitted Development is inconsistent with Section 30250 of the Coastal Act.

Minimization of Risks to Life and Property

The Unpermitted Development is also inconsistent with Coastal Act Section 30253 which requires that new development minimize risks to life and property in areas of high geologic, flood, and fire hazard and to avoid adverse impacts including erosion. Section 30253 states in part:

New development shall do all the following:

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

In addition, the Unpermitted Development is inconsistent with the following Policies of the Santa Monica Mountains LCP:

- SN-20 Ensure that all new development is sized, designed and sited to minimize risks to life and property from fire hazard.*
- SN-23 Require that development sites and structures: be located off ridgelines and other dangerous topographic features such as chimneys, steep draws, and saddles; be adjacent to existing development perimeters; be located close to public roads; and, avoid over-long driveways.*

The placement of unpermitted houses on Respondent's Property has increased the risks to life and property in this fire hazard area within Topanga Canyon, a region of the Santa Monica Mountains that has been historically impacted by wildfires. The Santa Monica Mountains LCP opines on the challenges of fire management in the Santa Monica Mountains, noting particular

concern about ridgeline development as “the heat of wildfires actually pulls the fire uphill, consuming ridgeline structures...” The most southerly house on Respondent’s Property is situated on a ridgetop and, as mentioned earlier in this report, was described as “exceptionally hazardous” by the LACFD in an August 2005 letter to a former owner of Respondent’s Property. Along with a nearby shed, this unpermitted ridgetop house is especially distant from public roads and accessible only by a narrow, long driveway and not accessible by fire trucks (see Exhibit 15). Therefore, the Unpermitted Development is inconsistent with Section 30253 of the Coastal Act.

Protection of Water Quality

The Unpermitted Development is also inconsistent with Coastal Act Section 30231 which requires protection of the quality of coastal waters for marine organisms and humans. Section 30231 states that:

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.

In addition, the Unpermitted Development is inconsistent with Policy CO-76 of the Santa Monica Mountains LCP which states:

All new development shall be sited and designed so as to minimize grading, alteration of physical features, and vegetation clearance in order to prevent soil erosion, stream siltation, reduced water percolation, increased runoff, and adverse impacts on plant and animal life and prevent net increases in baseline flows for any receiving water body.

The unpermitted removal of native chaparral vegetation from a slope on the southern portion of Respondent’s Property and other locations throughout Respondent’s Property, as well as from privately-owned, neighboring properties (APN 4438-005-023 and APN 4438-005-005), have increased the potential for impacts caused by erosion, including increased erosion into a nearby USGS designated “blue-line” stream which functions as a tributary of Topanga Canyon Creek. Chaparral is also adapted to control erosion, especially on steep slopes. The root systems of chaparral plants are very deep, extending far below the surface and penetrating the bedrock below¹², so chaparral vegetation holds the hillsides together and prevents slippage.¹³ In addition, the direct soil erosion from precipitation is also greatly reduced by 1) water interception on the leaves and above ground foliage and plant structures, and 2) slowing the runoff of water across

¹² Helmers, H., J.S. Horton, G. Juhren and J. O’Keefe. 1955. Root systems of some chaparral plants in southern California. *Ecology* 36(4):667-678. Kummerow, J. and W. Jow. 1977. Root systems of chaparral shrubs. *Oecologia* 29:163-177.

¹³ Radtke, K. 1983. *Living more safely in the chaparral-urban interface*. General Technical Report PSW-67. U.S. Department of Agriculture, Forest Service, Pacific Southwest Research Station, Berkeley, California. 51 pp.

the soil surface and providing greater soil infiltration. The deep roots particularly help maintain ecosystem health and soil stability by reducing post-fire erosion and, thus, sediment loading of streams and watercourses. Therefore, the Unpermitted Development is inconsistent with Section 30231 of the Coastal Act.

In total, the removal of major chaparral vegetation and the undertaking of Unpermitted Development have, and are, impacting the habitat functions of contiguous blocks of chaparral vegetation considered an ESHA, increasing risks to life and property in a fire hazard area, and negatively contributing to potential erosion which increases potential impacts to the water quality of a coastal stream. Therefore, the Unpermitted Development is inconsistent with the resource protection policies of the Coastal Act and the Santa Monica Mountains LCP, and thus the second prong for issuance of a restoration order has been met.

c) The Unpermitted Development Is Causing Continuing Resource Damage

The Unpermitted Development is causing “continuing resource damage,” as those terms are defined by Section 13190 of the Commission’s regulations, provided below in relevant part.

(i) Definition of Continuing Resource Damage

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

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

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

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

In this case, the resource damages caused by the Unpermitted Development include the reduction in quality and abundance of contiguous blocks of chaparral vegetation considered to be ESHA; the failure to cluster development so as to avoid adverse effects on coastal resources; the increase in potential risks to life and property in a fire hazard area; and the increase in potential adverse impacts to water quality. As of this time, that Unpermitted Development and the results thereof remain on the Properties. The removal of native chaparral and the placement of unpermitted structures and non-native landscaping continue to impact the coastal resources by displacing the native ecosystem and preventing it from functioning, thereby disrupting the biological productivity of that ecosystem.

The Unpermitted Development is therefore causing damage to resources protected by the Coastal Act that continue to occur as of the date of this proceeding, and therefore damage to resources is

“continuing” for purposes of Section 30811 of the Coastal Act. The damage caused by the unpermitted development therefore satisfies the third and final prong for the issuance of a restoration order pursuant to Section 30811 of the Coastal Act.

d) Orders Are Consistent With Chapter 3 of the Coastal Act

The Consent Orders, attached to this staff report as Appendix A, are consistent with the resource protection policies found in Chapter 3 of the Coastal Act. These Consent Orders require and authorize Respondent to, among other things, cease and desist from conducting any further unpermitted development on the Properties, remove the physical items that were placed or allowed to come rest as a result of Unpermitted Development, and restore the areas impacted by the Unpermitted Development through undertaking restorative grading, removing non-native vegetation, planting native vegetation, and performing additional habitat protection and enhancement activities, including combining the two properties owned by Respondent into one property, and recording a deed restriction to preserve open space and habitat values, and an offer to dedicate a public trail easement. Further, the Consent Orders require and authorize Respondent to plant native plant species to be compatible with the surrounding chaparral habitat and to ensure that non-native plant species do not colonize the newly restored site and spread from there to supplant the surrounding native habitat. Failure to revegetate the site would lead to potential invasion of non-native plant species, thus decreasing the biological productivity of this habitat, inconsistent with the resource protection policies of the Coastal Act. The primary function of the native habitat revegetation is the restoration of ESHA; therefore, the proposed use is consistent with the Coastal Act. These Consent Orders also provide for Respondent to apply for approval after-the-fact of the retaining wall and a portion of the paved driveway. Finally, nothing in these Consent Orders precludes Respondent from applying to Los Angeles County for new development on Respondent’s Property.

Therefore, these Consent Orders are consistent with the Chapter 3 policies of the Coastal Act, and their issuance is consistent with section 30810(b).

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Commission finds that issuance of these Consent Orders to compel the removal of the Unpermitted Development and restoration of the property is exempt from any applicable requirements of the California Environmental Quality Act of 1970 (CEQA), Cal. Pub. Res. Code §§ 21000 *et seq.*, and will not have significant adverse effects on the environment, within the meaning of CEQA. The Orders are exempt from the requirement for the preparation of an Environmental Impact Report, based on Sections 15060(c)(2) and (3), 15061(b)(2), 15307, 15308 and 15321 of CEQA Guidelines, which are also in 14 CCR.

G. SUMMARY OF FINDINGS OF FACT

1. Conan Hayes, as Trustee for The Conan Hayes Revocable Living Trust, the Respondent, is the owner of property at 23200 Red Rock Road, Los Angeles County, CA 90290 (APN 4438-005-022).
2. Respondent's property is adjacent to private property described as APN 4438-005-055 and adjacent to private property at 23130 Red Rock Road, Los Angeles County, CA 90290 (APN 4438-005-023).
3. Development occurred, as defined by Coastal Act Section 30106, without a coastal development permit, on Respondent's property and on the adjacent private properties listed in #2, above.
4. The properties listed in #1 and #2 above are located within the Coastal Zone and include ESHA.
5. The Coastal Commission has jurisdiction over these violations because they involved development that, at the time it occurred, required a permit from the Commission, and none was obtained.
6. A Notice of Violation was recorded against Respondent's property on June 18, 2007, prior to his purchase.
7. Respondent purchased the property with knowledge of the Coastal Act violations on Respondent's Property.
8. The Unpermitted Development is inconsistent with Chapter 3 of the Coastal Act, Sections 30231, 30240, 30250 and 30253, and is causing "continuing resource damage" within the meaning of Coastal Act Section 30811 and Title 14, California Code of Regulations, Section 13190.
9. Coastal Act Section 30810 authorizes the Commission to issue a cease and desist order in these circumstances. Coastal Act Section 30811 authorizes the Commission to issue a restoration order in these circumstances.
10. The criteria for issuance of both a Cease and Desist Order and a Restoration Order have been met pursuant to Section 30810 and 30811 of the Coastal Act.
11. The work to be performed under these Consent Orders, if completed in compliance with the Consent Orders and the plans required therein, will be consistent with Chapter 3 of the Coastal Act and relevant sections of the Santa Monica Mountains LCP, is exempt from CEQA, and is therefore being authorized by issuance of these Consent Orders.

CONSENT CEASE AND DESIST ORDER CCC-15-CD-02 AND
CONSENT RESTORATION ORDER CCC-15-RO-02

1.0 CONSENT CEASE AND DESIST ORDER CCC-15-CD-02

Pursuant to its authority under California Public Resources Code ("PRC") Section 30810, the California Coastal Commission ("Commission") hereby orders and authorizes Conan Hayes, in his individual capacity and as trustee of the Conan Hayes Revocable Living Trust U/A dated January 28, 2010, and all of his successors, assigns, employees, agents, and contractors, and any persons acting in concert with any of the foregoing (hereinafter collectively referred to as "Respondent") to:

- 1.1 Cease and desist from engaging in any further development, as that term is defined in PRC Section 30106, that would require a Coastal Development Permit ("CDP") on any of the properties identified in Section 5.3 below ("Properties"), unless authorized pursuant to the Coastal Act (PRC Sections 30000-30900), which includes through these Consent Orders or exempt.
- 1.2 Cease and desist from maintaining any of the physical items that were placed or allowed to come to rest on the Properties as a result of Unpermitted Development, as that phrase is defined in Section 5.2, below.
- 1.3 Remove, pursuant to and consistent with the terms of an approved Removal Plan as set forth in Section 7.3, below, and pursuant to the terms and conditions set forth herein, unless otherwise specifically addressed in Section 6.0, below, all physical items placed or allowed to come to rest on the Properties as a result of any Unpermitted Development, including, but not necessarily limited to: the two houses and associated septic systems, building pads, and utility lines; the water pump; the water tank; the two propane tanks; the two sheds; the retaining walls; gates and fences; paved and unpaved roads and driveways; and non-native vegetation.
- 1.4 Fully and completely comply with the terms and conditions set forth below, including the terms and conditions of Consent Restoration Order CCC-15-RO-02, as provided in Section 2.0, below, which includes the restoration of chaparral and other native habitat in accordance with the specifications set forth in the Restoration Plan, required in Section 7, and the conservation and habitat enhancement activities in accordance with the specifications set forth in Section 8, below.

2.0 CONSENT RESTORATION ORDER CCC-15-RO-02

Pursuant to its authority under the PRC Section 30811, the Commission hereby orders and authorizes Respondent to restore the Properties by complying with the terms and conditions listed herein, including taking all restorative actions described in Section 7 and performing all activities required by Section 8, below.

PROVISIONS COMMON TO BOTH ORDERS

3.0 PERSONS SUBJECT TO THESE ORDERS

Conan Hayes, in his individual capacity and as trustee of the Conan Hayes Revocable Living Trust U/A dated January 28, 2010, all of his successors, assigns, employees, agents, and contractors, and anyone acting in concert with the foregoing, are jointly and severally subject to all requirements of these Consent Orders. Respondent agrees to undertake the work required herein and agrees to cause its employees and agents, and any contractors performing any of the work required herein, and any persons acting in concert with any of these entities, to comply with the terms and conditions of these Consent Orders. Respondent shall provide notice to all successors, assigns, and potential purchasers of the property located at 23200 Red Rock Road, Topanga, Los Angeles County (Los Angeles County Assessor's Parcel No. 4438-005-022), of any remaining restrictions or obligations under these Consent Orders.

4.0 NATURE OF ORDERS AND OF CONSENT

4.1 Through the execution of Consent Cease and Desist Order CCC-15-CD-02 and Consent Restoration Order CCC-15-RO-02 (hereinafter collectively referred to as "these Consent Orders"), Respondent agrees to comply with the terms and conditions of these Consent Orders. These Consent Orders authorize and require removal and restoration activities, among other things, outlined in these Consent Orders. Nothing in these Consent Orders conveys any right to development on the Properties other than the work expressly authorized by these Consent Orders. Any development subject to Coastal Act permitting requirements that is not specifically authorized under these Consent Orders requires a CDP. Nothing in these Consent Orders will restrict the submittal of any future application(s) by Respondent for coastal development permits for proposed development on the Hayes Property. Nothing herein provides any assurance of Los Angeles County's or the Commission's approval of any future application(s) by Respondent for coastal development permits. Through the execution of these Consent Orders, Respondent agrees to comply with these Consent Orders including the following terms and conditions.

4.2 Respondent further agrees to condition any contracts for work related to these Consent Orders upon an agreement that any and all employees, agents, and contractors, and any persons acting in concert with any of the foregoing, adhere to and comply with the terms and conditions set forth herein.

5.0 DEFINITIONS

For purposes of this document, the following terms and phrases have the meanings listed below.

5.1 “these Consent Orders”

The phrase “these Consent Orders” refers collectively to Coastal Commission Cease and Desist Order No. CCC-15-CD-02 and Restoration Order No. CCC-15-RO-02.

5.2 “Unpermitted Development”

“Unpermitted development” means all “development,” as that term is defined in the Coastal Act (PRC Section 30106), that has occurred on the Properties and required authorization pursuant to the Coastal Act, but for which no such authorization was obtained. This specifically includes, but is not necessarily limited to, the two houses and associated septic systems, building pads, and utility lines; the water pump; the water tank; the two propane tanks; the two sheds; the retaining walls; gates and fences; paved and unpaved roads and driveways; and non-native vegetation; grading of building pads; road expansion and improvements; and removal of major vegetation.

5.3 “Properties”

The “Properties” that are the subject of these Consent Orders are described as follows: 1) 23200 Red Rock Road, Topanga, CA 90290, identified by the Los Angeles County Assessor’s Office as Assessor’s Parcel Number (“APN”) 4438-005-022; 2) the adjacent property located at 23130 Red Rock Road, Topanga, CA 90290, identified as APN 4438-005-023; and 3) the adjacent property identified as APN 4438-005-005.

5.4 “Hayes Property”

The “Hayes Property” refers to the real property located at 23200 Red Rock Road, Topanga, CA 90290, currently identified by the Los Angeles County Assessor’s Office as APN 4438-005-022. As of February 20, 2015, the owner of record of the Hayes Property was Conan Hayes, Trustee of the Conan Hayes Revocable Living Trust U/A dated January 28, 2010.

5.5 "Restoration Area"

The phrase "Restoration Area" refers to all areas of the Properties that have been impacted by the Unpermitted Development, as well as any areas that may be impacted during the course of the activities required by these Consent Orders.

6.0 **SUBMITTAL OF AFTER-THE-FACT COASTAL DEVELOPMENT PERMIT APPLICATION**

6.1 If Respondent desires to retain the retaining wall and/or the portions of the access road as identified on Attachment A or any portions thereof ("Retained Development"), within **ninety (90) days** of the effective date of these Consent Orders, Respondent shall submit, and shall not withdraw or in any way impede final action by Los Angeles County ("County") or action by the Commission on appeal on a 'complete' CDP application for after-the-fact approval of the Retained Development.

- A. Respondent shall comply with the terms and conditions of any CDP issued in connection with the application submitted under Section 6.1, above, within two (2) years of final County action or Commission action on appeal, based upon the last action, unless an earlier deadline is established in the CDP(s), in which case Respondent shall comply with any such earlier deadline(s).
- B. Within ninety (90) days of the effective date of these Consent Orders, Respondent shall submit, for the review and approval of the Commission's Executive Director, a Removal, Erosion Control, Restoration, Remedial Grading, Revegetation, and Monitoring Plan for (a) the removal of any items of development described in Section 6.1, above, that Respondent does not apply to retain in the permit application required by Section 6.1, and (b) the implementation of restoration, erosion control, remedial grading, revegetation, and monitoring activities on areas impacted by the unpermitted development for which Respondent does not apply to retain. These plans shall be consistent with the provisions set forth in Section 7, below.
- C. Respondents shall submit, for the review and approval of the Commission's Executive Director, a Removal, Erosion Control, Restoration, Remedial Grading, Revegetation, and Monitoring Plan for the removal of any items of development described in Section 6.1 for which an after-the-fact application to retain the items was denied by the County, or the Commission on appeal. These restoration plans shall be submitted within thirty (30) days of final action on said denial, and shall be consistent with the provisions set forth in Section 7, below.

7.0 **RESTORATION PLAN**

These Consent Orders require the preparation and implementation of a Temporary Erosion Control Plan, Removal Plan, Remedial Grading Plan, Revegetation Plan, and Monitoring Plan (hereinafter collectively referred to as "the Restoration Plan"). The

Restoration Plan shall set forth the measures that Respondent shall undertake to: install temporary erosion control measures, remove the unpermitted items subject to these Consent Orders, conduct remedial grading activities, revegetate the Restoration Area, and monitor the restoration area to ensure the success of restoration activities.

7.1 General Provisions

- A. Within **thirty (30) days** of the approval required by Section 7.1.C, but in no case later than ninety (90) days after the effective date of these Consent Orders, Respondent shall submit, for the review and approval of the Executive Director, the Restoration Plan.
- B. The Restoration Plan shall contain all the following plan components of restoration described in detail below: 1) Temporary Erosion Control Plan; 2) Removal Plan; 3) Remedial Grading Plan; 4) Revegetation Plan; and 5) Monitoring Plan. The Restoration Plan shall outline all proposed removal activities, all proposed temporary erosion control measures to be implemented, all remedial grading activities, all revegetation activities, and all monitoring activities to address impacts caused by the Unpermitted Development or potential impacts caused by any activities undertaken through these Consent Orders.
- C. The Restoration Plan, and any reports prepared pursuant to the Restoration Plan or these Consent Orders, shall be prepared by a qualified restoration ecologist(s), resource specialist(s), and/or engineer(s) ("Specialist"). Within **thirty (30) days** of the effective date of these Consent Orders and prior to the submittal of the Restoration Plan, Respondent shall submit, for the Executive Director's review and approval, a description of the qualifications of the proposed Specialist, including a description of the Specialist's educational background, training, and experience related to the preparation and implementation of the Restoration Plan described herein. If the Executive Director determines that the qualifications of the Specialist are not adequate to conduct the required restoration work, he shall notify Respondent and, within **ten (10) days** of such notification, Respondent shall submit a different Specialist for the Executive Director's review and approval.
- D. The Restoration Plan shall include a map(s), drawn to scale, that shows the specific parameters, locations and extents of: 1) all applicable property boundaries; 2) the physical items placed or allowed to come to rest on the Properties as a result of Unpermitted Development that are to be removed under Section 7.3, below; 3) the areas of native vegetation removal that resulted from the Unpermitted Development; 4) the current topography of all landscape features on the Properties; 5) the locations of all erosion control measures to be installed pursuant to Section 7.2, below; 6) all existing non-native plants that shall be removed pursuant to Section 7.3, below; 7) the locations of all species, individually delineated and labeled, to be planted pursuant to Section 7.5, below;

and 8) the specific locations and directions from which photographs will be taken for the annual monitoring reports pursuant to Section 7.6.D.1, below.

- E. The Restoration Plan shall provide that, prior to the initiation of any restoration or removal activities, the boundaries of the Restoration Area shall be physically delineated in the field, using temporary measures such as fencing, stakes, colored flags, or colored tape. The Restoration Plan shall further provide that all delineation materials shall be removed when no longer needed, and verification of such removal shall be provided in the annual monitoring report corresponding to the reporting period during which the removal occurred.
- F. The Restoration Plan shall include a specific schedule/timeline of activities for each of the Restoration Plan components, below, the procedures to be used, and identification of the parties who will be conducting the restoration activities.
- G. The Restoration Plan shall describe, in detail, all equipment to be used. All tools utilized shall be hand tools unless the Specialist demonstrates to the satisfaction of the Executive Director that mechanized equipment is needed and will not impact resources protected under the Coastal Act, including but not limited to: geological stability, integrity of landforms, freedom from erosion, and existing native vegetation. If mechanized equipment is proposed, the Restoration Plan shall provide for:
 - 1. Limitations on the hours of operations for all equipment and a contingency plan that addresses at a minimum: 1) potential impacts from equipment use, including disturbance of areas where revegetation and/or any of the habitat enhancement activities required by Section 8.5, below, will occur and the responses thereto; 2) potential spills of fuel or other hazardous releases that may result from the use of mechanized equipment and the responses thereto; and 3) any potential water quality impacts.
 - 2. Designated areas for staging of any construction equipment and materials, including receptacles and temporary stockpiles of materials. All stock piles and construction materials shall be covered, enclosed on all sides, located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wind or runoff erosion and dispersion
 - 3. Designated and confined areas for maintaining and washing machinery and equipment specifically designed to control runoff. Thinners or solvents shall not be discharged anywhere on the Properties, including into sanitary or storm sewer systems. The discharge of hazardous materials into any receiving waters is prohibited.

7.2 Temporary Erosion Control Plan

- A. Respondent shall submit, as part of the Restoration Plan, a Temporary Erosion Control Plan, prepared by a qualified Specialist approved pursuant to Section 7.1.C, above, to address ground disturbance during any construction or restoration activities and erosion during the establishment of any vegetation planted pursuant to Section 7.5, below, and to stabilize the soil and prevent erosion.
- B. The Temporary Erosion Control Plan shall: 1) include a narrative report describing all temporary run-off and erosion control measures to be used during remedial grading/removal/restoration activities; 2) identify and delineate on a site or grading plan the location of all temporary erosion control measures; and 3) specify that the remedial grading, removal work, and construction of erosion control features shall take place only during the dry season (April 1 – November 1). If recommended by the Specialist, this period may be extended for a limited period of time pursuant to Section 15.0, below.
- C. The Temporary Erosion Control Plan shall indicate that all erosion control measures are required to be installed and fully functional on the Restoration Area prior to, or concurrent with, the initial removal activities required by these Consent Orders and maintained at all times of the year throughout the removal, remedial grading, and revegetation process, to minimize erosion across the site and potential sedimentation of streams, drains, and/or culverts.
- D. The Temporary Erosion Control Plan shall indicate that all erosion control measures, including measures to encase filtering devices, shall be comprised of bio-degradable materials. Any soil stabilizers shall be compatible with native plant recruitment and establishment. Soil stabilization methods shall not include the placement of retaining walls or other permanent structures, grout, geogrid, or similar materials.
- E. The Temporary Erosion Control Plan shall indicate that all erosion control measures are temporary and will be eliminated from the Restoration Area by Respondent once the native plant habitat is established. Verification of such removal shall be provided in the annual monitoring report for the reporting period during which the removal occurred.
- F. The Temporary Erosion Control Plan shall include the following deadlines:
1. Within **fifteen (15) days** of approval of the Restoration Plan by the Executive Director, Respondent shall commence implementation of the Temporary Erosion Control Plan.
 2. Within **sixty (60) days** of commencing installation activities under the Temporary Erosion Control Plan, Respondent shall conclude installation, unless such measures must be installed after completion of the removal

activities pursuant to Section 7.3, below, in which case Respondent shall conclude installation of any such measures immediately after removal activities are completed.

3. Within **fifteen (15) days** of the completion of the installation of erosion control measures under the Temporary Erosion Control Plan, Respondent shall submit evidence in the form of a narrative report, for the Executive Director's review and approval, as described in Section 7.7.B below. The Temporary Erosion Control Plan Report shall also show the devices installed, the type of devices installed, and document their potential impacts on the Restoration Area.

7.3 Removal Plan

- A. Respondent shall submit, as part of the Restoration Plan, a Removal Plan, prepared by a qualified Specialist approved pursuant to Section 7.1.C, that will describe, in detail, all measures to be used for the removal and off-site disposal of all physical items that were placed or that have come to rest on the Properties as a result of the Unpermitted Development and are required to be removed pursuant to these Consent Orders, unpermitted development for which no authorization is sought by the deadlines established in these Consent Orders pursuant to Section 6.1, and unpermitted development for which authorization is denied by the County or the Commission on appeal, pursuant to Section 6.1(B).
- B. The Removal Plan shall include a description of the location, identity, and a proposed plan for the removal of all physical items or vegetation resulting from Unpermitted Development to be removed from the Properties, including all of the items specifically identified in Section 5.2, above.
- C. The Removal Plan shall identify the location of the site(s) for the off-site disposal of all materials removed from the Properties and all waste generated during restoration activities pursuant to these Consent Orders. If a disposal site is located in the Coastal Zone and is not an existing sanitary landfill, a CDP is required for such disposal. All hazardous waste must be disposed of at a suitable licensed disposal facility.
- D. The Removal Plan shall indicate that removal activities shall not disturb areas outside of the Restoration Area. The Removal Plan shall indicate that any areas in or outside of the Restoration Area disturbed by the removal activities under the Removal Plan shall be included in restoration activities under this Restoration Plan, including any further removal, temporary erosion control, remedial grading, and/or revegetation measures that are required to address the additional disturbance.
- E. The Removal Plan shall include the following deadlines:

1. Within **thirty (30) days** of approval of the Restoration Plan by the Executive Director, Respondent shall initiate removal of the physical items related to the Unpermitted Development.
2. Within **thirty (30) days** of commencing implementation of the Removal Plan, all removal activities shall be completed.
3. Within **fifteen (15) days** of the completion of the removal of all unpermitted items, Respondent shall submit evidence, for the Executive Director's review and approval, in the form of a narrative report as described in Section 7.7.B, below, demonstrating that the removal has been completed pursuant to these Consent Orders and the approved Restoration Plan.

7.4 Remedial Grading Plan

- A. Respondent shall submit, as part of the Restoration Plan, a Remedial Grading Plan prepared by a qualified Specialist approved pursuant to Section 7.1.C, above, that will describe all measures necessary to return the Properties to their pre-violation topography.
- B. The Remedial Grading Plan shall include sections showing original and finished grades, and a quantitative breakdown of grading amounts (cut/fill), drawn to scale with contours that clearly illustrate, as accurately as possible, the pre-violation and the current, unpermitted topography. The Remedial Grading Plan shall demonstrate how the proposed remedial grading will restore the Properties to their original, pre-violation topography. The Remedial Grading Plan shall identify the source and date of all data used to produce this information.
- C. The Remedial Grading Plan shall indicate that the proposed remedial grading activities will restore the original topography of the Properties to the condition that existed prior to any unpermitted disturbance and that will be sufficient to support restoration of chaparral and other native habitat.
- D. If the Specialist determines that alterations to the original topography, or to any other aspect of the Properties from its pre-violation state, are necessary to ensure successful restoration of chaparral or other native habitat, the Remedial Grading Plan shall include this proposed topography or a description of the proposed changed aspects and the methods to be used to attain the modified outcome.
- E. Implementation of the Restorative Grading Plan shall be undertaken in a way that minimizes the impacts to the Restoration Area. Areas adjacent to the Restoration Area shall not be disturbed by activities related to remedial grading or any other activity required by these Consent Orders. Prior to initiation of any activities resulting in physical alteration of the Properties, the disturbance boundary shall be

physically delineated in the field using temporary measures identified in Section 7.1.E, above.

- F. The Remedial Grading Plan shall include the following deadlines:
1. Within **sixty (60) days** of approval of the Restoration Plan by the Executive Director, Respondent shall commence implementation of the Remedial Grading Plan.
 2. Within **thirty (30) days** of commencing implementation of the remedial grading activities, Respondent shall complete implementation of the Remedial Grading Plan.
 3. Within **fifteen (15) days** of the completion of the Remedial Grading Plan, Respondent shall submit evidence, for the Executive Director's review and approval in the form of a narrative report as described in Section 7.7.B, below, showing that the remedial grading has been completed pursuant to the approved Restoration Plan. The Remedial Grading Report shall also include any reference sites, case studies, or other data that was used in the analysis and, if applicable, provide reasons for altering the topography from the original contours or changing any other aspect of the pre-violation topography conditions of the Properties.

7.5 Revegetation Plan

- A. Respondent shall submit, as part of the Restoration Plan, a Revegetation Plan prepared by a qualified Specialist approved pursuant to Section 7.1.C, above, that will describe the measures necessary to revegetate the Restoration Area such that the Restoration Area has a similar plant density, total cover and species composition as that typical of undisturbed native chaparral habitat (or other native habitat found in the reference site, pursuant to Section 7.5.C) in the surrounding area.
- B. The Revegetation Plan shall include a detailed description of the methods that shall be utilized to restore the Restoration Area to the condition that existed prior to the Unpermitted Development occurring. The Revegetation Plan shall include detailed descriptions, including graphic representations, narrative reports, and photographic evidence, as necessary, of the vegetation in the Restoration Area prior to any unpermitted development activities undertaken on the Properties, and the present state of Restoration Area. The Revegetation Plan shall demonstrate that the Restoration Area will be revegetated using plant species endemic to and appropriate for the subject site.
- C. The Revegetation Plan shall identify the natural habitat type that is the model for the restoration and describe the desired relative abundance of particular species in each vegetation layer. This section shall explicitly lay out the restoration goals

and objectives for the revegetation based on that model. The Revegetation Plan shall include a detailed description of reference site(s) including rationale for selection, location, and species compositions, distributions, and densities. The reference site(s) shall be located as close as possible to the Restoration Area, shall be similar in all relevant respects, and shall serve as the standard for measuring success of the restoration activities under these Consent Orders.

1. Based on these goals and the composition of the reference site(s), the Revegetation Plan shall list the species to be planted, including other native species that may be utilized alongside chaparral and other native habitat endemic to and appropriate for the Restoration Area. The plan shall identify, describe, and provide a rationale for the species that are to be planted (plant "palette"), as well as their size and number, the number of container plants and the rate and method of seed application.
 2. The Revegetation Plan shall indicate that plant propagules and seeds must come from local, native stock of the Santa Monica Mountains. If plants, cuttings, or seeds are obtained from a nursery, the nursery must certify that they are of local origin (Santa Monica Mountains) and are not cultivars. The Revegetation Plan shall provide specifications for preparation of nursery stock. Technical details of planting methods (e.g. spacing, micorrhizal inoculation, etc.) shall be included. Respondent shall not employ non-native plant species, which could supplant native plant species in the Restoration Area.
- D. The Revegetation Plan shall include a map showing the type, size, and location of all plant materials that will be planted in the Restoration Area; the location of all non-native plants to be removed from the Restoration Area and adjacent areas; the topography of all other landscape features on the site; and the location of photographs of the Restoration Areas that will provide reliable photographic evidence for annual monitoring reports, as described in Section 7.6.D.1, below.
- E. The Revegetation Plan shall include, for the review and approval of the Executive Director, a schedule, prepared by the Specialist, for installation of plants, removal of non-native plants, and completion of revegetation on the properties.
1. The revegetation schedule shall include specific time periods and deadlines, including identifiable interim goals, for planting, other revegetation activities, and additional non-native species removal work spread out over the time period established in this section.
- F. The Revegetation Plan shall include a detailed explanation of the performance standards that will be utilized to determine the success of the restoration. The performance standards shall identify that 'x' native species appropriate to the habitat should be present, each with at least 'y' percent cover or with a density of at least 'z' individuals per square meter. The description of restoration success

shall be described in sufficient detail to enable an independent specialist to duplicate it.

- G. The Revegetation Plan shall demonstrate that all non-native vegetation within the Restoration Area will be eradicated prior to any revegetation activities on the Properties. In addition, the Revegetation Plan shall specify that non-native vegetation removal shall occur year round, including on a monthly basis during the rainy season (January through April) for the duration of the Monitoring Plan.
- H. The Revegetation Plan shall describe the proposed use of artificial inputs, such as irrigation, fertilizer or herbicides, including the full range of amounts of the inputs that may be utilized. The minimum amount necessary to support the establishment of the plantings for successful restoration shall be utilized.
1. No permanent irrigation system is allowed in the Restoration Area. A temporary above-ground irrigation system to provide for the establishment of plantings is allowed for a maximum of three (3) years or until the revegetation has become established, whichever comes first.
 2. If, after the three (3) year time limit, the vegetation planted pursuant to the Revegetation Plan has not become established, the Executive Director may, upon receipt of a written request from Respondent, allow for the continued use of the temporary irrigation system. The written request shall outline the need for and duration of the proposed extension.
- I. The Revegetation Plan shall include the following deadlines:
1. Within **ninety (90) days** of approval of the Restoration Plan by the Executive Director, Respondent shall commence initial phases of revegetation activities by implementing the Revegetation Plan.
 2. Within **ninety (90) days** of commencing implementation of activities under the Revegetation Plan, Respondent shall complete implementation of all planting activities under the Revegetation Plan.
 3. Within **fifteen (15) days** from completion of the Revegetation Plan, Respondent shall submit a report for the Executive Director's review and approval as described in Section 7.7.B, below, showing that the revegetation has been completed pursuant to the Restoration Plan.
 4. If the Specialist recommends planting to occur at a certain time of year beyond deadlines set forth herein, the Executive Director may, at the written request of Respondent, extend the deadlines as set forth in Section 15.0 of these Consent Orders in order to achieve optimal growth of the vegetation.

7.6 Monitoring Plan

- A. Respondent shall submit, as part of the Restoration Plan, a Monitoring Plan prepared by a qualified Specialist approved pursuant to Section 7.1.C, above that will provide for monitoring the Restoration Area over a period of, at a minimum, **five (5) years** from the completion and full implementation of the Revegetation Plan to ensure successful restoration.
- B. The Monitoring Plan shall describe the monitoring and maintenance methodology, including sampling procedures, sampling frequency, and contingency plans to address potential problems with restoration activities or unsuccessful restoration of the Properties.
- C. The Monitoring Plan shall specify that the Specialist shall conduct at least **four (4)** site visits annually for the duration of the monitoring period, for the purposes of inspecting and maintaining: all erosion control measures; non-native species eradication; trash and debris removal; the health and abundance of existing vegetation and/or vegetation planted pursuant to these Consent Orders; and any other activities undertaken through the Restoration Plan.
- D. Respondent shall submit, on an annual basis and during the same one-month period of each year (no later than December 31st of the first year after completion of the revegetation), for **five (5) years** starting from the completion of the revegetation phase of the Restoration Plan, a written report, for the review and approval of the Executive Director, prepared by the Specialist, evaluating compliance with the Restoration Plan.
1. These reports shall include photographs taken during the periodic site inspections at the same time of year indicating the progress of recovery in the Restoration Area. The photographs will be taken from the same pre-designated locations (as identified on the map submitted pursuant to Section 7.1.D, above). The locations from which the photographs are taken shall not change over the course of the monitoring period unless the Specialist requests changes that are approved by the Executive Director.
- E. If periodic inspections or the monitoring reports indicate that the restoration project or a portion thereof is not in conformance with the Restoration Plan or these Consent Orders, or is failing to meet the goals and/or performance standards specified in the Restoration Plan, Respondent shall submit a revised or supplemental Restoration Plan ("Revised Restoration Plan") for review and approval of the Executive Director.
1. The Revised Restoration Plan shall be prepared by a qualified Specialist, approved by the Executive Director pursuant to Section 7.1.C, above, and shall specify measures to correct those portions of the restoration that have failed or are not in conformance with the original, approved Restoration

Plan or these Consent Orders. The Executive Director will then determine whether the Revised Restoration Plan must be processed as a modification of these Consent Orders, a new Restoration Order, or a new or amended Coastal Development Permit.

2. After the Revised Restoration Plan has been approved, these measures, and any subsequent measures necessary to carry out the original, approved Restoration Plan, shall be undertaken by Respondent until the goals of the original, approved Restoration Plan have been met to the satisfaction of the Executive Director. Following completion of the Revised Restoration Plan's implementation, the duration of the monitoring period shall be extended for at least a period of time equal to that during which the project remained out of compliance, but in no case less than two (2) annual reporting periods.
- F. At the end of the five (5) year monitoring period, or any other monitoring duration required by a Revised Restoration Plan, Respondent shall submit for the review and approval of the Executive Director a final, detailed report prepared by the Specialist that documents the successful restoration of the Properties.
1. If the Executive Director determines from this final report that the restoration has in part, or in whole, been unsuccessful, based on the requirements of the approved Restoration Plan, Respondent shall submit a Revised Restoration Plan, in accordance with the requirements of these Consent Orders, and the monitoring program shall be revised accordingly.

7.7 Implementation and Completion of Restoration Plan

- A. Upon approval of the Restoration Plan (including the Temporary Erosion Control, Removal, Remedial Grading, Revegetation, and Monitoring plan components) by the Executive Director, Respondent shall fully implement each phase of the Restoration Plan consistent with all of its terms and the terms set forth herein. Respondent shall complete all work described in the Restoration Plan, other than the monitoring activities required by Section 7.6, no later than **one hundred and eighty (180) days** from approval of the Restoration Plan. If Section 7.6.F.1, above, requires Respondent to complete a Revised Restoration Plan, Respondent shall also implement the approved version of that Revised Restoration Plan and complete that work within ninety (90) days of approval of that plan.
- B. Within **fifteen (15) days** of the completion of all the work described pursuant to the Temporary Erosion Control, Removal, Remedial Grading, and Revegetation Plan, respectively, Respondent shall submit a written report, prepared by the Specialist, for the review and approval of the Executive Director, documenting all restoration work performed on the Properties pursuant to the Restoration Plan. This report shall include a summary of dates when work was performed and photographs taken from the pre-designated locations documenting

implementation of the respective components of the Restoration Plan, including photographs of the Properties before any work occurs and after it is completed.

8.0 CONSERVATION AND ENHANCEMENT ACTIVITIES

8.1 Lot Combination

Combine APN 4438-004-012 and the Hayes Property pursuant to the process described in Santa Monica Mountains Local Implementation Plan section 22.44.680, by taking the following steps:

- A. Within thirty (30) days of issuance of these Consent Orders, but prior to submitting a Request for Merger and associated minor CDP application to Los Angeles County for a lot line adjustment to achieve the combination described immediately above, Respondent shall submit, for the review and approval of the Commission's Executive Director, all documents that Respondent proposed to have recorded to effectuate the merger.
- B. Within fifteen (15) days of the approval granted by the Executive Director pursuant to Section 8.1.A, above, submit a complete Request for Merger and associated minor CDP application for a lot line adjustment to the Los Angeles County Department of Regional Planning consistent with the standards and procedures for obtaining a lot line adjustment, including the required fees.
- C. If, after obtaining the Executive Director's approval and submitting its package to Los Angeles County, the County requires further changes, resubmit the revised documents to the Commission's Executive Director for review and approval prior to recordation.
- D. Within thirty (30) days of Los Angeles County approval of the Request for Merger and associated minor CDP application for a lot line adjustment, submit: (i) a certified copy of the recorded Certificate of Compliance and (ii) an updated preliminary report showing the recorded document running in the chain of title.

- 8.2 Six months after issuance of these Consent Orders, if it is not yet the case that (i) the Certificate of Compliance for the merger has been recorded in the Office of the County Recorder, (ii) the Assessor's Parcel Map has been updated, and (iii) documentation of points (i) and (ii) has been provided to the Executive Director to his satisfaction; then Respondent shall provide an update to the Executive Director on the status of the process, for the Executive Director's evaluation. The Executive Director shall then determine whether to (a) provide additional time for the process described above and a deadline at which time the process in this paragraph shall be repeated or (b) require the recordation of a Declaration of

Restrictions to combine APNs 4438-004-012 and the Hayes Property. If the Executive Director chooses option (b), Respondent shall take the following steps:

- A. Execute and record a deed restriction against APNs 4438-004-012 and the Hayes Property, in a form acceptable to the Executive Director, reflecting that (1) all portions of APNs 4438-004-012 and the Hayes Property shall henceforth be considered and treated as a single parcel of land for all purposes, including but not limited to sale, conveyance, lease, development, taxation or encumbrance, unless and until the land is subdivided consistent with all applicable laws, including the Coastal Act; and (2) the single parcel so described shall not be divided unless and until such a legal subdivision occurs.
- B. This action shall function to combine and unify APN 4438-004-012 and the Hayes Property for purposes of the Subdivision Map Act. The deed restriction shall include a legal description and graphic depiction of the entire APN 4438-004-012 and the entire Hayes Property. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens, including tax liens, as well as encumbrances that the Executive Director determines may affect the enforceability of the restriction.
- C. Within ninety (90) days of recordation of the deed restriction, Respondent shall provide evidence to the Executive Director that the steps above were completed.

8.3 Open Space Deed Restriction

- A. Within **thirty (30) days** of the effective date of these Consent Orders, Respondent shall execute and record a Deed Restriction in a form and content acceptable to the Executive Director over Respondent's property currently designated by the Los Angeles County Assessor's office as APN 4438-004-012 to preserve its open space and habitat values. The recorded document shall reflect that no development, as defined in PRC Section 30106, shall occur on APN 4438-004-012 with the exception that any lot combination activities, as required by Section 8.1, above, or removal and restoration activities, as required by Section 8.5, below, will not be prohibited.
- B. All documents to be recorded to effectuate the Deed Restriction shall be submitted to the Executive Director for review and approval prior to recordation. The recorded Deed Restriction shall include a formal legal description of the property and a metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, of APN 4438-004-012. The Deed Restriction shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the

enforceability of the restrictions and shall run with the land, binding all successors and assigns. Certified copies of all documents recorded by the County Recorder's Office shall be submitted to Commission staff, according to Section 9.0 of these Consent Orders, within thirty (30) days of recordation.

8.4 Offer-to-Dedicate Public Access Easement

- A. Within **thirty (30) days** of the effective date of these Consent Orders, Respondent agrees to execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director a ten foot (10') wide public access hiking and equestrian trail easement in the general location and configuration depicted in Attachment B¹.
- B. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use that may exist on the property. The document shall also provide that the easement holder shall not install any gate(s) at the entrance to or exit from the trail easement area.
- C. The offer shall provide the public the right to pass and re-pass over the dedicated route. The document shall be recorded free of prior liens and encumbrances, except for tax liens, which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable. The document shall include a formal legal description of the Hayes Property; and a formal metes and bounds legal description and corresponding graphic depiction drawn to scale of the trail easement area both prepared by a licensed surveyor based on an onsite survey.

8.5 Habitat Enhancement Plan

- A. As part of the Restoration Plan required by Section 7, within **thirty (30) days** of the approval required by Section 7.1.C, but in no case later than ninety (90) days after the effective date of these Consent Orders, Respondent shall submit, for the review and approval of the Commission's Executive Director, a plan to enhance the habitat on the property currently identified as APN 4438-004-012 and on the Hayes Property ("Habitat

¹ Respondent agrees to stipulate in the offer of dedication that the precise location and configuration of the trail may need to be adjusted to conform to future trail alignment plans.

Enhancement Plan”). The Habitat Enhancement Plan shall be implemented consistent with all the terms of the Restoration Plan. Prior to the expiration of the deadline for submittal of the Habitat Enhancement Plan, Respondent may request from the Executive Director an extension of the deadline pursuant to Section 15.0.

1. The Habitat Enhancement Plan shall provide for: 1) the removal of all items of development from APN 4438-004-012 and restoration, including removal of non-native vegetation and replacement with native plant species endemic to and appropriate for the site, of those areas impacted by development and 2) the eradication of non-native vegetation throughout the Hayes Property and replacement with native plant species endemic to and appropriate for the site.
 2. The total size of the area on the Hayes Property from which non-native vegetation shall be removed and revegetated with appropriate native plant species pursuant to Section 8.5.A (“Habitat Enhancement Area”) above, shall be no fewer than eight acres.
- B. Respondent shall begin implementation of the Habitat Enhancement Plan within **thirty (30) days** of approval of the Habitat Enhancement Plan by the Executive Director, and shall complete all elements of the Habitat Enhancement Plan based upon the deadlines provided in the Plan, but in any case no later than completion of the work in Section 7.7(A).
- C. Within **fifteen (15) days** of the completion of all the work described pursuant to the Habitat Enhancement Plan, other than the monitoring activities required by Section 7.6, above, Respondent shall submit a written report, prepared by the Specialist, for the review and approval of the Executive Director, documenting all restoration work performed pursuant to the Habitat Enhancement Plan. This report shall include a summary of dates when work was performed and photographs taken from the pre-designated locations documenting implementation of the Habitat Enhancement Plan, including photographs of APN 4438-004-012 and the Hayes Property before any work occurs and after it is completed.

ADDITIONAL PROVISIONS COMMON TO BOTH ORDERS

9.0 SUBMITTAL OF DOCUMENTS

All documents submitted to the Commission pursuant to these Consent Orders shall be sent to:

With a copy sent to:

California Coastal Commission
Attn: Cody Naylor
45 Fremont St, Suite 2000
San Francisco, CA 94105

California Coastal Commission
Attn: Kristen Hislop
89 S. California St, Suite 200
Ventura, CA 93001

10.0 SITE ACCESS

- 10.1 Respondent shall provide access to the Hayes Property at all reasonable times to Commission staff and any agency having jurisdiction over the work being performed under these Consent Orders, upon twenty-four (24) hours notice, when the Executive Director determines feasible, having been provided to the appropriate representative(s) of Respondent, who shall be designated for this purpose in the Restoration Plan. Commission staff may enter and move freely about the portions of the Restoration Area and on adjacent areas to view the areas where development is being performed pursuant to these Consent Orders for purposes including, but not limited to: inspecting records, operating logs, and contracts relating to the site and overseeing, inspecting, and reviewing the progress of Respondent in carrying out the terms of these Consent Orders. Nothing in these Consent Orders is intended to limit in any way the right of entry or inspection that any agency may otherwise have by any law.
- 10.2 Respondent shall provide, within **fifteen (15) days** of the effective date of these Consent Orders, written documentation from the property owners of the adjacent property at 23130 Red Rock Road, Topanga, CA 90265 (APN 4438-005-023) and property identified as APN 4438-005-005, that the Respondent and other parties, including Commission staff, have permission to access and perform restoration activities as set forth in these Consent Orders on the parts of those properties onto which the Restoration Area extends, and that those property owners agree not to impede Respondent from undertaking the activities required by these Consent Orders or to impede Commission staff from accessing these properties for purposes of inspecting records, operating logs, and contracts relating to the site and overseeing, inspecting, and reviewing the progress of Respondent in carrying out the terms of these Consent Orders.
- 10.3 If at any point prior to Respondent's completion of the obligations set forth in these Consent Orders, Respondent is denied permission to access or perform restoration activities in any part of the Restoration Area on adjacent properties, the following shall occur:
- A. Respondent shall refrain from accessing or performing work on that adjacent property and notify the Executive Director immediately.
 - B. The obligation to resolve the violations described in these Consent Orders shall remain in effect and Respondent shall utilize all reasonable efforts in

a timely fashion to re-secure permission to access and complete restoration work upon the Properties.

- C. Respondent shall continue to promptly complete removal and restoration activities in all other areas of the Restoration Area in accordance with all deadlines in these Consent Orders.

10.4 If at any point prior to Respondent's completion of the obligations set forth in these Consent Orders, Respondent is denied permission to access or perform restoration activities in any part of the Restoration Area on adjacent properties and is unable to complete restoration activities under Section 7, above, Respondent may submit a request for the Executive Director's approval to substitute for that unrestored portion of the Restoration Area by providing habitat enhancement at a ratio of 7:1 (area of additional habitat enhancement: Restoration Area left unrestored).

- A. Within **thirty (30) days** of the approval required by Section 7.1.C, but in no case later than ninety (90) days after Respondent notifies the Executive Director of being denied permission to access or perform restoration activities in any part of the Restoration Area on adjacent properties and is unable to complete restoration activities under Section 7, above, Respondent shall submit, for the review and approval of the Commission's Executive Director, a plan to enhancement native habitat, in the event that Respondent is denied permission to access or perform restoration activities required by Section 7, above, in any part of the Restoration Area on adjacent properties impacted by the Unpermitted Development ("Supplemental Habitat Enhancement Plan"). The Supplemental Habitat Enhancement Plan shall be implemented consistent with all the terms of the Restoration Plan. Prior to the expiration of the deadline for submittal of the Supplemental Habitat Enhancement Plan, Respondent may request from the Executive Director an extension of the deadline pursuant to Section 15.0.

- B. The Supplemental Habitat Enhancement Plan shall contain a map overlain with the dimensions of the area impacted by the Unpermitted Development and the dimensions of each proposed area of supplemental habitat enhancement. Respondent shall additionally provide the aerial extent of each element calculated in square footage.

- 1. The Supplemental Habitat Enhancement Plan shall provide site and resource-specific habitat enhancement for each distinct area of disturbance at a ratio of 7:1 (area of supplemental habitat enhancement: Restoration Area left unrestored).

- 2. If Respondent demonstrates to the satisfaction of the Executive Director that there are not sufficient areas on the Properties,

excluding the Restoration Area, that are in need of re-establishment of native vegetation and could thus serve as habitat enhancement areas, Respondent shall propose that the balance of the required square footage of habitat enhancement be established in areas upon public lands within the Santa Monica Mountains. In the event that offsite habitat enhancement is necessary, Respondent shall obtain consent and will provide, as part of the submittal required in Section 10.3.A, written documentation from the property owner of the offsite habitat enhancement site that Respondent, and other parties including Commission staff, have permission to access and perform restoration activities on the offsite habitat enhancement site, as set forth in these Consent Orders.

3. Respondent shall begin implementation of the Supplemental Habitat Enhancement Plan within **thirty (30) days** of approval of the Supplemental Habitat Enhancement Plan by the Executive Director, and shall complete all elements of the Supplemental Habitat Enhancement Plan based upon the deadlines provided in the Supplemental Habitat Enhancement Plan, but in any case no later than completion of the work in Section 7.7(A).

11.0 EFFECTIVE DATE AND TERMS OF THESE CONSENT ORDERS

The effective date of these Consent Orders is the date the Commission votes to issue these Consent Orders. These Consent Orders shall remain in effect permanently unless and until rescinded by the Commission.

12.0 FINDINGS

These Consent Orders are issued on the basis of the findings adopted by the Commission, as set forth in the document entitled "Staff Report and Findings for Consent Cease and Desist Order No. CCC-15-CD-02 and Consent Restoration Order No. CCC-15-RO-02." The Commission has authorized the activities required in these Consent Orders as being consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act.

13.0 COMMISSION JURISDICTION

The Commission has jurisdiction over resolution of the Coastal Act violations on the Properties pursuant to PRC Sections 30810 and 30811.

14.0 REVISIONS OF DELIVERABLES

The Executive Director may require revisions to deliverables required under these Consent Orders, and Respondent shall revise any such deliverables consistent with the Executive Director's specifications, and resubmit them for further review and approval

by the Executive Director within any deadlines established by the modification request from the Executive Director.

15.0 DEADLINES

Prior to the expiration of any given deadline established by these Consent Orders, Respondent may request from the Executive Director an extension of the unexpired deadline. Such a request shall be made in writing **ten (10) days** in advance of the deadline, and directed to the Executive Director, care of Cody Naylor at the San Francisco office address identified in Section 9.0, above. The Executive Director may grant an extension of deadlines upon a showing of good cause, if the Executive Director determines that Respondent has demonstrated that Respondent has diligently worked to comply with its obligations under these Consent Orders but cannot meet deadlines due to unforeseen circumstances beyond its control. A violation of deadlines established pursuant to these Consent Orders will result in stipulated penalties, as provided for in Section 18.2, below.

16.0 RESOLUTION OF MATTER VIA SETTLEMENT

In light of the intent of the parties to resolve these matters in settlement, Respondent has not submitted a "Statement of Defense" form as provided for in Sections 13181 and 13191 of Title 14 of the California Code of Regulations ("14 CCR") and has agreed not to contest the legal and factual bases for, the terms of, or the issuance of these Consent Orders, including the allegations of Coastal Act violations contained in the Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings and to Record a Notice of Violation, dated November 14, 2014.

17.0 SETTLEMENT VIA CONSENT ORDERS

In light of the desire to settle this matter via these Consent Orders and avoid litigation, pursuant to the agreement of the parties as set forth in these Consent Orders, Respondent hereby agrees not to seek a stay pursuant to PRC Section 30803(b) or to challenge the issuance and enforceability of these Consent Orders in a court of law or equity.

18.0 SETTLEMENT/COMPLIANCE OBLIGATION

18.1 In light of the intent of the parties to resolve these matters in settlement, Respondent has agreed to 1) provide for the combination of two lots; 2) record an open space conservation deed restriction; 3) record an offer to dedicate a public access trail easement; and 4) undertake on-site projects to enhance native habitat and eradicate non-native plants in compliance with the requirements and deadlines contained herein.

18.2 Strict compliance with these Consent Orders by all parties subject hereto is required. Failure to comply with any term or condition of these Consent Orders, including any deadline contained in these Consent Orders, unless the Executive

Director grants an extension under Section 15.0, will constitute a violation of these Consent Orders and shall result in Respondent being liable for stipulated penalties in the amount of \$500 per day per violation. Respondent shall pay stipulated penalties regardless of whether Respondent subsequently complies. If Respondent violates these Consent Orders, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including the imposition of civil penalties and other remedies pursuant to PRC Sections 30820, 30821.6, and 30822, as a result of the lack of compliance with these Consent Orders and for the underlying Coastal Act violations as described herein.

19.0 RECORDATION OF A NOTICE OF VIOLATION

Respondent does not object to recordation by the Executive Director of a notice of violation on the Hayes Property, pursuant to PRC Section 30812(b), in order to provide information to parties regarding the Hayes Property. Accordingly, a notice of violation will be recorded after issuance of these Consent Orders. No later than thirty (30) days after the Commission determines that Respondent has fully complied with these Consent Orders, and has received from Respondent the rescission fee required by the County Recorder's Office, the Executive Director shall record a notice of rescission of the notice of violation, pursuant to PRC Section 30812(f). The notice of rescission shall have the same effect as a withdrawal or expungement under Section 405.61 of the Code of Civil Procedure.

20.0 SETTLEMENT OF MONETARY CLAIMS

The Commission and Respondent agree that these Consent Orders settle the Commission's monetary claims for relief from Respondent for the violations of the Coastal Act specified in Section 5.2, above, occurring prior to the date of these Consent Orders, (specifically including claims for civil penalties, fines, or damages under the Coastal Act, including under PRC Sections 30805, 30820, and 30822), provided that the Restoration Plan discussed in Section 7 and additional conservation and habitat enhancement activities in Section 8 are fully implemented and the obligations of these Consent Orders are fully satisfied, and with the exception that, if Respondent fails to comply with any term or condition of these Consent Orders, the Commission may seek monetary or other claims for both the underlying violations of the Coastal Act and for the violation of these Consent Orders.

21.0 LIMITATION OF AUTHORITY

Except as expressly provided herein, nothing in these Consent Orders shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with these Consent Orders and the authority to take enforcement action for Coastal Act violations beyond those that are specified in Section 5.2 of these Consent Orders. Failure to enforce

any provision of these Consent Orders shall not serve as a waiver of the ability to enforce those provisions or any others at a later time.

22.0 SEVERABILITY

Should any provision of these Consent Orders be found invalid, void or unenforceable, such illegality or unenforceability shall not invalidate the whole, but these Consent Orders shall be construed as if the provision(s) containing the illegal or unenforceable part were not a part hereof.

23.0 GOVERNMENT LIABILITIES

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

24.0 GOVERNMENT JURISDICTION

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

25.0 CONTRACTUAL OBLIGATION

These Consent Orders constitute both an administrative order issued to Respondent personally and a contractual obligation between Respondent and the Commission, and therefore shall remain in effect until all terms and conditions are fulfilled, regardless of whether Respondent has a financial interest in 23200 Red Rock Road (APN 4438-005-022).

26.0 SUCCESSORS AND ASSIGNS

These Consent Orders shall run with the land binding Respondent and all successors in interest, heirs, assigns, future owners of the property currently owned by Respondent at 23200 Red Rock Road (APN 4438-005-022). Respondent shall provide notice to all successors in interest, heirs, assigns, and future owners of the property currently owned by Respondent at 23200 Red Rock Road (APN 4438-005-022) of any remaining obligations under these Consent Orders.

27.0 MODIFICATIONS AND AMENDMENTS

Except as provided in Section 15.0, and for other minor, immaterial modifications, upon mutual written agreement of the Executive Director and Respondent, these Consent Orders may be amended or modified only in accordance with the standards and procedures set forth in Sections 13188(b) and 13197 14 CCR.

28.0 INTEGRATION

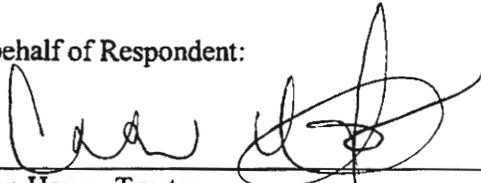
These Consent Orders constitute the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in these Consent Orders.

29.0 STIPULATION

Respondent attests that he has reviewed the terms of these Consent Orders and understands that his consent is final and stipulates to its issuance by the Commission.

IT IS SO STIPULATED AND AGREED:

On behalf of Respondent:



Conan Hayes, Trustee
Conan Hayes Revocable Living Trust

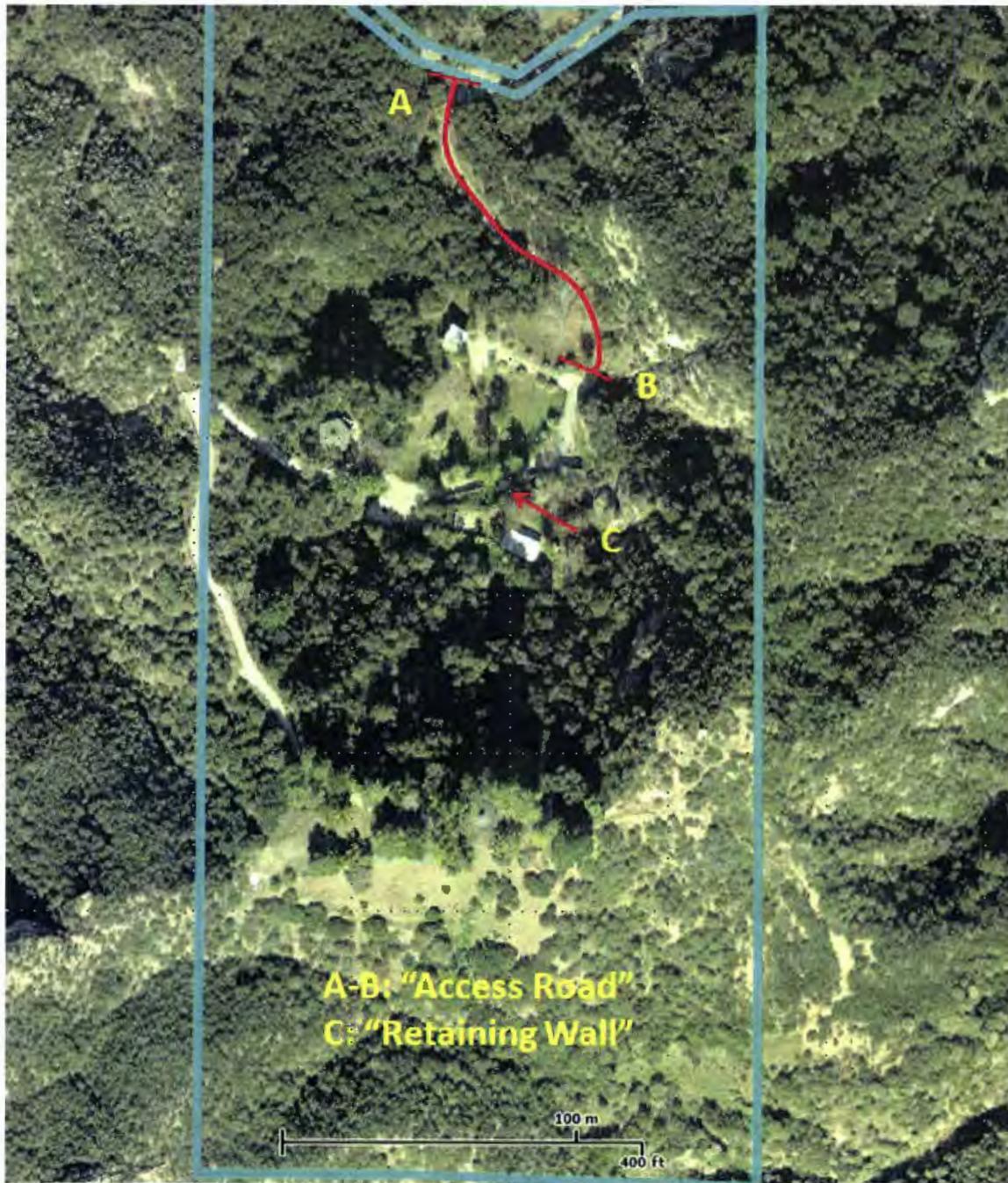
2/27/15
Date

Executed in _____ on behalf of the California Coastal Commission:

Charles Lester, Executive Director

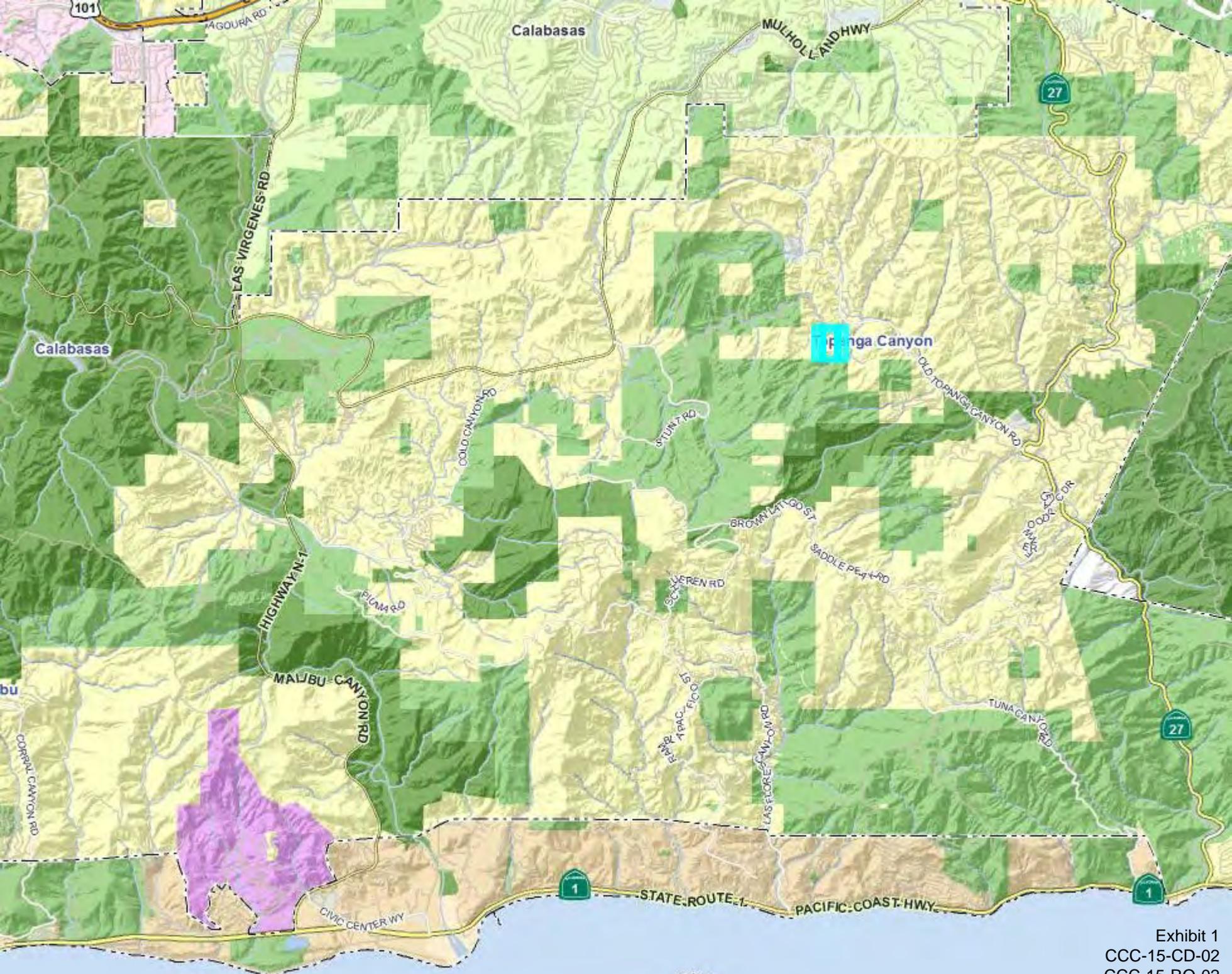
Date

ATTACHMENT A



ATTACHMENT B







CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION
636 E OCEAN BOULEVARD, SUITE 3107
P.O. BOX 1450
LONG BEACH, CALIFORNIA 90801
1213 5905071 (714) 8460641

COASTAL DEVELOPMENT PERMIT



Permit Type: Administrative Standard Emergency

Application Number: A-81-7601

Name of Applicant: Barry Holleman

P.O. Box 92, Topanga, CA 90290

Development Location: 23200 Red Rock Road

Topanga, CA

Development Description: Request to construct a 484 sq. ft. storage building and a 2-level, 27½' high, 484 sq. ft. breeding station (total 968 sq. ft.) on the crest of two knolls on a 19.88 acre parcel presently in agricultural use. The parcel is served by paved road (Red Rock) and water (LACO Waterworks District #29). A 40 acre parcel owned by the Nature Conservancy abuts this property along the southerly boundary line.

Whereas, at a public hearing, held on March 2, 1981
at Torrance by a vote of unanimous ~~xxxx~~

the Commission hereby grants, subject to condition/s, a permit for the proposed development, on the grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

Conditions: NONE



Exhibit 5
CCC-15-CD-02
CCC-15-RO-02
(Hayes)
Page 1 of 1



Exhibit 6
COC-15-CD-02
CCC-15-RO-02
(Hayes)
Page 1 of 1

03/16/2014

1 of 64



Exhibit 7
CCC-15-CD-02
CCC-15-RO-02
(Hayes)
Page 1 of 1

01/02/2014

1 of 55

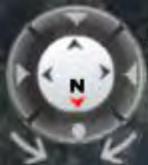


01/02/2014

1 of 49



Exhibit 8
CCC-15-CD-02
CCC-15-RO-02
(Hayes)
Page 2 of 3



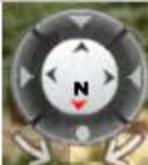
01/02/2014

1 of 105



06/23/2006

< 52 of 56 >



02/08/2008

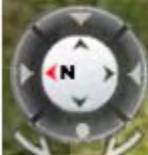
< 21 of 56 >



06/23/2006



70 of 73









OFFICIAL INSPECTION REPORT

1320 N. EASTERN AVENUE, LOS ANGELES, CALIFORNIA 90063-3294

ADDRESS 23200 RED ROCK CEN. ROAD DATE 3-3-06
OWNER'S NAME Robert D'ELIA OCCUPANT NAME _____ PHONE 310 393-5959 (w/k)
TYPE OF OCCUPANCY _____ TYPE OF CONSTRUCTION _____ ROOF TYPE _____
PARCEL NO: 4438 1005 1022

THE ADDRESSED PROPERTY IS IN VIOLATION OF THE LOS ANGELES COUNTY FIRE CODE OR _____ THE CITY OF _____
ORDINANCE # _____. CHECKED ITEMS MUST BE CORRECTED ON OR BEFORE 4/3/06 FAILURE TO COMPLY WILL
RESULT IN A \$200 ADMINISTRATIVE PENALTY, \$231 ABATEMENT ENFORCEMENT COST, AND POSSIBLE LEGAL ACTION. IN
ADDITION THE COUNTY MAY CLEAR PROPERTY AT OWNER'S EXPENSE.

- 1. Clearance of Brush and Combustible Growth:
 - A. Clear and remove all flammable vegetation or combustible growth located ___ 30 feet around any structure or, ___ 50 feet around any structure in extra hazard areas. (This includes ornamental plants and trees known to be flammable, including, but not limited to: Acacia, Cedar, Cypress, Eucalyptus, Juniper, Pine and Pampas Grass. Exception: Ornamental plants and trees that are individually planted, or cultivated ground cover such as green grass, ivy, succulents, or similar plants, spaced and maintained in such a manner that they do not form a means of transmitting fire from native growth to the structure.) (F.C. 1117.2.2(2),1117.2.3)
 - B. Clear, cut back, thin out, trim up and remove flammable vegetation or combustible growth for a distance of ___ 100 feet around any structure or, ___ 200 feet around any structure in extra hazard areas so as to create a firebreak. This section shall not apply to single specimens of either native or ornamental trees, shrubs or ground covers provided they are cut back, thinned out, trimmed up and spaced so as to provide an adequate firebreak and do not form a fuel ladder to any structure. (F.C.1117.2.2(3),1117.2.3)
 - C. Roadways: Clear and remove all flammable or combustible growth for a minimum of 10 feet on each side of every roadway whether public or private (F.C. 1117.10)
- 2. Fire access roads, driveways and turnarounds shall be maintained in accordance with the Fire Code. Fire access roads shall have an unobstructed vertical clearance clear to the sky. Trees overhanging Fire access roads shall be maintained to provide adequate vertical clearance. (F.C.902.2.2.1)
- 3. Remove that portion of any tree that extends within 10 feet of the outlet of any chimney. (F.C. 1117.2.2(4))
- 4. Maintain any tree adjacent to or overhanging any building free of dead wood. (F.C. 1117.2.2(5))
- 5. Maintain the roof of any structure free of leaves, needles, or other dead vegetative growth. (F.C. 1117.2.2(6))

Clearance Instructions: _____

- 6. Hay Storage: A cleared horizontal distance equal to the height of pile must be maintained between such storage and combustible materials or buildings. (F.C. 2806)
- 7. Combustible Materials: No fire wood, manure, compost or other combustible materials shall be placed or stored within 30 feet of any building or structure. (F.C. 1117.2.2)
- 8. Spark Arrestor: Provide chimney with a spark arrestor constructed of a heavy wire mesh or other noncombustible material with opening not to exceed one-half inch. (F.C. 1118.12(b))
- 9. Illegal Dumping: No person shall dump any garbage, trash, or combustible waste material in or upon hazardous fire areas or along any trail, roadway or highway in a hazardous area. (F.C. 1118.15)
- 10. LP Gas Storage Tanks: Clean and remove all grass, trash, or combustible materials to within a minimum of 10 feet from any LP gas storage tank container. Tanks shall be placed on a stable non-combustible foundation with "NO SMOKING" signs placed on them. (F.C. 8208 8209; Vol. 7, Ch. 3, Insp. Guide 12)
- 11. Fire Protection Systems: All residential fire sprinkler systems, fire hydrants, water tanks, and alarm systems shall be maintained in operating condition at all time. (F.C. 1001.5.1)
- 12. Fire Department Key System: When access to or within a structure or an area is unduly difficult because it is secured by a gate, an approved fire department key system will be required when access is necessary for life saving or firefighting purposes. (F.C.902.4 Reg. #5; Procedure #2)
- 13. Building Address Numbers: Shall be placed on the front of all buildings and shall be visible from the street fronting the property. (Numbers shall be a minimum of 3 inches in height, 1 inch wide with a stroke of 3/8ths of an inch. Where structures are set back more than 150 feet from the street or road, the numbers shall be a minimum of 5 inches in height, 1 inch wide with a stroke of 3/8ths of an inch). If structures are not visible from street, a minimum of 3 inch address numbers shall be posted on a sign next to entrance roadway or driveway. Sign shall be made of non combustible material. All address numbers shall have a contrasting background. (F.C. 901.4.4.1 Vol. 7, Ch. 1, Reg. 15)
- 14. Other #13 Structures should all be clearly marked A,B,C,D
#11 2000 GAL. WATER TANK REQUIRED

REINSPECTION DATES: (1) _____ (2) _____ (3) _____
INSPECTOR'S SIGNATURE [Signature]
FOR INFORMATION CALL: 310 455-1766 INSPECTOR (PRINT NAME) JO. JIMENEZ

August 3, 2005

L.A. County Fire Department
Fire Station 69
Captain Rick Langlotz
401 S. Topanga Canyon Blvd
Topanga, CA 90290-3137

Robert D'elia
100 Wilshire Blvd.
Suite 1845
Santa Monica, CA 90401

Dear Sir,

This letter is regarding the property at 23200 Red Rock Canyon Road in station 69's jurisdictional area. The area is an "extra hazard" area for brush fires. The homes are far from water for firefighting purposes. The home at the very top of the ridge is exceptionally hazardous, there is no visible water source nor access for firefighting equipment to work a fire there. Therefore, extra clearance must be provided to try to protect the property and it's residents. . The requirements apply to all 4 residences on the property. Please comply with the information on the form, front and back. Feel free to call the fire station and talk to myself or Capt. Julian Jimenez at (310) 455-1766 if you have questions. The 410B form says that the work should be done 30 days after the date of inspection, but allowance will be made for the delay in your receiving the form.

Thanks for your cooperation in our effort to provide a safe environment to the citizens of Topanga Canyon.

Sincerely, Rick Langlotz

This page is part of your document - DO NOT DISCARD



20071457673

Pages: 007



Recorded/Filed in Official Records
Recorder's Office, Los Angeles County,
California

Fee: 0.00

Tax: 0.00

Other: 0.00

Total: 0.00

06/18/07 AT 08:01AM

804048

200706180100010 Mail

TITLE(S) :



LEAD SHEET

Assessor's Identification Number (AIN)

To be completed by Examiner OR Title Company in black ink.

Number of AIN's Shown

E402671

THIS FORM IS NOT TO BE DUPLICATED

ORIGINAL

2

RECORDING REQUESTED BY:

California Coastal Commission

WHEN RECORDED MAIL TO:

CALIFORNIA COASTAL COMMISSION

Attention: Lisa Haage/Pat Veesart
45 FREMONT STRET, SUITE 2000
SAN FRANCISCO, CA 94105-2219



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

NOTICE OF VIOLATION OF THE COASTAL ACT

NOTICE OF VIOLATION OF THE COASTAL ACT

Re: Los Angeles County Assessor's Parcel Number 4438-005-022.
County of Los Angeles

Property Owners: Robert P. D'Elia

3

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

CALIFORNIA COASTAL COMMISSION
Attention: Lisa Haage/Pat Veasart
45 FREMONT STRET, SUITE 2000
SAN FRANCISCO, CA 94105-2219

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

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

On behalf of Peter Douglas, I, Lisa Haage, declare:

1. Peter Douglas is the Executive Director of the California Coastal Commission. Section 30812 of the California Public Resources Code (a section of the California Coastal Act of 1976) provides for the Executive Director to record Notices of Violation of the Coastal Act (California Public Resources Code section 30000 *et seq.*) against the title to real property on which such violations have occurred. Peter Douglas, as Executive Director, has specifically delegated this authority to me to act on his behalf. (See Exhibit A.)

2. A violation of the California Coastal Act of 1976 (hereinafter referred to as the "Coastal Act") has occurred on a certain parcel situated in Los Angeles County, California, more particularly described as follows:

A 19.88-acre undeveloped parcel located at 23200 Red Rock Canyon Road (off of Old Topanga Canyon Road) in unincorporated Los Angeles County; also described as Los Angeles County Assessor's Parcel Number 4438-005-022.

Owner of Record: Robert P. D'Elia

The violation consists of the undertaking of development activity, as described below, without the authorization required by the Coastal Act.

3. This property is located within the Coastal Zone as that phase is defined in the Coastal Act, specifically at California Public Resources Code (hereinafter referred to as "PRC") Section 30103.

4. The record owner of said real property at the time this notice was recorded was: Robert P. D'Elia.

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5. The violation of the Coastal Act consisted of the performance of following unpermitted development and maintenance of the resulting structures: Grading, vegetation removal, road improvements, and construction and/or placement of septic systems, water lines, a water tank, and various other structures including, but not limited to, four (4) houses, retaining walls, and multiple sheds. The California Coastal Commission retains a file on this under Violation File No. V-4-07-010.

6. The requirements set forth in PRC Section 30812 for notice and recordation of this Notice of Violation have been complied satisfied. Recording of this notice is authorized under PRC Section 30812 of the California Public Resources Code.

7. The Executive Director of the California Coastal Commission notified the record owner, Robert P. D'Elia, of his intent to record a Notice of Violation in this matter in a letter dated April 23, 2007.

8. Robert P. D'Elia did not submit a written objection to recordation of the Notice of Violation within 20 days of the postmarked mailing of the notification. Therefore, I am recording the Notice of Violation as provided for in the Coastal Act under PRC Section 30812.

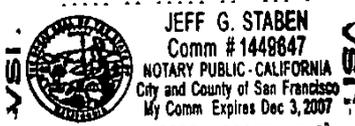
Executed in San Francisco, California, on May 30, 2007.

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

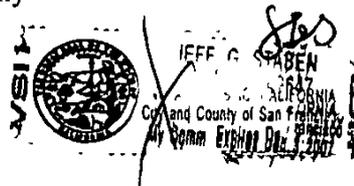
Lisa Haage
LISA HAAGE (for Peter Douglas)
Chief of Enforcement
California Coastal Commission

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

On this 30th day of May in the year 2007, before me, Jeff G. Staben, the undersigned Notary Public, personally appeared Lisa Haage, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument on behalf of the Executive Director of the California Coastal Commission and acknowledged to me that the California Coastal Commission executed it.



Jeff G. Staben
Jeff G. Staben, Notary Public in and for Said State and County



[Seal]
G:\Enforcement\NOVAs\D'Elia NOVA-LA Co.doc

Notice of Violation - Robert P. D'Elia

Page 3

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CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-8200



From: Peter Douglas, Executive Director
To: Enforcement Staff
Susan Hansch, Chief Deputy Director
Lisa Haage, Chief of Enforcement
Re: Delegation of Authority Under Section 30812
Date: September 15, 2005

*Amy Roach, Deputy
Chief Counsel, PD*

I, Peter Douglas, Executive Director of the California Coastal Commission, delegate my authority to execute and record Notices of Violation of the Coastal Act pursuant to Public Resources Code Section 30812 to Lisa Haage, Chief of Enforcement, California Coastal Commission, and to Susan Hansch, Chief Deputy Director, California Coastal Commission.

This delegation shall remain effect as long as Lisa Haage holds the position of Chief of Enforcement, or Susan Hansch holds the position of Chief Deputy Director, or until it is revoked in writing.

Peter Douglas
PETER M. DOUGLAS
Executive Director

Date: *9/15/05*

EXHIBIT "A"

6

EXCERPT OF COASTAL ACT

Public Resources Code Section 30812. Notice of violation

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

(b) The notification specified in subdivision (a) shall indicate that the owner is required to respond in writing, within 20 days of the postmarked mailing of the notification, to object to recording the notice of violation. The notification shall also state that if, within 20 days of mailing of the notification, the owner of the real property at issue fails to inform the executive director of the owner's objection to recording the notice of violation, the executive director shall record the notice of violation in the office of each county recorder where all or part of the property is located.

(c) If the owner submits a timely objection to the proposed filing of the notice of violation, a public hearing shall be held at the next regularly scheduled commission meeting for which adequate public notice can be provided, at which the owner may present evidence to the commission why the notice of violation should not be recorded. The hearing may be postponed for cause for not more than 90 days after the date of the receipt of the objection to recordation of the notice of violation.

(d) If, after the commission has completed its hearing and the owner has been given the opportunity to present evidence, the commission finds that, based on substantial evidence, a violation has occurred, the executive director shall record the notice of violation in the office of each county recorder where all or part of the real property is located. If the commission finds that no violation has occurred, the executive director shall mail a clearance letter to the owner of the real property

(e) (1) The notice of violation shall be contained in a separate document prominently entitled "Notice of Violation of the Coastal Act." The notice of violation shall contain all of the following information

- (A) The names of the owners of record.
- (B) A legal description of the real property affected by the notice.
- (C) A statement specifically identifying the nature of the alleged violation.
- (D) A commission file number relating to the notice.

(2) The notice of violation, when properly recorded and indexed, shall be considered notice of the violation to all successors in interest in that property. This notice is for informational purposes only and is not a defect, lien, or encumbrance on the property.

(f) Within 30 days after the final resolution of a violation that is the subject of a recorded notice of violation, the executive director shall mail a clearance letter to the owner of the real property and shall record a notice of rescission in the office of each county recorder in which the notice of violation was filed, indicating that the notice of violation is no longer valid. The notice of rescission shall have the same effect of a withdrawal or expungement under Section 405 61 of the Code of Civil Procedure.

(g) The executive director may not invoke the procedures of this section until all existing administrative methods for resolving the violation have been utilized and the property owner has been made aware of the potential

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for the recordation of a notice of violation. For purposes of this subdivision, existing methods for resolving the violation do not include the commencement of an administrative or judicial proceeding.

(h) This section only applies in circumstances where the commission is the legally responsible coastal development permitting authority or where a local government or port governing body requests the commission to assist in the resolution of an unresolved violation if the local government is the legally responsible coastal development permitting authority.

(i) The commission, 24 months from the date of recordation, shall review each notice of violation that has been recorded to determine why the violation has not been resolved and whether the notice of violation should be expunged.

(j) The commission, at any time and for cause, on its own initiative or at the request of the property owner, may cause a notice of rescission to be recorded invalidating the notice of violation recorded pursuant to this section. The notice of rescission shall have the same effect of a withdrawal or expungement under Section 405.61 of the Code of Civil Procedure.

(Added by Ch. 235, Stats. 2002, Amended by Ch. 62, Stats. 2003.)

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



19 May 2008

Thomas Rainey
Regional Manager
Schmitz and Associates
29350 Pacific Coast Highway, Suite 12
Malibu, CA 90265

Re: Violation File No. V-4-07-010 - D'Elia

Dear Mr. Rainey:

Thank you for your letter dated March 17, 2008 and the enclosed materials regarding the above mentioned violation. In your letter you mention the Coastal Commission's concerns regarding the violations at 23200 Red Rock Road, Topanga ("the subject property") and you "...offer to submit a formal Coastal Development Permit application and requisite filing fee for the Commission's review and consideration while the proposed LLA and PPR applications are pending DRP review and approval." While it is certainly true that Commission staff are concerned about the violations and would like to see this matter resolved as expeditiously as possible, we do not feel that waiving the requirement for approval by local government before filing your coastal development permit (CDP) application is warranted in this case. Please obtain the necessary approvals from Los Angeles County before submitting your CDP application to us.

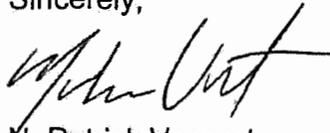
As you know, this matter was brought to our attention when your client submitted a CDP application for a water tank to service four existing residential structures at the above referenced site. However, during the processing of that application, it was discovered by staff that the four residential structures were constructed without the required coastal permit and the application was subsequently withdrawn by the applicant. The violations on the subject property include, but are not limited to, four illegal dwelling units (houses) which, presumably, are occupied at this time. Notwithstanding the illegal status of the four residential structures, we are aware that the Los Angeles County Fire Department has recommended that a water tank be immediately installed on site in order to provide for an emergency water supply for fire safety until this situation is resolved.

It is our understanding that Los Angeles County is also concerned about the violations on the subject property and is initiating enforcement action to bring the property into compliance with the County's requirements. Since the water tank recommended by LA County Fire was never installed, Commission staff has concerns about the safety of people who may be occupying these illegal structures and suggests that your client advise them to vacate the subject property until such time as all existing dwelling units are either removed or properly permitted and the fire safety requirements of LA County

Fire are met. However, the fire season is already upon us and if you believe an emergency water supply is necessary on site, then we recommend that you submit an application for an emergency coastal development permit for the temporary placement of a water tank at this location in order to protect the property and structures from fire while these issues are being resolved. If you wish to proceed with such an application, please feel free to contact our office at your earliest convenience to discuss submittal of an application for an emergency permit to temporarily place a water tank at the top of the property for fire protection.

Thank you again for your letter and your attention to this matter. If you have any questions, please feel free to contact me at: 805.585.1800.

Sincerely,



N. Patrick Veasart
Enforcement Supervisor

cc: **John Ainsworth, Deputy Director**
Lisa Haage, Chief of Enforcement
Alex Helperin, Staff Counsel
Steve Hudson, District Manager
Barbara Carey, Supervisor, Planning and Regulation
Tom Sinclair, District Enforcement Officer
Captain Jim Jordan, Los Angeles County Fire Department

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



EMERGENCY PERMIT

July 30, 2008

Permit No.: 4-08-048-G

Applicant: Robert D'elia

Agent: Schmitz & Associates

Project Location: 23200 Red Rock Road, Topanga, Santa Monica Mountains, Los Angeles County

Work Proposed: Placement of two 3,000 gallon "temporary" water tanks on a parcel (APN # 4438-005-022) developed with four unpermitted residential structures. The applicant was previously cited by the Los Angeles County Fire Department and required to place one 2,000 gallon water tank to replace a failed tank on the site.

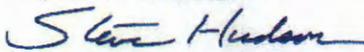
This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from the information submitted that an unexpected occurrence in the form of risk to life from wildfire without adequate fire protection of the occupants of the unpermitted residential units constitutes a significant risk to public health and safety in the Santa Monica Mountains. This occurrence requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Admin. Code Section 13009. The Executive Director hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;
- (b) Public comment on the proposed emergency action has been reviewed if time allows; and

The work is hereby approved, subject to the conditions listed on the reverse.

Very Truly Yours,

Peter M. Douglas
Executive Director

for 

By: John Ainsworth
Title: Deputy Director, South Central Coast District

CONDITIONS OF APPROVAL

1. The enclosed form must be signed by the applicant and returned to our office within fifteen (15) days.
2. Only that work specifically described above and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed within sixty (60) days of the date of this permit.
4. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site is subject to hazards from wildfire and from occupying unpermitted residential structures that may not comply with the Los Angeles County building, safety, or fire codes, (ii) to assume the risks to the applicant, property, and occupants that are the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the emergency permit against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
5. The work authorized by this emergency permit is temporary, unless permanent retention of the development is authorized through the issuance of a regular Coastal Development Permit from the California Coastal Commission. **Within one hundred twenty days (120) days of the date of this permit, the permittee shall submit a complete application for a regular coastal development permit to have the emergency work be considered permanent.**
6. The temporary water tanks shall be removed within 180 days (or within such additional time as the Executive Director may grant for good cause) if no coastal development permit is obtained for their permanent retention.
7. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies.
8. All disturbed areas shall be stabilized with planting at the completion of the work authorized by this emergency permit. Planting shall be of native species indigenous to the Santa Monica Mountains and consistent with the vegetation of the area surrounding the project site using accepted planting procedures, consistent with fire safety requirements.

IMPORTANT

The emergency work is considered to be temporary work done in an emergency situation. If the applicant wishes to have the emergency work become a permanent development, a coastal permit must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly.

If you have any questions about the provisions of this emergency permit, please call Barbara Carey at the Commission Area office.

Enclosures: 1) Acceptance Form

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



EMERGENCY PERMIT ACCEPTANCE FORM

DATE: July 30, 2008

TO: CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001
(805) 585-1800

RE: Emergency Permit No. 4-08-048-G

INSTRUCTIONS: After reading the attached Emergency Permit, please sign this form and return to the South Central Coast District Office within 15 working days from the permit's date.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them.

I also understand that the emergency work is TEMPORARY and that a regular Coastal Permit is necessary to make it a permanent installation. I agree to submit a complete application for a regular Coastal Permit within 120 days of the date of the emergency permit and that the temporary water tanks shall be removed within 180 days (or within such additional time as the Executive Director may grant for good cause) if no coastal development permit is obtained for their permanent retention.



Signature of property owner or
authorized representative.

Robert D'Elia

Name

3110 main street PH

Address
Santa Monica CA 90405

Aug 5, 2008

Date of signing

CALIFORNIA COASTAL COMMISSION

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



Via Regular U.S. Mail

April 29, 2014

Chryssa Lightheart
Pritchett-Rapf Realtors
436 S Topanga Canyon Blvd
Topanga, CA 902905

Re: Violation File No. V-4-07-010 (D'Elia)

Dear Ms. Lightheart:

Thank you for speaking with me on April 28, 2014 regarding the property at 23200 Red Rock Road ("property") for which you facilitated the recent sale. The violations at issue on the property impact important coastal resources, and we appreciate your assistance in resolving them with the new owner of the property. This letter memorializes our telephone conversation on April 28, 2014.

During our conversation, you confirmed that you had informed Mr. Conan Hayes, prior to his purchase of the property, of the Coastal Act violations on the property and of the need to work with Commission staff to resolve those violations. As such, the new owner purchased the property with prior knowledge of the existence of unresolved Coastal Act violations.

As you'll remember, on February 12, 2014, we discussed by telephone the extent and significance of the Coastal Act violations at issue. You expressed that you were aware of the violations and of the Notice of Violation ("NOVA") that had been recorded on the chain of title of the property. I offered to you to explain directly to potential purchasers the meaning of the NOVA and further requested that you provide prospective purchasers with notice of the Coastal Act violations, which you agreed to do, and have done so in this situation. Again, we appreciate your help with this matter.

In response to my request that you facilitate staff's contact with the new property owner, you asked for my contact information to share with the new owner, which I provided to you. Thank you again for your attention to this matter. If you have any questions regarding this letter, please feel free to call me at (415) 904-5255.

Sincerely,

A handwritten signature in black ink, appearing to read "Cody Naylor".

Cody Naylor
Statewide Enforcement Analyst
California Coastal Commission

CC: Lisa Haage, Chief of Enforcement, CCC
Aaron McLendon, Statewide Enforcement Supervisor, CCC

CALIFORNIA COASTAL COMMISSION

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

**Via Regular U.S. Mail**

May 15, 2014

Conan Hayes
1640 Old Topanga Canyon Road
Topanga, CA 90290

Subject: Coastal Act Violation No. V-4-07-010

Property Location: 23200 Red Rock Road, Topanga, Los Angeles County
Assessor's Parcel Number: 4438-005-022

Dear Mr. Hayes:

I would like to take this opportunity to introduce myself as the Coastal Commission ("Commission") staff member assigned to Coastal Act violation file No. V-4-07-010, regarding unpermitted development located at 23200 Red Rock Road, Topanga ("property") on your recently purchased property at the address described above.

From my conversations with the prior owner, Charlotte Bjorlin D'Elia, and the listing agent for the sale of the property, Chryssa Lightheart, both of whom are aware of the current violations at the site, I understand that you are already aware that a substantial amount of development has occurred on the property without the necessary Coastal Act¹ authorization and that the unpermitted development is presently the subject of an ongoing Commission enforcement action.

As you are the new owner of the property, first I would like to express that we look forward to working together with you to resolve these issues amicably and expeditiously. To begin, I would like offer my assistance by providing a brief history of the Commission staff's involvement with the property.

In 2007, Commission staff became aware of a substantial amount of unpermitted development on the property while processing the prior owners' application for a Coastal Development Permit ("CDP") to install two water tanks on the property. This application was prompted by citations from the Los Angeles County Fire Department for an inadequate supply of water to provide fire protection on the property. Upon confirming the presence of unpermitted development, Commission staff initiated discussions in 2007 with Robert D'Elia, the prior owner and spouse of Charlotte Bjorlin D'Elia (from whom you purchased the property), to resolve the

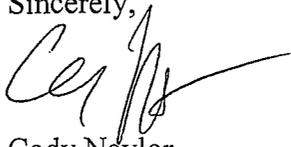
¹ The Coastal Act is codified in sections 30000 to 30900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated.

aforementioned Coastal Act violations.² Furthermore, in order to prevent the transfer of the property to a subsequent owner, such as yourself, without that party's knowledge of the violations and knowledge of their assumption of liability for, and the duty to correct, any remaining violations, staff recorded a Notice of Violation of the Coastal Act ("NOVA") on the property's title on June 18, 2007. For your convenience, a copy of the recorded NOVA accompanies this letter. The violations remain on the property and, regardless of who undertook the unpermitted development, the current owner is responsible for correcting such violations, and as I mentioned above, we are more than happy to work with you so this is accomplished in the most expeditious and cooperative manner possible.

Over the years, Commission staff and the prior property owner, Robert D'Elia, made significant progress towards agreeing to an amicable resolution of the Coastal Act violations on the property. We placed our enforcement actions on-hold when Robert D'Elia fell severely ill and subsequently passed away in 2012. In January 2014, we reengaged our efforts towards amicable resolution with Charlotte D'Elia until she sold the property. Now that you own the property, we hope to continue that work with you in the same spirit of cooperation. We are very optimistic that an amicable resolution can be achieved with you.

Please contact me by May 23, 2014, so that we may continue to discuss the issues related to these matters. I may be reached at (415) 904-5255. If there is an entity representing you to whom I should instead direct any future correspondence, please let me know as well. I look forward to hearing from you soon. Thank you very much for your attention and anticipated cooperation.

Sincerely,



Cody Naylor
Statewide Enforcement Analyst

Enclosed: Recorded Notice of Violation of the Coastal Act

cc: Lisa Haage, Chief of Enforcement
Aaron McLendon, Statewide Enforcement Supervisor

² The Coastal Act has a number of potential remedies to address violations of the Act including the following: the Section 30810 authorizes the Commission to issue a cease and desist order where it finds that the activity that is the subject of the order has occurred either without a required Coastal Development Permit ("CDP") or in violation of a previously granted CDP. The Act (Section 30811) also authorizes the Commission to issue a restoration order if it finds that development 1) has occurred without a CDP, 2) is inconsistent with the Act, and 3) is causing continuing resource damage. Commission staff has concluded that all of these criteria apply in this case. Finally, Chapter 9 of the Coastal Act (Sections 30800 to 30824) also provides for the imposition of civil fines and penalties.

This page is part of your document - DO NOT DISCARD



20071457673

Pages:
007



Recorded/Filed in Official Records
Recorder's Office, Los Angeles County,
California

Fee: 0.00

Tax: 0.00

Other: 0.00

Total: 0.00

06/18/07 AT 08:01AM

804048 200706180100010 Mail

TITLE(S) :



Assessor's Identification Number (AIN)

To be completed by Examiner OR Title Company in black ink.

Number of AIN's Shown

E492871

THIS FORM IS NOT TO BE DUPLICATED

ORIGINAL

2

RECORDING REQUESTED BY:

California Coastal Commission

WHEN RECORDED MAIL TO:

CALIFORNIA COASTAL COMMISSION
Attention: Lisa Haage/Pat Veasart
45 FREMONT STRET, SUITE 2000
SAN FRANCISCO, CA 94105-2219



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

NOTICE OF VIOLATION OF THE COASTAL ACT

NOTICE OF VIOLATION OF THE COASTAL ACT

Re: Los Angeles County Assessor's Parcel Number 4438-005-022.
County of Los Angeles

Property Owners: Robert P. D'Elia

3

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

CALIFORNIA COASTAL COMMISSION
Attention: Lisa Haage/Pat Veasart
45 FREMONT STRET, SUITE 2000
SAN FRANCISCO, CA 94105-2219

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

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

On behalf of Peter Douglas, I, Lisa Haage, declare:

1. Peter Douglas is the Executive Director of the California Coastal Commission. Section 30812 of the California Public Resources Code (a section of the California Coastal Act of 1976) provides for the Executive Director to record Notices of Violation of the Coastal Act (California Public Resources Code section 30000 *et seq.*) against the title to real property on which such violations have occurred. Peter Douglas, as Executive Director, has specifically delegated this authority to me to act on his behalf. (See Exhibit A.)

2. A violation of the California Coastal Act of 1976 (hereinafter referred to as the "Coastal Act") has occurred on a certain parcel situated in Los Angeles County, California, more particularly described as follows:

A 19.88-acre undeveloped parcel located at 23200 Red Rock Canyon Road (off of Old Topanga Canyon Road) in unincorporated Los Angeles County; also described as Los Angeles County Assessor's Parcel Number 4438-005-022.

Owner of Record: Robert P. D'Elia

The violation consists of the undertaking of development activity, as described below, without the authorization required by the Coastal Act.

3. This property is located within the Coastal Zone as that phase is defined in the Coastal Act, specifically at California Public Resources Code (hereinafter referred to as "PRC") Section 30103.

4. The record owner of said real property at the time this notice was recorded was: Robert P. D'Elia.

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5. The violation of the Coastal Act consisted of the performance of following unpermitted development and maintenance of the resulting structures: Grading, vegetation removal, road improvements, and construction and/or placement of septic systems, water lines, a water tank, and various other structures including, but not limited to, four (4) houses, retaining walls, and multiple sheds. The California Coastal Commission retains a file on this under Violation File No. V-4-07-010.

6. The requirements set forth in PRC Section 30812 for notice and recordation of this Notice of Violation have been complied satisfied. Recording of this notice is authorized under PRC Section 30812 of the California Public Resources Code.

7. The Executive Director of the California Coastal Commission notified the record owner, Robert P. D'Elia, of his intent to record a Notice of Violation in this matter in a letter dated April 23, 2007.

8. Robert P. D'Elia did not submit a written objection to recordation of the Notice of Violation within 20 days of the postmarked mailing of the notification. Therefore, I am recording the Notice of Violation as provided for in the Coastal Act under PRC Section 30812.

Executed in San Francisco, California, on May 30, 2007.

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

Lisa Haage
LISA HAAGE (for Peter Douglas)
Chief of Enforcement
California Coastal Commission

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

On this 30th day of May in the year 2007, before me, Jeff G. Staben, the undersigned Notary Public, personally appeared Lisa Haage, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument on behalf of the Executive Director of the California Coastal Commission and acknowledged to me that the California Coastal Commission executed it.

JEFF G. STABEN
Comm # 1448647
NOTARY PUBLIC - CALIFORNIA
City and County of San Francisco
My Comm Expires Dec 3, 2007

Jeff G. Staben
Jeff G. Staben, Notary Public in and for Said State
and County

JEFF G. STABEN
NOTARY PUBLIC - CALIFORNIA
City and County of San Francisco
My Comm Expires Dec 3, 2007

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Notice of Violation - Robert P. D'Elia

Page 3

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CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-8200



From: Peter Douglas, Executive Director

To: Enforcement Staff
Susan Hansch, Chief Deputy Director
Lisa Haage, Chief of Enforcement

Re: Delegation of Authority Under Section 30812

Date: September 15, 2005

*Amy Roach, Deputy
Chief Counsel, PD*

I, Peter Douglas, Executive Director of the California Coastal Commission, delegate my authority to execute and record Notices of Violation of the Coastal Act pursuant to Public Resources Code Section 30812 to Lisa Haage, Chief of Enforcement, California Coastal Commission, and to Susan Hansch, Chief Deputy Director, California Coastal Commission.

This delegation shall remain effect as long as Lisa Haage holds the position of Chief of Enforcement, or Susan Hansch holds the position of Chief Deputy Director, or until it is revoked in writing.

PETER M. DOUGLAS
Executive Director

Date: 9/15/05

EXHIBIT "A"

6

EXCERPT OF COASTAL ACT

Public Resources Code Section 30812. Notice of violation

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

(b) The notification specified in subdivision (a) shall indicate that the owner is required to respond in writing, within 20 days of the postmarked mailing of the notification, to object to recording the notice of violation. The notification shall also state that if, within 20 days of mailing of the notification, the owner of the real property at issue fails to inform the executive director of the owner's objection to recording the notice of violation, the executive director shall record the notice of violation in the office of each county recorder where all or part of the property is located.

(c) If the owner submits a timely objection to the proposed filing of the notice of violation, a public hearing shall be held at the next regularly scheduled commission meeting for which adequate public notice can be provided, at which the owner may present evidence to the commission why the notice of violation should not be recorded. The hearing may be postponed for cause for not more than 90 days after the date of the receipt of the objection to recordation of the notice of violation.

(d) If, after the commission has completed its hearing and the owner has been given the opportunity to present evidence, the commission finds that, based on substantial evidence, a violation has occurred, the executive director shall record the notice of violation in the office of each county recorder where all or part of the real property is located. If the commission finds that no violation has occurred, the executive director shall mail a clearance letter to the owner of the real property

(e) (1) The notice of violation shall be contained in a separate document prominently entitled "Notice of Violation of the Coastal Act." The notice of violation shall contain all of the following information

- (A) The names of the owners of record.
- (B) A legal description of the real property affected by the notice.
- (C) A statement specifically identifying the nature of the alleged violation.
- (D) A commission file number relating to the notice.

(2) The notice of violation, when properly recorded and indexed, shall be considered notice of the violation to all successors in interest in that property. This notice is for informational purposes only and is not a defect, lien, or encumbrance on the property.

(f) Within 30 days after the final resolution of a violation that is the subject of a recorded notice of violation, the executive director shall mail a clearance letter to the owner of the real property and shall record a notice of rescission in the office of each county recorder in which the notice of violation was filed, indicating that the notice of violation is no longer valid. The notice of rescission shall have the same effect of a withdrawal or expungement under Section 405 61 of the Code of Civil Procedure.

(g) The executive director may not invoke the procedures of this section until all existing administrative methods for resolving the violation have been utilized and the property owner has been made aware of the potential

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for the recordation of a notice of violation. For purposes of this subdivision, existing methods for resolving the violation do not include the commencement of an administrative or judicial proceeding.

(h) This section only applies in circumstances where the commission is the legally responsible coastal development permitting authority or where a local government or port governing body requests the commission to assist in the resolution of an unresolved violation if the local government is the legally responsible coastal development permitting authority.

(i) The commission, 24 months from the date of recordation, shall review each notice of violation that has been recorded to determine why the violation has not been resolved and whether the notice of violation should be expunged.

(j) The commission, at any time and for cause, on its own initiative or at the request of the property owner, may cause a notice of rescission to be recorded invalidating the notice of violation recorded pursuant to this section. The notice of rescission shall have the same effect of a withdrawal or expungement under Section 405.61 of the Code of Civil Procedure.

(Added by Ch. 235, Stats. 2002, Amended by Ch. 62, Stats. 2003.)

CALIFORNIA COASTAL COMMISSION

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

**Via Electronic, Certified and Regular U.S. Mail**

November 14, 2014

Conan Hayes
1640 Old Topanga Canyon Road
Topanga, CA 90290
(Certified Receipt No. 7012 3460 0001 7811 0603)

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

Location: 23200 Red Rock Road, Topanga, unincorporated Los Angeles County; Los Angeles County Assessor's Parcel Number 4438-005-022

Violation File Number: V-4-07-010

Alleged Violation: Unpermitted development including, but not necessarily limited to: placement of two houses and associated septic systems and water lines, two sheds, a retaining wall, gates, and fences; grading of building pads; road expansion and improvements; and removal of major vegetation

Dear Mr. Hayes:

California Coastal Commission ("Commission") staff appreciates your efforts thus far to work cooperatively towards resolution of the alleged Coastal Act¹ violations on the property described above, and we look forward to continuing to work with you to address these matters as quickly as possible, and with as little cost to both parties as possible. As Cody Naylor of the Commission's Enforcement staff has expressed to you on multiple phone calls this year, including on May 16, May 28, June 4, June 25, July 3, August 13, and October 27, we would like to continue working with you to resolve these issues amicably, and we remain open to discussing the consensual resolution of violations through consent Cease and Desist and Restoration Orders ("Orders"), which must be approved by the Commission in a formal hearing.

¹ The Coastal Act is codified in California Public Resources Code sections 30000 to 30900. All further section references are to the Public Resources Code, and thus to the Coastal Act, except where specified that the reference is made to the Commission's regulations.

As you know, prior to bringing Orders to the Commission, our regulations² provide for steps to initiate formal notification procedures. Accordingly, this letter notifies you of my intent, as the Executive Director of the Commission, to commence formal enforcement proceedings to address the Coastal Act violations noted above, by issuing either consent or regular Cease and Desist and Restoration Orders and recording a Notice of Violation. This letter is not intended to discourage or replace our productive discussion. In fact, this process allows for these discussions to continue in the hope of reaching a mutually acceptable outcome, and we look forward to working with you to reach that goal.

Commission staff has confirmed that development has been undertaken at 23200 Red Rock Road, described as Los Angeles County Assessor's Parcel Number ("APN") 4438-005-022 ("the Property"), in the Coastal Zone and without a valid Coastal Development Permit ("CDP"), in violation of the Coastal Act.

As you have likely seen in some of the letters sent by Commission staff to the former owners, Robert and Charlotte D'Elia, Section 30600(a) of the Coastal Act, with limited exceptions not applicable here, requires that any person wishing to perform or undertake development in the Coastal Zone obtain a CDP in addition to any other permit required by law.

"Development" is defined by Section 30106, which states, in part:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land... change in the intensity of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations....

As discussed below, the development undertaken on the Property without a CDP includes, but is not necessarily limited to: placement of two houses and associated septic systems and water lines, two sheds, a retaining wall, gates, and fences; grading of building pads; road expansion and improvements; and removal of major vegetation (herein collectively referred to as "unpermitted development").

The Property

The Property is a 19.88 acre lot located on the southern side of Red Rock Road between Rose Lane and Old Topanga Canyon Road in the Santa Monica Mountains. By way of background, as you may know, your property is part of a unique ecosystem. The Santa Monica Mountains, where the Property is located, comprise the largest, most pristine, and ecologically complex example of a Mediterranean ecosystem in coastal southern California. California's coastal sage scrub, chaparral, oak woodlands, and associated riparian areas have analogues with similar

² See Sections 13181 and 13191 of Title 14 of the California Code of Regulations

climate in just a few areas of the world. Throughout the world, this ecosystem, with its specially adapted vegetation and wildlife, has suffered severe loss and degradation as a consequence of human development. Worldwide, only 18 percent of the Mediterranean community type remains undisturbed. However, within the Santa Monica Mountains, this ecosystem is remarkably intact despite the fact that it is closely surrounded by some 17 million people, and is particularly valuable because adjacent habitats have been replaced by surrounding urbanized areas. Therefore, the Commission has found, in numerous permit and enforcement actions, that the Mediterranean ecosystem in the Santa Monica Mountains is rare and particularly valuable because of its relatively pristine character, physical complexity, and resultant biological diversity.

The purpose of these enforcement proceedings is to address development on the Property that was not authorized pursuant to the Coastal Act and to provide for the restoration and assist in the protection of this unique habitat. The proceedings will propose to address these matters through the issuance of Orders that will direct you to, among other things: 1) cease from performing any additional unpermitted development, 2) remove unpermitted development according to an approved removal plan and, 3) restore the impacted area pursuant to an approved restoration plan. In addition to removing unpermitted development, resolution will need to address mitigation for interim losses caused by unpermitted development as well as the settlement of monetary claims.

Violation History

In June 2006, Mr. Robert D'Elia, who was the former owner of the Property, submitted a CDP application for a 10,000 gallon water tank and fire hydrant on the southern ridgeline of the Property. In the course of processing this CDP application, Commission staff became aware of significant development on the Property for which no CDP had been issued, including four houses. Throughout 2006 through 2007, Commission staff worked with Mr. D'Elia and, on April 23, 2007, met with him and his agent regarding his CDP application. At the time, Commission staff informed Mr. D'Elia of their intent to send a letter which would give notice of the Executive Director of the Commission's intent to record a Notice of Violation on the Property in order to notify prospective purchasers of the existence of Coastal Act violations. He did not object to recordation, and, pursuant to Section 30812 of the Coastal Act, the Notice of Violation was subsequently recorded with the Los Angeles County Recorder's Office on June 18, 2007.

Throughout 2007 and 2008, in addition to working with him on addressing the violations on the Property, Commission staff worked with Mr. D'Elia on an application for an emergency CDP to install two, temporary 3,000 gallon capacity water tanks on the Property in response to a citation issued by the Los Angeles County Fire Department which had notified Mr. D'Elia of the need to obtain a 2,000 gallon water tank for the Property. On July 31, 2008, emergency CDP No. 4-08-048-G was issued for two temporary, 3,000 gallon capacity water tanks.

From 2008 to 2011, Commission staff, Mr. D'Elia, and his agent had numerous conversations in an attempt to resolve the violations on the Property. In late 2011, Mr. D'Elia became severely ill, and Commission staff put its enforcement activities on hold while he and his family attended

to these medical matters. On January 31, 2012, several months before Mr. D'Elia passed away, a grant deed for the transfer of the Property was signed by Mr. D'Elia, conferring ownership to Ms. Charlotte Bjorlin D'Elia, Mr. D'Elia's spouse, who became the property owner.

In 2014, Commission staff continued discussions towards amicable and efficient resolution of the Coastal Act violations with Ms. Bjorlin D'Elia, who expressed her willingness to work with Commission staff on resolving the violations. Ms. Bjorlin D'Elia informed Commission staff that she had demolished two unpermitted houses on the Property in 2013. Commission staff informed Ms. Bjorlin D'Elia that demolishing structures can also raise resource concerns, if not done carefully, and also constitutes development under the Coastal Act and advised her not to undertake any additional development activities on the Property in order to prevent further impacts to resources. During conversations with Ms. Bjorlin D'Elia throughout February and March 2014, she stated that she was making efforts to sell the Property. Commission staff confirmed that the Property had been listed for sale and, therefore, to avoid any later misunderstandings, on February 12, 2014, Commission staff contacted the listing agent to inform her of the Notice of Violation recorded on the Property and to explain the need for any future owner to work with Commission staff.

On April 22, 2014, you completed the purchase of the Property and soon thereafter, on May 16, 2014, Commission staff sent you an introductory letter expressing our willingness to work with you amicably and efficiently to resolve the outstanding Coastal Act violations on the Property. During several telephone conversations between you and Mr. Naylor from May through October of this year, you expressed your interest in working cooperatively with Commission staff on resolving the unpermitted development through agreement to consent Orders. Also, during those conversations, Mr. Naylor informed you of the Commission's enforcement process and the nature of the violations and the necessary components of a resolution, including removal of unpermitted development, restoration of the impacted areas, monitoring of restoration activities, and of the need to mitigate for the interim losses of habitat and resolve civil liabilities.

Commission Permit History

Only one CDP³ has been issued authorizing development on the Property, but none of the unpermitted development at issue was authorized by this CDP. On March 18, 1981, the Commission issued CDP No. A-81-7601 for construction of a "484 sq. ft. storage building and a 2-level, 27 ½' high, 484 sq. ft. breeding station (total 968 sq. ft.) on the crest of two knolls on a 19.88 acre parcel presently in agricultural use." The development authorized under CDP No. A-81-7601 consisted only of these aforementioned structures, and the CDP did not approve any other development on the Property, such as associated grading and vegetation clearance.

³ On July 31, 2008, the Commission issued emergency CDP No. 4-08-048-G for two temporary, 3,000 gallon capacity water tanks. The emergency permit required submittal of a complete application for a regular CDP within 120 days and removal of the temporary water tanks within 180 days if no CDP was obtained for their permanent retention. To date, no follow-up CDP for permanent authorization has been applied for; however, the temporary water tanks have since been removed.

Instead of constructing the authorized storage building and horse breeding station, four unpermitted houses were placed on the Property. As noted above, in 2013, two of the four unpermitted houses were demolished, but two unpermitted houses remain on the Property. Additionally, the grading and vegetation removal conducted in association with construction of the unpermitted structures, and associated infrastructure placed on the Property to support these residences, such as water and septic systems, were unpermitted as well.

Cease and Desist Order

By way of background, the Commission's authority to issue cease and desist orders is set forth in Section 30810(a) of the Coastal Act, which states, in part, the following:

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

Section 30810(b) of the Coastal Act states that the cease and desist order may be subject to terms and conditions that the Commission determines are necessary to ensure compliance with the Coastal Act, including removal of any unpermitted development or material.

The development activities at issue on the Property required the authorization of a CDP from the Commission. Unfortunately, permits were not sought nor obtained for this development. Therefore, the criteria for issuance of cease and desist orders under Section 30810(a) of the Coastal Act are satisfied.

For these reasons, I am issuing this Notice of Intent to commence cease and desist order proceedings. The procedures for the issuance of cease and desist orders are described in Sections 13180 through 13188 of the Commission's regulations. Here again, these matters may be resolved in a consensual agreement between you and the Commission. The proposed cease and desist order will direct you to 1) cease and desist from maintaining any development not authorized pursuant to the Coastal Act; 2) cease and desist from engaging in any further development on the subject property unless authorized pursuant to the Coastal Act; 3) remove unpermitted development; and take all steps, as identified, necessary to comply with the Coastal Act.

Restoration Order

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

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

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

- 1) Unpermitted development has occurred on the Property.
- 2) This development is inconsistent with the resource protection policies of the Coastal Act including, but not limited to, the following:
 - a. 30231 (protection of water quality)
 - b. 30240 (protecting and limiting the use of environmentally sensitive habitat areas, or ESHA, and limiting ESHA-adjacent development)
 - c. 30251 (protecting scenic and visual qualities)
 - d. 30253 (minimization of adverse impacts)
- 3) The unpermitted development remains in place and is thereby causing continuing resource damage, as defined by Section 13190 of the Commission's regulations. The impacts from the unpermitted development remain unmitigated; therefore, the damage to resources protected by the Coastal Act is continuing.

For the reasons stated above, I have decided to commence proceedings for the Commission's issuance of a restoration order to restore the Property. The procedures for the issuance of restoration orders are described in Sections 13190 through 13197 of the Commission's regulations.

Response Procedure

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

The SOD form must be returned to the Commission's San Francisco office, directed to the attention of Cody Naylor, no later than, December 4, 2014.

However, should this matter be resolved via consent orders, an SOD form would not be necessary. In any case and in the interim, staff would be happy to accept any information you wish to share regarding this matter and can extend deadlines for submittal of the SOD form to specifically allow additional time to discuss terms of consent orders and to resolve this matter amicably. Commission staff currently intends to schedule the hearings of the cease and desist and restoration orders for the Commission's January 2015 hearing.

Notice of Intent to Record a Notice of Violation of the Coastal Act

The Coastal Act contains a provision for recording notice against real property of the existence of a Coastal Act violation on the Property. This provision was added to the Coastal Act so that

potential purchasers of the Property will have notice that a violation of the Coastal Act has occurred on the Property, and to lessen the potential for confusion and misunderstandings. In this case, as you know, a previous Notice of Violation was recorded against the Property on June 18, 2007 with the Los Angeles County Recorder's Office, and this new Notice of Violation would just be to update the list of violations. Notices of Violation are provided for in Section 30812 of the Coastal Act, which states:

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

In many instances of cooperation, property owners have agreed to stipulate to the recordation of a Notice of Violation while working with the Commission to resolve the violations through mutual agreement. In these cases, we can mutually agree to the recordation, in which case a formal objection is not necessary. If you do not agree to stipulate and want to specifically object to the recording of a Notice of Violation, you can object and present evidence to the Coastal Commission at a public hearing on the issue of whether a violation has occurred. To submit a timely objection you must specifically object, in writing, within 20 calendar days of the postmarked mailing of this notification. The objection should be sent to Cody Naylor at the address on the letterhead, no later than December 4, 2014. Please include the evidence you wish to present to the Commission in your response and identify any issues you would like us to consider. If you do not submit a written objection to the Commission within 20 days of this notification's mailing, I may record the Notice of Violation in the Los Angeles County Recorder's office. The Notice of Violation will be rescinded once the violations are resolved. Again, similar to the discussion above regarding the submittal of a Statement of Defense form, should we reach an amicable resolution of this matter and agree to the recordation of the NOVA, such an objection is not necessary.

Civil Liability/Exemplary Damages

Furthermore, please be advised that the Coastal Act provides for the imposition of civil liability (variously described as fines, penalties, and damages) for violations of the Coastal Act. In some cases, this can include daily penalties of up to \$15,000 for each day that a violation persists, and courts have held that property owners may be liable for violations on their property even if they were not directly and actively responsible for creating the situation. With your cooperation, it is our hope that we may resolve these issues amicably.

Resolution

As my staff has discussed with you, we would like to continue to work with you to resolve these issues amicably through the consent order process. As we have previously indicated, consent

November 14, 2014

cease and desist and restoration orders provide you opportunities to have more input into the process and timing of restoring the Property and mitigating for interim losses caused by the unpermitted development. The consent process could potentially allow you to negotiate a penalty amount with Commission staff in order to fully resolve the violations stipulated in the Orders without further formal legal action.

Another benefit of consent Orders that you should consider is that in a consent order proceeding, Commission staff will be presenting and recommending approval or an agreement between you and staff rather than addressing the violations through a disputed hearing.

If you are interested in continuing to discuss the possibility of agreeing to consent Orders, please contact or send correspondence to the attention of Cody Naylor in the Commission's San Francisco office by no later than November 21, 2014 to discuss options to resolve this case.

Again, should we settle this matter, you do not need to expend the time and resources to fill out and return the Statement of Defense form mentioned above, nor would you need to formally object to the recordation of a NOVA. Should you have any questions regarding any of the above items, please contact Cody Naylor at (415) 904-5255.

Sincerely,



CHARLES LESTER
Executive Director
California Coastal Commission

Enclosure: Statement of Defense Form

cc: Lisa Haage, Chief of Enforcement, CCC
Aaron McLendon, Enforcement Supervisor, CCC
N. Patrick Veesart, Enforcement Supervisor, CCC
Kristen Hislop, District Enforcement Officer, CCC
Steve Hudson, District Manager, CCC
Alex Helperin, Staff Counsel, CCC
Cody Naylor, Statewide Enforcement Analyst, CCC

CALIFORNIA COASTAL COMMISSION

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

**STATEMENT OF DEFENSE FORM**

DEPENDING ON THE OUTCOME OF FURTHER DISCUSSIONS THAT OCCUR WITH THE COMMISSION ENFORCEMENT STAFF AFTER YOU HAVE COMPLETED AND RETURNED THIS FORM, (FURTHER) ADMINISTRATIVE OR LEGAL ENFORCEMENT PROCEEDINGS MAY NEVERTHELESS BE INITIATED AGAINST YOU. IF THAT OCCURS, ANY STATEMENTS THAT YOU MAKE ON THIS FORM WILL BECOME PART OF THE ENFORCEMENT RECORD AND MAY BE USED AGAINST YOU.

YOU MAY WISH TO CONSULT WITH OR RETAIN AN ATTORNEY BEFORE YOU COMPLETE THIS FORM OR OTHERWISE CONTACT THE COMMISSION ENFORCEMENT STAFF.

This form is accompanied by a notice of intent to initiate cease and desist order and restoration order proceedings before the commission. This document indicates that you are or may be responsible for or in some way involved in either a violation of the commission's laws or a commission permit. The document summarizes what the (possible) violation involves, who is or may be responsible for it, where and when it (may have) occurred, and other pertinent information concerning the (possible) violation.

This form requires you to respond to the (alleged) facts contained in the document, to raise any affirmative defenses that you believe apply, and to inform the staff of all facts that you believe may exonerate you of any legal responsibility for the (possible) violation or may mitigate your responsibility. This form also requires you to enclose with the completed statement of defense form copies of all written documents, such as letters, photographs, maps, drawings, etc. and written declarations under penalty of perjury that you want the commission to consider as part of this enforcement hearing.

You should complete the form (please use additional pages if necessary) and return it no later than **December 4, 2014** to the Commission's enforcement staff at the following address:

**Cody Naylor, Legal Division
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105**

If you have any questions, please contact Cody Naylor at (415) 904-5255.
