

Exhibit 22

Letters in Opposition To The Project

9/5/05	Peter Swan & Rita McBride
11/20/05	Dr. J. Ziv
11/28/05	Lee Quaintance, The Beacon Foundation
12/2/05	Lee Quaintance, The Beacon Foundation
12/2/05	Linda Swader
12/2/05	Thomas Volk, Retired Ventura Co. Harbor Director
12/22/05	Thomas Volk, Retired Ventura Co. Harbor Director
12/22/05	Lee Quaintance, The Beacon Foundation
1/10/06	Lee Quaintance, The Beacon Foundation
1/11/06	James Kuykendall, Channel Islands Beach Community Services District
No Date	Milan Svitek
1/16/06	Dr. J. Ziv, Habitat for Hollywood Beach
1/31/06	Lee Quaintance, The Beacon Foundation
No Date	Arthur Schwab
2/21/06	Alyse M. Lazar
3/6/06	Lee Quaintance, The Beacon Foundation
3/15/06	Thomas Volk, Retired Ventura Co. Harbor Director
3/22/06	Lee Quaintance, The Beacon Foundation
3/28/06	James Kuykendall, Channel Islands Beach Community Services District

**Exhibit 21
PWPA 1-05 & NOID 1-06
Letters in Opposition**

RECEIVED
SEP 09 2005

Sept. 5, 2005

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST OFFICE

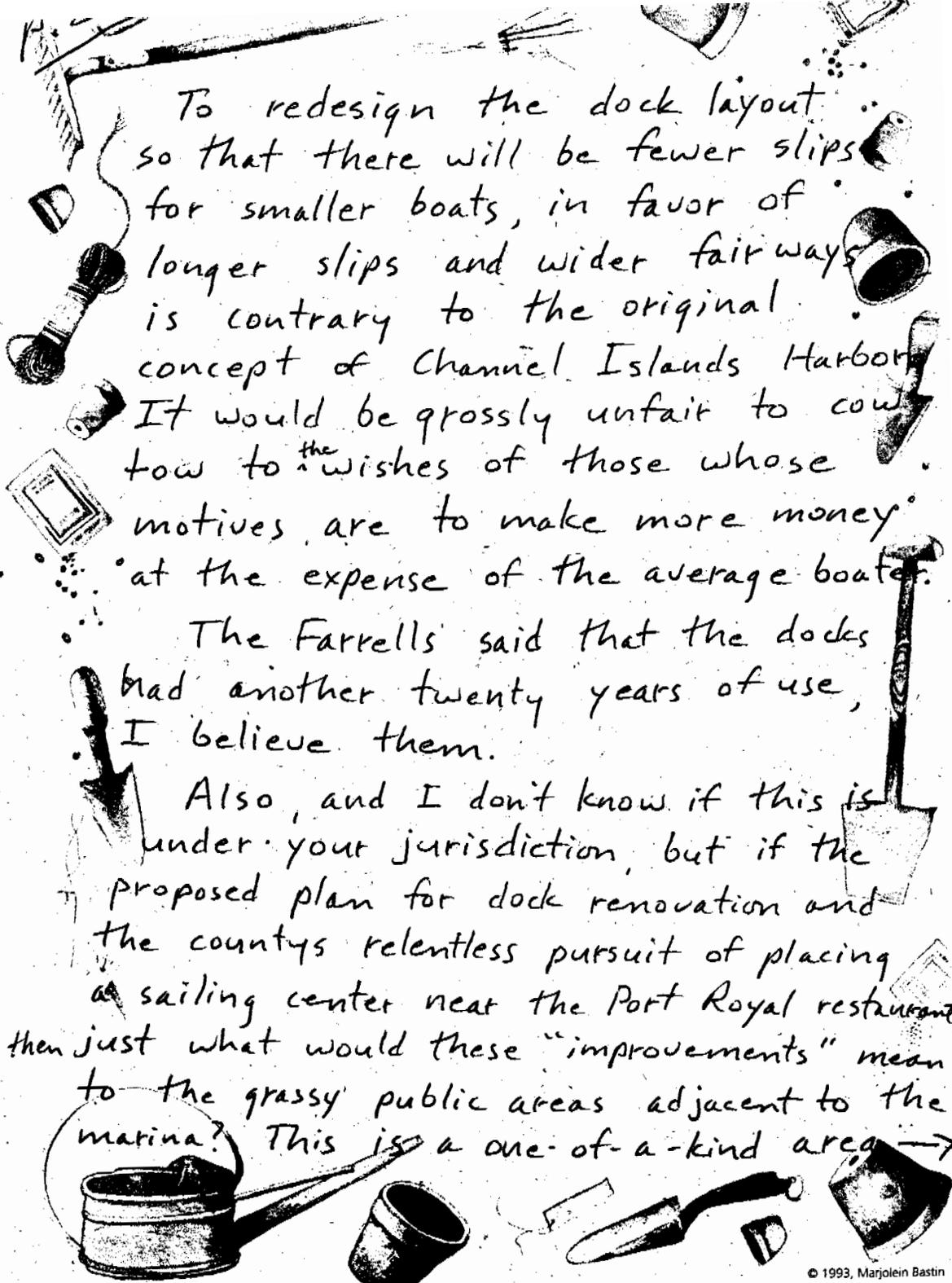
Dear Mr. Timm,

We are writing regarding Permit 4-04-097/Channel Islands Harbor Marina. We are gravely concerned about what the new operators of Channel Island Harbor Marina and Ventura County (including the harbor director Lynn Kreiger) have planned/proposed for changes. Here are some of our questions and concerns:

- One and sometimes both of us have lived aboard for almost the last three years. The previous operators the Farrell family, maintained the docks with competence, promptness and with sincere regard. Vintage, the new operators, or at least most of the people who represent them at CIHM, are the OPPOSITE embodiment of the above mentioned qualities; i.e. they are letting the docks fall into disrepair; e.g. not

pumping the rain water out of the floats in a timely fashion after a storm, making & not repairing big gouges when they remove planks to perform the pumping, not fastening planks on the docks that become loosened due to the nature of the beast - in other words: allowing & abetting the docks to fall into disrepair either through incompetence or willful neglect, so that they can say "the docks are in desperate need of repair". (In fairness I cannot say anything about renovation, if this means phone lines & such, as we do not use the phone lines).

- We are especially doubtful about the future of smaller boat owners having a space allocated for them in the proposed "renovation". A handful of 28' slips is no way nearly enough. We believe that the plan to make CIHM a "first class marina" is nothing less than a plan to make it more amenable to the wealthy. It's our understanding that this harbor was created for, as, a small boat harbor.



To redesign the dock layout so that there will be fewer slips for smaller boats, in favor of longer slips and wider fairways is contrary to the original concept of Channel Islands Harbor. It would be grossly unfair to bow to ^{the} wishes of those whose motives are to make more money at the expense of the average boater.

The Farrells said that the docks had another twenty years of use, I believe them.

Also, and I don't know if this is under your jurisdiction, but if the proposed plan for dock renovation and the county's relentless pursuit of placing a sailing center near the Port Royal restaurant, then just what would these "improvements" mean to the grassy public areas adjacent to the marina? This is a one-of-a-kind area →

no commercialism, rather some space
to picnic & play & stretch your eye.
It seems to us that Vintage & the
county of Ventura prefer money over
quality of life.

Please don't allow the proposed changes
come to pass. We do not want the Harbor
to be turned into another Marina del Rey -
how boring, unnecessary and unfair.

Thank you for your time.

Sincerely,

Peter H Swan

Rita McBride

Slip G-26

HC 72 Box 8694

Fish Lake Valley, NV

89010

[REDACTED]

P.S. I am a sixth generation Californian, and
the changes I've seen to our coastline due to develop-
ment is terrible. R.M.

Gary Timm

From: Dr. Jonathan Ziv [jzivdds@pacbell.net]
Sent: Saturday, April 01, 2006 8:18 PM
To: Gary Timm
Cc: John Ainsworth

Dear Gary,

In reviewing the .PDF online for the Vintage Marina Partners item for April 13th I noted that the letters to the Commission from the Channel Islands Beach Community Services District are not included, nor is the letter from Michael Case regarding the Farrell trial jury's determination of the eight year useful life of the existing docks at the Channel Islands Harbor Marina.

I am requesting that those letters be included in the Commissioners' packets and, if possible, added to the .PDF file available to the public online. I have included copies of the three letters that you have already received as attachments to this email.

I would also like to make a few points about the staff report:

CONSTRUCTION MODIFICATION-

I am wondering why the modification language regarding construction during the nesting season is so different for the Vintage project than that required for the BISC construction that also includes dock demolition and construction. The BISC mod mentions nothing about a 100 foot distance to nesting trees. It correctly forbids the noise, construction traffic through and near nesting trees, and other disturbances if any nesting in the linear park is occurring. Construction on BISC facilities cannot commence until nesting has ended. The same should be true for the Vintage construction as it will not only be equally as disturbing to the heron, but will have a cumulative effect as well with the BISC construction that may occur at the same time. The staff report should be amended to remove the 100 foot reference and make the language consistent with the contiguous BISC project modification.

One thing missing from the Vintage construction mod language that understandably *would* be different from the BISC construction mod is the addition of language noting Great Blue Heron nesting in addition to the Black Crowned Night Heron. While no Great Blue Heron nests have been seen in the vicinity of the BISC, Great Blue Heron nests have historically and currently exist and are presently occupied in close vicinity to the Channel Islands Harbor Marina docks.

Also, numerous Great Blue Heron are currently nesting north of the Lobster Trap Restaurant parking lot on the peninsula and I have photographed them retrieving twigs and branches at the linear park and transporting them by air to the nests they are building in the palms near the Lobster Trap. This activity would also be disturbed by the noise and traffic associated with the Vintage project construction.

WHY IS THE NOID BEING RECOMMENDED WITHOUT DETAILED DRAWINGS?-

What is the rationale for recommending approval of a Notice of Impending Development when by rejecting the applicant's slip plan and requiring the BISC docks to be of the design approved by the Commission last year and be adequately separated by a DBW approved fairway distance from Vintage project docks the newly designed plan may possibly lose more slips and not be able to be mitigated by measures contemplated in the current staff recommended PWP amendment and NOID conditions.

While I recommend rejection of the PWWA pending a comprehensive plan for the entire harbor, I applaud most of the modifications added by staff. However, it seemingly makes little sense to approve a Notice of Impending Development when even the applicant could not know what the development will be or how it will be configured.

Even if the PWWA is approved with the staff modifications, the NOID should be postponed until detailed plans are provided by the applicant complying with the policies contained in the newly amended PWP. As in the case of the BISC, some of the conditions of the NOID depend on the construction of facilities within the harbor that do not yet exist, nor are they even designed or planned. At least the configuration of the BISC was known at the time of the NOID, but in the case of the Vintage project, the entire design must be redone. The plans for the marina with all requirements met and an actual plan for the modified parcel P to show the mitigating dry storage should be required as the minimum necessary to consider a NOID. Staff is placing the Commissioners in the role fortunetellers, requiring them to predict what the future may or may not bring in the form of mitigating dry storage location and opportunities or whether the applicant can actually meet the staff requirements of 400 plus slips with 50% under 36 feet while still maintaining the approved BISC dock design and functions.

Thank you for your excellent hard work in preparing the staff report along with Ms. Duffy. While I still believe that both the PWWA and the NOID should be postponed pending redesign and completion of a comprehensive overall plan for the harbor, I appreciate greatly the research and effort CCC staff has put into this report thus far.

Respectfully,

Jonathan Ziv
805-985-5298
3365 Ocean Drive
Channel Islands Beach, CA 93035

January 10, 2006

TO: California Coastal Commission

SUBJECT: PUBLIC WORKS PLAN AMENDMENT FOR CHANNEL ISLANDS HARBOR IN VENTURA COUNTY

Gentlemen:

The Channel Islands Beach Community Services District (CIBCSD) is the unincorporated area of Ventura County that surrounds the Channel Islands Harbor. The District provides water, sewer and trash services for over 1700 customers, including Channel Islands Harbor businesses and residences (live-aboards). Live-aboards are eligible to vote in District elections. Many of our District residents also utilize the Harbor on a regular basis because of its proximity to their residences. Therefore, changes to the business, economic and recreational environment of the Channel Islands Harbor are a direct concern of the Channel Islands Beach Community Services District community.

Rapid development of Ventura County is underway. There are major new developments being implemented at Channel Islands Harbor and others are proposed. Channel Islands Beach Community Services District's concern is that the changes to the Harbor are being made piecemeal, with no organized assessment of the impacts of these changes. The appropriate planning processes of a Master Plan, California Environmental Quality Act (CEQA) review, and detailed amendments to the Channel Islands Harbor Public Works Plan are being ignored. Further, it might even be inferred that the California Coastal Commission (CCC) is being used to enable this lack of planning and process.

As a recent example, the CCC was asked to approve an amendment to the Harbor's Public Works Plan for a new Boating Instruction Center, even though there is strong local opposition to this development. Now, the CCC is being asked to approve the Harbor's Public Works Plan water side amendments; i.e. reducing the number of boat slips, to bring them into compliance with the American with Disabilities Act; implementing a reportedly modest 20 foot extension of the slips into the main traffic channel. As single events, these amendments appear to be a minor consequence. However, if CCC considers the major new Seabridge development connecting the Harbor with approximately 1200 new boat slips, the resulting increase in boat traffic to the sea, the narrower (by~ 40 feet) main Harbor channel, and the impact of inserting new youth

sailboat training directly into the main traffic channel, cumulatively the impact may not be so minor. What public process is being followed?

Appropriate planning of the Channel Islands Harbor, its use, development, and the public facilities needed makes for an extremely important task with significant potential long-term effects. The State of California enacted the California Environmental Quality Act in recognition of the importance of public input on the local level. As you know, CEQA addresses mitigation of the impact of proposed projects, but it is first and foremost a disclosure document. It provides the process for all effected agencies to address the potential impacts associated with a project within their area and control. Channel Islands Beach Community Services District can find no evidence that the Channel Islands Harbor projects are being publicly reviewed, by Ventura County and its Harbor Department, to fulfill both the spirit and letter of CEQA.

The use of incremental project-by-project development of the Harbor is inappropriate. A comprehensive master plan for the Channel Islands Harbor and the associated coastal resource is desperately needed. Channel Islands Beach Community Services District recommends that the CCC return all CI Harbor applications to amend the PWP until after a Harbor Master Plan and an appropriate comprehensive CEQA process are implemented.

Until such time as this planning is complete, existing facilities in the Harbor must be maintained to adequate safety standards at all times. Allowing the deterioration of existing docks or other facilities should not be permitted during the period that a comprehensive plan is developed. It is the responsibility of the owner and any tenant to operate a safe facility and not use lack of maintenance as an excuse for inadequate access to our coastal areas.

If you should have any further questions, you may reach me at the District offices during regular business hours at (805) 985-6021. Thank you for your consideration in this matter.

Sincerely,

James D. Kuykendall, PE
General Manager

cc: Board of Directors
John Mathews
Ventura County Board of Supervisors
Lyn Krieger, Ventura County Harbor Department

March 28, 2006

TO: California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001-2801

ATTENTION: Gary Trimm

**SUBJECT: CLARIFICATION RELATED TO PUBLIC WORKS PLAN
AMENDMENT FOR CHANNEL ISLANDS HARBOR IN
VENTURA COUNTY AND THE JANUARY 23, 2006 LETTER
FROM JOHN JOHNSTON TO THE CALIFORNIA COASTAL
COMMISSION**

Gentlemen:

We previously submitted comments on a Public Works Plan Amendment (PWPA) for the Channel Islands Harbor. Those comments were in a letter dated January 11, 2006. Our comment letter supported a full evaluation of the Harbor and its usage through a PWPA on the Harbor as a whole.

The Ventura County Executive Officer sent you a response to that letter dated January 23, 2006. We did not receive a copy of that letter directly. One of the District residents happened to be reviewing some of the Commission's files and saw a copy of the letter. That individual then provided a copy of the letter to the District. A couple of the comments contained in Mr. Johnston's letter should be clarified.

First, the second paragraph implies that the Channel Islands Beach Community Services District or some of its Board Members "have been adamant that additional public service uses not be established further on the west side of the harbor." The District has not taken any action nor passed any resolution against such development. The one issue where this may be misinterpreted is the Boating Instruction and Safety Center. The Board has always supported the establishment of a Boating Instruction and Safety Center, but they did request an alternate location be more rigorously evaluated. The Channel Islands Beach Community Services District Board of Directors are environmentally sensitive and want all projects to be developed in conformance with sound environmental principals.

The second issue relates to the 20-foot extension of docks into the main channel of Channel Islands Harbor. The wording in the amendment does not limit that 20-foot extension to the Channel Islands Harbor Marina. Other marinas implementing this same

approach could effectively reduce the channel by 20 feet on each side of the channel. This would reduce the channel width by at least 40 feet. There could be an even greater restriction if boats are allowed to tie to the outside of the pier extensions.

We are even more concerned about the County statement in that same paragraph indicating that the potential for increased congestion was evaluated in relation to a different project and that evaluation is therefore not necessary in relation to this project. This again indicates piecemeal approval of Harbor projects and demonstrates why thorough project evaluation including environmental review is so critical if projects are truly going to meet the full range of public benefit goals. When evaluating multiple projects, they may not appear significant when viewed individually; but when evaluated together, they can have significant adverse effects.

We again urge the evaluation of the Public Works Plan for the Channel Islands Beach Harbor be a comprehensive review of Harbor improvements. This should include a review of the best locations for all of the various proposed recreational uses and the evaluation process should be integrated to make the best possible use of this valuable resource.

If you should have any further questions, you may reach me at the District offices during regular business hours at (805) 985-6021. Thank you for your consideration in this matter.

Sincerely,

James D. Kuykendall, PE
General Manager

cc: Board of Directors
John Mathews
Ventura County Board of Supervisors
John Johnston, Ventura County Executive Officer
Lyn Krieger, Ventura County Harbor Department

FERGUSON CASE
ORR PATERSON &
CUNNINGHAM LLP
ATTORNEYS AT LAW

MICHAEL W. CASE	THEODORE J. ENGLAND*	DAVID L. SHAIN	DOUGLAS E. KULPER	JACQUELYN K. WRIGHT	<i>Of Counsel</i>
JOHN C. ORR	JOSEPH L. STROHMAN, JR.	ROBERT B. ENGLAND**	DAVID B. SHEA**	LESLIE A. McADAM	THOMAS R. FERGUSON
WILLIAM E. PATERSON	ROBERT L. GALLAWAY*	WILLIAM B. SMITH	JAMES Q. McDERMOTT	JESSE E. CAHILL	
DAVID L. CUNNINGHAM	DAVID W. TREDWAY	RAMON L. GUIZAR	MARK T. BARNEY	ELLEN M. MURPHY	
LOU CARPIAC	SANDRA M. ROBERTSON	GREGORY W. HERRING***	MICHAEL A. VELTHOEN	DOUGLAS K. GOLDWATER	

Writer's Email
mcase@fcopc.com

December 19, 2005

VIA EMAIL (jzivdds@pacbell.net)

Jonathan Ziv, D.D.S.
Agoura Hills, California

Dear Dr. Ziv:

I am responding to your request. You are interested in knowing the basis for the jury's verdict in the recently tried *County of Ventura v. Channel Islands Marina, Inc.* litigation, Ventura County Superior Court Case No. CIV 219020.

The jury rendered a verdict valuing the leasehold improvements (without consideration for any land value) of \$3,500,000. A copy is enclosed. Judgment was thereafter rendered in that same amount.

During the trial, three different appraisers were called who testified regarding the value of the leasehold improvements, based on their expected life. The County called one appraiser, Norman Eichel, MAI, who testified using a variety of theories. Channel Islands Marina, Inc. called two different appraisers. Philip Economou valued the leasehold improvements at \$3,500,000 based upon his personal examination of leasehold improvements and his opinion as to their continued life and the cost of maintaining that life, which was taken into account in coming up with his appraised value.

Douglas L. Wright, MAI, an experienced marina appraiser, provided his opinion in part by a chart that was given to the jury which set forth yearly values based on the expected life of the leasehold improvements. For example, he valued the leasehold improvements as having a value of \$577,637 if the jury were to find that the improvements had an expected life of one year. On the other hand, if the jury were to find an expected life of ten years, he valued the leasehold improvements at \$4,003,259.

Jonathan Ziv
December 19, 2005
Page 2

We are enclosing a copy of Mr. Wright's resume and pages 1, 2 and 3 from his 49-page report, marked as Exhibit 1332 in the trial. It includes his chart. Mr. Eichel did not present a similar chart. Mr. Wright stopped his analysis at 10 years, although there was other testimony supporting a longer life. He testified that going beyond ten years introduced other variables that he did not want to pursue without more information than he had. During the trial both the County and Channel Islands presented evidence as to the expected life of the improvements, which was used by the jury to determine the value of the leasehold improvements.

As you will see from page 3 of 49, the jury's award of \$3,500,000 falls between Mr. Wright's valuation based on 8-years of expected continued life (\$3,458,868) and his 9-years of expected life (\$3,743,119). The jury apparently decided on an expected life of eight to nine years.

We can provide complete copies of Mr. Wright and Mr. Economou's reports if you find that necessary. They were marked as exhibits at trial. We can also provide a copy of the County appraiser's analysis, which shows a value of less than \$1,000,000, if you are interested.

From this information, one might reasonably conclude the basis for the jury's determination. We do not have, however, a specific written statement, expressly answering your question. But the analysis I have set forth in this letter is consistent with statements made by various individual jurors to us after the trial that they gave great weight to Mr. Wright's analysis.

Very truly yours,

FERGUSON, CASE, ORR,
PATERSON & CUNNINGHAM



Michael W. Case

MWC:cs
Enclosure
cc: John Farrell (via fax w/o enc.)

Douglas L. Wright, MAI
Real Estate Economic Consultant
934 Santa Helena, Solana Beach, CA 92075
Telephone: 858.945.4742 ♦ Fax: 858.259.8950
E-Mail: dlwright@adelphia.net

STATEMENT OF QUALIFICATIONS & CAPABILITIES

Professional Credentials

MAI Designation, The Appraisal Institute. (Member No. 9072)
Certified-General Real Estate Appraiser, State of California. (Certificate No. AG1959)

Services Performed

Real Estate Valuation & Evaluation Studies	Expert Testimony & Litigation Support
Real Estate Economic Feasibility Analysis	Project Management & Transaction Due Diligence
Real Estate Investment Analysis	Valuation of Complex Leasehold & Leased Fee Interests
Real Estate Development Consulting	Valuation of Complex Partial Interest Acquisitions

Real Estate Experience

Retail Centers	Hotel & Motel Properties	Small Craft Marinas	Irrigated Farmland
Office Complexes	Single-Family Subdivisions	Commercial Boatyards	Orchards & Vineyards
Industrial Parks	Condominium Developments	Amusement Parks	Undeveloped Urban Land
R&D Facilities	Apartment Complexes	Recreational Facilities	Undeveloped Rural Land
Self Storage Units	Mobile Home Parks	Health Care Facilities	Conservation Land

Employment History

2000 - Present:	Appraiser / Consultant	Douglas L. Wright, Inc., Solana Beach, CA
1997 - 2000:	Appraiser / Consultant	San Diego Unified Port District, San Diego, CA
1991 - 1997:	Appraiser / Consultant	Douglas L. Wright, Inc., La Jolla, CA
1987 - 1991:	Appraiser / Consultant	The Recht & Recht Company, San Diego, CA
1986 - 1987:	Appraiser / Consultant	The Berger Company, San Diego, CA
1984 - 1986:	Loan Officer / Mortgage Broker	Guild Mortgage Company, San Diego, CA
1978 - 1984:	Appraiser / Loan Officer	Federal Land Bank, Sacramento & Fresno, CA

Formal Education

Professional Curriculum in Real Estate Appraisal, The Appraisal Institute.
Professional Curriculum in Real Estate Investment, Commercial Investment Real Estate Institute.
Professional Curriculum in Real Estate Management, The Institute of Real Estate Management.
Post Graduate Studies, Management, University of Maryland, College Park.
Post Graduate Studies, Finance, University of California, San Diego.
Post Graduate Studies, Accounting and Taxation, University of California, Los Angeles.
MS 1977, Business Management and Production Sciences, University of California, Davis.
BA 1974, Physical and Biological Sciences, University of California, Los Angeles.

Community Involvement

Member, Ethics and Counseling Panel, Southern California Region, The Appraisal Institute.
Member, Experience Review Panel, San Diego Chapter, The Appraisal Institute.

The Appraisal of

Channel Islands Marina
3850 Harbor Boulevard
Oxnard, CA 93035

Date of Report

February 4, 2004

Date of Value

September 1, 2003

Prepared By

Douglas L. Wright, MAI

Prepared For

Michael W. Case, Esq.
Ferguson, Case, Orr, Paterson & Cunningham, LLP

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Douglas L. Wright, Inc.
Real Estate Economic Consultants
934 Santa Helena, Solana Beach, CA 92075
Telephone 858.945.4742 ♦ Fax 858.259.8950
E-Mail dlwright@adelphia.net

February 4, 2004

Michael W. Case, Esq.
Ferguson, Case, Orr, Paterson & Cunningham, LLP
1050 South Kimball Road
Ventura, CA 93004

Regarding: Channel Islands Marina
3850 Harbor Boulevard
Oxnard, CA 93035

Dear Mr. Case:

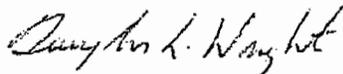
Pursuant to your request, I have completed an inspection, investigation and analysis of the above referenced property for the purpose of estimating the market value of the existing land and water area improvements in terms of the prospective market value of a hypothetical leasehold interest in the property.

The hypothetical leasehold interest is conceptually consistent with the new long-term land lease that will be created by the County of Ventura pursuant to the May 2003 Request for Proposals for redevelopment of the property. The market value of the existing land and water area improvements is estimated in terms of this hypothetical leasehold interest, because such an ownership structure most accurately reflects the value of the existing improvements in the marketplace following expiration of the prior long-term land lease for the property.

Significant facts and conclusions are presented in the *Executive Summary* that follows this letter. The accompanying report describes the facts and discusses the reasoning upon which this value conclusion is based. The report is outlined in a *Table of Contents*. Please be aware, the appraisal analysis described herein is subject to numerous assumptions and limiting conditions that are summarized in the section of the report titled *Introduction*.

Thank you for the opportunity to be of service. Please contact me if you have any questions about the report, or require assistance in some other way.

Sincerely,



Douglas L. Wright, MAI

Executive Summary

Subject Property Overview

Existing Development

511-Slip Recreational Marina
 Good Quality Improvements
 Constructed 1960s
 Average Current Condition

Hypothetical Lease Provisions

Long-Term Land Lease
 Minimum Rent vs. Percentage Rent
 Rent Net-Net-Net to Lessor
 10 Years Total Term

Site Characteristics

5,200 SF ± Parcel D Land Area
 2,400 SF ± Parcel E Land Area

 203,000 SF ± Parcel D Water Area
 397,000 SF ± Parcel E Water Area

Improvement Characteristics

511 Single Marina Slips
 10 End-Tie & 10-20 Side-Tie Berths
 880 SF Restroom Building
 1,460 SF Marina Office/Restroom Building
 8,500 SF Yacht Club/Office/Restroom Building

Scope of Assignment

Appraisal Specifications

Prospective Market Value
 Hypothetical Leasehold Interest
 Complete Appraisal & Summary Report per USPAP
 September 1, 2003 Date of Value

Key Property Assumptions

As-If Free of Hazardous Substance Contamination
 As-If Hypothetical Land Lease Commenced
 As-Currently-Improved with Existing Improvements
 As-Currently-Occupied with Forecast Income Stream

Prospective Market Value of Hypothetical Leasehold Interest

Lease Year	Contributory Value	Cumulative Value
Year 1:	\$577,637	\$577,637
Year 2:	\$528,641	\$1,106,278
Year 3:	\$483,801	\$1,590,079
Year 4:	\$442,764	\$2,032,843
Year 5:	\$405,208	\$2,438,051
Year 6:	\$370,838	\$2,808,889
Year 7:	\$339,383	\$3,148,272
Year 8:	\$310,596	\$3,458,868
Year 9:	\$284,251	\$3,743,119
Year 10:	\$260,140	\$4,003,259

Total Value Estimate, Lease Years 1-10, Effective 9/1/2003

... \$4,003,000 ...

VENTURA
SUPERIOR COURT
FILED

MAY - 5 2005

MICHAEL D. FLANET,
Executive Officer and Clerk
BY: _____ Deputy

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA**

COUNTY OF VENTURA,

Plaintiff,

v.

CHANNEL ISLANDS MARINA, INC. and
DOES 1 through 25, inclusive,

Defendants.

Case No. CIV 219020

Assigned For All Purposes to Hon.
Frederick H. Bysshe, Courtroom "47"

VERDICT FORM

AND RELATED CROSS-COMPLAINT.

We the jury award damages to Channel Islands Marina, Inc. and against the County of
Ventura in the amount of \$ 3,500,000.00.

5 May 2005
Date

Edwin M. Osborne
Foreperson

Tracy Duffey

From: Dr. Jonathan Ziv [jzivdds@pacbell.net]
Sent: Sunday, November 20, 2005 9:59 PM
To: Tracy Duffey
Cc: Gary Timm
Subject: PWP amendment 1-05

Dear Ms. Duffey,

- **Dry Storage Capacity Present and Future is inaccurate.** The attached emails pertain to Parcel Q, -- what Mrs. Krieger likes to refer to as a temporary dry storage facility. It actually started as a complete fencing off of the public park's parking lot and adjacent abandoned boat launch parking lot. The entire parcel is shown as a designated view corridor in the PWP masterplan map. Mrs. Krieger's decision to enter into a lease with Mr. Frank Butler, whose other company operates out of and leases the adjacent Parcel P, should have required a major PWP amendment. It violated the view corridor and the land use designation is inconsistent with the use she is leasing it for. No adherence to PWP policies were ever done, the lease was simply negotiated and presented to the Board of Supervisors for approval without any consideration of PWP consistency or process. The destruction of the view corridor was so successful that most people who pass by the park on their way to and from Silverstrand do not even know it is there anymore, although for years its gorgeous sunset vistas over the harbor were well known and it provided free coastal access to the public

Through my efforts and letters, and maybe Gary's (I hope), one day workmen showed up over a year ago and pulled the entire chain link enclosure out of the concrete and moved it closer to Victoria Ave., so that today, there is finally again an opened up parking area available for the park and the adjacent transient boat slips in the harbor. Of course the view is still obliterated. The public restrooms, that were for years fenced off by the controversial dry storage chainlink fence, are now able to be accessed, but, alas, are locked fulltime.

If Mrs. Krieger is contemplating offering this violating lease parcel as an option for permanent dry storage, I would hope that you consider this information I have provided on the intended usage, history of abuse, and new modifications to the PWP adopted in March by the CCC re policy re mapped view corridors, and not accept this future plan as an acceptable mitigation for loss of wet slips as part of PWP amendment 1-05. Regarding parcel N and P, I hope that your inquiries regarding vacancy rates do not reflect a willingness to accept this as a mitigation towards loss of wet slips in the marina.

- **Regarding slip replacement:** If you study the Sept. 27 letter re: CI Marina NOID for the slip counts there is an apparent discrepancy. The slip tables by Cash and Associates in the slip design detail list only 403 slips in the reconstructed marina while Mrs. Krieger says there will be 405. There are 523 slips currently, she says, so that is a net loss of 120 slips, including those being displaced by the BISC. In the later letters to you a 95 slip count is used for discussion of replacement. I reiterate, if both PWP amendment 1-04 and 1-05 are to be approved as is, there will be a net loss of 120 wet slips total, NOT 95. Even if the dock extensions beyond the pierheads are allowed, one cannot possibly believe the Commission will accept that a loss of 120 wet slips qualifies as "replacement in kind (size and use) for those lost to the BISC, or to be in keeping with the Coastal Act policies, for the slips lost in the water due to Vintage Partner's plans to meet the market demands they cite in the DBW study.

If it is true that federal ADA regs can supersede California's coastal policies, then even if all the slip sizes and lengths were replaced by concrete docks just as they are configured currently, there would have to be a loss of around 30 slips according to Mrs. Krieger's figures. Well, there is nothing CCC can do about federal regs. All the *remaining* 90 slips lost in the proposed plan are due to a

discretionary decision by the State and County to locate the BISC within the former Channel Islands Marina lease parcel, and a discretionary decision by Vintage Marina Partners to supposedly assess the current market and replace the smaller slips with larger and fewer ones. Neither of these discretionary decisions should override Coastal Act policies that prohibit reductions in recreational boating slip numbers. How can CCC justify to the boating public of Ventura County that trading wet slips for dry storage, stacked or otherwise is replacement in kind? Okay, maybe Krieger can justify trading the 30 due to ADA regs, because that is beyond the control of the CCC, but accepting that Vintage's profit margin or Dept. of Boating and Waterway's poor judgment in BISC locations are reasons to rob Ventura County of very scarce wet slips in this amendment request is not, I feel what the Coastal Act is all about. Its about preserving as much of the coast for public access versus private use as possible. Every effort was made to prove during the deliberations of Amendment 1-04 that the losses exempted by the BISC modifications stood alone. Now even the County is linking the two projects. The parking improvements absolutely necessary to locate the BISC also will create the mitigating patch of lawn in front of the Whale's Tail Restaurant that is supposed to replace parkland lost due to the BISC. Well now that project's parkland mitigation, which is only possible with the new parking lot and street reconfiguration, is being offered to you as mitigation for the loss of lawn area and trees as a result of this marina project. It gets all mixed up, doesn't it? Sounds more and more like all one project, but that's an argument for another day.

I noted that the CCC's recent study of LA County's policies toward recreational boat access in Marina Del Rey is now in the PWP 1-05 file. I hope that CCC staff looks toward preventing another county from being less than accurate in their contention that they are cooperating in having their lessees provide the best possible affordable access to recreational boating for boaters of all demographics-not just the rich and famous.

If you have followed the media reports of the near riot at the recent Board of Supervisors' meeting over the current marina lessee's treatment of live aboards and recent slip rental fee hikes, the part in Mrs. Krieger's Oct. 31st letter about having less liveaboards to deal with in the future from "attrition alone" is more like loss through strategic rent hikes and regulation changes designed to clear out the marina of low and middle income renters and liveaboards to make way for larger boat users.

- **Please note that Amendment 1-05 contains two very critical attempts to circumvent the amendment process for upcoming harbor development projects:**

The language allowing extension of docks by no more than 20 feet beyond the existing pierheads could have been made specific to the Channel Islands Harbor Marina, if in fact the CCC decides it is even acceptable. The language was made intentionally broad to be applied to other planned marina projects. It has been common knowledge that Mr. Butler, who leases parcel P and Q owns the Anacapa Landing docks and intends to expand those docks out beyond the pierheads. With the language in PWP 1-05, he and others could follow suit and expand their docks without appropriate amendments and with just a NOID.

The other attempt is language inserted into the PWP to allow buildings throughout the harbor to expand their exteriors by NOID alone, if it can be justified by some tie in to ADA requirements. as in the proposed 100% expansions of the CI Harbor Marina office and private boater restroom exteriors and square footages (is it REALLY only 100%--the renderings show new two story additions!!!--are those just windowed roof treatments in the pictures, or are there lofts or attics or an actual second story space-inquiring minds want to know!!).

This language inserted into the new amendment is a blatant attempt to pull an end run around the 10% footprint increase limitation on remodels and building maintenance provision in the current PWP. Right now, any building increases beyond 10% require either a major or minor amendment to the plan. Culbertson and Adams see an opportunity to use ADA requirements as some kind of magic wand to wipe away the need to go through plan amendments for future harbor redevelopment plans. Andi knows how limited the Commission's ability to exert its influence over NOIDs is. She tried in 2003 to get staff to go along with a huge project like the BISC only needing a NOID and it worked! Luckily, Commission overturned staff then, and I hope that these blundering attempts by the county to assume that the Commission won't be looking when they try to sneak these through will be first resisted by CCC staff.

So, please suggest modifications to the pierhead extensions to limit them to the current project, or better yet deny them outright. Although expert boating studies submitted into the 1-04 Amendment were not studied by the Commission, they are still there to be referenced by staff for the current amendment. The experts hired by the CI Beach Community Services District found that the BISC docks on the south side of the north basin, letting sailpowered small craft with novice sailors enter the chokepoint of the main channel where it meets the turning basin to be a less than safe situation. Having the pierheads expanded further into the main channel, narrowing it further and making it more likely for a collision of a large craft with the small sailcraft should be a factor effecting harbor congestion, a huge concern of the PWP as written. (BTW, a public records request of just what the harbor dept told Long Beach coast guard to get them to write the letter in the file is forthcoming). Maybe the CCC thought that the BISC alone was safe and approved it. I don't believe the Commission envisioned the BISC to be teamed up with a narrowing of the harbor main channel.

Similarly, please suggest elimination of all the language regarding allowing buildings harborwide to expand through the NOID process alone if there is some tie in to ADA regs. If the restroom buildings in the park must expand due to ADA regs for extra handicapped stalls, just note it in this specific amendment as an exception to the 10% rule. That's what amendments are for afterall.

- **Your questions about the loss of the trellises and other features** reminded me that one can see the video of how Supervisor Linda Parks was convinced to be the fourth vote to approve the Vintage Marina Partners lease (4 out of 5 votes were required for approval). She wanted all language allowing building expansion into the parkland removed before she would approve the lease. Supervisor Steve Bennett on the tape assures her that the lease language allowing expansion of land side facilities was for picnic table, sun shades, barbeques, and other park improvements. Parks became the fourth vote based on that assurance. The video of that Dec.9, 2003 meeting is available online at http://ventura.granicus.com/ViewPublisher.php?view_id=6 click on Dec. 9th, click on item 46, and scroll to time=8:52:45 and 8:54:20 to hear the exchanges to see what was in the minds of the approving authority when they approved this lease-it was not to expand buildings into parks in the case of Mrs.Parks and of course Supervisor Flynn voted against the whole thing. I have reminded Linda that what she feared would happen if that language was left in has occurred and what she was promised would be done has been removed as stated in the response to your question about the missing features by Mrs. Krieger.

Thanks for letting me comment as an individual on the file so far.

Jonathan Ziv

Member, Board of Directors
Channel Islands Beach Community Services District
805-985-5298 h
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The Beacon Foundation

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RECEIVED
NOV 28 2005

November 28, 2005

Tracy Duffey
Analyst
California Coastal Commission
89 South California Street
Ventura, CA 93001

Re: Maj, Amendment No. 1-05
Vintage Marina Reconstruction
Channel Islands Harbor

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Dear Ms. Duffey:

We supported the staff request granted at the November 16th Coastal Commission meeting for a time extension to act upon this major amendment to the Ventura County Harbor Public Works Plan (PWP). There are many discrepancies and Coastal Act issues not dealt with in the County submission and additional time is required to address them.

1. CCC Staff is Asked to Rely on an Unapproved "Amended" PWP

The applicant has given you and asked you to base your analysis on a version of the PWP that has neither been approved by the County Board of Supervisors nor certified by the Commission. This document, received in your office on 9/26/05, purports to integrate the 22 modifications to the amendment for the Boating Instruction and Safety Center (BISC) project. The 22 modifications were required by the Commission for approval of the amendment to the PWP allowing the BISC.

The version of the PWP you have been given states on its title page that it was "Adopted by County of Ventura, Board of Supervisors July 26, 2005." No action of any kind was taken on the PWP by the Board of Supervisors on July 26, 2005. **Further, this document has never been approved or even seen by The Board of Supervisors.**

On November 16, 2005 the Commission voted unanimously to postpone for thirty days consideration of certification of approval of the BISC amendment. The Commission action resulted from failure of the County to adopt the 22 modifications by Board of Supervisors resolution.

The BISC project and the Vintage Marina Project are adjacent and intertwined. Commission review of Maj. Amendment 1-05 cannot be completed until and unless the County takes the required action to adopt the modifications to the BISC amendment and until the amendment is certified by the Commission

2. The Applicant Has Provide No Environmental Review of its Project And On This Record The Commission Cannot Fulfill Its Review Requirements Pursuant to Section 21080.9 of CEQA

All the County has provided is a bald assertion that the project is exempt from CEQA. Numerous and pervasive environmental impacts make it obvious that the project's direct and cumulative impacts require the Commission to perform an environmental review that is the functional equivalent of an adequate review pursuant to CEQA.

The Commission is not staffed to take on the environmental review obligation on its own. It must call upon the County to discharge this obligation so that the Commission can fulfill its review responsibility. Without such an environmental review the Commission cannot consider the proposed Amendment.

The Commission may not turn a blind eye to the County submission of a "naked" request for approval of major PWP amendments absent any environmental review documentation. The Commission cannot close its eyes and accept the unsupported statement that the project is exempt from CEQA.

The Commission also needs to take notice that the County has not followed its own process for processing an amendment established by the certified Public Works Plan. Provided as Attachment #1 are pages 8 and 9 of the PWP setting out the amendment process. Compliance with a CEQA process, including an environmental check list, is specified. This process obligates the County to do a Negative Declaration or, if appropriate, an Environmental Impact Report. The County has not complied with any of these requirements.

Provided below is discussion of some of the direct and cumulative environmental impacts of this project that mandate an environmental review:

A. Impacts of Demolition and Construction on Biological Resources

In a letter to Commission staff dated 9/27/05, County Harbor Director Lyn Krieger comments on "construction staging" as follows:

"The County recognizes the sensitivity at various times of year to construction and has endeavored to minimize disruption. Exhibit E [sic – actually it is Exhibit D] depicts the proposed staging."

The Exhibit is provided as Attachment #2. It contains no consideration of impacts of demolition and construction on biological species present in the project area. It contains no restriction on activities during the nesting season or any other protections for biological species. The Exhibit actually shields

from disclosure and camouflages known and inevitable noise, water turbidity, vibration, air pollution, and physical disruption that are part and parcel of the activities listed in the Exhibit.

Maj. Amend No 1-05 fails to include a survey of biological species in the project area. Land side demolition and reconstruction is proposed in the west side linear park containing a heron rookery. In an October 31, 2005 letter to Commission staff the County Harbor Director reveals that proposed project building expansion would take park land and result in the destruction of at least one tree she acknowledges to be an active heron nesting tree in 2003 and 2004.

The County has actual knowledge that the project subject of PWP-MAJ-1-05 is one and the same as the project initially submitted as Coastal Development Permit (CDP) application 4-04-097. This knowledge is most recently and specifically recognized in a letter from Director Krieger to Commissions staff dated 10/11/05. She states:

"The principal proposal has not changed since the original CDP submittal, and shows all of the development contemplated and have not changed since the original CDP submittal."

Attachment #3 is a submission dated 11/10/04 and received by Commission staff on 11/12/04 from the applicant in CDP 1-04-097. It is a statement by Bryant, Palmer, Soto, Inc., the project engineer, that discloses many environmental impacts of the demolition and construction steps. The steps are the same as those in the Exhibit to Ms. Krieger's letter of 9/27/05. The difference is that in the Bryant, Palmer, Soto submission the impacts are disclosed. Here are just some of them:

- Motorized construction boats will tow floating docks to staging locations within the project area for demolition.
- Dock elements will be "lifted out of the water via hydrocrane," cut into segments and deposited in "drop bin" for truck haul out.
- "Piles will be pulled-out of the bay bottom utilizing clamping devices suspended by a floating crane."
- Any piles that break off will be cut off at the mud line.
- "Removal of piles may contribute to turbidity in the bay."
- Two years of activity are contemplated for demolition and replacement

- “The installation of piles will create noise, vibration and diesel hammers will produce exhaust during the installation process. Noise, vibration and exhaust created by the pile driving effort can not be mitigated, except to the extent that the pile installation operation will be conducted during standard daily hours of construction; ie, 8:00am to 4:00pm.”
- “... jetting of piles could be deployed [if approved] for pile installation which would greatly mitigate the noise, vibration and exhaust issuesPile jetting normally disturbs bay bottom sediments and emulsifies during the jetting process.”

The Commission needs to bring the contents of CDP application 1-04-097 into its file for PWP-Maj-1-05. To do otherwise is to be willfully blind to disclosed impacts in the earlier submission for what the County acknowledges is one and the same project.¹

The Commission cannot allow a County shell game to make the environmental impacts of this project disclosed in the CDP application 1-04-097 now just “disappear” because they go unmentioned in the sanitized PWP-Maj. 1-05 amendment.

B. Cumulative Impacts

Throughout review of the BISC Amendment, the County was adamant that it did not need to consider cumulative impacts of the Vintage project in any review of the BISC project. It stated there were no other significant projects in the Harbor and that all projects that were underway (BISC FEIR page 340) “...are geographically removed from the BISC site.”

Commission staff adopted the view that the Vintage project, though adjacent to the BISC project, was not yet before the Commission as a complete file. Commission Counsel, Ralph Faust, advised (CCC 3/16/05 BISC hearing transcript page 116):

“... the Commission must evaluate the cumulative impacts to the extent that they are known, but it need not anticipate any changes in certified plans, whether general plans, coastal plans, whatever....”

¹ The consolidation of the files is necessary to bring in submissions such as the Bryant, Palmer, Soto Inc. letter to Commission staff. It is also necessary to obtain a full record of public input and of the names of members of the public who have expressed interest in this project and who should be notified of any future hearings. For example, CDP application 1-04-097 contains some 167 postcards from members of the public expressing concern regarding the project.

"You do need to take into account cumulative impacts as they are expressed in plans that have, in fact, been certified."

Assuming the County adopts the 22 BISC modifications and the Commission certifies the BISC amendment, there can be no question that a cumulative impact analysis is mandatory and a prerequisite for Commission review of PWP -Maj.1-05.

The two projects are conjoined and impact each other in direct and cumulative ways. Here are some examples:

- Both affect the heron rookery in the linear park. The BISC project takes one tree said to be non-nesting and the Vintage project takes two more – one acknowledged to be a known nesting tree.
- Both projects contemplate heavy construction projects within less than ten feet of the heron rookery. Only the impacts of BISC construction has been reviewed. The direct and cumulative impacts of more heavy demolition and construction activities on the adjacent Vintage site must be considered. The CCC Staff report on 3/3/05 for the BISC project (page 22) noted: "The degree of tolerance or adaptability of the heron to future development, which have become accustomed to nesting and roosting in the public park, cannot be accurately predicted and might be quite different, however, during or after construction of the BISC." It seems obvious that an exponential expansion in disturbance would occur if simultaneous execution is allowed of both the BISC and Vintage projects and this requires analysis.
- Impact of the BISC project on heron food sources was not anticipated to be significant. CCC staff, in its 3/3/05 report on the BISC project (page 22), noted the County biologist finding that "... the primary food source for the herons, Harbor waters, will not be degraded or lessened by construction of the BISC." The impacts of demolition and reconstruction of the adjacent Vintage docks on these food sources requires analysis. In addition to the disturbance of Harbor waters, the Vintage project calls for docks with wider gangways and with pier heads extended 20 feet further into the Harbor waterway. Shading of the water by these larger docks must be analyzed to determine effects on plant and animal species important to the food sources of the heron.
- Recreational boating is impacted not only by loss of 22 slips for the BISC project but also some 100 slips for the Vintage

project. These recreational boating impacts must be considered separately and cumulatively.

- Both projects take protected park land. What's the cumulative impact? What is the effect of the two projects together on free public waterside access?
- The impact of the proposed added mass and height of land side structures on protected view corridors has not been considered. The impact of the addition of second stories on the heron rookery also requires consideration. Will this bring noise sources potentially to nest level? Will the height affect the micro-climate in the rookery area?
- Extension of pier heads 20 feet, even if were limited to the Vintage project, increases Harbor congestion and creates a safety issue especially for the novice sailor instruction program. The expansion will narrow the waterway at the Vintage marina in the area designated in the BISC project as the prime training area for sailing lessons.

3. The County Improperly Seeks to Piggyback the Vintage Project on Conditions and Modifications Required for the BISC Project. It Gives No Consideration To Conditions and Modifications Required by The Vintage Project Alone or When Considered Cumulatively With the BISC Project.

The two projects are very different in nature and in impacts and require separate consideration of mitigations, modifications and conditions of approval. The cumulative impacts of the Vintage project and the BISC is also required.

It may be determined that the Vintage Amendment cannot be approved because it lessens protections of the existing Public Works Plan.

The County presented the BISC to the Commission as a project to increase public access, especially for underprivileged youth, to the Harbor as a coastal resource. This "increased public access" theme became a mantra in County testimony at the 3/16/05 CCC hearing. Thus:

"... I would like to remind you this is a public agency project, publicly funded, to be publicly operated, and designed to provide water access to any members of the public who wish it." (Director Lyn Krieger, transcript page 33)

"... this [is a] great public access and recreation project...."
(Supervisor Kathy Long, transcript page 34)

"... it is time for the Commission to step up to the line on this public access project"(County Consultant Andi Culbertson, transcript page 112)

"... the BISC is, probably, the most appropriate thing we can do to expand that public access" (Supervisor Steve Bennett, transcript page 36).

The Vintage project has nothing at all to do with increasing public access. In fact the project will decrease public access.

This is a private marina development on public land under a lease from the County. It will serve only paying tenants. Vintage was the private developer chosen by the County following a May, 2003 Request For Proposal. Attachment #4 is the portion of the RFP stating the project objectives of the County. They are "upgrades" that will allow increased rental revenue for an upscale marina containing fewer and larger boat slips and with landside facilities that "... provide a more resort-like amenity package and atmosphere for boat slip tenants"

The Vintage project takes public park land to double the footprint and height of a boater restroom and a boater restroom/marina office. The added footprint is taken from public park land. It also adds to the footprint of a private yacht club at the expense of protected public park land.

One reason stated for the building expansions is to meet ADA restroom requirements. One ADA compliant stall is added to each Men's and Women's side of these three restrooms. **All three restrooms are locked facilities open only to paying marina tenants with keys or, in the case of the yacht club, its members only.**

There is only one public restroom building in the project area and the County's PWP Amendment No 1-05 proposes no renovation of this facility even though it contains no ADA compliant stalls.

The Commission allowed a one time amendment to accommodate the BISC project because it accepted the County representations that it enhanced public access. Executive Director Douglas expressed the view that the BISC project was special (3/16/05 transcript page 113) because:

"... this project is a public recreational project. It does get youngsters on the water and trains them in boating skills and boating safety, and that is a purpose that is given high recognition in the Coastal Act, and certainly is promoted by this project."

Those virtues furthering Coastal Act objectives are not served in any way by the exclusionary Vintage project. Taking public park land and rolling up part of a heron rookery for expansion of private facilities cannot justify any

more piecemeal exceptions to clear protections in the certified PWP. A comment by Coastal Program Manager, Gary Timm, at the 3/16/05 hearing (transcript page 14) expresses well the concept that an amendment for one use may not be proper for another. He notes the BISC use is consistent with public access and recreational policies of the Coastal Act and:

"For this reason, staff believes that it is appropriate to displace a portion of the public park with the BISC facility, provided an equal amount of park land is created in the immediate area. Displacement of public parks may not be appropriate for other kinds of uses in the harbor...."

The County fails to comprehend the difference between appropriate Coastal Act and PWP requirements for (1) a public access project and (2) a private use project. This failure of understanding is graphic in the 10/31/05 letter from Director Krieger to Commission staff regarding the Vintage Project. She justifies the additional park land taking for the Vintage Project because less park will be taken for the BISC than the two tenths of an acre the County claims will be converted by the BISC project from parking lot to "grassy area."

The Commission did not create a park "land bank" in allowing the taking for the BISC project. In addition to requiring an "equal or greater" replacement the Commission's Modification 13 requires the County to reverse its position that the west side linear park land is not protected. The BISC taking was a one time exception.

All of the takings, infringements, and impacts of the Vintage project require evaluation without regard or benefit from what was allowed, with or without modifications or conditions, for the BISC project. A different and far more protective standard is appropriate for the Vintage project that privatizes public resources.

4. The County Vintage Proposal is Improper in Format and Content

The Vintage Project proposal would require multiple amendments to the Public Works Plan. Most of these changes are proposed in non-project specific wording changes to text or tables. This does not provide a clear record of what is proposed and is designed by the County to open up changed standards for development throughout the Harbor.

- 20 foot pier head extension into public waterways

The proposed 20 foot expansion of pier heads is worded in a way that allows the same expansion anywhere else in the Harbor. The proposed amendment needs to be re-written to limit it to the Vintage parcel. In addition, the stated

standard for future expansions “to accommodate recreational boating opportunities” should be deleted. The proposed wording would allow any expansion with no objective standard. This blanket displacement of the present PWP flat prohibition of any pier head expansion would completely nullify the express PWP provision prohibiting any expansion in order to preserve safe recreational boating and to limit congestion.

- Modification of buildings for health and safety considerations

The language proposed to modify PWP section 2.3 destroys the PWP provisions that the Harbor is completely built out and that replacement facility sizes and heights are to be specifically governed by PWP provisions. Here we go again. This is a disingenuous County replay of its ploy, rebuffed by the Commission in the BISC Amendment, to write out the “built out” concept. None of the proposed changes to section 2.3 should be allowed. Any amendments to accommodate facility expansions in the Vintage project or other future projects need to be formatted as project specific amendments and not as general overall gutting of PWP policies and restrictions. The standard of “necessary for health and safety requirements” is not an objective standard. Even if this were the standard, it would not allow the doubling of the footprint and height of the two private restroom facilities and the addition to the yacht club. All of these expansions add far more new space than anything required to meeting health and safety requirements.

- Change in wet slips and expansion of dry slips.

An arbitrary reduction in wet slips and allowing substitution of dry slips is contrary to the firm replacement in kind requirement imposed by the Commission in its modifications to the BISC Amendment. No justification is provided for abandoning the replacement obligation for the Vintage project. In fact, the wording of the proposed new language may actually reverse the BISC modifications requiring replacement of both 22 lost slips and 3 live aboard slips. County letters submitted to Commission staff target Parcel Q for dry slip expansion. This parcel is currently subject to a short term lease for dry storage. This use violates a designated view corridor on the parcel and infringes use of protected park land on the waterside of the parcel. This non-conforming use for dry storage should be foreclosed by the Commission in its consideration of the Vintage project.

CONCLUSIONS

1. **Commission Review of the Vintage Amendment Cannot Be Completed Until and Unless the BISC Modifications are Duly Adopted by the Board of Supervisors and Certified by the Commission.**

- 2. The Commission cannot meet its CEQA Obligation Or Approve Any Amendment In the Absence of Environmental Review Documents That Are the Functional Equivalent of a CEQA Review**
- 3. Cumulative Impacts In Conjunction with the BISC Project Must Be Included in the Environmental Review.**
- 4. As a Private Use Project, the Vintage Amendment Should be Held to Strict Compliance with the Certified PWP.**
- 5. The Vintage Amendments Need to be Re Formatted to be Project Specific and Limited to This Project Alone.**

The Beacon Foundation is a non profit environmental organization focused on coastal Ventura County.

Sincerely,
For The Beacon Foundation

A handwritten signature in black ink, appearing to read "Lee Quaintance", written over a horizontal line.

Lee Quaintance
Secretary

cc: Gary Timm
Jack Ainsworth

the boat construction yard on the eastern side of the Harbor is under consideration for additional slip space (Parcels P and Q – see Figure III, Master Plan Map); this area is presently used for boat sales and a public parking lot (which is underutilized). To prevent the expansion of slip space into the eastern channel, the County would dredge the adjoining land area of boat sales and public parking lot; approximately 300 boat slips would be created under this proposal.

The County's planning process for potential major development (i.e., which requires an amendment to the Public Works Plan) within the Harbor consists of:

- Staff analysis of the engineering and financial feasibility of the project and its consistency with the Harbor's Public Works Plan.
- Review of and recommendation on the proposed project and supporting staff analysis by the Ventura County Regional Recreational Advisory Commission. Public input is encouraged and accepted by this Commission at publicly noticed hearings. The final recommendation of the Commission is forwarded to the Board of Supervisors. Members of this Commission consist of public members appointed by the Board of Supervisors.
- Review and action by the County Board of Supervisors at a public hearing on the proposed Harbor project. The Board determines, after public input, whether the County should terminate or proceed with the project.
- If the Board recommends that the County proceed with the project, then the CEQA process is implemented (takes 6 to 8 months):
 - Environmental checklist and assessment. County determines if a Negative Declaration or Environmental Impact Report is required. At this time application is made for other applicable state and federal permits, such as the Army Corps dredging permit (this permit is processed by the Corps independent of the County CEQA review and permitting process).
 - If EIR is to be prepared, a Response for Proposal is sent out to a list of qualified consultants.
 - Upon selection of the consultant the Notice of Preparation is sent out to Lead and Responsible agencies.
 - Draft Administrative EIR is completed and a 30-day review period begins. Notice of completed EIR and review period is sent to the State Clearinghouse and all lead, responsible agencies and interested members of the public, including the City of Oxnard, Port Hueneme and Channel Islands Beach Community Services District.
 - All comments received during the review period are responded to in writing and incorporated into the DEIR. A reasonable period of time prior to the Board's

ATTACHMENT #1

public hearing on the DEIR, the County places a public hearing notice in newspapers of general circulation.

- Upon completion of all agency and public testimony on the DEIR the Board determines if the Report is certifiable.
- Upon certification of the Final EIR, the Property Administration Agency initiates final working drawings and necessary permits for construction. These permits include Army Corps Permits for the dredging operation and any construction of permanent structures in the water (See Army Corps permit process below).
- Initiation of procedure to amend the Channel Islands Public Works Plan to allow for the development reviewed in the FEIR (this takes 4 to 6 months). This requires completion of the following steps:
 - Drafting of land use text, maps and any necessary graphics.
 - Circulation of Public Works Plan amendment for public review and comment – County consults with City of Oxnard to determine consistency of amendment with its certified LCP.
 - Placement of a public notice placed in local paper of general circulation for public hearing on proposed amendment.
 - Holding a public hearing and after all public/agency comment is received, the Board votes to approve or disapprove the amendment.
 - Submittal of approved amendment to the Coastal Commission, with supporting environmental documentation, public hearing notice/comments and any other requested material.
 - Holding of public hearing by Coast Commission on proposed amendment – approves with or without modifications.

The potential eastern marina basin project is under consideration at this time by the Property Administration Agency but has not entered the review process outlined above.

Widening of Harbor Mouth

The Army Corps of Engineers is presently in the process of investigating the widening of the entrance of Channel Islands Harbor. The widening may be necessary to accommodate the additional boat traffic that will be generated by the Mandalay Bay Phase IV marina development to the north of Channel Islands Harbor. This widening is being processed under the "Small Project-Project" program by the Army Corps; the processing steps consist of:

EXHIBIT D

Construction Staging

-Demolition

- demo docks on water
- barge with a small crane or hoist
- transport to old launch ramp and remove from there
- no stockpiling on the launch ramp area
- removal within 24 hours

-Pilings

- stockpiling of floats in parking area of Channel Islands Landing
- create a fenced off construction yard, ensuring that enough parking remains
- construction yard to be semi-permanent throughout construction
- pilings placed in water at Old Launch Ramp and floated across

-Docks

- stockpiling of floats in parking area of Channel Islands Landing
- create a fenced off construction yard, ensuring that enough parking remains
- construction yard to be semi-permanent throughout construction
- floats placed in water at Old Launch Ramp and floated across
- fingers assembled within fenced yard

-Electrical, plumbing, pierheads, and revetment repair

- Staging area on west shoreline
- Staging area in parking lot, generally behind (west of) marina office, near small cul de sac. The advantages of this location are: no housing directly across the street, ample substitute walkways available, security lighting adequate, near marina for security purposes, furthest from adjacent neighborhood. Noisier work is located across the Harbor and away from all housing
- Fenced area to be created
- Sidewalk to be unimpeded except during actual construction of pierheads
- Anywhere public walkway is obstructed due to construction signs will be posted with dates of obstruction, information phone number, and directions to alternative walkways
- any disruption of pedestrian lighting to be replaced with temporary lighting throughout construction. Lighting will be low and not disruptive to the surrounding community.

Bryant • Palmer • Soto, Inc.

Neil Stanton Palmer ARCHITECTS / Jack K. Bryant ENGINEERS

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November 10, 2004

RECEIVED

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89 South California Street, Suite 200
Ventura, CA 93001-2801

VENTURA, CA
COUNTY OF VENTURA
SOUTH CENTRAL COAST DISTRICT

Re: Vintage Marina, Channel Islands Harbor Permit Application No. 4-04-097

Dear Mrs. Carey:

We are pleased to provide you with the additional information requested in your October 19,2004 letter. Project description is revised to:

"Replacement of boating slips within Parcel D and E, Channel Island Marina per Lease dated December 16, 2003 between County of Ventura and Vintage Marina Partners, L.P. Existing boating slips are to be removed and replaced with concrete piles . The removal and replacement of the boat slips shall be performed in phases. The existing utilities serving the docks will need to be relocated and upgraded to meet to current standards. Existing slips Parcel D = 146 , Proposed slips Parcel D = 104. Existing slips Parcel E = 346, Proposed slips Parcel E = 301. "

Item 2 page 1 Evidence of Lease

See attached letter from Harbor Department dated September 15, 2004, as proof of leasehold interest, and copy of board item no 21.

Item 8 page 2 Approval in concept

See attached letter from local approving authority " Harbor Department" dated August 16, 2004.

Item 9 page 2

Army Corp of Engineers permit applied for per attached letter.

Staff comments item 1. Number of Slips

Per attached Harbor Department letter dated November 1, 2004, there are 2,500 wet slips and 500 dry storage slips.

ATTACHMENT #3

Bryant • Palmer • Soto, Inc.

Neil Stanton Palmer ARCHITECTS / Jack K. Bryant ENGINEERS

Staff comments item 2. Existing Marina Slips

Slip Length	Existing Slips		New Slips	
	# Slips	\$ Per LF	# Slips	\$ Per LF
20			10	*
24			29	*
25	110	8.36		
26			24	*
28	161			
30			37	*
32	129			
34			45	*
35	18			
36	46		19	*
38			49	*
40	31	9.35		
42	4	9.95	32	*
43			3	*
44	10	10.00	60	*
45				
46			60	*
48	4	9.96		
50				
52			28	*
60			1	*
78			1	*
88			1	*
92			1	*
94			1	*
95			1	*
98			2	*
106			1	*
	<u>513</u>		<u>405</u>	

* Rate has not been established for the new slip.

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Neil Stanton Palmer ARCHITECTS / Jack K. Bryant ENGINEERS

Staff comments item 3. Construction Methods

DEMOLITION AND CONSTRUCTION PROCESSES

Existing Boat Slip Removal Plan

Existing boat tenants will be relocated to other vacant slips within Channel Islands areas. To the extent possible, the Vintage Marina Partners will assist existing tenants to secure other mooring arrangements at local marinas. No more than 25% of the existing boaters will be displaced at any one time.

Fingers will first be disconnected from the mainwalks. This will be a manual operation. Small motorized construction boats will be used by crew members to access the various areas to be demolished, and tow the floating dock sections to a centralized staging location within the project boundary.

Bolts, nuts and other fasteners will be removed in order to disconnect the fingers from the mainwalks. Fasteners that can not be removed by conventional means, will be sawn-off as necessary. Care will be taken to prevent debris from falling into the bay and floating "debris catchers" will be deployed when falling debris is unavoidable.. Debris that may fall into the water will be promptly retrieved and disposed.

The fingers will then be floated to a common location along the revetment and then lifted out of the water via hydrocrane. Dock elements will be cut into the largest possible elements capable of fitting into standard 40 cubic yard "drop bin" containers. Once full, these containers would be transported via truck to an approved landfill disposal site.

Soundings of the bay bottom will be taken after the demolition effort to assure that anticipated bottom contours have been maintained. Any foreign debris encountered will be removed to assure unobstructed navigability.

Once a substantial quantity of fingers and mainwalks have been removed, extraction of concrete and timber guide piles will commence. Piles will be pulled-out of the bay bottom utilizing clamping devices suspended by a floating crane. Once pulled, piles will be cut into smaller lengths capable of fitting into drop bins.

Although it is expected that all piles will be fully extracted utilizing this approach, there is always the possibility that a small quantity of piles may break at a depth making full extraction difficult or impossible. Under this scenario, piles would be cut off below the mud line at a depth technically feasible and acceptable to the Harbor District.

Mitigation Measures to Limit Turbidity During Pile Removal

Demolition of floating boat slips will not contribute to turbidity in the bay.

Removal of piles may contribute to turbidity in the bay. Acceptable State of California procedures to limit turbidity in the bay, caused by pile removal, include the use of floating siltation curtains. These curtains are employed

REQUEST FOR PROPOSALS

**FOR REDEVELOPMENT OF PARCELS D AND E
(KNOWN AS CHANNEL ISLANDS MARINA)
IN CHANNEL ISLANDS HARBOR**

**ISSUED BY COUNTY OF VENTURA
CHANNEL ISLANDS HARBOR DEPARTMENT**

MAY 2003

ATTACHMENT #4

Bryant • Palmer • Soto, Inc.

Neil Stanton Palmer ARCHITECTS / Jack K. Bryant ENGINEERS

Parcel D: 2.5 to 3 weeks;
Parcel E 4 to 5 weeks

Completed Dock Installation: Once piles and docks are installed, utility systems would be routed and connected to utility stations at each slip. Accessories will then be installed such as dock boxes, cleats, rub strip, etc. Both standard and ADA gangway access systems will be installed. Gangways will be supported by new concrete abutments as well as concrete, pile supported platforms, if required.

Boat Slip Anchorage: Boat slip anchorage will be via prestressed concrete guidepiles.

Piles will be designed to resist all appropriate wind, wave and impact loads imposed on the dock system. State of California Department of Boating and Waterways Guidelines, latest edition, will be used in the design of all slip anchorage systems. Boats will be moored to slip fingers via cast metal mooring cleats.

Unless the dock manufacturer can demonstrate otherwise, all slip fingers 40 foot or longer will have at least one guidepile at the finger end. Piles will also be located strategically in headwalks, mainwalks and along endties as deemed necessary for safe berthing of vessels, and the resistance of lateral loads.

Staff comments item 4. Water Quality

See attached harbor department letter dated November 1, 2004, subject vessel sewage pump out stations at Channel Islands Harbor. Also attached color map showing locations of pump out stations.

Staff comments item 5. Biological Assessment

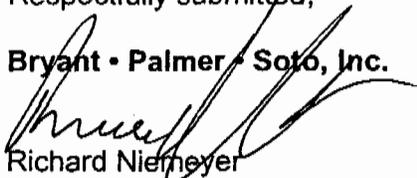
See attached report dated June 4, 2004 from Tetra Tech, Inc

Staff comments item 6. Construction Staging

See attached "Construction phasing plan dated 11-01-2004.

Respectfully submitted,

Bryant • Palmer • Soto, Inc.


Richard Niemeyer

SUMMARY

BACKGROUND AND CONTEXT

The Director of the Harbor Department of the County of Ventura is the administrator of the Channel Islands Harbor on behalf of the County. The Harbor is a public recreational amenity owned by the County. Various parcels are leased to private operators to provide needed facilities and services. The lease between the County and Channel Islands Marina for Parcels D and E in the Harbor, which commenced in 1963, provided approximately 525 boat slips and is expiring on August 31, 2003. The existing dock structure is roughly 40 years old and is functionally obsolete. Any new lease will require the lessee to remove and replace the present facilities to accommodate the continuing need for boat slip operations and related support facilities at that location.

COUNTY OBJECTIVES

The County seeks to use the redevelopment of the Channel Islands Marina, the largest in Channel Islands Harbor, as a first step in repositioning the Harbor in the Southern California boating market by providing a level of facilities, amenities and service currently found at other harbors such as Dana Point Marina, Del Rey Yacht Club in Marina del Rey and Newport Dunes in Newport Beach. It is hoped that this will be accomplished in three ways: (1) with the construction of top quality, state-of-the-art anchorage facilities for the recreational boating community; (2) with the redevelopment of the landside facilities to provide a more resort-like amenity package and atmosphere for boat slip tenants; and (3) with the construction of a boating center (by the State of California and the County) that would provide services to the boating community. It is anticipated that these upgrades will allow the lessee to increase slip rates and other fees considerably over the current typical rates being charged in the Harbor. It is also anticipated that this will generate additional patronage at other businesses within the Harbor, particularly restaurants.

SITE DESCRIPTION

The Project Site at 3850 South Harbor Boulevard is situated on the west side of the harbor near the entrance. It has approximately 1700 linear feet of water frontage and 13.27 acres of total land and water area and is improved with 525 boat slips, a two-story commercial building (approximately 6500 square feet), a one-story office/restroom building (approximately 1100 square feet) and a one-story restroom building (approximately 880 square feet). Parking is provided in a public parking lot allowing adequate space for slip and other tenant parking. See Article 17 of the attached Harbor Lease for further information regarding the parking facilities.



The Beacon Foundation

PMB 352
3844 W Channel Islands Blvd
Oxnard, CA 93035

Chair Kathy Long & Members
Ventura County Board of Supervisors
C/O Deputy Clerk of the Board
800 S. Victoria Avenue
Ventura, CA 93003

September 9, 2005

Re: Agenda Item 31, 9/13/05
Amendments to Channel Islands
Harbor Public Works Plan

Dear Chair Long and Members of the Board:

The Staff Report seeks approval of multiple amendments to the Channel Islands Harbor Public Works Plan (PWP). You are given an incomplete and inaccurate description of the action requested and erroneous advice on the process the County is required to follow.

Staff Report 9/13/05

- Page 2 :

"The amendment as prepared is narrow and focuses only on the marina replacement as reflected in the new lease approved by your Board in December 2003"

- Page 2:

"... your Board's direction to staff to prepare this Amendment to facilitate that approval, occurred at your Board's meetings of December 16, 2004, and January 25, 2005."

- Attached to the Staff Report are pages of the Public Works Plan inserting amended wording. Amendments are said to be shown by underlining:

"The existing open water areas in the inner Harbor, as depicted on the Land Use Map as 'Waterways' and as defined by existing pier head lines at the time of original approval by the California Coastal Commission of the Harbor's Public Works Plan shall not be developed with surface structures of any kind, floating or otherwise, except in cases of emergency where temporary structures are required, or a or a marina must be expanded to accommodate recreational boating opportunities, or in the case of a PWP amendment. Where a marina expands beyond the pier head line, in no case shall the expansion exceed 20 feet."

Fact

Both statements are untrue.

The changes to the PWP (page 54) attached to the Staff Report **would allow expansion of slips into the waterways anywhere in the Harbor.** Here is the section with amended wording underlined:

"The existing open water areas in the inner Harbor, as depicted on the Land Use Map as 'Waterways' and as defined by existing pier head lines at the time of original approval by the California Coastal Commission of the Harbor's Public Works Plan shall not be developed with surface structures of any kind, floating or otherwise, except in cases of emergency where temporary structures are required, or a marina must be expanded to accommodate recreational boating opportunities, or in the case of a PWP amendment. Where a marina expands beyond the pier head line, in no case shall the expansion exceed 20 feet."

All underlined language is new and was added by County Staff. None of it was ever seen or approved by this Board. **Only the phrase "or in the case of a PWP amendment" is underlined in the version attached to the Staff Report.** Thus, neither this Board nor the public is given notice of the material and harbor-wide incursion into the waterways that is created by the new wording.

Staff Report Statement

"Exhibit 2 [to the Staff Report] includes the pages indicating changes to the PWP. The changes include amendments to Table 1 regarding both the number of slips and the square footage of service facilities such as restrooms and office space, and to recognize the reduction of 100 wet slips (also amended on page 54). Restroom spaces were enlarged to allow for meeting ADA standards. The Yacht Club facility was corrected to reflect actual building square footages. A change is made under 'Boating Support Facilities' to allow for meeting ADA standards."

Fact

The Staff Report understates the nature and importance of actions that require multiple and substantial PWP amendments.

Compare the proposed amended page 16 of the PWP with Attachment # 1 --the current Board approved Table 1.

The Amendment increases the landside Vintage Marina lease parcels D & E by 1.27 acres-- a 9% increase. The amended page changes the size of the structures allowed on parcels D & E from 7570 sq ft. to 11,087 sq ft -- a 46% increase. Addition of any structures not contained in Table 1 is expressly barred by the PWP.

As both parcels D & E are within the protected west side linear park, the expansion of these facilities would encroach on both parkland and the heron rookery. Expansion of building sizes by more than 10% is also expressly prohibited by the PWP.

The elimination of 100 slips is contrary To the express requirement of the PWP That 2,500 slips be maintained.

The proposed Amendment would reduce Required slips by 100 but only 83 of these are shown on Amended Table 1 as coming from the Channel Islands Marina. If the rest are slips eliminated by the BISC, this violates the requirement by the Coastal Commission that these slips be replaced in like kind within the PWP jurisdiction.

Staff Report Statement

"The Harbor Department recommends that you find and determine the County's actions in approving the Public Work Plan Amendment is exempt from the terms of the California Environmental Quality Act (CEQA) that requires preparation of an environmental impact report (or other document) under the terms of Public Resources Code [citing sections]."

Fact

It defies common sense to believe that multiple substantive Amendments will be accepted for review, well enough acted upon, by the California Coastal Commission absent any environmental review by the County.

None of the exemptions cited in the Staff Report are applicable. The proposed Amendments have obvious direct and numerous cumulative impacts that require CEQA review.

The proposed method of "naked" Board of Supervisors approval is contrary to the steps for processing amendments specified in the PWP. Attachment #2 is pages 8 and 9 of the PWP where the steps, including CEQA compliance, are detailed.

Conclusion:

The Board of Supervisors should reject the Staff recommendation. To do otherwise will be contrary to the California Environmental Quality Act and the obligation of the County to respect requirements of its own certified Public Works Plan.

In compliance with the Brown Act, no action can be taken at your September 13, 2005 meeting to adopt the PWP change that would allow expansion of slips into waterways throughout the Harbor. As detailed above, the Staff Report says that its proposed amendment is limited to the Channel Islands Marina. This is untrue. As detailed above, new wording inserted by staff into the PWP would open the whole harbor to such expansion. Staff fails to disclose by underlining that it has added this language. Thus, neither this Board nor the public has received notice of this substantive amendment.

For The Beacon Foundation.



Lee Quintance
Secretary

Cc: California Coastal Commission

TABLE I (CONTINUED)

Use of Parcel	Parcel Size (acres) Land & Water	No. of Slips or Dry Storage	Intensity (units or floor area)
PCL N-1 ^a Chandlery w/Office for: - Boat Sales/Storage - Insurance Brokerage	3.4 acres		5250 sq. ft
PCL T Office for: - Fuel Dock	0.44 acres		540 sq. ft
PCL V-1 - Auto/gas Station	0.56 acres		1860 sq. ft
PCL V, V-2, V-3 ^a F. Mkt/Bait & Tackle Fish & Chips Splty Shops (8) & Laundromat Grocery	2.44 acres		2000 sq. ft 800 sq. ft 5000 sq. ft
PCL Y-2 ^a Gift Shops & Conv. & Marine oriented & Vis. Serv. Rec.	1.44 acres		15000 sq. ft
Subtotal	10.79 acres		47200 sq. ft
<u>BOAT SLIPS, STORAGE, CONSTRUCTION & REPAIR</u>			
PCL C ^a Yacht Club Rec. Bldg.		84 slips	4500 sq. ft.
PCL D & E Office for: - Slip Rental - Yacht Club	13.27 acres	488 slips	7570 sq. ft.
PCL F-2 ^a Transient Dock		27 slips	
PCL F-3 ^a		196 slips	
PCL F-7 Rec. Bldg. w/office For Slip Rental	18.76 acres	504 slips	8800 sq. ft.
PCL H1, 2 ^a		17 slips	
PCL LM-1, 2, 3 ^a		154 slips	

ATTACHMENT#1

the boat construction yard on the eastern side of the Harbor is under consideration for additional slip space (Parcels P and Q – see Figure III, Master Plan Map); this area is presently used for boat sales and a public parking lot (which is underutilized). To prevent the expansion of slip space into the eastern channel, the County would dredge the adjoining land area of boat sales and public parking lot; approximately 300 boat slips would be created under this proposal.

The County's planning process for potential major development (i.e., which requires an amendment to the Public Works Plan) within the Harbor consists of:

- Staff analysis of the engineering and financial feasibility of the project and its consistency with the Harbor's Public Works Plan.
- Review of and recommendation on the proposed project and supporting staff analysis by the Ventura County Regional Recreational Advisory Commission. Public input is encouraged and accepted by this Commission at publicly noticed hearings. The final recommendation of the Commission is forwarded to the Board of Supervisors. Members of this Commission consist of public members appointed by the Board of Supervisors.
- Review and action by the County Board of Supervisors at a public hearing on the proposed Harbor project. The Board determines, after public input, whether the County should terminate or proceed with the project.
- If the Board recommends that the County proceed with the project, then the CEQA process is implemented (takes 6 to 8 months):
 - Environmental checklist and assessment. County determines if a Negative Declaration or Environmental Impact Report is required. At this time application is made for other applicable state and federal permits, such as the Army Corps dredging permit (this permit is processed by the Corps independent of the County CEQA review and permitting process).
 - If EIR is to be prepared, a Response for Proposal is sent out to a list of qualified consultants.
 - Upon selection of the consultant the Notice of Preparation is sent out to Lead and Responsible agencies.
 - Draft Administrative EIR is completed and a 30-day review period begins. Notice of completed EIR and review period is sent to the State Clearinghouse and all lead, responsible agencies and interested members of the public, including the City of Oxnard, Port Hueneme and Channel Islands Beach Community Services District.
 - All comments received during the review period are responded to in writing and incorporated into the DEIR. A reasonable period of time prior to the Board's

ATTACHMENT # 2

public hearing on the DEIR, the County places a public hearing notice in newspapers of general circulation.

- Upon completion of all agency and public testimony on the DEIR the Board determines if the Report is certifiable.
- Upon certification of the Final EIR, the Property Administration Agency initiates final working drawings and necessary permits for construction. These permits include Army Corps Permits for the dredging operation and any construction of permanent structures in the water (See Army Corps permit process below).
- Initiation of procedure to amend the Channel Islands Public Works Plan to allow for the development reviewed in the FEIR (this takes 4 to 6 months). This requires completion of the following steps:
 - Drafting of land use text, maps and any necessary graphics.
 - Circulation of Public Works Plan amendment for public review and comment – County consults with City of Oxnard to determine consistency of amendment with its certified LCP.
 - Placement of a public notice placed in local paper of general circulation for public hearing on proposed amendment.
 - Holding a public hearing and after all public/agency comment is received, the Board votes to approve or disapprove the amendment.
 - Submittal of approved amendment to the Coastal Commission, with supporting environmental documentation, public hearing notice/comments and any other requested material.
 - Holding of public hearing by Coast Commission on proposed amendment – approves with or without modifications.

The potential eastern marina basin project is under consideration at this time by the Property Administration Agency but has not entered the review process outlined above.

Widening of Harbor Mouth

The Army Corps of Engineers is presently in the process of investigating the widening of the entrance of Channel Islands Harbor. The widening may be necessary to accommodate the additional boat traffic that will be generated by the Mandalay Bay Phase IV marina development to the north of Channel Islands Harbor. This widening is being processed under the "Small Project-Project" program by the Army Corps; the processing steps consist of:



The Beacon Foundation

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3844 W Channel Islands Blvd
Oxnard, CA 93035

RECEIVED

DEC 02 2005

December 2, 2005

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Tracy Duffey
Analyst
California Coastal Commission
89 S. California, Suite 200
Ventura, CA 93001

Re: PWP Maj. No 1-05
Vintage Marina Reconstruction
Channel Islands Harbor

Dear Ms. Duffey:

Thank you for the opportunity to meet with you and your colleagues regarding our concerns about the above referred project.

The integration into this file of the earlier filed CDP application 4-04-097 for the same project will serve to assure that the Commission has before it a fuller version of potential impacts and of public comment.

For your ease of reference, I am enclosing one letter from the CDP file that we sent to Program Analyst Barbara Carey on November 12, 2004. As you know, the County has provided no biological survey in the present filing for PWP Maj. No. 1-05. There is one in the CDP file prepared for the Vintage company by Rincon Consultants Inc. dated September 20, 2004. As pointed on the fourth page of our letter to Ms Carey, the Rincon report omits any reference to the presence of heron. With our letter we provided an earlier assessment of the adjacent BISC site by Rincon that disclosed the undeniable presence of heron. As you know, part of the Vintage site is inside the park where the heron rookery is located. The September 20th biological survey is incomplete and inadequate.

Also enclosed is a letter of March 9, 2005 from Dr. John Kelly, Research Director of the Audubon Canyon Ranch. This letter is in the Commission's BISC file. We are providing it for your ease of reference here in anticipation of arguments you may hear from the applicant regarding limited presence of heron on the BISC site in recent months. As Dr. Kelly points out, nesting patterns of these species within a rookery vary from year to year and the continued availability of potentially suitable nesting trees remains important even if not utilized each year.

Sincerely,

Lee Quaintance
Secretary

Encls.

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DEC 02 2005

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT



The Beacon Foundation

PMB 352
3844 W Channel Islands Blvd
Oxnard, CA 93035

November 12, 2004

Barbara J. Carey
Coastal Program Analyst
California Coastal Commission
89 South California Street
Ventura, CA 93001

Re: Permit Application # 4-04-097
Vintage Marina, Channel Islands Harbor

Dear Ms. Carey:

The Beacon Foundation is a nonprofit environmental organization focused on coastal Ventura County. We have reviewed the above file and have concerns we wish to draw to your attention. We also request by this letter to be placed on the distribution for all notices or actions regarding this Permit Application or regarding any Notice of Impending Development or Public Works Plan Amendment that may be filed with regard to this project.

A primary and threshold concern is that the application is so incomplete that the project is not fully described. We note that by a letter of October 19, 2004 you have requested additional information. Based on the data at hand we have identified these concerns:

1. Issue of NOID or PWP Amendment for landside development.

Your letter of October 19, 2004 indicates that landside portions of the project are not in the area of original permit jurisdiction of the Commission and will need to be evaluated via a Notice of Impending Development (NOID) process. We suggest that there is insufficient information in the Application to determine whether an NOID or a Public Works Plan (PWP) Amendment will be necessary for the landside portion. If the landside development is not consistent and contained within the PWP then a Plan Amendment rather than a NOID will be needed. Among key factors not clear from the Application, is whether buildings to be demolished are replaced entirely on the same footprint; the square footage of replacement structures compared to existing structures is not stated; replacement building heights are not disclosed; and it is unclear whether there are any entirely new buildings.

2. Interdependency with the Boating Instruction and Safety Center (BISC) Project.

The BISC project is the subject of extensive proceedings before the Coastal Commission as NOID 1-04. At a hearing on June 9, 2004 the Commission adopted Findings confirming its determination at a two and one half hour hearing on February 19, 2004. The Commission found that the BISC project is not contained within or consistent with the approved 1986 Public Works Plan and that the project could not be processed as an NOID. The County is

now seeking approval of the BISC project via an Amendment to the Public Works Plan filed with the Commission on October 27, 2004. The Findings approved June 9, 2004 are relevant to the Vintage Marina project as will be pointed out below. The marina project and the BISC project are proposed on physically adjacent sites in the Channel Islands Harbor (see pages 18-19 of the Vintage Application that includes depiction of the BISC building and compound). In addition to being physically adjacent, these two projects are functionally intertwined.

- *Slip Count and Public Availability.* Approximately 24,000 square feet of dock space and 25 slips in the Vintage Marina project are to be dedicated for use by the BISC. Those slips are not available for lease to the general public. The Application presented by Vintage does not describe the BISC component of its project. Among the resulting unanswered questions is whether the 405 slips stated in the Vintage application include the BISC dedicated slips. The findings in NOID 1-04 (page 12) state that the elimination of the recreational spaces for BISC use is inconsistent with Policy 3 of the PWP. This same inconsistency is operative in the Vintage Marina project.

As presented in the Application, the Vintage project contains 87 less slips than the existing marina total of 592 slips. Whether or not the applicant's 405 slip count includes slips dedicated to the BISC is unknown. If the 25 slips lost to BISC use are in the 405 total then the number of slips lost to general public use is actually 112 rather than 87. The Marina project eliminates 15% (87) or 19% (112) of the public slips and this further compounds inconsistency with Policy 3 of the PWP.

- *Extension of Pier Heads.* The Vintage Application (pages 18-19) depicts the project extending 20 feet **beyond the present pier head** into the Harbor main channel waterway. The new area would be developed into slips and tie downs. This incursion into the waterway does not appear to be included in the lease the County has granted to Vintage. This proposed building into the main channel creates congestion and safety issues for boating classes the BISC proposes to operate in the portion of the channel immediately adjacent to the Vintage project. These effects are not considered in the Vintage Application. The Findings adopted by the Commission in the BISC matter recognize that the PWP states the Harbor will be completely "built out" with construction of projects scheduled in PWP Table 1. Neither the BISC nor extension of the Vintage marina 20 feet further into the Harbor main channel is contained in Table 1. Therefore, a PWP amendment (as required by the Commission findings for the BISC project) should be required for any expansion of the Vintage project beyond the existing pier heads.

The Amendment to the PWP filed with the Commission for the BISC project seeks to alter the PWP restriction on new construction by adding the word "basins" so the restriction would read "the Harbor basins will be completely built out." Were this amendment to be approved, the restriction on expansion of the Vintage project beyond the present

pier head would be even more clearly forbidden without submission and approval of an Amendment to the PWP to allow such expansion.

Aside from the "built out" restriction, the proposed expansion beyond the existing pier head lines is already specifically prohibited by existing Policy 3 g (page 68) of the PWP providing:

The existing open water areas in the inner Harbor, as depicted on the Land Use Map as 'Waterways' and as defined by existing pier head lines at the time of original approval by the California Coastal Commission of the Harbor's Public Works Plan, shall not be developed with surface structures of any kind, floating or otherwise, except in cases of emergency where temporary structures are required.

The stated total of 405 slips in the reconstructed marina includes slips and tie downs gained by extension of the pier heads. Unless this extension is approved by a PWP amendment the number of slips available for public use will be even further reduced counter to Policy 3.

3. Loss of Lower Cost Recreational Facilities

The Vintage Application (page 5) asserts that the project will protect existing "lower cost visitor and recreational facilities." However, the application never considers the effects of the substantial decrease in the number of slips (see point 2 above) or the consequences of the drastic decrease in the number of slips 30 feet or less in length used by smaller vessels. This reduction of lowest cost slips used by small boats is obviously a negative impact on lower cost recreational facilities.

Another impact on lower cost facilities not evaluated in the Application, is the effects of phasing of the redevelopment. The Applicant claims that nearly one quarter of the slips in the project will be for vessels 30 feet or less in length. However, the project will be developed in phases and no information is provided on how this phasing will affect the mix of slips. Will there be one or more points in time when less than one quarter of the operational slips are 30 feet or less? How long will any such phase last? If phasing of the development results in a decrease in the ratio of small slips to large slips then the project falls disproportionately on the lower cost slip users. The diagram of the project in the application suggests this impact may well occur when the southern basin is built out since the new configuration appears entirely reserved for larger slips.

4. Exemption from CEQA

The Application claims categorical exemption from CEQA pursuant to Guideline 15302. This Guideline describes a Class 2 exemption as one applicable to replacement of existing structures and facilities on the same site and for "substantially the same purpose and capacity as the structures replaced." The substantial diminution in the absolute number of slips available to the public for recreational boating and the disproportionate impact of this decrease on lower cost slips makes a Class 2 exemption inappropriate for this project.

Further, the Guideline Section 15300.2 may make a categorical exemption inapplicable due to cumulative impacts or "... where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

The Vintage project application fails to consider impacts of this action in conjunction with the interrelated BISC project and so there are cumulative impacts requiring analysis.

The existence of significant effects of the project due to "unusual circumstances" is clearly present. As is demonstrated in the County filing NOID 1-04, the BISC project is partly on a public park containing an established rookery for a colony of black-crowned night heron. The Coastal Commission staff addendum dated June 7, 2004 to its staff report on the BISC notes this rookery has been confirmed by the California Department of Fish and Game. The Commission Finding adopted June 9, 2004 states: "... the degree of tolerance or adaptability of the heron to future development cannot be accurately predicted and might be quite different during or after construction of the BISC." The Commission further stated it was not convinced the draping of trees to prevent nesting use is "the least damaging alternative." The findings suggest greater protections are needed.

The Vintage project is immediately adjacent to the same heron rookery. It's landside buildings are in the very park where the BISC is proposed. The most direct access to The Vintage docks is a pathway underneath nesting trees and some of the present and proposed Vintage buildings are less than 20 feet from nesting trees.

The application notes that all the present buildings and docks will either be extensively remodeled or demolished. It is contemplated that the demolition and construction will extend over several years. Despite the obvious potential for disruption of biological resources during or after construction of the Vintage project there is no recognition of impacts by the Applicant. In fact, **the biological survey provided in the Application does not even list the black crowned night heron among species found in proximity to the project site.** This September 20, 2004 document in support of the Applicant's Notice of Exemption was prepared by Rincon Consultants Inc.

The omission of the black-crowned night heron is bizarre and very troubling since it was this very same consulting firm, Rincon Consultants Inc, that first confirmed the existence of the heron rookery. Its original findings are contained in the attached letter of August 30, 2001 to the preparer who was then engaged by the County of Ventura to do the environmental documentation for the BISC project.

The Rincon biological assessment of August 30, 2001 specifically finds this heron rookery to be (page 2) "a sensitive biological resource" The obvious probability that the Vintage project, just as the BISC project, may have a significant effect on the environment makes any exemption to CEQA inapplicable to this project. The project must comply with CEQA analysis requirements.

Sincerely,



Lee Quaintance, Secretary

Encl.

cc: Gary Timm



Rincon Consultants, Inc.

790 East Santa Clara Street
Ventura, California 93001

805 641 1000
FAX 641 1072

info@rinconconsultants.com
www.rinconconsultants.com

August 30, 2001.

Ingrid Elsel/ Associates
3875 Telegraph Road A155
Ventura, CA 93003

Attention: Ingrid Elsel

Reference: **Channel Islands Boating and Instruction Safety Center Project
Biological Assessment**

Dear Ms. Elsel:

Rincon Consultants has conducted a limited biological assessment of the above referenced project and prepared the biological assessment section of an Initial Study (attached). The project is located within the Channel Islands Harbor at a previously urbanized location, a portion of which is a strip park adjacent to the harbor waters. According to the information previously provided, a heron rookery had developed in the non-native trees within the park. Information supplied by an employee of the Channel Islands Marina, located adjacent to the park, indicated that this past spring and summer, 12-20 Black-crowned night heron nests, 2 Great blue heron nests, and two Snowy egret nests were located at the site. Two Great blue heron nests are also located to the north of the site along Barracuda Way.

The field investigation conducted on August 14, 2001 confirmed the presence of Black-crowned night-herons, with several probable nests observed in the trees within the park, extensive fecal droppings on the trees, and an adult and five juveniles observed within a large pine tree near the water. The presence of juveniles confirm the use of the site for nesting since the young are normally not far from their nests at this time of the year. Figure 1 (attached) illustrates the location of the heron rookery.

Heron rookeries are considered sensitive by the California Department of Fish and Game because of their relative scarcity. Rookeries are locations where a large number of the same or like species gather to breed within a limited area. This colonial nesting habit provides greater protection to the eggs and young from certain predators (mostly other birds such as crows and hawks) because the colony's adults can protect several nests or young during the absence of the parents. The California Department of Fish and Game (Morgan Wehtje) and local birding enthusiasts were contacted for information regarding any other known locations of heron rookeries or nesting activity. This site was the only active one known to still be present, though it is likely that black-crowned night heron nesting also occurs at the mouth of the Santa Clara River (possibly within the adjacent Ventura Wastewater Treatment Facility) because of past observance of juvenile birds in this location. A rookery formerly occurred at an elementary school in Fillmore near the fish hatchery, but was reported

Attachment G



abandoned by Morgan Wehtje due to tree trimming and thinning. Nesting is still expected to occur somewhere in the vicinity of the fish hatchery because of observance of juveniles in this vicinity this last spring season, but the location of any large rookery is not known. Great blue herons are known to nest in either individual nests or small (2-3 nests) groups at Lake Casitas, but no rookery is known to have formed. Great blue herons may also nest locally in the eucalyptus trees along the base golf course at Port Hueneme.

The limited occurrence of rookeries causes the onsite rookery to be considered a sensitive biological resource from a local perspective, despite the fact that it is located within an urban area and within a habitat that did not exist until the harbor was constructed on dry land in the 1960's. Since it is a sensitive resource, the removal of the nesting trees for the boating safety center is considered a significant impact under the California Environmental Quality Act and mitigation is required. Avoidance, minimization of impacts, restoration, and compensation are the primary mitigation methods available in order of preference. Therefore, the preferred mitigation measure is to move the proposed center to the similar land area located at the southeast corner of Bluefin Circle. If land leases or similar obstructions limit the feasibility of this measure such that it cannot be accomplished, it is possible that the rookery could be moved (re-established) in another location based on the fact that it has developed at this site within the last 40 years. The parkland at the south end of Bluefin Circle (the alternative center site) could serve as the new rookery. Preferably, the existing trees could be transplanted to the new location in the same density pattern as at the project site. Site specific design should also avoid as many trees at the project site as possible, particularly the large pine tree near the water's edge that serves as a roost. It is noted that the current trees are in relatively poor shape, due largely to the heron excrement. If the existing trees cannot be successfully moved and transplanted (per an arborist's opinion), then a similar grove should be developed at the relocation site. This latter measure could cause a few year's loss of nesting activity at the site, but eventually, the rookery would be expected to become re-established.

Thank you for choosing Rincon Consultants for this analysis. If you have any questions, please feel free to contact us.

Sincerely,

RINCON CONSULTANTS, INC.

Duane Vander Pluym, D. ESE
Principal



AUDUBON CANYON RANCH

Cypress Grove Research Center, P. O. Box 808, Marshall, CA 94940

Tel 415-663-8203 · E-mail <cgp@svn.net> · Fax 415-663-1112

9 March 2005

California Coastal Commission
c/o Gary Timm, District Director
89 S. California Street, Suite 200
Ventura, California 93001

RE: Boating Instruction and Safety Center (BISC) project, PWA-MAJ-1-04

Dear Commissioners:

I would like to clarify some points of discussion related to my previous letters to the Ventura County Harbor Department (25 June 2003 and 8 December 2003) and the assessment of proposed modifications to the Boating Instruction and Safety Center (BISC) project.

First, zones of disturbance around heron nesting colonies exist even in urbanized settings. The difficulty in determining the appropriate minimum buffer distance in areas where herons nest near human activity does not reduce the value of avoiding disturbance zones. Disturbance studies to date invariably recognize not only that the sensitivities of nesting herons and egrets vary considerably among nesting sites and times of year, but more importantly, that at each colony site there is an increasing likelihood of disturbance with declining distance to human activity. In areas where human disturbance cannot be completely avoided, incorporating the maximum feasible buffer zone may be critical in protecting heronries by reducing the frequency or intensity of disturbance. Heinz Hafner, a leading scientist in the field of heron and egret ecology, has indicated that buffer zones remain critical factors in colony site management even at sites where birds tolerate humans at close distances (Hafner 2000; pp. 210-212 in Heron Conservation, Academic Press). Although scientific recommendations of 100-200 m buffer areas around wading bird colonies have apparently been considered unrealistic in the proposed plans for the BISC, I urge you to consider establishing the maximum feasible buffer area between the nesting herons and areas planned for increased human activity.

I greatly appreciate Dr. Froke's 2003-2004 assessments of the heronries at Channel Islands Harbor, Port Hueneme, and Ventura Harbor. However, readers should not use the results, which document a shift in nest locations between two seasons, to speculate about trends in nesting abundance or use of nest trees. Such year-to-year changes are common and often fail to reflect any underlying trend or pattern. Dr. Froke's report also indicates, importantly, that the trees near the BISC site provide potentially suitable nesting sites, even if unused in a given year. It is reasonable to assume that such sites remain suitable and that their availability may be critical in urbanized environments, by accommodating shifts of nest locations in colonies that persist as dynamic, dispersed aggregations. Similarly, there is a likely risk in assuming that reduced or intermittent use of particular nest trees reflects reduced importance to the colony.

I share Dr. Froke's suspicion that many of the nesting Black-crowned Night-Herons moved from the Channel Islands Harbor in 2003 to Port Hueneme in 2004. Such movements are common in this species and can be stimulated by changes in feeding conditions (degraded locally or improved elsewhere), nesting habitat conditions, or the intensity, timing, or frequency of disturbance events. Some changes in nest locations probably reflect normal annual variation. As above, I emphasize that in the absence of additional information, the shift in nest locations in 2004 is unlikely to indicate longer-term differences in the suitability of nest sites or colony sites.

Please also note that the dispersed configuration of the heronry at Channel Islands Harbor does not in itself protect birds that nest close to the BISC site. The California Department of Fish and Game Code prohibits take of individual nests, regardless of any larger-scale effects on the heronry.

Finally, although some responders on this issue have reported "habituation" to human activity by nesting herons at Channel Islands Harbor, there is no evidence of habituation, which requires a change in individual behavior over time. Even if habituation was known to have occurred, the capacity of the herons for further habituation is unknown. A simpler and therefore more likely explanation for the presence of nesting herons and egrets in the Channel Islands Harbor is that herons, like other birds, select nest sites each year based on their ecological requirements and the suitability of local conditions. Consistent with this idea, frequently observed changes in their use of nest sites and colony sites suggest a sensitivity to changes in the surrounding area.

Thank you for your appreciation of the heronry and for this opportunity to comment.

Sincerely,



John P. Kelly, PhD
Research Director

Gary Tirm, Manager
South Central Coast District Office
89 S. California St, Suite 200
Ventura, CA 93001-1800

RECORDED

December 2, 2005

DEC 1 2 2005

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Dear Mr. Tirm,

It is said, around the Harbor, the California Coastal Commission staff is reviewing Vintage Marina's application to remove and build all new slips in the Channel Islands Harbor, Oxnard, California. The purpose of this letter is to state my objection to eliminating small slips from Channel Islands Harbor.

I have been boating most of my life and hope to boat the rest of my life. I am a 40 plus mother of three and a husband with little interest in sailing. We agree, however, that I can own a boat. I am the proud owner of a 23 foot sail boat docked in the County's small boat marina. My family has, however, a limit as to how much I spend on my love, "my little boat". We, with limited funds and a small boat, should not have our boats pushed out of the water for a smaller number of those that "can afford it". Reduce the supply and the fees will go up, pushing us out.

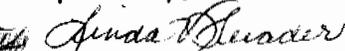
It is my understanding the County and Vintage Marina are proposing to eliminate 25/28 foot slips, reduce the number of 30 foot slips and increase the number of 40 foot and up slips. It is said this will reduce the number of small slips in the marina by as much as 100.

A used 25 to 30 foot boat sells for \$2,000 to \$10,000 and a used 40 foot boat sells for \$75,000 to \$150,000. Guess who owns the smaller boats? Who wants the person who has a difficult time paying their slip fees? I can not afford a 40 foot slip for my 23 foot boat nor can I afford 40 foot boat to fit the 40 foot slip.

In closing, the Commission's goal is public access for all. The elimination of small slips is not in the best interest of public access or the boaters of Ventura County. This act will further separate the moderate income boater from the use of the Channel Islands Harbor. Boat slip size is a public access issue that should be address.. Please give this issue serious consideration in your evaluation and recommendation to the Commission on the Vintage Marina Project.

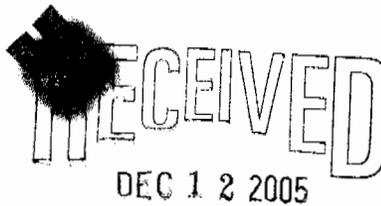
Please place is letter on the Commission's agenda when this mater is heard.

Respectfully,


Linda Swader
Homemaker

CC Meg Caldwell, Chair. Coastal Commission
Supervisor Steve Bennet, District 1
Supervisor John Flynn, District 5
Peter Douglas, Exe. Director. Coastal Commission

Gary Tirm, Manager
South Central Coast District Office
89 S. California St, Suite 200
Ventura, CA 93001-1800



December 2, 2005

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Dear Mr. Tirm

It is my understanding, the South Cental District Office of the California Coastal Commission staff is reviewing the Vintage Marina's application to remove and build all new slips in the Channel Islands Harbor, Oxnard, California. The purpose of this letter is to state my objection to its encroachment into the main channel in Channel Islands Harbor.

As you know, the process used by the County of Ventura, Harbor Department in the past has by-passed amending their master Plan (Public Works Plan) and the State mandated EIR process. Has the County done it again? Will The County staff tell the Commission only the information they feel is needed to supports their position and omits the information the Commission needs to make an informed decision. Are they doing it again! To the best of my knowledge there has not been an amendment to the Public Works Plan nor has there been an EIR filed on the project.

It is my further understanding the County and Vintage are proposing to extend the new slip construction out into the north/south channel of the Harbor by 20 feet. There by reducing the channel from its current width of 230 feet to 210 feet. The water area of the channel and slips has a navigation easement held by the U.S. Corp of Engineers. There has not, to my knowledge, been a permit issued by U.S. Corp of Engineers. Will the reduction affect boating safety, will it stop future growth of boating facilities in the Harbor and/or limit marina development in Mandalay Bay to the north? Was this issue addressed in the EIR of the current private marina development to the north? This channel is the only outlet for hundreds of new boats coming from this development to the ocean. It's noted the main channel to the north in Mandalay Bay is near 300 feet wide. Does this project have a certified EIR?

The County's presentation to the Commission on the County's proposed Boating Instruction and Safety Center did not get all the needed information from the County Staff or the Commission staff. It came from public presentation. See the attached article from the County Star. From the attached letter to Ventura County Board of Supervisors dated 12-6-05 it would appear to be Commission Staff. The question is "is Commission staff with the County in this act or are they not asking the right questions?"

In closing this project must have an amendment to the Public Works Plan and a certified environmental impact report. Please give the project and the issue of encroachment into the main channel of the Channel Islands Harbor serious consideration in your recommendation to the Commission

Respectfully,

A handwritten signature in black ink, appearing to read "Tom Volk".

Thomas M. Volk

Harbor Director Retired (1963 to 1986)

CC Meg Caldwell, Chair. Coastal Commission
Supervisor John Flynn, District 5
Pedro Nava, Assemblyman

CHANNEL ISLANDS HARBOR

County spanked over boating center

The California Coastal Commission effectively turned down a request from its staff and the county of Ventura on Wednesday to allow the county to go ahead with construction of the Boating Instruction and Safety Center within protected open-space parkland on the west side of Channel Islands Harbor without legally adopting modifications on the project imposed by the commission last March.

The modifications were mentioned in a March letter to the commission by Harbor Director Lyn Krieger as being a concern to the county in that "there are suggested modifications which go well beyond the issues concerning the BISC, and impose additional obligations on the County unrelated to the BISC."

Indeed, the modifications adopted by the commission in March are far-ranging and would affect future harbor developments besides the BISC. There are 22 in all, including those that protect all the parkland along the harbor's west side, clearly define view corridors and stipulate beach protections for birds nesting there. They also stipulate that all boat slips lost due to construction of the BISC must be replaced in kind (size and use), whereas the county would like to substitute dry storage slips for these on-the-water slips.

Supervisor John Flynn's insistence — at meeting after meeting through the summer, inquiring why no resolution approving the modifications was ever presented for a vote — has helped lead to the nasty board backlash against him, reported in the media.

Through stonewalling, evasive answers and pure subterfuge, Flynn's adversaries on the board refused to completely answer his questions. In fact, to this day, the county has successfully evaded voting on a resolution approving the modifications, despite letters from commission staff reminding it that a resolution adopting the modifications was still lacking.

More than 10 months after being told it had to process the BISC approval, by resolution, within 180 days, the county was still avoiding legal commitment. Why?

A Nov. 2 letter to the commission

Wednesday was a dark day for Ventura County's reputation with a powerful state agency, but it was a ray of sunshine for those seeking protection of vital coastal access and precious natural and recreational resources.

by County Counsel Noel Klebaum instead urged the commission to agree with the county that verbal assurance by Krieger and a letter by her to the commission agreeing with some of the modifications were sufficient to constitute legal adoption of all the modifications.

As further proof, Klebaum invited the commission to tune in to an online video record of the Board of Supervisors' discussion of the subject July 19. Incredibly, commission staff bought the county's ruse and recommended that the commission determine the county action was legal and give final approval to the harbor's Public Works Plan Amendment allowing the BISC to be constructed.

However, things did not work out well at all for the county Wednesday. After County Executive Officer Johnny Johnston presented his case to the commission, as well as Krieger and commission staffers, and commissioners recounted which of them had been lobbied by the county, members of the public had their chance to comment.

Members of the Beacon Foundation and Sierra Club pointed out how the county was attempting to deceive the commission into approving the BISC without legally adopting the modifications. A presentation by Habitat for Hollywood Beach, which is legally challenging the March BISC decision by the commission, included a stunning five-minute video clip containing the entire July 19 Board of Supervisors meeting item that had been offered by the county as supporting its case.

Commissioners left their seats to watch the video as if they were huddling to view the Super Bowl. They saw a calm but persistent supervisor, Flynn, asking the hard

questions, and the other supervisors, led by Supervisor Steve Bennett, blatantly evading the issue.

Steam was coming out of the commissioners' ears. They saw and heard who was telling the truth. And, from that moment on, the reputation of Ventura County as — what Environmental Defense Center attorney John Base long ago observed, a "scofflaw jurisdiction" — was indelibly etched in the minds of the commissioners.

Admonishments and rebukes toward the county representatives, their legal counsel and their lobbyist attorney, Andi Culberston, from multiple commissioners included the term "malpractice."

After breaking into closed session to discuss how the county bungling could be getting them into legal hot water in court with Habitat for Hollywood Beach, the commissioners emerged with an agreement to continue the action for 30 days and chilling words for the county not to return without a resolution of the board in hand, along with an accurately amended copy of the Public Works Plan, including all modifications.

Apologetic excuses for the county's behavior by Johnston, indicating that the county had not been aware of specific commission process, prompted a remark by the commission chairwoman that the county's processes seemed to be out of sync with the rest of California.

Wednesday was a dark day for Ventura County's reputation with a powerful state agency, but it was a ray of sunshine for those seeking protection of vital coastal access and precious natural and recreational resources.

It was also a proud day for Flynn, whose honesty and persistence to protect the public trust were vindicated the same week he kept his promise to turn allegations against the same county players over to the Ventura County Grand Jury and district attorney.

— Jonathan Ziv, of Oxnard, is president of Habitat for Hollywood Beach (<http://www.habitatforhollywoodbeach.org>) and a member of the board of directors of Channel Islands Beach Community Services District.



Lyn Krieger
Director

CHANNEL ISLANDS HARBOR
Ventura County Harbor Department
3900 Pelican Way • Oxnard, CA 93035-4367



Telephone (805) 382-3001
FAX (805) 382-3015
www.channelislandsharbor.org

December 6, 2005

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

SUBJECT: RESOLUTION TO CLARIFY AND REAFFIRM ACTION TAKEN BY THE BOARD OF SUPERVISORS ON JULY 12, 2005, TO ACKNOWLEDGE, RECEIVE, ACCEPT AND AGREE TO THE CALIFORNIA COASTAL COMMISSION'S MODIFICATIONS TO THE CHANNEL ISLANDS HARBOR PUBLIC WORKS PLAN AMENDMENT APPROVED (AS MODIFIED) BY THE CALIFORNIA COASTAL COMMISSION ON MARCH 16, 2005

RECOMMENDATION:

1. Cooperate with the California Coastal Commission by approving the attached resolution that specifically memorializes the Board's intentions in its July 12, 2005, action and reaffirms its action of July 12, 2005, to accept and agree to all modifications to the Public Works Plan Amendment approved by the California Coastal Commission on March 16, 2005.
2. Use the resolution form and process in future Channel Island Harbor Public Works Plan amendments.

BACKGROUND:

The Channel Islands Harbor Public Works Plan (PWP) certified by the California Coastal Commission on September 19, 1986, was amended by the Board of Supervisors on October 19, 2004, for the narrow and specific purpose of including a publicly owned and operated facility, the proposed Boating Instruction and Safety Center (BISC). This adopted amendment (PWPA) was then forwarded to the California Coastal Commission for review and action, along with a Notice of Impending Development (NOID) for the BISC project. The PWPA, with 22 modifications, and related NOID were ultimately approved by the Coastal Commission at their hearing on March 16, 2005. The items were heard concurrently.

Preceding the preparation of the PWPA, an Addendum to the final environmental impact report (EIR) prepared and certified for the BISC project was undertaken to analyze project impacts and to propose mitigations where required. This environmental analysis also constituted the necessary environmental information for use by the Coastal Commission in its review of the PWPA. The Board of Supervisors certified this EIR Addendum on October 19, 2004. A number of the mitigation measures adopted by the Board through this process were included in the NOID in order both to lay a clear record of project conditions, and to make it clear to the Coastal Commission and its staff what preconditions and restrictions on construction and development would be observed. In addition, several other items, which are general County policy for construction projects such as Best Management Practices as related to water quality and noise containment, were included within the NOID.

During the California Coastal Commission staff review process, the suggestion was made that the conditions already approved by your Board and contained within the EIR/environmental information and the NOID also be included in the PWPA itself. County staff consented, and these previously approved items were now reflected in multiple locations. Pursuant to Board direction and delegated authorization, County staff accepted further conditions and modifications proposed by the Coastal Commission staff and the Coastal Commission itself prior to and at the March 16, 2005 Coastal Commission hearing. **At no time was there any disagreement between the majority of the Board of Supervisors and Coastal Commission's ultimate approval.**

Following an approval such as this by the Coastal Commission, the Coastal Commission staff transmits a resolution of certification to the County containing the Commission's action and suggested modifications. The California Coastal Commission staff performed this act on June 13, 2005. See Exhibit 1 attached and incorporated herein by reference. The California Coastal Commission regulations require that the Board of Supervisors formally acknowledge and accept these modifications. Importantly, however, the manner in which this action is accomplished is left to the local governing body itself.

The Board's action on July 12, 2005, was "receive and file." This was intended to reflect the Board's complete acceptance of the suggested modifications of the Coastal Commission. The Clerk possessed a full copy of the PWP with all 22 modifications in highlight/strikeout form, and the Board was directed informally to that document if there was a need for inspection. However, because of the complete concurrence of the majority of the Board on the modifications -- witnessed by two members of the majority at the March 2005, Coastal Commission hearing -- and the pending suspension of Board meetings for summer recess, the Board and staff moved quickly to simply receive and file and forward the revised document to the Coastal Commission for final inspection and the Executive Director's determination.

The item on the July 12, 2005, Board agenda, therefore, was intended to present the Coastal Commission's action and modifications on the PWPA to the Board for its Acknowledgement, Receipt and Acceptance. The Board acted by receiving and filing the noted changes, and the Harbor Director notified the Coastal Commission staff of the County's acceptance. Although the form of the County's acceptance may differ from other counties, it is this county's form for acknowledging and accepting modification that the Board has already adopted or proposed, and those Coastal Commission modifications of which the Board was fully aware.

PROCEDURAL ISSUES:

The act of finally certifying the PWPA is an ostensibly simple one. The Executive Director reviews the County's action as transmitted (in this case transmitted on July 26, 2005), determines whether the action reflects the Commission action, and if so the Executive Director certifies the amendment. The Executive Director reports his action at the next Coastal Commission meeting, and if there is no objection, the action of the Executive Director is final.

In this case, there is no dispute that all of the Commission's modifications were contained in the annotated document transmitted¹ to the Board and available for its review.

In response to allegations by the public that the Board's action on July 12, 2005 did not comport with Coastal Commission regulations for the acknowledgement, receipt and acceptance of Coastal Commission actions and modifications to the PWPA, the Coastal Commission staff sent the County a letter on September 13, 2005, questioning the character of the County's action. In subsequent discussions with Coastal Commission legal staff, it was decided that County Counsel should provide a letter characterizing the Board's July 12, 2005, action and stating unequivocally whether the Board had acted to accept the suggested modification. County Counsel provided this letter on November 2, 2005. See Exhibit 2 attached and incorporated herein by reference. The California Coastal Commission staff – both legal and planning – expressed satisfaction with the content of the County's letter, and the Executive Director certified as final the PWPA. See Exhibit 3 attached and incorporated herein by reference. The matter was then scheduled to be reported to the Commission at their hearing of November 16, 2005.

On November 16, 2005, the Executive Director of the Coastal Commission reported his decision to the Coastal Commission. In light of the significant public controversy that

¹ One inadvertent error occurred wherein a sentence that was associated with a different amendment appeared in the BISC PWP amendment text. Upon notification by the California Coastal Commission staff, the County removed this sentence.

continued around this project, the County Executive Officer testified that the Board had actually accepted all 22 of the suggested modifications. While the Commission's staff and legal counsel agreed that the substance of the modifications had been adequately addressed by the County, and recommended concurrence, the Commission expressed a strong preference that in the future the County follow the more traditional procedure of adopting a resolution so that there would be no doubt that the Board accepted the modifications. Commissioners did appear to agree that it was clear that the Board's intention had been to accept all modifications.

However, public opposition continued in the testimony phase of the hearing². On the advice of their Executive Director and Chief Counsel, the Coastal Commission held a brief closed session. When the Commission came back into open session, Commissioner Reilly made a motion that accepted the determination of the Executive Director subject to a continuance for 30 days³ and requested that the County of Ventura Board of Supervisors adopt a resolution confirming the decision that the County had already made. This motion was seconded by Commissioner Secord. Commissioner Wan specifically requested that the Chief Counsel relate and define the Latin phrase that describes this type of action. Chief Counsel Ralph Faust complied by explaining a *nunc pro tunc* action.

Executive Director Douglas requested that County Executive Officer Johnston confirm that the County would comply with the Commission's motion on December 6, 2005, which Mr. Johnston did.

As a result of the discussion, the Commission unanimously adopted the motion represented by Commissioner Reilly. The matter will now be heard again by the Commission at their December 2005 meeting (December 14-16), provided the Board adopts the attached resolution.

THE RESOLUTION:

It is important that your Board bear in mind that this resolution merely memorializes the Board's acceptance of the 22 suggested modifications of the Coastal Commission

² Any action by the Coastal Commission to approve an amendment to a PWP must be accepted or rejected within 180 days of the Commission's action or it expires. The opponents claimed that the Board had not accepted the modifications, that the time period to accept the modifications had expired, and that basically there was no action to take. Commission staff did not necessarily agree with the arguments of opponents. The Commission, on the advice of the Executive Director, went into closed session to discuss the matter.

³ Later clarified by the Chief Counsel to be on the December meeting of the Coastal Commission.

Board of Supervisors
December 6, 2005
Page 5

relating back to the July 12, 2005 meeting. Any action to modify, add to, or delete from the modifications will result in a change to the Board's acceptance, and immediate expiration of the Commission's March, 2005 action. The staff respectfully recommends that your Board adopt the resolution at the meeting of December 6, 2005, and direct staff to transmit said resolution to the Executive Director of the Coastal Commission.

FUTURE PROCEDURES:

The County of Ventura has not previously amended the Public Works Plan certified in 1986. Further, Coastal Act regulations are silent as to the form of acceptance of modifications to PWPAs. In this case, the County followed what would be a usual course of action, which turns out not to be the Coastal Commission's preferred process. The energy and expense to observe the County's normal procedure for these matters in the face of significant opposition justifies a review of the Board's adoption procedures. We strongly recommend that your Board modify its procedures for acknowledging and accepting Coastal Commission suggested modifications to correspond more closely to that of other jurisdictions, specifically, a resolution. While the California Coastal Commission regulations clearly leave the form of that acceptance to the Board, a more conventional form of acceptance will simplify processing of future PWP amendments. Therefore, the staff also respectfully request that the procedure of adopting a resolution to acknowledge and accept the Commission's modifications be formalized as the standard procedure for cases such as this.

The County Executive Office, County Counsel and the Auditor-Controller have reviewed this letter. If you have any questions regarding this item, please call me at 382-3003.

LYN KRIEGER
Director

Attachments

Johnny Johnson, County Executive
County of Ventura, Government Center
800 So. Victoria Avenue
Ventura, Ca 93009



RECEIVED

May

December 22, 2005

DEC 29 2005

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

SUBJECT : CHANNEL ISLANDS MARINA- TELL ME IT'S NOT TRUE

Dear Johnny,

Is it true that the County and its' lessee are quietly dismantling the slips in the old Channel Islands Marina? I am writing you in lue of the Harbor Director because it appears from news articles, presentations before the Coastal Commission, the Board, and the Harbor Commission and the directive of the Board to Supervisor Flynn all matters related to the our Harbor will go through you.

Over the past 40 year's it has been known by County staff, it's lessee, and the boaters that the floats at Channel Islands Marina were hollow, and as routine maintenance, needed to be pumped from time to time. In light of the Board's concern for the displacement of the boater in the marina, I am surprised the Harbor Department has not continued to routinely pump the floats as needed.

From the number of those sinking it would appear the past marina maintenance standards have been forgotten or there is a more sinister reason? The floats that support the docks are being deliberately allowed to sink then broken up to make them unuseable. Tell me the County staff is not trying to create a crisis to obtain an emergency permit from the Coastal Commission to build new docks? There by avoiding amending their Public Works Plan and the EIR process.

In closing, hopefully I have misunderstood the staff's position. The Board does not need another unnecessary political issue before the Coastal Commission. I would appreciate your position on this matter at your earliest convenience.

Respectfully,

Harbor Director, Retired , (1962-86)

cc: Board of Supervisors, Ventura County Grand Jury, Coastal Commission, Beacon Foundation, U.S. Army Corps of Engineer



The Beacon Foundation

PMB 352
3844 W Channel Islands Blvd.
Oxnard, CA 93035

RECEIVED

DEC 22 2005

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Via FAX and Mail

Re: Maj. Amendment No 1-05

December 20, 2005

Ms. Tracy Duffey
Analyst
California Coastal Commission
89 South California Street
Ventura, CA 93001

Mr. Gary Timm
Coastal Program Manager
California Coastal Commission
89 South California Street
Ventura, CA 93001

Dear Ms. Duffey and Mr. Timm:

At its meeting on December 13, 2005 the Ventura County Board of Supervisors (BOS) took two actions affecting matters before the Coastal Commission. One was to amend the consulting services contract with Culbertson Adams & Associates to make it the County's exclusive consultant for the Channel Islands Harbor and to raise to \$800,000 its potential fee for services regarding a multitude of projects in the Channel Islands Harbor – most of which will require amendment to the certified Public Works Plan.

The other Commission related action by the BOS was to "revise" the above referred Major PWP Amendment on file with your agency to split the landside development from the waterside development and to seek approval of just the waterside portion at this time.

Attached are the narrative portions of the staff report for each item authored by Harbor Director, Lyn Krieger.

1. Splitting One Project Into Two Parts Violates Environmental Review Requirements.

The staff report and testimony by Director Krieger to the BOS on December 13th make it absolutely clear that a single project is being "bifurcated" so that one part will be considered by the Commission independent of later review of the other part. Ms. Krieger testified the bifurcation was proposed by CCC staff and that it is "a concession to [CCC] staff." In the staff report "reassignment of staff based on workload" is depicted as a motivation for the purported CCC request for project division.

We cannot believe that this piecemealing of an already piecemeal approach to an amendment to the PWP is proposed by Commission staff. It violates the standard environmental review requirement that the whole of a project must be considered. The two parts of this project being artificially divided obviously have cumulative effects one upon the other. We call upon the Commission to reject the proposed revision and require the County to either proceed with its application for the whole project or (a preferred alternative) withdraw this application and include it within its promised overall "update" amendment to the Public Works Plan. Mr. Krieger's staff report

says the "update" amendment is on a fast track. Her staff report on the Culbertson contract lists the "overall update to the Channel Islands Harbor Public Works Plan" as part of the scope of work being funded by the \$800,000 now authorized for Culbertson services (to date this firm has been paid \$466,132.51 so more than \$300,000 is now funded for the "update" and other Harbor projects).

2. The Commission Must Require A County Environmental Review of the Vintage Project.

The County request to divide the Vintage projects into two parts creates by itself a new obligation for the Commission to consider acceptance of this matter as a "complete" application. This divided project is a new application and should not be accepted by the Commission without an environmental review.

The County staff report and the BOS resolution adopted by a split 3 to 2 vote on December 12, 2005 both baldly state that the Vintage project is exempt from the California Environmental Quality Act (CEQA) and provides the Commission with no environmental documentation regarding impacts of this project. It is impossible for the Commission to discharge its environmental review requirements based on this "naked" application. We discuss more fully the need for the Commission to obtain an environmental review in our letter to you of November 28, 2005. We also discuss in that letter some of the many and substantial direct and cumulative environmental impacts of this project that make it mandatory for the Commission to base its review on environmental documents that are the functional equivalent of CEQA reviews.

Director Krieger's enclosed staff report for the Culbertson contract increase contains an express recognition of a County obligation to provide the Commission with environmental documents. Following a laundry list of "significant" Harbor development projects (including Vintage Marina) Director Krieger states (Page 2) :

"Some of these projects will require the Harbor to submit detailed environmental information to Coastal Commission staff and the Commission in order for them to discharge their final authority under the Coastal Act."

The Vintage Project is just such a project. We call upon CCC staff to reject the County attempt to make a piecemeal division of the Vintage project into two parts. We further call upon CCC to inform the County that any submission of the project as a whole, whether in an overall PWP "update" or otherwise, will require the County to prepare and submit "detailed environmental information" so that the Commission can discharge its environmental review obligation.

Sincerely,



Lee Quaintance
Secretary



Lyn Krieger
Director

CHANNEL ISLANDS HARBOR
Ventura County Harbor Department
3900 Pelican Way • Oxnard, CA 93035-4367



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December 13, 2005

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

**SUBJECT: AMENDMENT TO CONSULTING SERVICES CONTRACT WITH
CULBERTSON, ADAMS & ASSOCIATES, INC., FOR WORK ON
VARIOUS CHANNEL ISLANDS HARBOR PROJECTS TO BE
PERFORMED DURING FISCAL YEAR 2005-06**

Recommendation:

1. Approve the attached amendment to the Consulting Services Contract of September 20, 2005, with Culbertson, Adams, & Associates, Inc., by increasing the contract amount from \$150,000 to \$350,000, most of which total amount is to be reimbursed by various tenants at the Channel Islands Harbor, for Coastal permit processing and environmental consulting services to be performed on projects including, but not limited to, those involving the Casa Sirena Hotel, the Casa Sirena Annex (Hampton Inn), Lobster Trap Restaurant, Channel Islands Harbor Marina/Vintage Marina Partners, Fisherman's Wharf, Marine Emporium Landing, Peninsula Yacht Anchorage as well as work related to an overall update to the Channel Islands Harbor Public Works Plan.

2. Authorize the Director of the Harbor Department to execute such amendment on behalf of the County of Ventura and to make minor, non-monetary amendments to the contract, if any are required to effectuate its purposes, as well as monetary amendments to the contract so long as such monetary amendments do not exceed \$35,000, i.e., 10 percent of the total cost of the contract.

Fiscal/Mandates Impact:

Mandatory:	No
Source of Funding:	Harbor Enterprise Fund and various lessees
Funding Match Required:	No
Impact on Other Departments:	Minimal

Summary of Revenue and Cost:	<u>2005-06</u>	<u>2006-07</u>
Estimated Revenue	\$300,000	N/A
Estimated Costs	\$350,000	N/A
Net Estimated Cost	\$ 50,000	N/A

The estimated net cost to the Harbor Department is included in the FY 2005-06 Budget for the Harbor Department. For the reimbursable portion of the contract, Lessees will be required to deposit funds with the County in accordance with the Harbor Department Rate and Fee Schedule approved by your Board on June 7, 2005. Because revenue and costs associated with future lessee projects are currently unknown, they cannot be estimated at this time. Therefore, they have not been included in the Harbor Department Budget as yet. When details of these lessee projects become available, the Harbor Department will submit budget adjustments to the County Executive Office.

Current FY Budget Projection:

CURRENT FY 2005-06 Budget Projection for Harbor Enterprise				
	Adopted Budget	Adjusted Budget	Projected Budget	Estimated Savings/(Deficit)
Appropriations	\$8,545,803	\$8,688,025	\$9,011,130	(\$323,105)
Revenue	\$8,622,887	\$8,627,046	\$9,664,221	\$1,037,175
Operating Gain/Loss	\$77,084	(\$60,979)	\$653,091	\$714,070

Discussion:

The proposed expanded environmental consulting services contract relates to an overall update of the Channel Islands Harbor Public Works Plan. Work on this update has already begun, but cannot be completed without the contract expansion requested herein. As stated in the September 20, 2005, letter to your Board regarding this contract, there are a number of leases, lease options, and project proposals that will require Coastal Commission action in the next two to three years. At the very least, these projects include significant projects related to Channel Islands Harbor Marina/Vintage Marina Partners (Coastal review underway at this time), the Casa Sirena Hotel, Casa Sirena Annex (Hampton Inn), the Lobster Trap Restaurant, Marine Emporium Landing, Peninsula Yacht Anchorage, and Fisherman's Wharf. Some of these projects will require the Harbor to submit detailed environmental information to Coastal Commission staff and the Commission in order for them to discharge their final authority under the Coastal Act.

To protect and enhance the interests of the County at the Channel Islands Harbor, it is necessary that all relevant development documents, summarized below, be reviewed by an expert in the area of coastal development. As the responses to the Request for

Qualifications (RFQ), discussed below, confirmed, there are a very small number of coastal consultants familiar with ground lease issues. Of these, fewer still will agree, or are even qualified, to handle Public Works Plans and amendments thereto. Culbertson, Adams & Associates, Inc. is not only familiar with the Channel Islands Harbor and its Public Works Plan, it is staffed by leaders among coastal consultants (Attachment 3).

In general, coastal development permits run with the land, which in this case is owned by the County of Ventura. California Coastal Act and Coastal Commission regulations regarding Public Works Plans require the public agency that is proposing the public works project issue a Notice of Impending Development (NOID). Issuance of a NOID requires review of a development project's conformance with the Public Works Plan. In view of this complex coastal regulatory scheme, it is in the County's best interest to be able to directly monitor and review the activities of the environmental consultant who is charged with preparing all documents related to a NOID. Requiring all affected Harbor lessees to work with the County's chosen coastal consultant provides additional assurance to the County that Harbor Department projects are consistent with the Public Works Plan and with each other. There is also the added benefit that under such an arrangement, one lessee will not negotiate a lease or NOID terms which negatively affect other lessees, or the County, without the full knowledge of as well as prior review and approval by the County.

As you will recall, the Harbor Department requested approval of a contract for these services in the total amount of \$350,000 on September 20, 2005. At that time, your Board authorized only \$150,000 of the requested amount, and directed the Department to prepare and issue an RFQ to ascertain whether others were interested, capable, and available to do the required work. The RFQ, a copy of which is attached hereto (Attachment 1), was mailed to five Coastal Consultants (Attachment 2) believed to at least potentially possess the requisite qualifications on September 30, 2005. The responses were due back to the Harbor Department on October 28, 2005.

The Harbor Department received two letters from potential consultants expressing such prospects' inability to do the requested work due to workload conflicts and lack of technical expertise (Attachment 4). In addition, two other potential consultants telephoned the Harbor Director and expressed their regrets, stating that they would be unable to respond favorably to the RFQ due to workload and work type conflicts. The only complete Qualification Statement received by the Harbor Department was from Culbertson, Adams & Associates, Inc.

Given the previous concerns raised by the public at meetings of your Board relative to this consultant and the processing of the Boating Instruction and Safety Center (BISC) project, the Harbor Department wishes to be very clear about the scope of work. Some members of the public wish this consultant and, presumably, any coastal expert to guarantee both timelines and cost. I believe your Board is now well aware, through experience, that even under the best of circumstances, a guarantee on project timelines

and cost is impossible. Project progress and completion depends on multiple factors including Coastal staff availability, the identity of the Coastal Commissioners and their personal interests, and the evolving nature of development projects. If any degree of public controversy, environmental issue(s), or legislative interest develops, costs and timelines can change dramatically. This is an inherent part of any developer's risk in the Coastal Zone, including the County of Ventura. While some of the projects have estimated costs, listed below, the cost of the September 20, 2005 contract was not divided amongst these projects. We are anticipating that some projects will cost less than estimated and some significantly more. The Department would like to retain the authority to shift monetary amounts between project accounts in appropriate cases.

With this in mind, the Harbor Department included in its Rates and Fees Schedule this fiscal year, the ability to require deposits from lessees and potential lessees to cover the cost of assistance to lessees in obtaining lease revisions, building permits and environmental information from staff and consultants. This contract is for the consultant we wish to utilize in this capacity.

The proposed Contract Amendment brings the total contract to a "not to exceed" amount of \$350,000. Based on very limited knowledge of the projects listed above, this contract amount is intended to cover only currently estimated work related to those projects. The County's actions and decisions with regard to such projects and the proposed Public Works Plan update have a direct impact on cost. At this time we can estimate in rough fashion the following possible costs: Channel Islands Harbor Marina – up to \$75,000, Casa Sirena Extension – up to \$25,000, Peninsula Yacht Anchorage – up to \$50,000, and Casa Sirena – up to \$150,000.

This letter has been reviewed by the County Executive Office, County Counsel, and the Auditor-Controller, and was reviewed by the Harbor Commission at their December 7, 2005, meeting. If you have any questions about this item, please call me at 382-3002.


LYN KRIEGER
Director

Attachments



Lyn Krieger
Director

CHANNEL ISLANDS HARBOR
Ventura County Harbor Department
3900 Pelican Way • Oxnard, CA 93035-4367



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December 13, 2005

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

**SUBJECT: REVISED CHANNEL ISLANDS HARBOR PUBLIC WORKS PLAN
AMENDMENT FOR CHANNEL ISLANDS HARBOR MARINA (VINTAGE
MARINA)**

Recommendation:

1. Direct the Harbor Department staff to withdraw from consideration by the California Coastal Commission (Commission) the currently submitted Public Works Plan Amendment (PWPA) for Channel Islands Harbor Marina (CIHM) (approved September 20, 2005), and to submit a revised PWPA, in the form attached as Exhibit 2 hereto, which limits the amendment previously submitted to the Commission to its waterside component;
2. Direct Harbor Department staff to process the landside improvements previously approved by the Board in a separate PWPA to be presented to the Commission with the upcoming PWP Update;
3. Adopt a Resolution (Exhibit 1) approving such recommended actions and adopting a revised PWPA (Exhibit 2); and
4. Direct the Harbor Director to take all actions necessary to obtain approval of this PWPA from the Commission in accordance with the above-described Resolution.

Fiscal Impact:

There is no fiscal impact to this item.

Current Fiscal Year Budget Projections:

CURRENT FY 2005-06 Budget Projection for Harbor Enterprise				
	Adopted Budget	Adjusted Budget	Projected Budget	Estimated Savings/(Deficit)
Appropriations	\$8,545,803	\$8,688,025	\$9,011,130	(\$323,105)
Revenue	\$8,622,887	\$8,627,046	\$9,664,221	\$1,037,175
Operating Gain/Loss	\$77,084	(\$60,979)	\$653,091	\$714,070

Background:

On September 20, 2005, your Board approved an amendment to the Channel Islands Public Works Plan to allow the redevelopment of the Channel Islands Harbor Marina, owned and operated by Vintage Marina Partners, and associated facilities. This project has been informally known as the Second Amendment to the PWP, the PWPA for the Boating Instruction and Safety Center (BISC) being the First Amendment.

At the time of your Board's approval of the Second PWPA, and because the County had been working closely with the Coastal Commission staff, we had anticipated the Commission would schedule a hearing on this matter in October or November of this year. However, staffing constraints and a subsequent reassignment of staff based on workload at the Coastal Commission have caused Commission staff to delay a hearing to January or February of 2006 for this project. This hearing delay was cited in the Coastal Commission staff report for the extension of the hearing date (heard on November 16, 2005).

As your Board is aware, the County is also currently proceeding with what would be the Third Amendment to the PWP, for the overall Public Works Plan Update. At the time of the original submittal of the Second PWPA (for CIHM), the County's planned Update to the Public Works Plan was expected to not be ready for processing until significantly later than the Second PWPA. However, the PWP Update is proceeding quickly and Commission staff and our office now agree that it would be more expedient to divide the Second PWPA into two parts – the waterside facilities and the landside facilities – to ensure timely and more convenient review. Based on that mutual understanding, Harbor staff concurs that the waterside facilities should proceed immediately, since the condition of these docks and their replacement is a critical issue. In the meantime, the landside facilities would proceed as part of the overall PWP Update later in 2006. This bifurcation of the CIHM PWPA would relieve Commission staff of burdens their simultaneously reviewing both the waterside and landside would entail, while not impairing the ability of the entire Vintage Marina project to proceed in a timely fashion, with the portion of the project in greatest need of replacement being reviewed first. (Notably, the waterside improvements will themselves take two years to complete, whereas completion of the landside improvements will only take several months.)

In order to accommodate the needs of the Coastal Commission's staff, Harbor Department staff has prepared and attached to this letter a redrafted PWPA that revises the previously adopted PWPA by confining its scope to the waterside and the water-oriented improvements. If your Board approves and signs the attached Resolution, staff will submit this revised PWPA to the Coastal Commission, along with a letter outlining the County's intent to process the waterside and landside improvements separately. The Draft Notice of Impending Development would be similarly revised and resubmitted. After Board action we will work with staff to bring the waterside amendment to a Coastal Commission hearing as soon as possible.

Upon approval by your Board of the recommended actions, above, we will revise the scope of the PWP Update to include the landside improvements for this marina project. The PWP Update is anticipated to be initially introduced to your Board in February in a study session format. This will be the first of many sessions outlining the proposed Update to the public.

The recommended actions are exempt from the provisions of the California Environmental Quality Act (CEQA), as determined by your Board on September 20, 2005, and additionally because the scope of the proposed PWP amendment previously approved, and found exempt at that time, is being reduced.

This letter has been reviewed by the County Executive Office, County Counsel, and the Auditor-Controller. If you have any questions regarding this item, please call me at 382-3002.



LYN KRIEGER
Director

Attachments



The Beacon Foundation

PMB 352
3844 W Channel Islands Blvd
Oxnard, CA 93035

January 10, 2006

Ms Tracey Duffey and Mr. Gary Timm
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001

Re: Maj. Amendment No 1-05
Channel Islands Harbor
Vintage Marina Development

Dear Ms. Duffey and Mr. Timm:

This letter is to supplement the concerns expressed in our letters to you of November 28, 2005 and December 20, 2005 regarding environmental impacts of the proposed project.

We particularly draw to you attention the enclosed study of the Channel Islands Heronry prepared for Ventura County by biologist Jeffrey Froke and dated October 2004. The County submitted a copy of this study to the Commission for consideration in the proceedings regarding the Boating Instruction and Safety Center (BISC) amendment (Maj. Amendment 1-04).

County expert, Dr. Froke, finds in this report (page 7) that:

“The Channel Islands heronry is a single colonial entity that is physically subdivided – the *West Side* and the *Peninsula* colonies by only a 200 –foot channel. The two parts – seen as whole trees and tree tops – are clearly visible (and audible) from each other: and, the distance from the Great Blue Heron nests at Barracuda Circle to the Great Blue Heron nests at Casa Sirena is 920 feet. Great Blue Heron and Black-crowned Night Heron routinely fly back and Forth across the channel to the respective colony (or sub-colony) areas.”

Project No 1-05 is in the very center of the heron rookery. Protection of biological species is a fundamental necessity in review of this project. Among essential protections are those imposed by modifications the Commission on the BISC project. These include prohibition of exterior construction activity during the nesting season of February through July, biological monitoring, restrictions on lighting and noise and other requirements. Greater restrictions may well be necessary given the project location in the center of the rookery.

Sincerely yours,

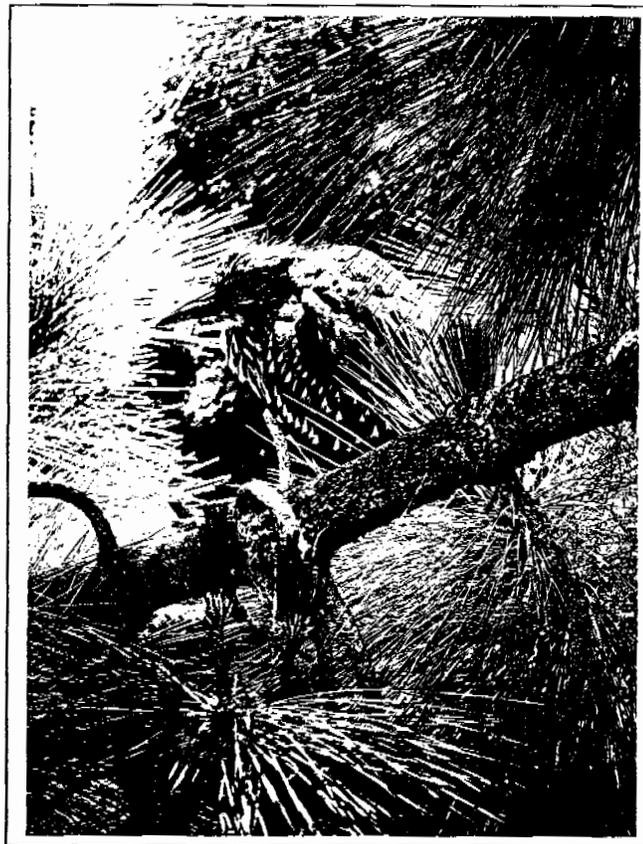

Lee Quaintance

SYNOPSIS OF THE CHANNEL ISLANDS HARBOR HERONRY, 2003-2004

Black-crowned Night-Heron, Great Blue Heron & Snowy Egret

@

Channel Islands Harbor, Port Hueneme & Ventura Harbor
Ventura County, California



Prepared by

Jeffrey B. Froke, Ph.D.

October 2004

SYNOPSIS OF THE CHANNEL ISLANDS HARBOR HERONRY, 2003-2004

This report summarizes findings and an assessment derived from an ongoing study of the Channel Islands Harbor Heronry in Ventura County, California. The project, which is focused non-exclusively on Black-crowned Night-Herons and their use of habitat in the vicinity of the proposed BOATING INSTRUCTIONAL & SAFETY CENTER (BISC), was initiated in January 2003 and to date has encompassed two complete nesting periods. The project is ongoing and it will continue to track and monitor heron colony locations and activities throughout 2005.

BACKGROUND

During environmental review of the BISC in 2002, the issue of an apparent Black-crowned Night-Heron 'rookery' on the BISC project site raised concern about the potential for disturbance and displacement of nesting birds as a result of project development. Consequently, the County of Ventura and its environmental consultant (Culbertson, Adams & Associates) commissioned this study - a survey and assessment of the heron resources, commencing in January 2003.

The first report from this study was produced on 5 May 2003: *Report on the status and ecology of Black-crowned Night-Herons at the Channel Islands Harbor, Ventura County, California - In view of the Boating Instruction & Safety Center proposed by the Ventura County Harbor Department* (J.B. Froke). The report was incorporated into the Draft EIR for the BISC, distributed 14 May 2003.

HERON SPECIES

Three heron species are discussed in this report, with varying emphases. **Black-crowned Night-Herons** (*Nycticorax nycticorax*) are featured owing to the concern for the birds nesting near the BISC location. **Great Blue Herons** (*Ardea herodias*) are considered because there is a colony inter-mixed with Black-crowned Night-Herons at Channel Islands Harbor, although not at the BISC location. **Snowy Egrets** (*Egretta thula*) share a different colony site with Black-crowned Night-Herons, outside of Channel Islands Harbor.

STUDY AREA

Observations and data generally refer to the three seawater ports and harbor environments within Ventura County: from the north, these are VENTURA HARBOR, CHANNEL ISLANDS HARBOR, and PORT HUENEME. However, the rationale and focus of the study is Channel Islands Harbor, the site of the proposed BISC. Port Hueneme, which has a Black-crowned Night-Heron colony that appears to be closely related to the Channel Islands Harbor colonies (*see Findings*), is the second focus, whereas the Ventura Harbor colony consisting of only Great Blue Herons is a distant third focus.

Taken as a polygon, the three harbors comprise approximately 5.00 square miles, with a longest axis of 7.50 miles. The more focused polygon - encompassing just Channel Islands Harbor and Port Hueneme - measures approximately 0.70 square miles with a longest axis of 2.30 miles.

Figure A provides a geographic overview of the three harbor areas.

Channel Islands Harbor

For the purpose of this study, the main divisions of Channel Islands Harbor, which is situated in the City of Oxnard, are the WEST SIDE, which is transected by Harbor Boulevard, and the PENINSULA, which is transected by Peninsula Boulevard.

Figure B provides a geographic overview of the Channel Islands Harbor.

West Side Colony

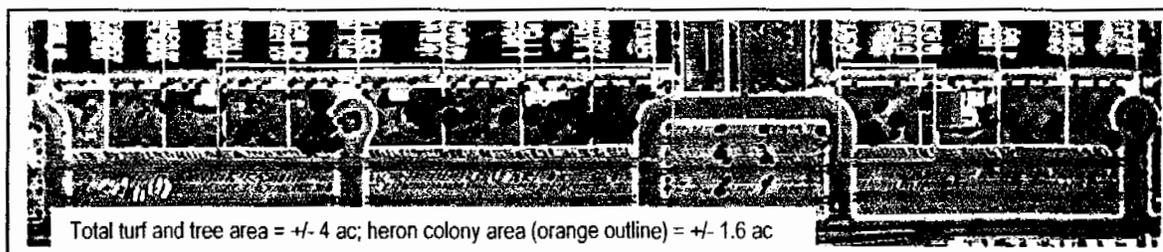
The portion of the West Side that is used by herons for nesting or perching consists of a series of shade and ornamental trees that have been planted amidst park lawns, picnic areas, walkways, service buildings and other marina facilities that serve the general public and renters of the adjacent several hundred private boat slips.

The principal landscape trees in this area include Myoporum (*Myoporum laetum*) and New Zealand Christmas Tree (*Metrosideros excelsus*), plus groupings and single specimens of Monterey Cypress (*Cupressus macrocarpa*), Mexican Fan Palms (*Washingtonia robusta*), and Torrey Pines

(*Pinus torreyana*). The welfare condition of the trees covers the entire spectrum from vigorous and hardy to rotted and rapidly decadent, and standing snag (one of two Torrey Pines is dead).

Among trees of the same species, i.e., *Metrosideros* that are favored by nesting night-herons, there is a wide range of both tree height and canopy density available and selected: night-herons prefer or require trees that are at least 15 ft high and that provide shade at the nest-platform strata (2-3 ft interior). Trees that are selected by night-herons for nest sites may be single or grouped (*also see Findings*).

The following insert depicts the West Side marina complex (Figures C and D provide detailed views of portions that are used by herons):

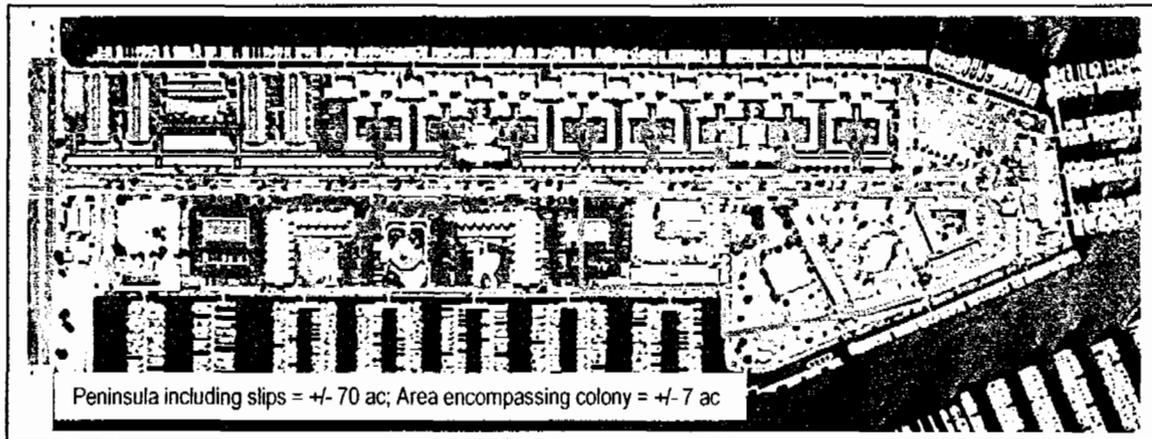


Specific West Side locations referred to in this report include the following (see Figure C):

- | Barracuda Circle: The general location of a group of large cypress trees that is used by a prominent nesting colony of Great Blue Herons, as well as Black-crowned Night-Herons and occasional Snowy Egrets.
- | Channel Islands Marina Office: An office building with adjacent trees that are used by Black-crowned Night-Herons for nesting and day-perching.
- | BISC Site: Location of the proposed Boating Instruction & Safety Center, between the Marina Office and Bluefin Circle (see Figure D).
- | Channel Islands Yacht Club: General location of a small group of *Metrosideros* trees that is used by nesting night-herons.

Peninsula Colony

The portion of the Peninsula that is used by herons for nesting and day-perching consists of an assortment of shade and ornamental trees that is widely scattered among a motel complex, tennis courts, picnic areas, streetfront and several parking lots. The following insert outlines the Peninsula colony boundary within the total Peninsula area (also see Figures E, F, G).



The primary land-use on the Peninsula is car parking; and the majority of trees have been planted for parking lot shade and landscaping. Principal trees in the colony area are, e.g., *Metrosideros*, Monterey Pine (*Pinus radiata*), Monterey Cypress, Coral-tree (*Erythrina crista-galli*), and Magnolia (*Magnolia* spp.).

Specific Peninsula locations referred to in this report include the following (see Figure E, F, & G):

| Peninsula Park: Peninsula Park is a public area that includes a shady landscaped parking lot and adjacent tennis courts and picnic sites. The busy parking lot is popularly used by motel employees and lunchtime nappers, as well as tennis players and park-users throughout the year. Casa Sirena facilities are on both sides of the park, so maintenance workers traverse the parking lot and walkways underneath the nest trees throughout the day.

Colonial nesting trees in Peninsula Park include *Metrosideros* and Monterey Cypress. A group of mature and inter-branching Coral-trees in the center of the parking lot is used extensively by day-roosting night-herons during fall and winter.

Casa Sirena: Casa Sirena consists of a motel and mixed-use office and commercial-retail complex that are adjacent to Peninsula Park.

Nest trees at Casa Sirena are all single Monterey Pines, each planted over parking lots and closely against multiple-story buildings. Two of these pines, which are alongside 3-story motel units, also are used year-round for day roosting by night-herons.

Port Hueneme

Anacapa View Colony

The Anacapa View Beach Apartments are situated near the coast and harbor in Port Hueneme, and are in-keeping with, but on the edge of the high density multi-unit residential neighborhood. The largest part of the Anacapa View colony occupies a band of streetside trees that are planted on a slope adjacent to and overhanging the patio terraces of the apartments. Two single trees - with single nests - that are across the street from the main site also form part of the colony.

Here, the nest trees are London Plane Trees (*Platanus x acerifolia*), Monterey Pine, and Blue Gum (*Eucalyptus globulus*).

Figures H and I provide geographic and on-the-ground illustrations of this colony location.

Ventura Harbor

TOSCO Colony

The TOSCO colony is located at the Unocal/TOSCO storage facility at Ventura Harbor near the intersection of Spinnaker Road and East Harbor Boulevard in Ventura. The Great Blue Heron colony occupies a band of Blue Gum trees that grows along Spinnaker and adjacent to the fuel storage tanks.

Figure J illustrates the TOSCO colony site and its location.

SURVEY OBJECTIVES & METHODS

Here, it is helpful to understand that the Channel Islands Harbor Black-crowned Night-Heron colony is not comprised of a closely knit 'rookery' or otherwise aggregated group of heron nests, i.e., in a definitive grove or assemblage of trees. Hence, the survey methods, described below, were adapted to define and describe what first appeared to be a dispersed or indefinite colony in this particular urban environment.

Locating Herons & Sites

The first objective of field work in 2003 was to locate the roost and nest sites of herons -- especially Black-crowned Night-Herons -- and to do so by working outward from the BISC site. In addition to watching and listening for herons from good vantage spots, and *playing back* their apparent flight trajectories, a productive approach was to intensively scour the tree plantings of the Channel Islands Harbor streets and parking lots, scanning for whitewash and guano deposits and inspecting likely canopies. Later, as nesting season developed and young were hatched, it also was fruitful to carefully listen for nestlings begging for food as the main clue to find additional nest trees and nests. Also, many passers-by, joggers and dog-walkers eagerly proffered their knowledge of heron locations, having been prompted into conversation only by the sight of a person with binoculars and a clipboard.

A local expert, Reed V. Smith of Ventura Audubon Society, provided the impetus and specific address to look for Snowy Egrets at Port Hueneme in 2003.

Counting Nests

Nest-counting in 2002 started in January, 2-3 months before pairs actually got underway with the season's current serious effort. The objective was to estimate the number of nests left over from previous years; and, although it is not possible to know if a nest is or was *last year's* nest, it can be a useful indication of colony size and confirmation of habitat suitability.

Whether counting past or contemporary nests, the basic method is the same: walking slowly underneath the nest trees, squinting into the canopy from different angles to view and count visible nests. In the *Metrosideros* and Plane Trees (where nests are 12-18 feet above ground), most nests are viewable in this manner; but in the taller and more matted Monterey Pines and Monterey Cypress, higher nests are not visible from the ground. In the matter of two Monterey

Pines at Casa Sirena, better views and counts were possible from staircases and balconies situated just 10-15 feet away from the nesting canopies.

For the purpose of this study, a nest was registered as current (2003, 2004) if it was known to be used by a breeding pair of herons in more than just a casual fashion. Whereas one-time cursory investigation of an old nest by a single adult or pair did not qualify as *use* of a nest; actual reproductive success, i.e., hatching and fledging, were not necessary qualifications for use, either.

FINDINGS

Physical Description of Colony Sites

Hérons were found nesting in the three general locations previously introduced: Channel Islands Harbor, Port Hueneme, and Ventura Harbor (Figure A). This statement does not exclude the likelihood that herons may have nested elsewhere, even inside the three-harbor polygon; however, no other colonies or nesting pairs were located in 2003-2004. Further, it has to be pointed out that none of the nearby and contiguous US Navy properties were accessed and searched in this effort.

Channel Islands Harbor

The Channel Islands Harbor heronry is a single colonial entity that is physically subdivided -- the *West Side* and the *Peninsula* colonies -- by only a 200-foot channel. The two parts - seen as whole trees and tree tops - are clearly visible (and audible) from each other: and, the distance from the Great Blue Heron nests at Barracuda Circle to the Great Blue Heron nests at Casa Sirena is 920 feet. Great Blue Herons and Black-crowned Night-Hérons routinely fly back and forth across the channel to the respective colony (or sub-colony) areas. During winter of 2003-04, it appeared that most of the local Black-crowned Night-Hérons roosted in the Peninsula Park together.

West Side Colony -- In 2003, the West Side colony of Black-crowned Night-Hérons occupied 17 trees including three cypresses and 14 *Metrosideros*. Three nesting pairs of Great Blue Herons also occupied the cypresses. The occupied trees making up the colony site extended over a linear distance of 1,200 feet, and occurred across a range of single small *Metrosideros* specimens (15 feet high), pairs and small groupings, and denser clusters of taller trees (cypresses are 60-70 feet) with

inter-branching limbs. Regardless the height of a particular nest tree, the Black-crowned Night-Herons prefer to build their nest platforms 2-3 feet inside the foliage from the top surface of the canopy.

In 2004, the number of nest trees in the West Side colony area that was occupied by Black-crowned Night-Herons diminished to five, including two cypresses and three *Metrosideros*. Added to the West Side colony in 2004, at least that was not present in 2003, was a single pair of Snowy Egrets that nested deeply in the center of one of the cypresses.

All trees that were used by nesting herons in 2003 had been used in 2002 or a previous year - they had old nests in them before the start of the 2003 nesting season. In other words, no new trees were pioneered and occupied in the West Side colony area. The same is true for 2004 - all trees used that year had nests carried over, and specifically from 2003.

Peninsula Colony -- In 2003, the Peninsula colony of Black-crowned Night-Herons occupied 11 nest trees including four Monterey Pines, four *Metrosideros*, two Monterey Cypresses, and a Magnolia. The colony also included two pairs of Great Blue Herons that shared the larger of the Monterey Pines with night-herons. The occupied trees making up the colony site extended over a linear distance of 1,050 feet. As previously described, these trees are all affixed to parking lots and streetscapes in association with a motel, public park and mixed commercial-retail complex.

Figure E serves to illustrate a striking aspect of several of the Peninsula colony nest trees, which is their immediate adjacency to multiple-story buildings, i.e., Casa Sirena motel units. Figure G more closely shows the relationship of the motel to two nest trees; including a Black-crowned Night-Heron nest that is 12 feet and eye-level from a third-level staircase landing and balcony. There, when nestlings were branching (during both 2003 and 2004), the birds were visible to and popular with hotel guests -- except for people who had parked their automobiles directly below the birds.

Although not against a building, the nest trees that are occupied by Black-crowned Night-Herons in and around the Peninsula Park parking lot also are interesting with respect to an urban heron colony (Figure F). Two - and one in particular - are relatively small and isolated *Metrosideros* that are placed along a relatively busy walkway junction by a popular public tennis court and picnic grounds.

In 2004, Black-crowned Night-Herons occupied all but two of the same trees that were used in 2003: the two Monterey Pines on Peninsula Boulevard apparently were not used, or were abandoned. Also, all trees that were used by nesting herons in 2003 had been used in 2002 or a previous year - they had old nests in them before the start of the 2003 nesting season.

Port Hueneme - Anacapa View Colony

In 2003, the Anacapa View colony site consisted of approximately 8 London Plane Trees and Monterey Pines along Seaview Road in Port Hueneme (Figures H and I). The trees (+/- 20 ft) are planted on a slope leading up to a parallel row of apartments, and the lower nest strata (Snowy Egrets) are just above eye-level to the patio terraces of the apartments.

In 2004, when the colony size more than doubled (see below), the number of occupied trees in the same planted slope increased to approximately 12. Also, Black-crowned Night-Herons built nests in two Blue Gum trees (each +/- 60 ft) on opposite sides of the two streets facing the original, consolidated Anacapa View colony.

Ventura Harbor - TOSCO Colony

The Great Blue Heron colony at the TOSCO plant occupies six trees among a streetside row of mid-size Blue Gum (45-50 ft) along Spinnaker Drive at Ventura Harbor. The trees are growing close together and are inter-branching, which is a factor that adds strength apparently sufficient to support the larger heron nests. The tree top colony is adjacent to the TOSCO tank field; and the herons, including brooding adults, routinely perch and rest on the brims of the nearby tanks, as well as other elevated pipeline apparatus inside the facility. (Brooding Great Blue Herons at Casa Sirena perch and stretch on the rooftop of the motel, also located just a few feet away from their nests). At TOSCO, brooding adults also rest and hunt along the tank-farm dikes and containment fields that are directly below the nests.

Colony Distribution & Numbers

At the time the first report was prepared and submitted for this study (May 2003), nesting by Black-crowned Night-Herons and Great Blue Herons in the Channel Islands Harbor area was well

underway, and the numbers and locations of nests were established and documented. The Port Hueneme (Snowy Egret) and Ventura Harbor (Great Blue Heron) colonies were identified and described soon thereafter.

Table 1, below, summarizes information on the distribution of heron colonies and estimated number of heron nests among the three harbor environments, including the colony subdivisions of Channel Islands Harbor for 2003-2004.

Table 1. Distribution of heron colonies and estimated nest numbers for Channel Islands Harbor, Port Hueneme, and Ventura Harbor, Ventura County, California (2003-2004).

Estimated Number of Nests	Black-crowned Night-Heron		Snowy Egret		Great Blue Heron		[+ (-)]
	2003	2004	2003	2004	2003	2004	
Channel Islands Harbor							
<i>West Side - BISC & Proximity</i>	3	0	0	0	0	0	(3)
<i>West Side - Other</i>	36	5	0	1	3	3	(30)
<i>Peninsula - Casa Sirena</i>	4	4	0	0	2	3	1
<i>Peninsula - Peninsula Park</i>	21	16	0	0	0	0	(5)
<i>Peninsula - Other</i>	2	2	0	0	0	0	0
Subtotal	66	27	0	1	5	6	(37)
Port Hueneme							
<i>Anacapa View Apartments</i>	0	37	25	40	0	0	52
Ventura Harbor							
<i>TOSCO Plant</i>	0	0	0	0	8	8	0
TOTAL	66	64	25	41	13	14	15

Channel Islands Harbor Heronry

In 2003, the heronry at Channel Islands Harbor consisted of an estimated 66 and 5 nesting pairs of Black-crowned Night-Herons and Great Blue Herons, respectively. Those heron pairs occupied approximately 28 nest trees in the combined West Side (17) and Peninsula (11) colony areas.

In 2004, the heronry at Channel Islands Harbor was substantially different with respect to the Black-crowned Night-Heron population: the number of nesting pairs dropped to 27 from the 66

of the previous year (59 pct), with the greatest portion having disappeared from the West Side colony (5 from previous 39 nesting pairs [87 pct]). The numbers of Black-crowned Night-Heron nesting pairs at the Peninsula colony declined more modestly in 2004, from 27 to 22 (19 pct).

Metrosideros trees contiguous with the BISC site - there are no heron nest trees on the BISC site - were occupied by three Black-crowned Night-Heron nesting pairs in 2003, then none in 2004. The closest Black-crowned Night-Heron nest (unsuccessful attempt) to the BISC site in 2004 was in a *Metrosideros* growing on the distal end of the Marina Office (see Figure D); the next (and successful) nests were in the large cypresses at Barracuda.

For the same period, the Great Blue Heron component of the heronry increased by one nesting pair at the Casa Sirena nest tree. Also, a pair of Snowy Egrets nested in one of the large cypress trees on the West Side.

Port Hueneme - Anacapa View Colony

In 2003, the Anacapa View site was colonized (or re-colonized) by Snowy Egrets exclusively. The nesting population that year was an estimated 25 pairs. In 2004, the colony was transformed by the addition of approximately 15 and 37 nesting pairs of Snowy Egrets and Black-crowned Night-Herons, respectively (> 300 pct).

ASSESSMENT

Heronries are dynamic in their structure and composition, and the Channel Islands Harbor heronry is no exception. In the past two years, a beginning investigation into the life of this particular heronry has revealed several elementary points that are useful and relevant to discussions about development of the BISC:

- | The heronry is more than the birds nesting in the immediate vicinity of the BISC site.
- | The heronry is more than the birds nesting on the West Side of the Harbor.
- | The heronry is a composite of nest resources and nesting pairs distributed across the West Side and the Peninsula of the Harbor.
- | The heronry is an urban complex with an adaptive structure that is widely dispersed among available ornamental and shade tree specimens *versus* groves or clusters.

- ▣ The heronry consists exclusively of trees and nest sites that are adjacent to or surrounded by frequently used human activity areas, e.g., picnic sites, recreational facilities, pathways and parking lots, motels and offices, etc. Lawns underneath trees are subjected to regular mowing; and the lower branches of the nest trees are regularly pruned and trimmed. The heronry is set in a bustling environment.
- ▣ Local people describe the heronry as having been in place for “years,” which is entirely reasonable, but all that has been documented is that it has been in existence since 2002.
- ▣ The heronry underwent a 59 percent decline in the number of nesting Black-crowned Night-Herons (-39 pairs) in 2004 from the previous year.
- ▣ Simultaneously, the Anacapa View heron colony gained 37 nesting pairs of Black-crowned Night-Herons, where it had no nesting night-herons the previous year.

Apparent Shift of Colony Location

Hérons and heronries are classically *vagile* entities, and the census numbers from 2003 and 2004 strongly suggest that the Black-crowned Night-Herons observed nesting in Channel Islands Harbor in 2003 relocated to Anacapa View Apartments to nest in 2004.

EVALUATION - BISC

As a colony resource, the “BISC site” is peripheral to the Channel Islands Harbor heronry. The trees that are located inside the BISC footprint are not vital resources to heronry. The present disappearance of the herons from the site (in 2004) underscores this conclusion.

Black-crowned Night-Herons clearly demonstrate their capacity and readiness to select and successfully utilize nest trees from a range of species, sizes and planting associations. The birds select nest trees that are occupied by other nesting herons as well as ones that are empty. There are and will continue to be an adequate array of trees throughout the heronry environment for the birds to select from, i.e., in-lieu of the trees that *may be* affected by placement of the BISC.

Furthermore, the Channel Islands Harbor and Anacapa View Black-crowned Night-Herons demonstrate their capacity and readiness to select and successfully utilize nest sites in trees that are extraordinarily tied to busy buildings and activity areas, i.e., that are in close proximity to people. This tolerance for proximity has vertical as well as horizontal dimension, and nest sites

can be found at eye-level to balconies and patios of apartments and motels. However, the birds certainly are naturally cautious and crafty in their nest placement, and still successfully avoid open or direct view of their nest platforms from passersby, regardless of their view elevation.

Question of Disturbance and Buffers

During the environmental review for the project DEIR, certain commenters who questioned or criticized the BISC project had done so on the basis of its potential damage to the local Black-crowned Night Heron colony, and to a lesser degree the local Great Blue Herons.

One theme had been the effect of human disturbance on nesting herons. Biologists and lay persons seemed to agree that while herons, especially Black-crowned Night-Herons, occasionally select nesting areas near humans; they can be sensitive to *changes* in human activity and will abandon nesting areas if disturbed. [The issue of *change* in ambient activity is a basic premise in behavioral ecology for most perceptive species, and is absolutely reasonable in the present case]. The type and pattern of human activity anticipated for the BISC is basically consistent with the prevailing use and activity of the present-day marina.

One commenter recommended a range of setback distances (up to 200 meters) to avoid disturbance to nesting Black-crowned Night-Herons and Great Blue Herons, and he cited experimental studies (intentionally induced flushing of birds in mixed-species colonies) as the basis for such recommendations. However, the real-life circumstances of the Channel Islands Harbor heronry is more instructive than the cited research projects (^{1,2}), both of which were conducted in large, uninhabited wildlife sanctuaries with minimal to nonexistent human presence and activity.

¹ ERWIN, R. M. 1989. Responses to human intruders by birds nesting in colonies: experimental results and management guidelines. *Colonial Waterbirds* 12: 104-108.

² RODGERS, J. A., JR. & H. T. SMITH. 1995. Set-back distances to protect nesting bird colonies from human disturbance in Florida. *Conservation Biology* 9: 89-99. <attached>

Set-Back Distances to Protect Nesting Bird Colonies from Human Disturbance in Florida

James A. Rodgers, Jr., * and Henry T. Smith

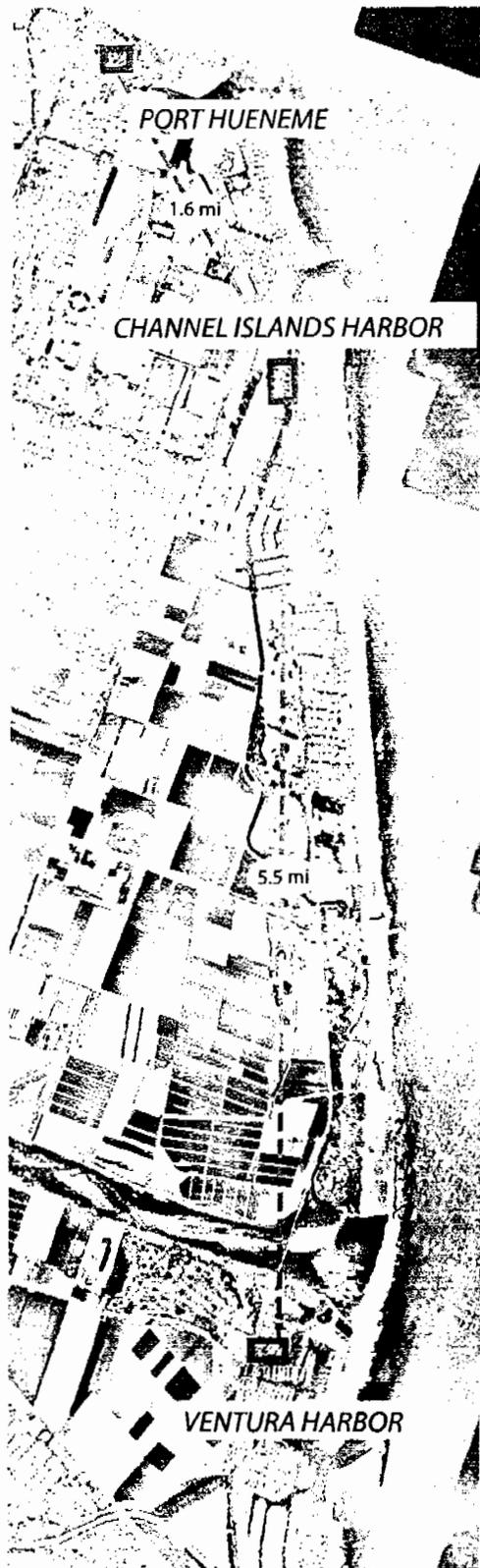
Breeding colonial waterbirds are particularly susceptible to human disturbance because of their high-density nesting habits. Identified detriments to reproductive success include egg and nestling mortality, nest evacuation, reduced nestling body mass and slower growth, premature fledging, and modified adult behaviors. Fifteen species of colonial waterbirds nesting at 17 colonies in north and central Florida were exposed to three different human disturbance mechanisms (HDMs) in order to determine recommended set-back (RS) distances for protecting these mixed-species nesting assemblages. Both intraspecific and interspecific variations were observed in flushing response distances to the same human disturbance mechanisms. In general, colonial waterbirds exhibited greater average flush distances in reaction to a walking approach than to approaching motor boats. Recommended set-back distances were estimated using a formula based on the mean plus 1.6495 standard deviations of the observed flushing distances plus 40 meters [$X = \exp(X + 1.6495X + 40)$]. In general, a recommended set-back distance of about 100 meters for wading bird colonies and 180 meters for mixed tern/skimmer colonies should be adequate to effectively buffer the sites we studied from human disturbance caused by approach of pedestrians and motor boats. We recommend follow-up studies to test our model at other breeding colonies.

Distancia de alejamiento para proteger de las perturbaciones humanas a las colonias de aves nidificadoras en Florida

Las aves acuáticas que habitan en colonias durante el período de cría, son particularmente susceptibles a las perturbaciones humanas por sus hábitos conducentes a una alta densidad de nidos. Los factores que disminuyen el éxito reproductivo, incluyen la mortalidad del huevo y el pichón, la evacuación del nido, la reducción de la masa corporal del pichón o crecimiento lento, el abandono prematuro del nido por parte de los pichones y comportamientos adultos modificados. Quince especies de colonias de aves acuáticas que nidificaron en 17 colonias del norte y centra de Florida, fueron expuestas a 3 mecanismos de perturbación humana diferentes, a los efectos de determinar distancias de alejamiento recomendables para proteger las agregaciones mixtas de éstas especies. Variaciones intra-específicas e inter-específicas en las distancias de respuesta frente a los mismos mecanismos de perturbación humana. En general, las colonias de aves acuáticas exhibieron una mayor distancia promedio antes de volar en reacción a la cercanía de pasos que al acercamiento de una embarcación a motor. La distancia recomendada de alejamiento fue estimada utilizando una fórmula basada en la media más 1.6495 desviaciones standard de la distancias antes de volar observada, más 40 m [$X = \exp(X + 1.6495X + 40)$]. En general, una distancia de alejamiento de alrededor de 100 m para las colonias de aves zancudas y 180 m para las colonias mixtas ("tern/skimmer"), sería adecuada para amortiguar a los sitios que estudiamos de los impactos de las perturbaciones humanas causadas por la aproximación de caminantes y embarcaciones con motor. Recomendamos estudios de seguimiento para probar nuestro modelo en otras colonias de cría.

Channel Islands Harbor Heronry 2003-2004

Figure A Location of three heron nesting colonies associated with public harbors in coastal Ventura County, California (2003-2004).



Snowy Egrets
Black-crowned Night-Herons ('04)

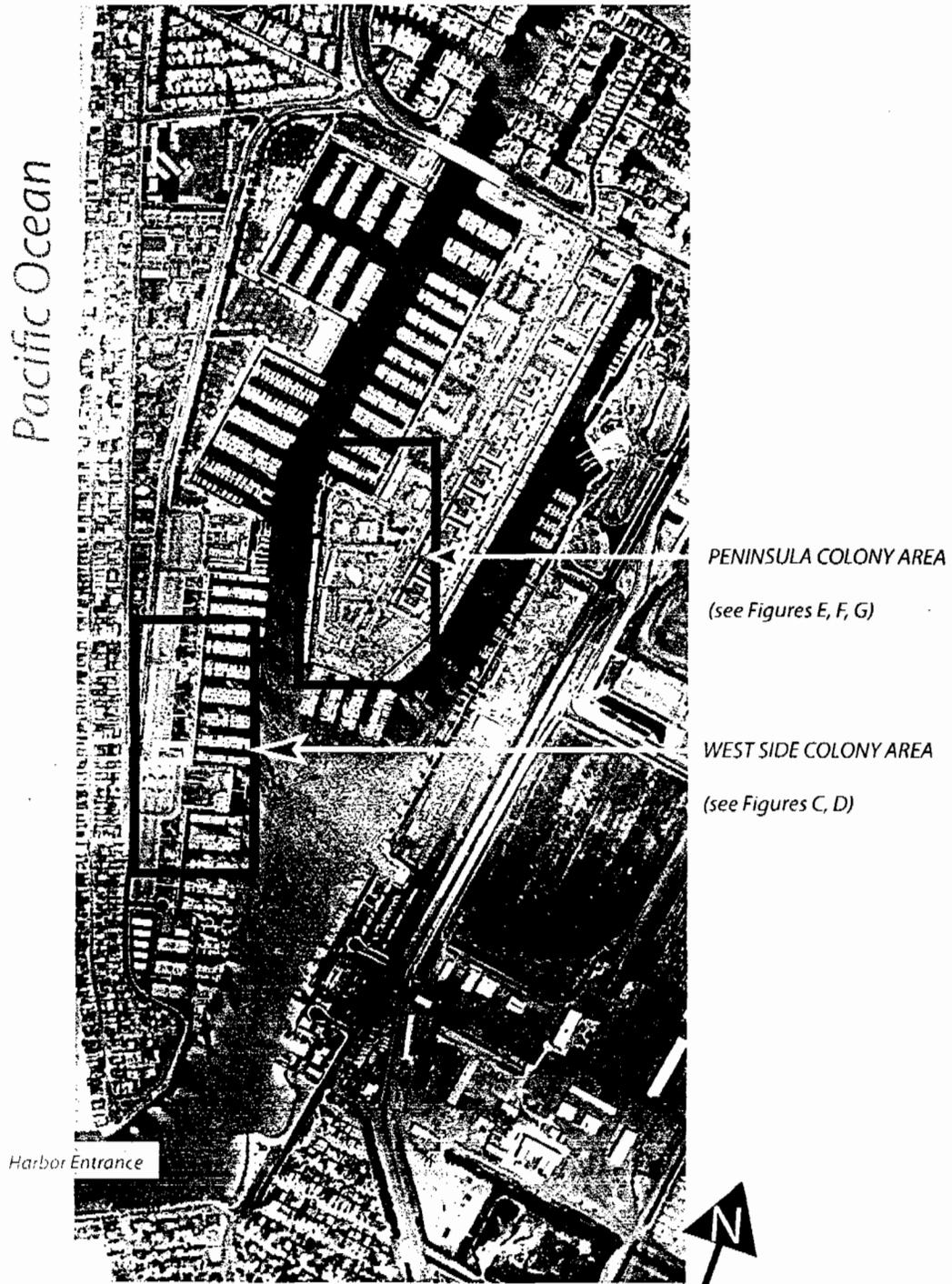
Black-crowned Night-Herons
Great Blue Herons
Snowy Egrets ('04)



Great Blue Herons

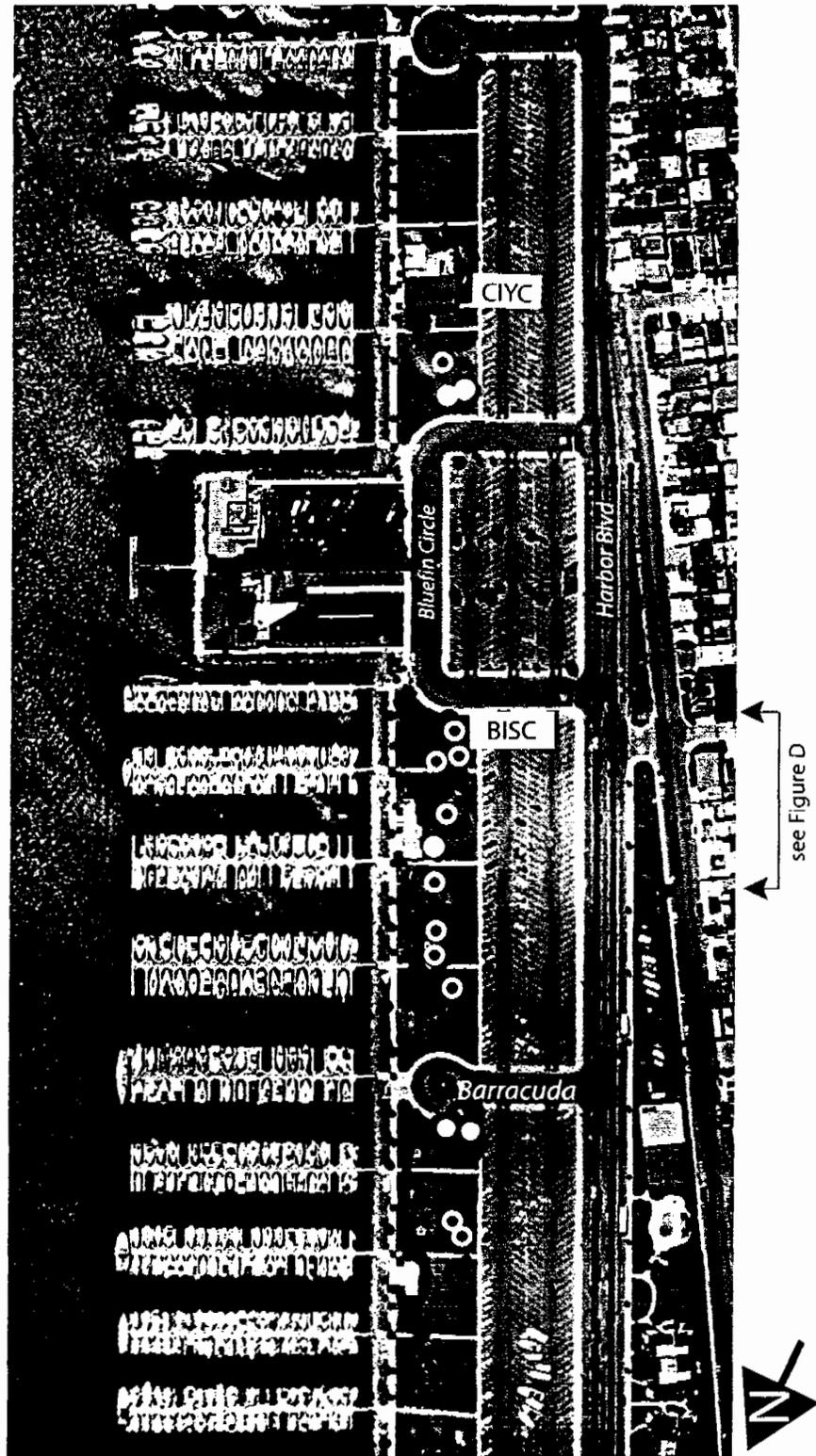
Channel Islands Harbor Heronry 2003-2004

Figure B Overview of Channel Islands Harbor, Ventura County, California. Two heron nesting areas (2003-2004) -- West Side and Peninsula -- are highlighted. The proposed BISC site is indicated by the yellow rectangle inside West Side box.



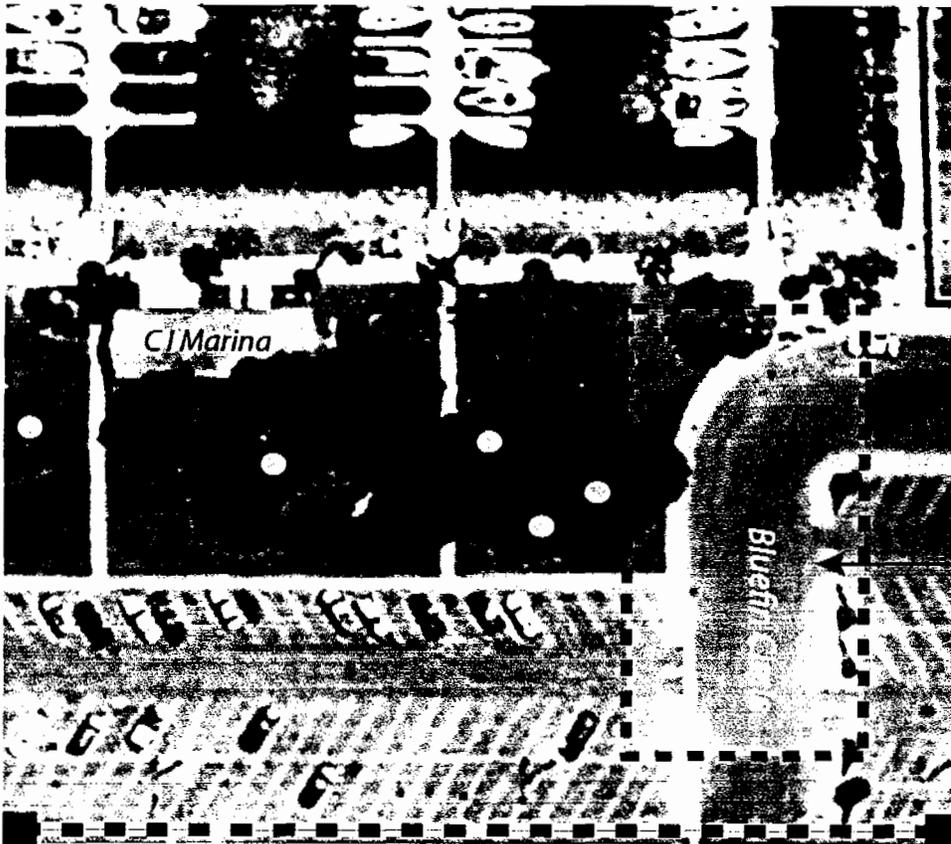
Channel Islands Harbor Heronry 2003-2004

Figure C Overview of the West Side heron colony, Channel Islands Harbor, Ventura County, California (2003-2004). Species are Great Blue Heron (nesting in Monterey Cypress -- red circles), Black-crowned Night-Heron (nesting in cypress and New Zealand Christmas Trees -- yellow circles), and Snowy Egret (single pair nesting in lower left cypress, 2004 only). BCNH nest trees active in 2004 are indicated by circles with white centers.



Channel Islands Harbor Heronry 2003-2004

Figure D Close-up view of Black-crowned Night-Heron nesting trees at the Channel Islands Marina Office and "BISC" site, Channel Islands Harbor, Ventura County, California (2003-2004). Herons nested in all marked trees in 2003, but only attempted to nest in the single red-marked tree in 2004.



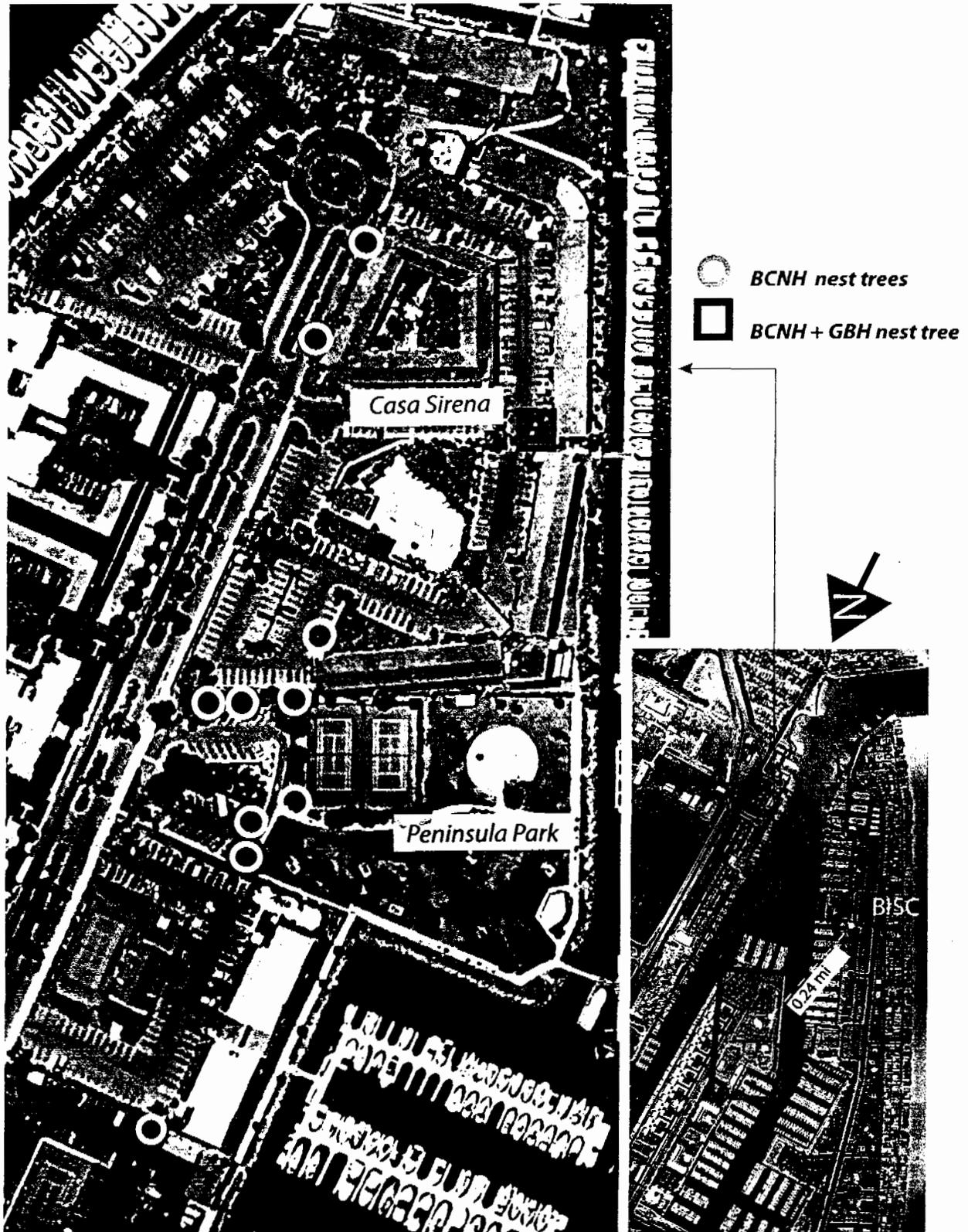
*View-angle
of upper photo*

*Shaded box is the
rough footprint of
the BISC facility.*

< 400 ft >

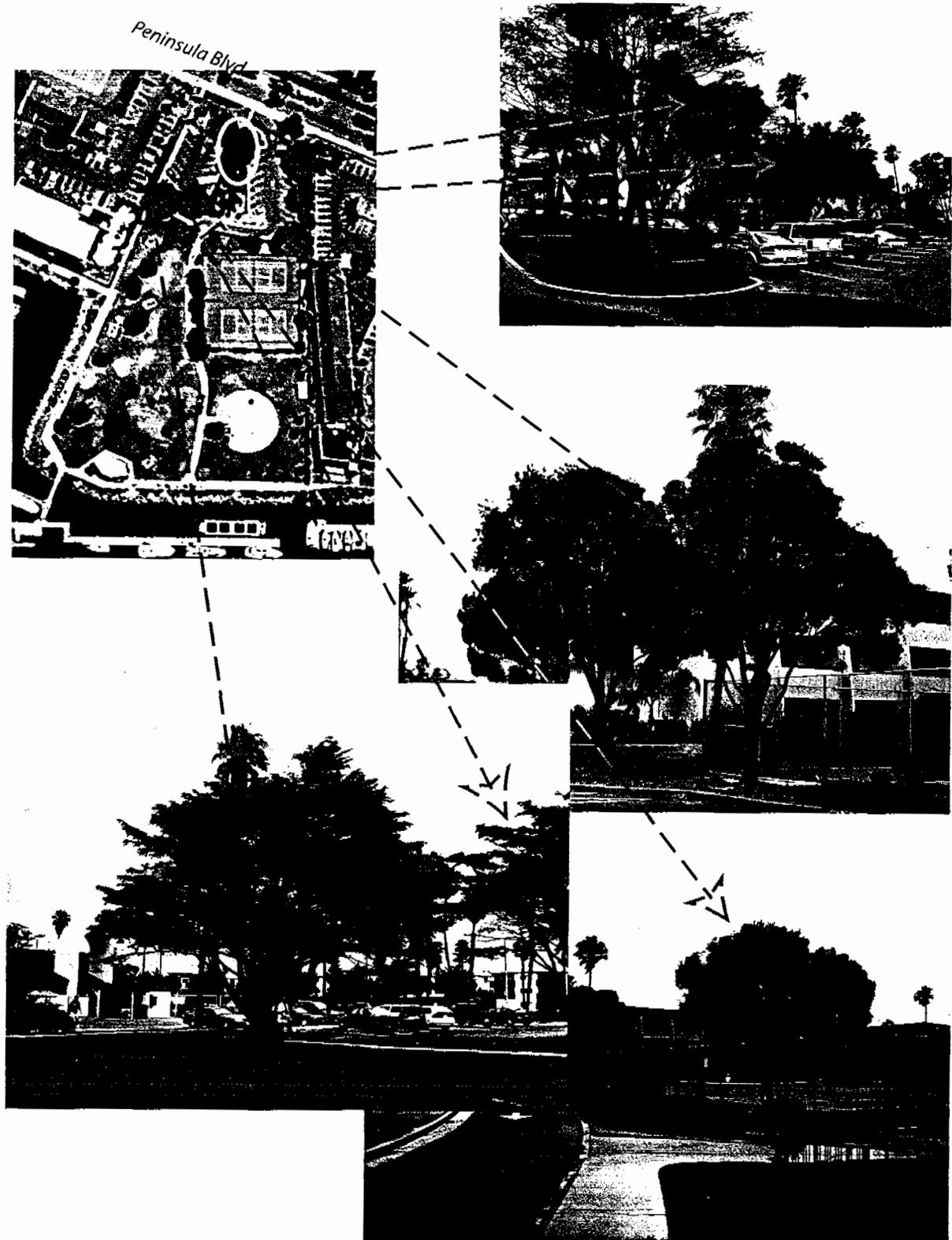
Channel Islands Harbor Heronry 2003-2004

Figure E Overview of the Peninsula heron colony, Channel Islands Harbor, Ventura County, California (2003-2004). Nesting herons in 2004 included approximately 22 pairs of Black-crowned Night-Herons and 3 pairs of Great Blue Herons.



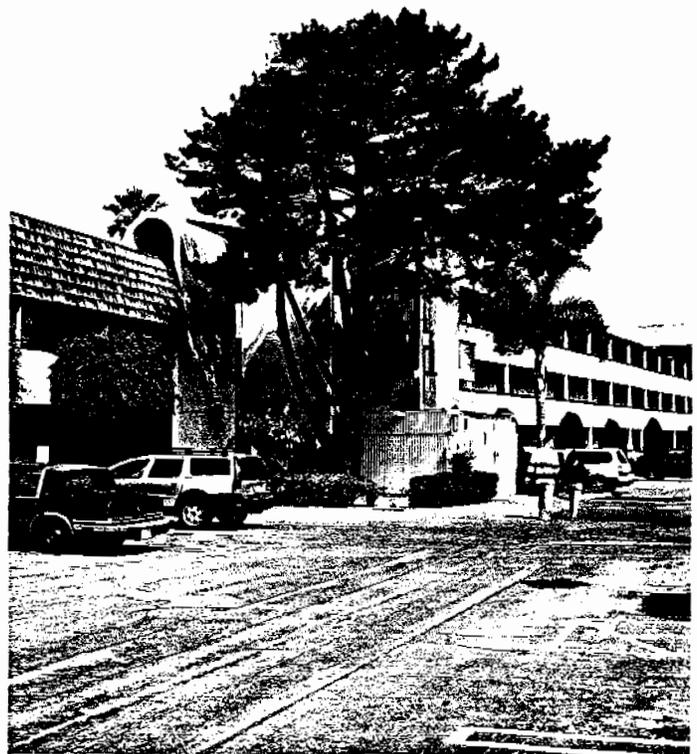
Channel Islands Harbor Heronry 2003-2004

Figure F Black-crowned Night-Heron colony, Peninsula Park, Channel Islands Harbor, Ventura County, California (2003-2004). All trees had multiple nests in 2003 and 2004; and approximately 16 BCNH pairs nested in Peninsula Park during 2004. Yellow oval indicates Coral Trees that form a popular day-roost for adult and juvenile BCNH.



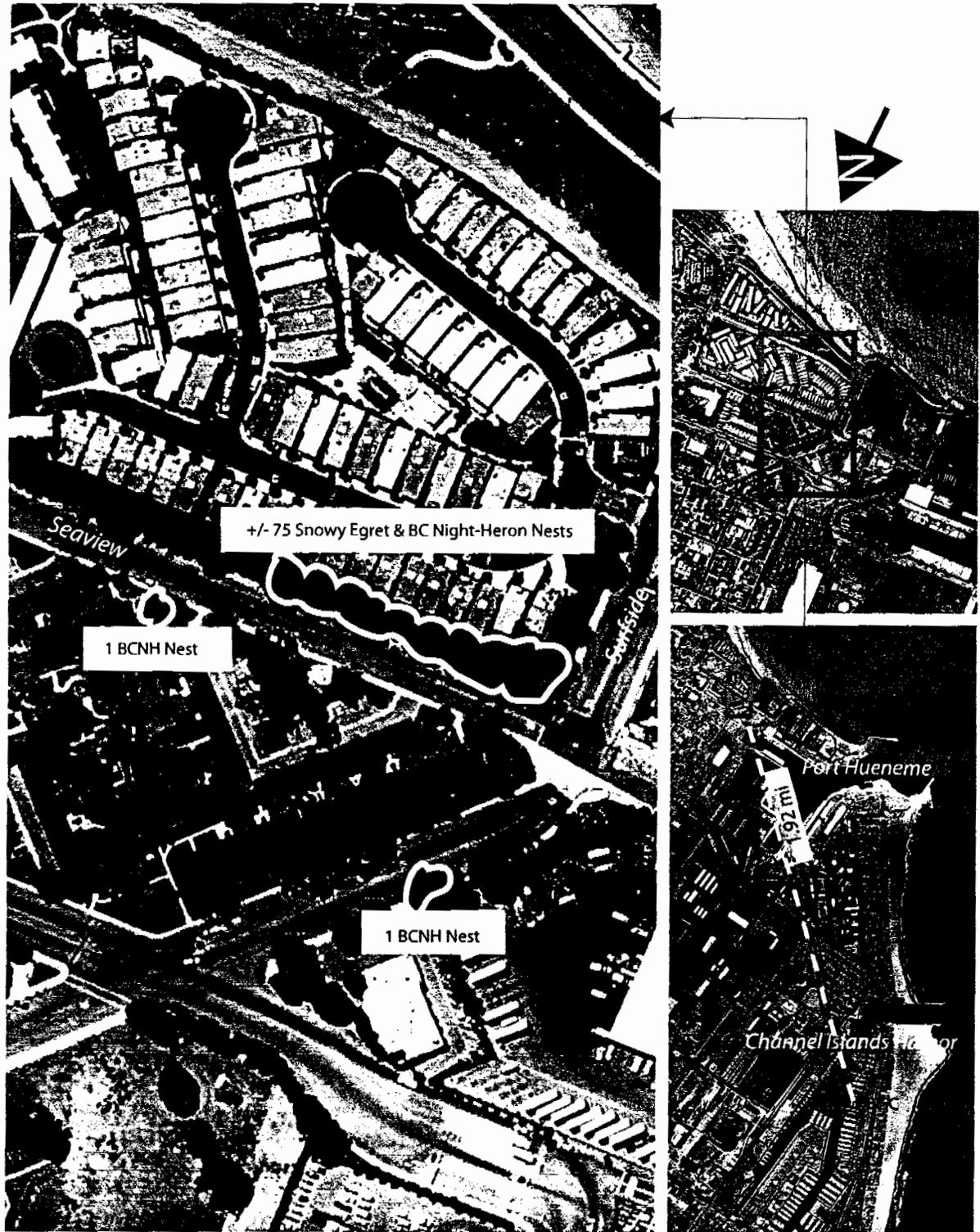
Channel Islands Harbor Heronry 2003-2004

Figure G Black-crowned Night-Heron and Great Blue Heron nest trees at Casa Sirena Motel, Channel Islands Harbor, Ventura County, California (2003-2004). Two highlighted trees were active during both years; but nesting was confirmed in two circled trees during 2003, only. The right-hand highlighted tree hosted three GBH pairs and three BCNH pairs in 2004; the left-hand tree hosted two pairs of BCNH.



Channel Islands Harbor Heronry 2003-2004

Figure H Overview of the Anacapa View / Port Hueneme heron nesting colony site, the largest in the vicinity of the Channel Islands Harbor in 2004, Ventura County, California. Nesting herons included approximately 77 pairs of Snowy Egrets (40) and Black-crowned Night-Herons (37).



Channel Islands Harbor Heronry 2003-2004

Figure 1 Scenes of Anacapa View heron colony, Port Hueneme, Ventura County, California (2003-2004).

The streetside colony that occupies ornamental pine, sycamore, and eucalyptus trees included approximately 25 egret nests in 2003 and 77 egret and night-heron nests in 2004.



Channel Islands Harbor Heronry 2003-2004

Figure J

The TOSCO Great Blue Heron colony site at Ventura Harbor, Ventura County, California (2003-2004). Approximately 8 pairs of herons nested in the tops of six of the pictured Blue Gum trees. Brooding adults regularly perched on adjacent tank brims, or hunted in nearby diked fields.









353 Santa Monica Drive • Channel Islands Beach, CA 93035-4473 • (805) 985-6021 • FAX (805) 985-7156
A PUBLIC ENTITY SERVING CHANNEL ISLANDS BEACHES AND HARBOR

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TO: California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001-2801

RECEIVED January 11, 2006
JAN 12 2006

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

ATTENTION: Tracy Duffy

SUBJECT: PUBLIC WORKS PLAN AMENDMENT FOR CHANNEL ISLANDS HARBOR IN VENTURA COUNTY

Gentlemen:

The Channel Islands Beach Community Services District (CIBCSO) is the unincorporated area of Ventura County that surrounds the Channel Islands Harbor. The District provides water, sewer and trash services for over 1700 customers, including Channel Islands Harbor businesses and residences (live-aboards). Live-aboards are eligible to vote in District elections. Many of our District residents also utilize the Harbor on a regular basis because of its proximity to their residences. Therefore, changes to the business, economic and recreational environment of the Channel Islands Harbor are a direct concern of the Channel Islands Beach Community Services District community.

Rapid development of Ventura County is underway. There are major new developments being implemented at Channel Islands Harbor and others are proposed. Channel Islands Beach Community Services District's concern is that the changes to the Harbor are being made piecemeal, with no organized assessment of the impacts of these changes. The appropriate planning processes of a Master Plan, California Environmental Quality Act (CEQA) review, and detailed amendments to the Channel Islands Harbor Public Works Plan are being ignored. Further, it might even be inferred that the California Coastal Commission (CCC) is being used to enable this lack of planning and process.

As a recent example, the CCC was asked to approve an amendment to the Harbor's Public Works Plan for a new Boating Instruction Center, even though there is strong local opposition to this development. Now, the CCC is being asked to approve the Harbor's Public Works Plan water side amendments; i.e. reducing the number of boat slips, to bring them into compliance with the American with Disabilities Act; implementing a reportedly modest 20 foot extension of the slips into the main traffic channel. As single events, these amendments appear to be a minor consequence. However, if CCC considers the major new Seabridge development connecting the Harbor with

approximately 1200 new boat slips, the resulting increase in boat traffic to the sea, the narrower (by~ 40 feet) main Harbor channel, and the impact of inserting new youth sailboat training directly into the main traffic channel, cumulatively the impact may not be so minor. What public process is being followed?

Appropriate planning of the Channel Islands Harbor, its use, development, and the public facilities needed makes for an extremely important task with significant potential long-term effects. The State of California enacted the California Environmental Quality Act in recognition of the importance of public input on the local level. As you know, CEQA addresses mitigation of the impact of proposed projects, but it is first and foremost a disclosure document. It provides the process for all effected agencies to address the potential impacts associated with a project within their area and control. Channel Islands Beach Community Services District can find no evidence that the Channel Islands Harbor projects are being publicly reviewed, by Ventura County and its Harbor Department, to fulfill both the spirit and letter of CEQA.

The use of incremental project-by-project development of the Harbor is inappropriate. A comprehensive master plan for the Channel Islands Harbor and the associated coastal resource is desperately needed. Channel Islands Beach Community Services District recommends that the CCC return all CI Harbor applications to amend the PWP until after a Harbor Master Plan and an appropriate comprehensive CEQA process are implemented.

Until such time as this planning is complete, existing facilities in the Harbor must be maintained to adequate safety standards at all times. Allowing the deterioration of existing docks or other facilities should not be permitted during the period that a comprehensive plan is developed. It is the responsibility of the owner and any tenant to operate a safe facility and not use lack of maintenance as an excuse for inadequate access to our coastal areas.

If you should have any further questions, you may reach me at the District offices during regular business hours at (805) 985-6021. Thank you for your consideration in this matter.

Sincerely,



James D. Kuykendall, PE
General Manager

cc: Board of Directors
John Mathews
Gary Trimm, California Coastal Commission
Ventura County Board of Supervisors
Lyn Krieger, Ventura County Harbor Department

Gary Timm

From: MILAN SVITEK [mifaneva@msn.com]
Sent: Tuesday, April 25, 2006 10:45 AM
To: Gary Timm
Subject: more comments for the CHIM reconstruction project (prepared in 2005)

Hi Gary:

Please see the attachment (prepared in 2005) for more comments. In this old comments I did not address any issues related to dredging, inconsistency between the proposed and already approved design of the BISC' dock and the design prepared by the C&A on April 22, 2006 and other important items, which are now more clearly obvious from a new submission.

Please feel free to call me, if you have any questions or concerns.

Milan Svitek, AICP
boat owner
15 Los Vientos Dr.
Newbury Park, CA 91320

Ventura County Board of Supervisors:

Subject: Item # 40 – Public Hearing Regarding Approval to Submit a Revised Public Works Plan for Channel Islands Harbor to CCC

Dear Supervisors:

Please do not approve the Revised Public Plan for Channel Islands Harbor from following reasons:

- 1) This Amendment is the third fragmented update (in year 2005) of the current Public Works Plan for the Channel Island Harbor without considering any comprehensive impacts of proposed changes
- 2) The proposed amendment has significant impact on waterways in the harbor enlarging water leases by about 10% and significantly narrowing waterways of the Harbor that need to be maintained at current width for safe boat traffic
- 3) The Amendment is proposing a general expansion water leases for all marinas by 20' beyond the current pier heads. End ties would further allow large boats (with a beam of 20' or more) to be anchored in public waterways outside lease areas
- 4) Despite enlarging lease area for slips, the Amendment is proposing decrease number of slips from 2500 to 2400
- 5) The public, and especially boating community, did not have any opportunity to review or comment this Amendment
- 6) The Harbor Commission did have any opportunity to review, comment or discuss this Amendment

In conclusion I would like to stress following facts:

- Number of boats in the harbor waterways is significantly increased by adding boats from Mandalay Bay
- BISC, which will be located on the wrong side of the harbor will increase very likely collision potential, because inexperienced sailors will directly enter in the major water traffic line
- Narrowing waterways and increasing size of boats has a similar effect as you are narrowing streets and simultaneously enlarging size of vehicles
- The BOS decisions are pushing mid-size Ventura County boaters from the harbor by allowing marinas to be rebuild for large boats that will largely come from outside Ventura County

Milan Svitek, Member of American Institute of Certified Planners
Harbor Commissioner and sailboat owner

CC: Chief Deputy Clerk,
California Costal Commission
Ventura County Star



Habitat for Hollywood Beach

Mission: *to preserve and enhance the biotic resources
of the Hollywood Beach Peninsula.*

*3365 Ocean Drive, Channel Islands Beach, California 805-985-5298
www.HabitatForHollywoodBeach.org*

January 16, 2006

Mr. Gary Timm
California Coastal Commission
89 South California Street, Ste. 200
Ventura, CA 93001

Re: Channel Islands Harbor PWP Amendment 1-05

Dear Mr. Timm,

In your June 13, 2005 letter to the Ventura County Harbor Department listing the modifications to the Public Works Plan (PWP) Amendment 1-04, your cover letter lists as a requirement of certification in bold that "**the Board of Supervisors agrees to any such terms and modifications and takes whatever formal action is required to satisfy the terms and modifications**"(underline is my emphasis).

Habitat for Hollywood Beach (HHB) is concerned about the County satisfying the terms of PWPA 1-04, Modification 1 in a timely manner, or indeed, clearly understanding what actions it is to take.

Modification 1 of PWP Amendment 1-04 states in part:

"Portions of Hollywood Beach west of the harbor utilized by western snowy plovers and/or California least terns for nesting, breeding, or foraging are designated as Environmentally Sensitive Habitat Area...."

A suggested modification of the currently proposed PWP Amendment 1-05 that would ensure satisfying the terms of PWPA 1-04, Modification 1 could be added as follows:

Consistent with and as formal action required to satisfy the terms of PWP Amendment 1-04, Modification 1, the coastal area of Ventura County, mapped in the county's Local Coastal Program (LCP) as Hollywood Beach, shall be designated in the Ventura County LCP as Environmentally Sensitive Habitat Area. Such modification of the County of Ventura's LCP shall be completed within one year of certification of the PWP amendment by the California Coastal Commission.

Habitat for Hollywood Beach appreciates your staff's concern and cooperation regarding nesting bird species on Hollywood Beach and the time and effort that your staff expended to include modifications 1 through 4 within PWPA 1-04. Those modifications were designed to have the County of Ventura implement ESHA for Hollywood Beach and adopt previously volunteer management policies and agreements between the county and regulatory agencies such as United States Fish and Wildlife Service (USFW).

It was noted during public comments at recent California Coastal Commission hearings on PWPA 1-04 that Hollywood Beach lays within the County of Ventura's Local Coastal Program (LCP) rather than the Channel Islands Harbor PWP, and that it may have been preferable to have included additional language to indicate precisely what steps the County needed to implement in order to satisfy the terms within Modification 1 by mapping of Hollywood Beach as ESHA within the LCP.

Having the ESHA designation be as clearly mapped and defined as possible is especially important now in light of some recent disagreements between agencies regarding the mapping of Hollywood Beach as critical habitat for western snowy plovers. An unfortunate error overlooked in the recent revision of the USFW Critical Habitat's illustrations shows Hollywood Beach south of Mandalay Beach left out of the habitat, while the narrative description of the critical habitat correctly includes all of Hollywood Beach north of the Channel Islands Harbor mouth and extending north to the Santa Clara River mouth. USFW has indicated to HHB that the narrative description is the legal interpretation, not the illustrations; however, the discrepancy in the illustration in the newly released Critical Habitat is now being cited by Army Corps of Engineers and County Harbor Department as grounds for not adequately considering impacts to the birds' nesting area in biannual plans to dredge that portion of the beach.

Implementing and clearly mapping Hollywood Beach as ESHA in the County's LCP would help in the recovery of these species and make such protections independent of the Critical Habitat, that is unfortunately flawed in the instance of Hollywood Beach, and subject to possible delisting of the western snowy plover that can be influenced by political forces.

Further justification for clarifying the implementation of the ESHA designation within PWPA 1-05 as a modification of that amendment is the possible environmental effects that proposed amendment would have on the foraging of California least terns. While PWPA 1-04,

Modification 1 describes the beach west of the harbor as the location of nesting, breeding, and foraging of the two bird species, the California least tern actually forages in the ocean waters including those of the harbor. The proposed lengthening of docks by 20 feet within PWP amendment 1-05 and its possible impact to foraging of the terns has been suggested by Marilyn J. Fluharty, California Dept. Fish and Game, Marine Region in an attached email to HHB member, Trevor Smith. The email states in part:

“The channel (sic) Islands harbor department is recommending a 20 foot dock extension throughout the harbor to all marinas. Does this impact, which is loss of sunlight to the harbor bottom, need to be evaluated?”

Dock extension projects have the potential to impact marine vegetation, in particular eelgrass habitat, from shading. The Department considers eelgrass beds valuable marine habitat as they function to stabilize substrate, increase productivity, and provide structure to soft bottom habitat. Eelgrass beds serve as nurseries for many fish species including important sport and commercial fish and they provide forage for seabirds, including the endangered California least tern. Eelgrass is also designated as a Special Aquatic Site under Section 404 of the Clean Water Act. Thus, any impacts to eelgrass from shading (shading from docks, as well as shading from docked vessels) and from construction activities (pile driving, construction vessel anchoring etc...) will need to be evaluated. Impacts should be avoided or minimized, and any unavoidable impacts would need to be mitigated in accordance with NOAA Fisheries' southern California eelgrass policy..”

Attached are photographs of one of the 2004 western snowy plover and California least tern nesting sites on Hollywood Beach. As you are aware, nests were located along the entire north-south length of Hollywood Beach that year. The photos are of the largest nesting area, just north of the harbor's north jetty. Over 50 least tern nests were observed at this site alone. The photos taken minutes apart show two different California least terns in flight with fish in their beaks returning from foraging in the harbor waters just a few hundred feet east of the nests. The fish were being brought to newly hatched chicks on the beach. I took the photographs and observed the birds flying in from the direction of the harbor.

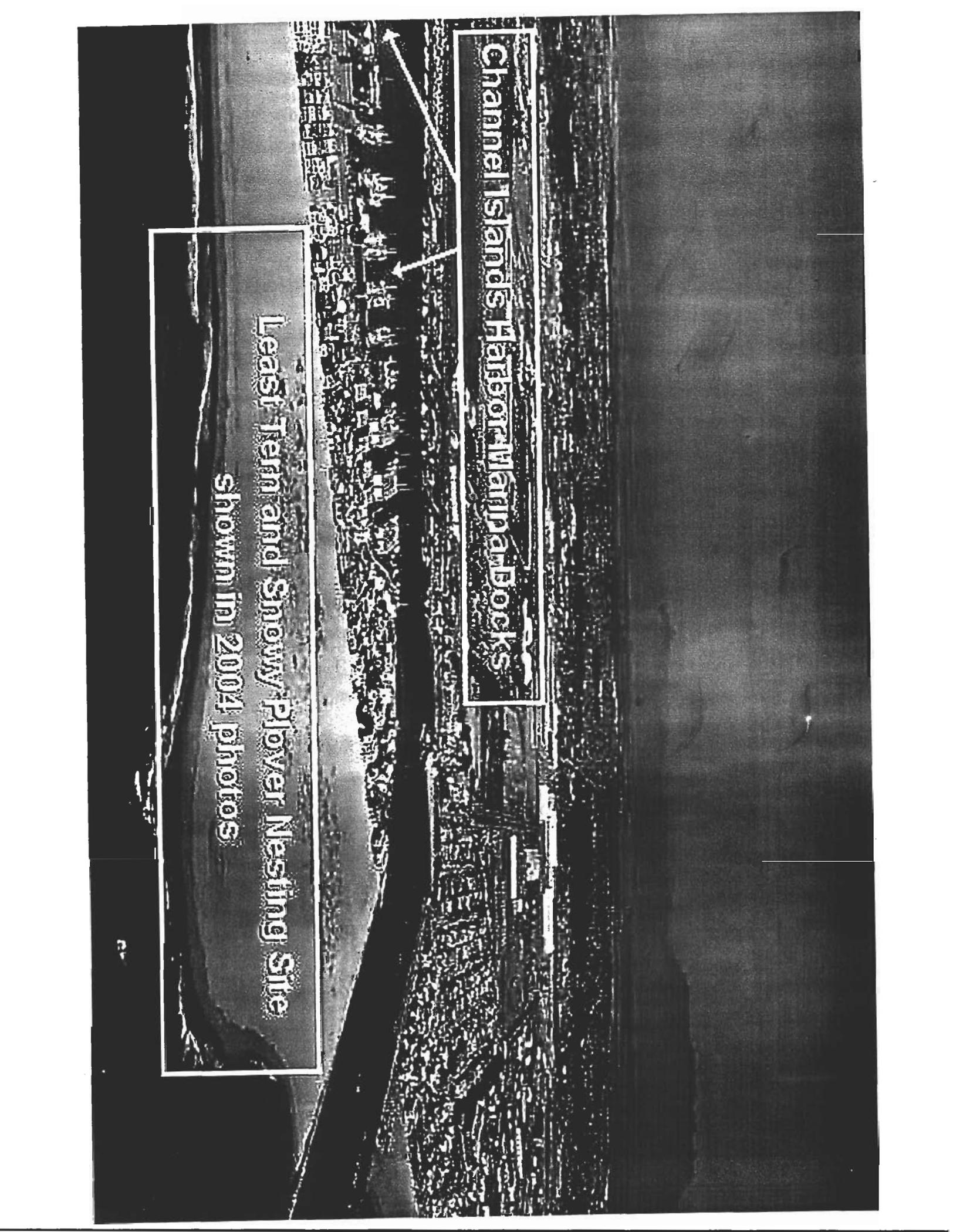
HHB decries the piecemeal approach by the County of Ventura to develop Channel Islands Harbor, including opposing the current proposed PWPA 1-05. HHB instead urges Coastal staff to recommend pending this narrow PWPA till a comprehensive overall PWPA for the entire harbor is undertaken by the County this year. However, HHB is aware of the possibility that CCC staff may agree to consider or modify PWPA 1-05, and if so, urges staff to take the opportunity afforded by the county's request to approve PWPA 1-05 to add the suggested modification to that PWP amendment in order that the County clarify and expeditiously implement the mapping and language into the Ventura County LCP that would clearly establish

ESHA for Hollywood Beach. Discussion of such clarification by Coastal Commission staff in response to comments by Sierra Club occurred during recent public hearings on certification of PWPA 1-04 and was expressed as being desirable. With the possible impacts of PWPA 1-05 on the California least terns that nest on Hollywood Beach as suggested by California Department of Fish and Game, this would be the appropriate time and a modification the appropriate vehicle in which to help guide the County in carrying out the terms of PWPA 1-04 Modification 1.

Thank you for your consideration.

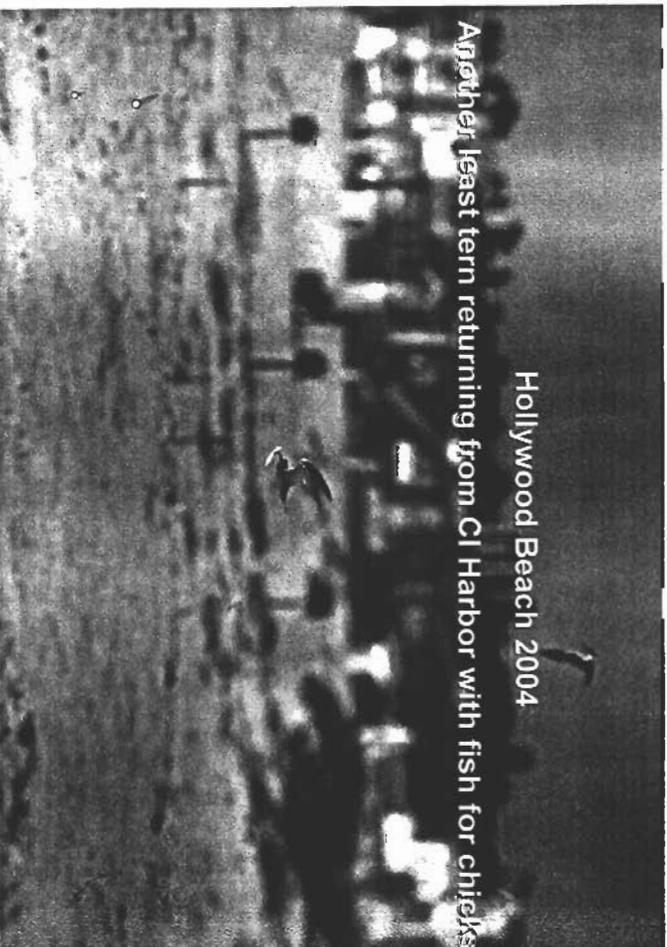
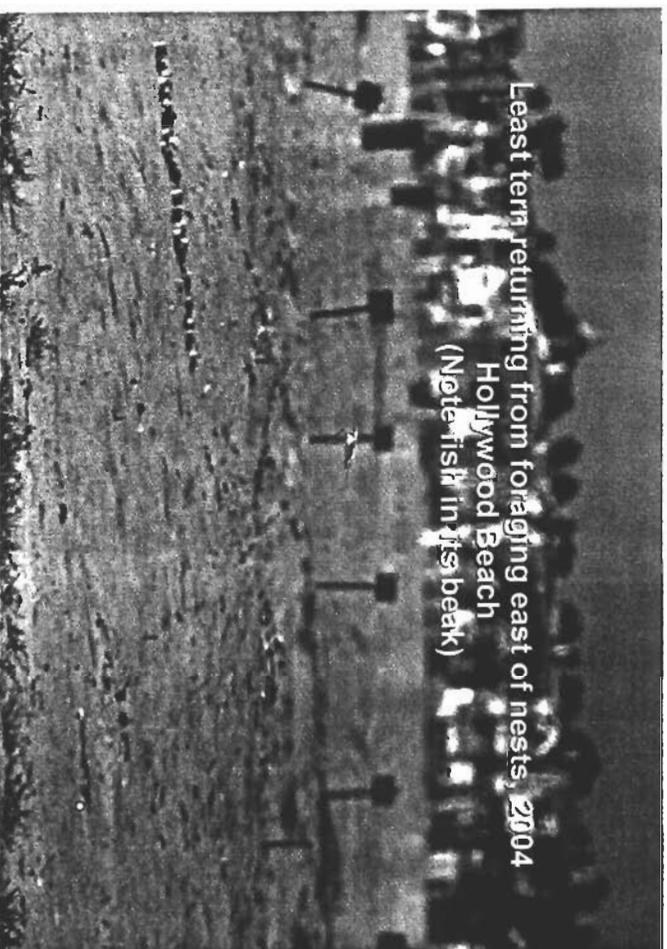
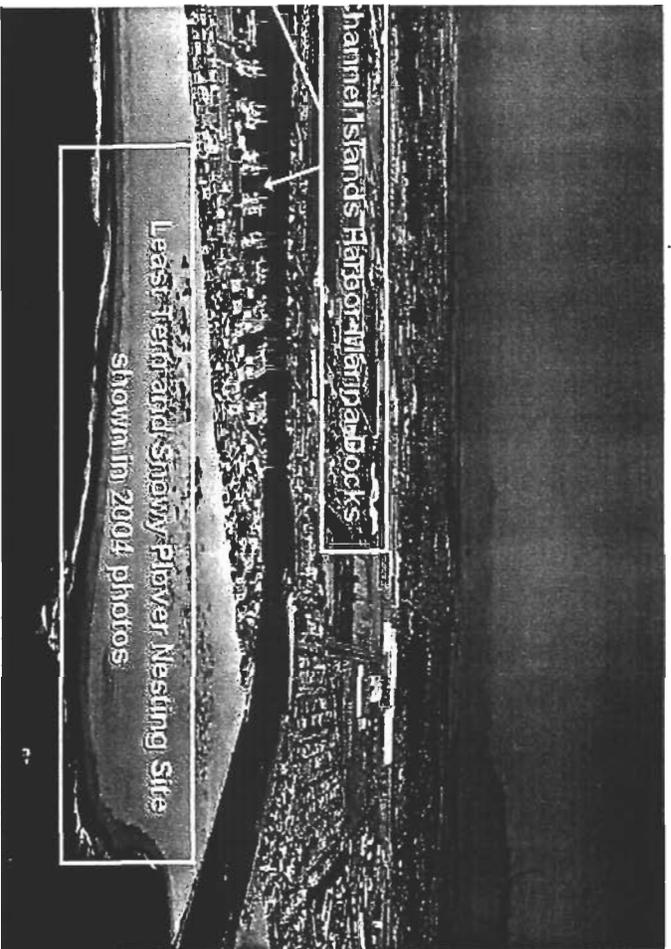
A handwritten signature in cursive script, appearing to read "Jonathan Ziv".

Jonathan Ziv
President,
Habitat for Hollywood Beach



Channel Islands Harbor/Maipan Boek's

Least Tern and Snowy Plover Nesting Site
shown in 2004 photos



>> ----- Original Message -----

>> From: "Marilyn Fluharty" <MFluharty@dfg.ca.gov>

>> To: <trevor.smith@earthlink.net>

>> Cc: "Morgan Wehtje" <MWehtje@dfg.ca.gov>

>> Sent: Tuesday, September 20, 2005 4:12 PM

>> Subject: Channel Islands Harbor

>>

>>

>>> Hi Trevor,

>>> I got the following message forwarded by Morgan Wehtje:

>>>

>>> The channel Islands harbor department is recommending a 20 foot dock
>>> extension throughout the harbor to all marinas. Does this impact, which
>>> is loss of sunlight to the harbor bottom, need to be evaluated?

>>>

>>> Dock extension projects have the potential to impact marine vegetation,
>>> in particular eelgrass habitat, from shading. The Department considers
>>> eelgrass beds valuable marine habitat as they function to stabilize
>>> substrate, increase productivity, and provide structure to soft bottom
>>> habitat. Eelgrass beds serve as nurseries for many fish species
>>> including important sport and commercial fish and they provide forage
>>> for seabirds, including the endangered California least tern. Eelgrass
>>> is also designated as a Special Aquatic Site under Section 404 of the
>>> Clean Water Act. Thus, any impacts to eelgrass from shading (shading
>>> from docks, as well as shading from docked vessels) and from
>>> construction activities (pile driving, construction vessel anchoring
>>> etc...) will need to be evaluated. Impacts should be avoided or
>>> minimized, and any unavoidable impacts would need to be mitigated in
>>> accordance with NOAA Fisheries' southern California eelgrass policy (
>>> see: <http://swr.nmfs.noaa.gov/hcd/eelgrass.pdf>). If feasible, we
>>> suggest the project proponent use grating and clear or translucent dock
>>> platform materials to allow light to penetrate to the seafloor. Please
>>> call or e-mail me if you have any further questions.

>>>

>>> Marilyn J. Fluharty

>>> California Dept. Fish and Game

>>> Marine Region

>>> 4949 Viewridge Avenue

>>> San Diego, CA 92123

>>> 858-467-4231 fax 858-467-4299

>>



The Beacon Foundation

PMB 352
3844 W Channel Islands Blvd
Oxnard, CA 93035

January 31, 2006

Re: **New Hearing Date**
PWP Maj. Amend 1-05
NOID 1-06

RECEIVED
FEB 02 2006

John Ainsworth, Deputy Director
California Coastal Commission
89 So. California Street, Suite 200
Ventura, CA 93001

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Dear Mr. Ainsworth,

On January 25, 2006, one day before the scheduled late release of the staff report on the above referred matters, the applicant postponed the hearing set for February 8th. The withdrawal letter asks for a hearing at the March 2006 meeting of the Commission in Monterey.

The applicant had the right to postpone the item but, having done so, it has no right to select the postponed hearing date. That is up to the Commission. This project is immensely controversial. The February 8th hearing would have required travel of 200 miles to be heard. The applicant gave up its right to a hearing on that date and now seeks a hearing location twice as far away. This would severely limit public participation and foist a financial burden, including the cost of lodging, on the public. The County is trying to foreclose public participation by this and other means (see Section 3 below).

1. This PWP Amendment and NOID Should Only Be Heard As Part Of The Overall Public Works Plan "Update" Promised By The County

The County has advised you (most recently in its letter of January 13, 2006) that later this year it will submit an overall "PWP Update." Until it does so, no more piecemeal amendments to the PWP should be considered. Once that submission is made and analyzed by staff, a hearing should be set at a hearing site within reasonable distance of Ventura County.

There is no necessity to review the pending piecemeal amendment. The Commission approved a one year extension of the time for consideration. Further, if even just the heron rookery protections mandated by the Commission for the BISC project are observed, there can be no construction activity at this marina until, at the earliest, August 2006 (see: BISC Modification 5).

This project impacts low cost recreational opportunities by eliminating small boat slips in favor of a lesser number of slips for larger more expensive vessels. As indicated by the January 2006 rejection of analogous slip removal proposed at

King Harbor in Redondo Beach, this practice is of great concern to the Commission. The same issue is presented in plans for Marina Del Rey that may come before the Commission as early as May, 2006. A statewide Commission policy is needed to evaluate proposals like these. It runs counter to sound public policy to let the slip removal at Channel Islands Harbor proceed without regard to the statewide threat to a Coastal Act mandate to protect low cost recreational resources.

2. If Commission Staff Unwisely Elects to Calendar This PWP Amendment and NOID Piecemeal Then Fairness Demands A Hearing Location Within A Reasonable Distance Of Ventura County And That The Staff Report Be Released No Less than Thirty Days in Advance Of The Hearing.

In two of the three months following February, the Commission will hold its hearings in locations a reasonable distance from Ventura County. Only the March location, sought by the County, is at an excessive distance.

We are concerned not only by the location but by delay in release of the Commission staff report. The applicant announced it was pulling the hearing on the eve of the already delayed date Commission staff was to release its report. Had the report been released as promised on January 26th there would have been less than two weeks for public review prior to the hearing. That is not reasonable public notice. The applicant should not be allowed to delay and manipulate the staff report release date. We ask that staff provide its report no less than thirty days prior to any hearing date.

3. The County Is Thwarting and Foreclosing Public Participation in Consideration of the Proposed PWP Amendment and NOID

The certified Public Works Plan contains in Section 1.3 detailed requirements the Board of Supervisors is required to follow for any amendments. It has not followed the public notice requirements or the requirements for preparation of an environmental review.

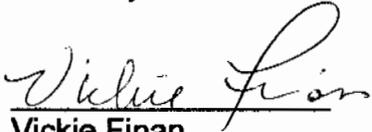
The County is also in violation of notice requirements for its NOID for this project. In a letter to you dated January 13, 2006, the County purported to give notice. The letter states (unnumbered page 4) :

"Pursuant to Coastal Act sec.30606, the Harbor Department is notifying, through provision of this letter, the Coastal Commission as well as other interested persons, organizations, and governmental agencies of the impending development. Under separate cover, a list has been provided of all persons and organizations receiving a copy of this letter, including all residents within 300 feet of the project"

We checked with your office and as of January 27th the list of recipients had not been provided to you. We requested and obtained a copy yesterday from the Harbor Department. It is attached. Only three copies were sent to The Beacon Foundation, Habitat for Hollywood Beach and the City of Oxnard. Our copy is postmarked January 24th – ten days after the letter date and just two weeks before the original February hearing date. No Notice is given to the many persons and institutions that have expressed interest to the County or to your office. Perhaps, the most glaring omission is of any notice to live aboard and the other tenants in the Vintage Marina. We ask Commission staff to now require County compliance with its process and with its NOID notice obligations.

We would appreciate your earliest possible response to this letter so we may evaluate in an orderly and timely way our participation in this process.

Sincerely,

A handwritten signature in cursive script that reads "Vickie Finan". The signature is written in black ink and is positioned above the printed name and title.

Vickie Finan
President

Cc: Gary Timm`

G:\Dennis\Marine Emporium\NOID
Labels.doc

*NOID
mailed
1/20/06*

Matt Winegar, Development Svc Dir
City of Oxnard
305 West Third St, 3rd Floor
Oxnard, CA 93030

Beacon Foundation
PMB 352
3844 W. Channel Islands Blvd.
Oxnard, CA 93035

Habitat for Hollywood Beach
Attn: J. Ziv
3365 Ocean Dr.
Oxnard, CA 93035



RECEIVED
FEB 01 2006

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Arthur Schwab
Residence: 3700 Peninsula Rd.
Slip D-031
Oxnard, Ca. 93035
Mailing: 567 W. Channel Islands Blvd., #364
Port Hueneme, Ca. 93041
805 701 4455

Re: Vintage Marina Public Works Plan Amendment

Tracey Duffy,

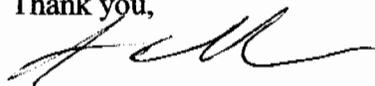
I would like to add my two cents to your inbox.

I believe that the Ventura County Board of Supervisors, except for John Flynn, are bought and paid for by the people who are developing Channel Islands Harbor. The Channel Islands Harbor Commission, led by Lynn Kroeger, has made a slew of decisions that are designed to eliminate 35' and below slips and to reduce the number of slips available to liveaboards. By placing the new sailing center on the west side of the harbor and eliminating thirty-five less profitable smaller slips. By extending the three year lease that Peninsula Yacht Anchorage had to 40 years for Almar Corp. the County Board of Supervisors allowed Almar to reduce the number of liveaboards from the traditional 10% to 5%. I should tell you that only four marinas in Channel Islands Harbor allow liveaboards and Almar owns three of these. Almar has plans to add larger more expensive slips at the cost of the smaller more affordable slips. The difference is about \$4.50 a foot. Vintage and Almar have similar intentions. They are supported in these views by the Channel Islands Harbor commission and the Ventura County Board of Supervisors.

The public has lost its voice in this process. The Channel Islands Harbor Commission meetings are closed to the public. We had a meeting with the Board of Supervisors and the public was given three minutes per speaker to voice our side. I think we are in a world where money talks.

I am asking the Coastal Commission to take a close look at the way this harbor has been and is still being run.

Thank you,



Art Schwab

LAW OFFICE OF
ALYSE M. LAZAR
Attorney at law
3075 East Thousand Oaks Blvd., Suite 100
Westlake Village, California 91362

RECEIVED
FEB 22 2006

Admitted to practice
STATE BAR OF CALIFORNIA
NEW YORK STATE BAR

Telephone: (805) 496-5390
Facsimile: (805) 496-7462

February 21, 2006

Ralph Faust, General Counsel
California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

Re: Ventura Co. Channel Islands Harbor PWP Amendment No. 1-05 and Channel Islands Harbor Public Works Plan Notice of Impending Development No. 1-06 (Vintage Marina)

Dear Mr. Faust:

I am writing this letter on behalf of the Beacon Foundation to raise concerns regarding the County of Ventura's piecemealing of the Vintage Marina project for purposes of review by this Commission. The curtailed view of the project as currently being presented to the Commission by Ventura County minimizes both the direct and cumulative impacts of the Vintage Marina project.

It is well established that the California Environmental Quality Act ("CEQA") prohibits "piecemeal environmental review" by chopping a large project into smaller ones, each of which purportedly has a minimal potential impact on the environment (*Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal App. 3d 151, 165.)

Under CEQA, the term "project" is defined broadly as the entire "activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term 'project' does not mean each separate governmental approval." A project "means the whole of an action, which has a potential for resulting in either a direct...or reasonably foreseeable indirect physical change in the environment" (CEQA guidelines 14 Cal. Code Regs §15378.)

As the court pointed out in the oft-quoted case, *Citizens Assn. For Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151,166, "The danger of filing separate environmental documents for the same project is that consideration of the cumulative impact on the environment of the two halves of the project may not occur." This "danger" is present in the Vintage Marina project.

The Vintage Marina project has been developed and is being promoted as one project involving the construction of new buildings, new facilities, and the reconfiguration and construction of new boat slips and other amenities. The project area is all in one location and is all within the Ventura County Channel Islands Harbor's public works plan. The general details of the project are known by the County and are already being advertised to the general public. While the construction of various parts of the project-like most construction projects- will most likely occur in steps, this is not a "phased project" wherein some phases of the project are postponed for consideration and approval due to the fact that certain phases may not be built. From inception, the Vintage Marina project has been one single project, as that term is broadly defined by CEQA.

Under CEQA, the County and this Commission have the responsibility to analyze all cumulative environmental impacts of both the water and landside portions of the project as well as all other existing, approved and known future projects in the vicinity (Guidelines, § 15130, subd. (b)(1)(A).) To date, such an analysis has not been performed.

Importantly, CEQA also requires review of the possible environmental impacts of a project at the earliest possible time. "Environmental review which comes too late runs the risk of being simply a burdensome reconsideration of decisions already made and becoming the sort of 'post hoc rationalization to support action already taken,'" (*Berkeley Keep Jets Over the Bay Com. v. Board of Port Cmrs.* (2001) 91 Cal.App.4th 1344,1359) which the California Supreme Court disapproved in *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 394

It is apparent that the County's bifurcation of the project for this Commission's consideration is an attempt to improperly minimize the environmental impacts in order to expedite project approval. As you know from your consideration and modification of the Boating Instruction and Safety Center project which is adjacent to the Vintage Marina, this entire area, including the Vintage Marina project site contain important nesting and/or roosting habitat for snowy egrets, great blue herons, and black-crowned night herons, which are protected by the Migratory Bird Treaty Act and by provisions of the California Fish and Game Code that prohibit the taking of this species and the destruction of its nests. (Fish and Game Code §§ 3503, 3503.5, 3513.)

Rather than acknowledging this and other foreseeably significant environmental impacts of the project as a whole, Ventura County has provided this Commission with a distorted project description artificially limited to only the waterside. The purpose of this poecemealing is evident. The County is attempting to avoid the requirements of CEQA in order to gain approval of the waterside portion of the project without any consideration of the entire project's full direct and cumulative impacts.

" [a] curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal ... and weigh other alternatives in the balance. An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient [environmental review]" (*Sacramento Old City Assn. v.*

February 21, 2006 letter to Ralph Faust, California Coastal Commission's General Counsel

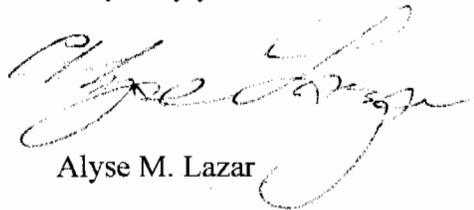
City Council (1991)229 Cal App 3d 1011,1023; *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal. App 4th 182, 201.)

For these reasons, The Beacon Foundation makes the following requests:

1. The Commission continue to postpone consideration of the above-referenced proposed PWP amendment and NOID pertaining to the Vintage Marina project until environmental review of the entire project including a cumulative impacts analysis consistent with CEQA is conducted by Ventura County.
2. Alternatively, this Commission performs the CEQA mandated cumulative impacts analysis for the entire project prior to consideration of these items to avoid engaging in illegal piecemealing.

On behalf of my client, I request that you comply with these basic requirements of CEQA and fully consider all of the foreseeable direct and cumulative environmental impacts related to the entire Vintage Marina project at this time. If you have any questions regarding the above or would like to discuss the matter further, please feel free to contact me. Please note that you and other Commission staff are free to continue communicating directly with The Beacon Foundation's representatives.

Very truly yours,



Alyse M. Lazar

cc: **South Central Coast District Office**
John Ainsworth, Deputy Director
Gary Timm, District Manager
89 South California Street, Suite 200
Ventura, CA 93001-2801



The Beacon Foundation

PMB 352
3844 W Channel Islands Blvd
Oxnard, CA 93035

Gary Timm
California Coastal Commission
89 S. California Street
Ventura, CA 93001

March 6, 2006

Summary of Beacon Foundation Concerns Regarding: Channel Islands Harbor PWP Amendment No 1-05 (Vintage Marina) and Notice of Impending Development 1-06.

Dear Mr. Timm:

We visited your office yesterday to review the Commission file. Based on this and previous reviews this is a summary of our concerns. Added detail on various of these issues is found in our previous submissions.

1. **No Finite Project Description and Lack of Public Notice.** At least a dozen iterations have been submitted by the applicant for layout of the waterside portion of this project. Even at this late date, neither the Commission or, certainly, the public, knows what the actual project will entail. Each iteration poses its own issues. The project is a moving target and adequate public review is therefore impossible.

For much of the analysis below we have assumed the dock layout proposed for the project that is diagramed in the County's January 13, 2006 Notice of Impending Development letter. As pointed out in our letter to Mr. Ainsworth of January 31, 2006, the NOID letter was sent by the County to only three entities outside County government. That is to The Beacon Foundation, Habitat for Hollywood Beach and the City of Oxnard. No notice has been given to individuals who have expressed interest in or who are directly affected by the project including, most glaringly, liveaboard and other tenants of the existing marina. Further, the County has not followed the public notice requirements for amendments specified in Section 1.3 of the certified Public Works Plan (PWP).

2. **No Environmental Impact Analysis or Consideration of Cumulative Impacts.** The Coastal Commission cannot discharge its CEQA obligation based on the current file. Completion of these environmental reviews by the County is a precondition to Commission consideration of this project. There simply is no environmental review. The only element of a review is an Environmental Check List dated September 29, 2005 that summarily dismisses any significant environmental impacts. It ignores the many and obvious impacts outlined in section 2 of our letter to Commission staff of November 28, 2005. From the January 13, 2006 County NOID letter it appears the method of build out of the project and the project layout has substantially changed since the Environmental Check List. In a letter to the Commission dated January 23, 2006 the County CEO, John Johnston states:

“The County is justifiably proud of its legally adequate environmental reviews process for this project.”

In fact there has been none.

3. **No Protection of the Heron Rookery.** The County's ornithologist determined in an October 2004 detailed analysis prepared for the BISC project (and submitted to the Commission by the County) that there is a single large heron rookery in the Channel Islands Harbor with constituent nesting trees in the west side park adjacent to and intertwined with the project site and on the peninsula east of the project site. The project area is in the center of this rookery and is the flyway between the two nesting areas. The Environmental Check List noted in point 1 above, makes no mention at all of the presence of the heron or of their rookery. The rookery must be protected and appropriate project modifications cannot be determined without a finite project description and an environmental review.

4. **Impermissible Piecemealing.** A project inconsistent with the certified Public Works Plan (PWP) is inserted by piecemeal amendment. The piecemealing is compounded by changing the application to bifurcate the landside from the waterside parts of a single project and present only the waterside for separate review at this time. This artificial division of a single project violates environmental review requirements (see letter of Alyse Lazar to Ralph Faust of February 21, 2006). The County has repeatedly claimed it bifurcated the project to facilitate approval at the suggestion of Commission staff. Most recently, the County Chief Executive Officer, John Johnston, stated in a letter to Commission staff of January 23, 2006:

“... the County has divided the marina waterside amendment requirements from the landside at CCC staff request to more easily fit into the CCC staff workload.”

Whether it is true or not that the project was divided at Commission staff request, it is an impermissible departure from the CEQA obligations of the Commission. This is one project and it must be considered as a whole.

5. **Encroachment on the BISC.** Among the most detrimental consequences of the piecemealing and the failure to consider cumulative impacts is incursion of the Vintage project on the BISC project.

The Commission approved the BISC project based on the County promise that it served and improved public coastal access. Extreme emphasis was placed by the County on the BISC providing a sailing instruction program to underserved youth. That program would be run from some 24,000 square feet of dock area that is an integral part of the BISC. Throughout the Commission process the County represented that the dock area would approximate 24,000 square feet. The configuration envisioned is provided as Attachment one.

The NOID iteration and all the others now in the Commission file cut the size of the dock by half or more. All of the designs absorb the dock area into the Vintage project parcel. The dock is made substantially unusable for boating instruction. In many of the iterations the BISC dock is made inaccessible for handicapped persons.

The NOID dock layout iteration eliminates the ability to sidetie any vessels to the BISC dock without obstruction of the adjacent Vintage Marina fairway. That fairway is the

minimum width allowed by the Department of Boating and Waterways Guideline that the NOID letter claims to be following. Inclusion of side ties for the small boats that would be used in boating instruction is required by the Commission for the BISC project. Commission Modification 11 required "Table II shall be revised to account for change in the number of recreational and live-aboard boating spaces due to construction of the BISC as well as lateral dock space provided for BISC." The County approved a revision to Table II to add a section titled "FUTURE WATERSIDE BOATING SUPPORT FACILITIES" that specifies there will be approximately 278 "... lineal footage of side-tie dock to be established with the BISC." In fact the capability to have any side-ties on the diminished BISC dock is being eliminated.

Sacrificing the approved BISC project for a later piecemeal development involving the same parcel cannot be sanctioned by the Commission --- especially when, as here, the later project takes away public access. The principal County argument for the BISC project is the sailing instruction program that it would now sacrifice for a private development.

6. **A Public Dock is Taken Without A Required PWP Amendment.** Figure IV of the certified PWP shows a "public dock" in front of the Bluefin Circle restaurant parcel that is between the two basins of the Vintage project. The PWP protects the public amenities shown on Figure IV at page 47 where it states (point 16) "Recreational opportunities in the Harbor Area shall be maximized by protecting waterfront development for suitable recreational use and development as identified in Figure IV."

The "T" public dock diagrammed in Figure IV exists today. It is described at Page 41 of the PWP as an integral part of the public docks in the Harbor. In this section titled "Public Boating Access" the PWP states:

"The Harbor also provides approximately 925 linear feet of public dock area: in the Western Harbor off of the small peninsula by Bluefin Circle is 280 linear feet of public dock; directly off of Peninsula Park is 380 linear feet of public dock, and in the Western Harbor is 260 feet of public dock. These facilities appear adequate to meet existing public demand."

All of the Vintage project iterations eliminate this existing "T" dock. Some show a part of a new dock in front of the restaurants being used for restaurant visitors. This is no replacement for the "T" dock that is in deeper water. In its present location the public "T" dock serves not only restaurant visitors but also boats used by the public "Harbor Hopper" service and also visits by "tall ships" to the harbor. Removal of the "T" dock diminishes public dock in the Harbor by over 30%. This cannot properly be done without a PWP amendment and an environmental review.

7. **Over 100 Lower Cost Smaller Boating Slips are Eliminated For Larger Craft.** Lower cost recreational boating is sacrificed for fewer and more expensive slips. Furthermore the boat count for surviving smaller slips is falsely inflated by drawing in unusable "paper" slips.

The unusable slips will be reviewed with you with the aid of a diagram. A representation should be required by the applicant that all slips are usable as designed without dredging or, in the alternative, the dredging needs must be identified and the environmental impacts analyzed.

8. **The Proposed Taking of 20 Feet of the Public Waterway for End-Ties will Result In A Far Greater Taking.** The PWP specifically prohibits any expansion into the waterways. The proposed Amendment is deceptive. Extending the pierhead by 20 feet will result in an actual incursion of approximately 50 feet – that is a 25% reduction in the size of the public waterway. The 50 foot estimate is based on the 20 foot extension, the width of the vessels end tied and a safety zone. No consideration has been given to the effects of this private taking on congestion in the public waterway. Allowing this incursion at one of the most intensely used and most narrow points in the waterway opens the door to allowing such incursion everywhere in the Harbor. If it is allowed by the Commission here there would appear to be no basis to deny it anywhere else.

The 20 foot extension alone would add about 15% to the project area and yet, even with this addition, the absolute number of slips, and particularly those for smaller vessels is drastically reduced. This should be an unacceptable impact on lower cost recreational boating protected by the Coastal Act.

Several County iterations of the dock layout pencil in most end ties being used by boats less than 35 foot in length. Some are shown triple berthed in end-tie. It is ridiculous to believe that the marina operator would utilize its deepest and largest berths for small vessels. The actual use of any end ties, unless specifically conditioned by the Commission to require only use for vessels less than 35 feet, will be by very large yachts – some in excess of 100 feet in length.

CONCLUSION. For all of the above stated reasons the Vintage Marina Project should not be approved. An overarching issue is that it is simply not timely to consider this project because there is no finite project description and piecemeal approval of part of a single project is sought. In addition there is no environmental review or cumulative impact analysis. Finally, there is a breach of public trust in the County failure to follow PWP process for amendments and failure to give timely notice to the public at large and, most particularly, to liveaboard and other boaters in the affected marina.

For The Beacon Foundation



Lee Quaintance
Secretary

Enclosure

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SOUTH CENTRAL COAST DISTRICT

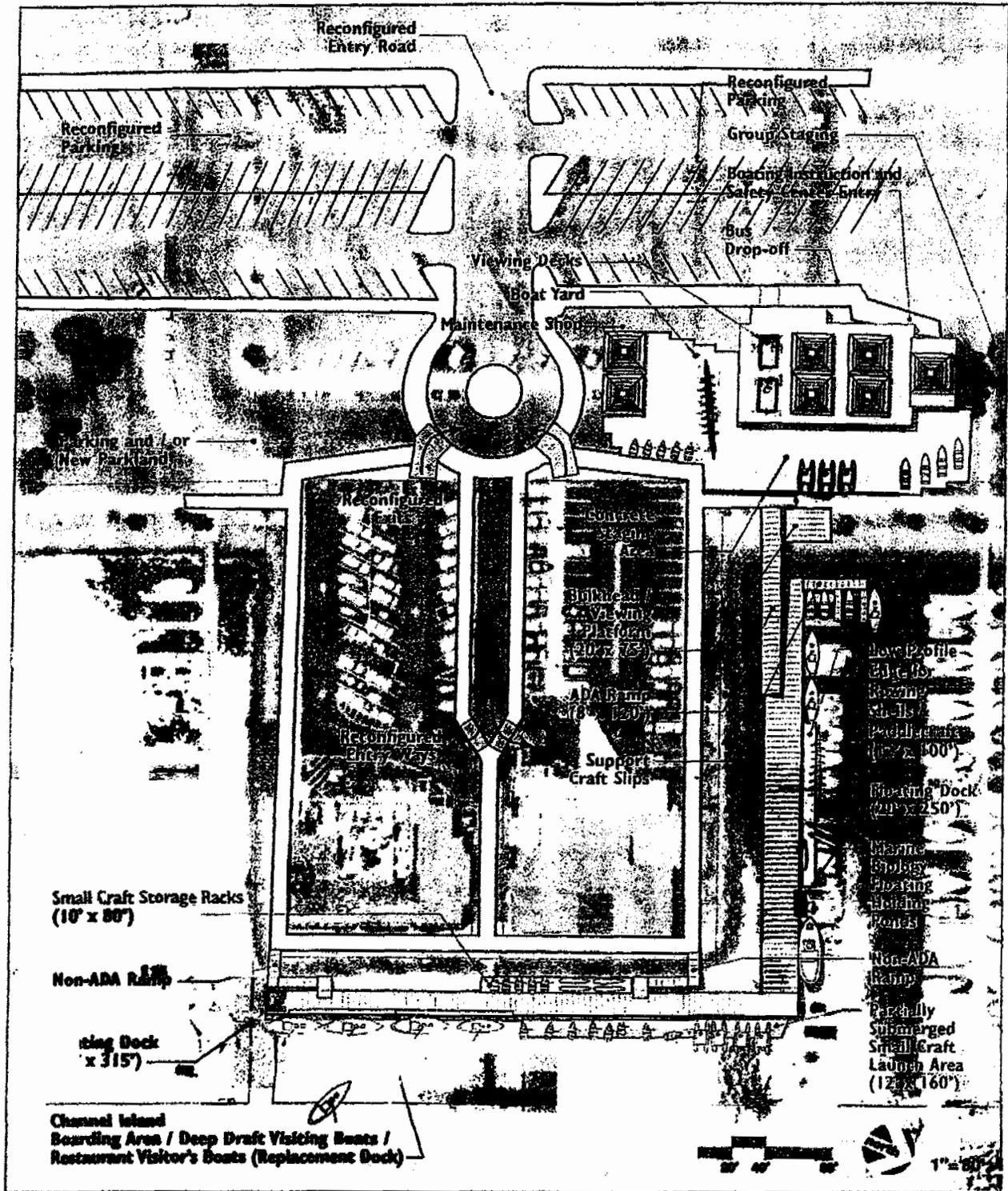


Exhibit 7 - Proposed BISC Aerial Site Plan

1/1/04 VINTAGE LEASE

land use entitlement inconsistent with the Approved Plans for Lessee's Work without County's written consent, which may be withheld in the sole discretion of County. Lessee further acknowledges that County in its proprietary capacity as lessor under this Lease has control over land uses which is more restrictive and specific by virtue of its role as such a lessor than it may have in its governmental role as regulator. Nothing contained herein shall be construed to require County amend the Public Works Plan or otherwise exercise its powers as a regulatory agency.

1.5.6 Right of County to Exclude the Yacht Club Space and the Dock F Area.

The Leased Premises includes improvements on Parcel D-2, including a Structure containing space (the "Yacht Club Space") occupied by the Yacht Club pursuant the Interim Lease Agreement. County may, as provided below, elect to exclude the Yacht Club Space from the Leased Premises for the purpose of entering into a lease for the Yacht Club Space directly with the Yacht Club, requiring the reversion of that space to County from this Lease. "Dock F" is an area of the Leased Premises immediately adjacent to Parcel D containing a dock of Boat Slips, as outlined and noted on Exhibit C, the Parcel Map of the Leased Premises. Dock F, although included in the Leased Premises at the Lease Commencement Date, may in the future be needed as part of the waterside facilities for a new leasehold site for a planned "Boating Center", and County may elect as provided below to exclude the area of Dock F from the Leased Premises.

1.5.6.1 Right of County to Exclude the Yacht Club Space.

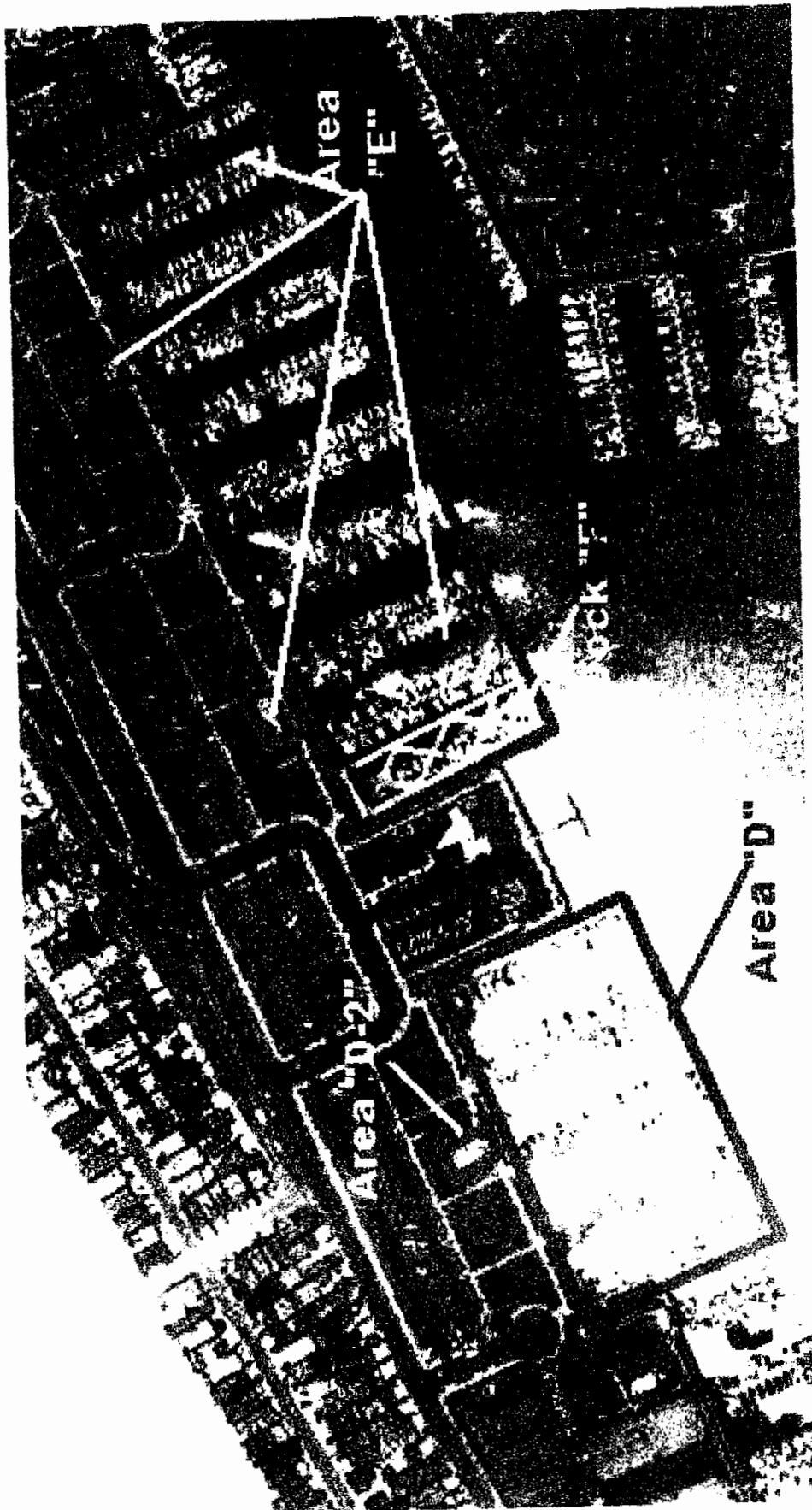
Notwithstanding the Term of this Lease and the description of the Leased Premises otherwise provided, with regard to the Yacht Club Space, County may at any time prior to 18 full calendar months (the "Reversion Period") after the Lease Commencement Date elect to terminate the Term of this Lease for the Yacht Club Space by delivering written notice (the "Yacht Club Space Termination Notice") to Lessee of County's election to terminate Lessee's right to possession of the Yacht Club on a date during the Reversion Period (the "Termination Date") specified in such Yacht Club Termination Notice that is 60 days or more from the delivery to Lessee of such Yacht Club Termination Notice, and to reenter the Yacht Club Space and take possession thereof free and clear of this Lease and any claims of Lessee or any persons claiming by or through Lessee. After receipt of the Yacht Club Space Termination Notice, Lessee agrees (a) to peaceably surrender and deliver possession of Yacht Club Space to County on the Termination Date free and clear of all claims by Lessee, Mortgagee(s) of a Leasehold Mortgage and any other party claiming by or through Lessee, provided, however, that the other provisions of Section 21.1 in addition to such peaceful surrender and delivery of possession shall not apply, (b) to execute and deliver to County a quitclaim deed or other appropriate instrument describing the Yacht Club Space in recordable form, to be recorded by County on or after the Termination Date but during the Reversion Period, to evidence such surrender and delivery of possession, (c) to execute and deliver County and its successors and assigns such easements for utility service and rights of ingress and egress on, over and through the Leased Premises for the benefit of the Yacht Club Space as may be reasonably necessary or convenient for the use of Yacht Club Space, (d) to obtain and deliver to County a similar quitclaim deed from all other persons claiming through or under Lessee (such as a Mortgagee or other lienholder of Lessee's Estate), (e) to execute and deliver to County an amendment to the Lease specifying that the Leased Premises excludes, and

that Lessee's possession of the Leased Premises is subject to, the right of County to possession of the Yacht Club Space and that the following provisions of this Lease shall be deemed modified and altered by (i) deleting the provisions of Section 6.2 specifying the Yacht Club as a Source of Percentage Rent (the words "Yacht Club Rent" from the introduction to Section 6.6; clause (i) of Section 6.2, "Yacht Club rent to Lessee.....5%" and "Yacht Club Membership Dues ...10%"); Sections 6.6.2 and 12.4, and the definition in Article 27 of "County's Yacht Club Percentage Rent", the phrase "but excluding any such amounts attributable to the portion of the Leased Premises occupied by the Yacht Club and remitted to County" in the definition of Gross Receipts for Food and Beverage in Article 27, and any other provisions that pertain to the subleasing of the Yacht Club Space to the Yacht Club by Lessee and (ii) the ratio of sharing the cost of Needed Repairs in Section 17.5 shall be changed from 50% for Lessee and 50% for county to 40% for Lessee and 60% for County and (f) to execute and deliver such other instruments to implement this Section to deliver the Yacht club Space to County free and clear of any claim by Lessee and any other person claiming by or through Lessee. .

1.5.6.2 Right of County to Exclude the Dock F Area. Notwithstanding the Term of this Lease and the description of the Leased Premises otherwise provided, with regard to Dock F, County may at any time prior to 30 full calendar months (the "Reversion Period") after the Lease Commencement Date elect to terminate the Term of this Lease for the area in which Dock F is located (the "Dock F Area") by delivering written notice (the "Dock F Termination Notice") to Lessee of County's election to terminate Lessee's possession of Dock F on a date during the Reversion Period (the "Termination Date") specified in such Dock F Termination Notice that is 60 days or more from the delivery to Lessee of such Dock F Termination Notice, and to reenter the Dock F Area and take possession thereof free and clear of this Lease and any claims of Lessee or any persons claiming by or through Lessee. The outline of the Dock F Area is depicted on a Exhibit C referred to below, a Parcel Map for the Leased Premises Exhibit C. Prior to the Termination Date, County shall provide a survey of the Dock F Area to Lessee. After receipt of the Dock F Termination Notice, Lessee agrees (a) to peaceably surrender and deliver possession of Dock F to County on the Termination Date free and clear of all claims by Lessee, Mortgagee(s) of a Leasehold Mortgage and any other party claiming by or through Lessee, provided, however, that the other provisions of Section 21.1 in addition to such peaceful surrender and delivery of possession shall not apply, (b) to execute and deliver to County a quitclaim deed or other appropriate instrument describing the Dock F area in recordable form, to be recorded by County on or after the Termination Date but during the Reversion Period, to evidence such surrender and delivery of possession, (c) to obtain and deliver to County a similar quitclaim deed from all other persons claiming through or under Lessee (such as a Mortgagee or other lienholder of Lessee's Estate), (d) to execute and deliver to County an amendment to the Lease specifying that the Leased Premises excludes, and Lessee's possession of the Leased Premises is subject to, the right of County and County's assignees, lessees and other persons claiming by or through County, to possession of the Dock F Area and (e) to execute and deliver such other instruments to implement this Section to deliver the Dock F Area to County free and clear of any claim by Lessee and any other person claiming by or through Lessee.

ARTI

Exhibit "C"
Parcel Map
Parcels D, E and D-2





The Beacon Foundation

PMB 352
3844 W Channel Islands Blvd
Oxnard, CA 93035

FAX

To: John Alnsworth, Gary Timm
From: Lee Quaintance
Re: Vintage Project

March 22, 2006

We have just obtained a copy of the latest materials submitted to your office by the County. I am immediately transmitting these comments on the BISC dock encroachment asking you to consider them and require factual information from the applicant before setting this project for hearing.

On March 6th we met with Gary Timm. In addition to our letter of that date, we showed him a global positioning study that transposed to scale on a photo of the existing dock configuration the diagram of the proposed dock layout that is attached to the January 13, 2006 Notice of Impending Development. Mr. Odenman's letter of March 20th says that is the iteration for which approval is being sought.

Mr. Odenman is gives you an unsupported blanket denial that the proposed Vintage configuration will encroach on the Commission approved layout of the BISC dock. Staff needs to provide the Commission with more than a blanket denial.

The fact are readily available to The County of Ventura. It has inhouse global positioning capabilities allowing it very easily to provide you with a to scale overlay of the type we showed Mr. Timm on March 6th. That would overlay the January 13th Vintage iteration to scale over the existing dock layout. The result will show that, unlike the approved BISC plan, the area occupied by existing Dock F is no longer dedicated to BISC use once it is removed. Instead, the new Vintage docks have migrated south taking a significant part of the BISC dedicated area. The result is to make it impossible to put in the BISC dock as approved. Among essential BISC operation features rendered impossible are side ties and support dock facilities.

The BISC dock facilities are rendered unusable because, as indicated in the March 21st letter to you from the Vintage engineer, the distance between the new F dock and the BISC dock would be reduced to 45 feet. Pursuant to the Dept of Boating and Waterways Guideline, the minimum fairway between the 24 foot slips on the new Dock F and the BISC dock is 42 feet (i.e. 1.75 x 24'). That makes it impossible to have a BISC dock of either the approved dimensions or use features The Commission approved.

Staff needs to resolve the truth of this fundamental matter – this is a question of fact that the Commission itself cannot analyze without your staff assistance. Please require a factual analysis by the County and do not set this matter for hearing without one.

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SOUTH CENTRAL COAST DISTRICT



The Beacon Foundation

PMB 362
3844 W Channel Islands Blvd.
Oxnard, CA 93035

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MAR 17 2006

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

FAX -- 6 pages --

March 17, 2006

To: Gary Timm
From: Lee Quaintance
Re: **Canibalizing the BISC Docks - Cumulative Impacts of Vintage Project PWP Amendment No 1-05 and Notice of Impending Development 1-06**

Attached is a letter of March 16, 2006 from County of Ventura CEO, John Johnston, to a member of the Governor's staff. We wish to direct your attention to the "Description of Project" on page 2. The description of the BISC docks therein is incomplete but consistent with features in the diagram attached to our letter to you dated March 6, 2006.

As stated in our letter of March 6, 2004, the design of the Vintage slip layout proposed by the County in its Notice of Impending Development dated January 13, 2006, has incorporated the BISC dock into the private Vintage project. It has also designed the new Vintage docks in such a way as to make impossible the configuration and usage of the BISC dock that was an integral part of the BISC project as approved by the Commission.

Please lay the NOID diagram of Vintage Parcel E against the diagram provided with our letter of March 6th depicting the BISC dock. This will confirm that each of the following features enumerated by Mr. Johnston in his letter of March 16th have actually been sacrificed for the Vintage project.

Johnston March 16 Dock Description	Impact of Vintage Project
"20 foot X 120 foot ADA ramp"	As shown in the NOID blueprint for Parcel E, this ramp is replaced by a shorter and much narrower non-ADA ramp
"20 foot X 250 foot floating dock"	This is replaced by a much narrower dock.
" 12 foot X 100 foot low profile edge for rowing shells and paddlecraft"	This feature is eliminated in the NOID diagram and could not be added back because the fairway now designed for the Vintage project would make this "edge" or any side ties on the BISC dock a violation of Boating & Waterways design standards

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South Coast Region

MAR 17 2006

CALIFORNIA
COASTAL COMMISSION

-2-

Other features of the BISC dock portrayed in the BISC diagram are not noted in the Johnston bullet listing. These include "support craft slips" and "marine biology floating holding ponds" The area for the "support craft slips" is now eliminated by private Vintage slips and the "holding ponds" could not be constructed without violating the minimum fairway width design standard.

The final three bullets of the Johnston letter describe features of a portion of the BISC dock placed in front of the two restaurants. As noted in Point 6 of our March 6th letter, this dock portion would be unusable if the existing public "T" dock is maintained at this location. The existing dock is diagramed in the PWP as one of four public docks in the Harbor that are protected. It would require Commission approval of a PWP amendment to remove this public dock. If the T-dock remains there is no safe way to utilize this portion of the BISC dock.

A direct and cumulative impact of the Vintage project design is conversion of the main BISC dock into nothing more than a narrow walkway. That walkway leads to another narrow portion of BISC docks that are unusable due to an existing and protected public T dock. The net effect of the incursion of the Vintage project is to absorb and eliminate a usable BISC dock.

county of ventura

COUNTY EXECUTIVE OFFICE
JOHN F. JOHNSTON
County Executive Officer

March 16, 2006

Secretary Fred Aguilar
State Capitol Building
Sacramento, CA 95814

Re: Ventura County Boating Instruction and Safety Center

Dear Secretary Aguilar:

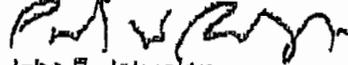
On behalf of the County of Ventura, I am writing to inform you of the Board of Supervisors' longstanding support for the Ventura County Boating Instruction and Safety Center (BISC). Ventura County is the only coastal county of its size without some kind of boating center available to the public for both education and entertainment.

The BISC is a joint State and County project to be operated by Ventura County's new California State University Channel Islands. Ventura County has worked closely with the State Department of Boating and Waterways on both the public review process and securing the necessary funding.

The location of the BISC has been thoroughly vetted by experts from the State Department of Boating and Waterways, and it has been approved by the California Coastal Commission. There is a long line of local supporters including the Channel Islands Harbor Leases, Friends of Channel Islands Harbor, Oxnard Community College, and the Pacific Corinthian Youth Foundation. Attached is a fact sheet that outlines the BISC project, the extensive public review and approval process, and its many supporters.

We are concerned that any further delays will jeopardize the success of this project. The Ventura County Board of Supervisors would like the opportunity to meet and discuss the Board's ongoing support of this important regional asset. Please feel free to contact me at (805) 654-2681 with any questions you may have.

Sincerely,



John F. Johnston
County Executive Officer

Ventura County Boating Instruction and Safety Center

Ventura County is the only coastal county of its size without some kind of boating center available to the public for both education and entertainment.

The proposed Channel Islands Harbor Boating Instruction and Safety Center (BISC) is a joint State and County project to be operated by Ventura County's new California State University Channel Islands. Placing the BISC on the west side of the Harbor has been approved by a majority of the Ventura County Board of Supervisors.

Description of Project:

- 18,887 square foot, two story main building
- 1,000 square foot single story maintenance/storage building
- Concrete staging area enclosed by a concrete block wall and open iron fencing
- 20 foot X 75 foot bulkhead viewing platform
- 20 foot X 120 foot ADA ramp
- 20 foot X 250 foot floating dock
- 12 foot X 100 foot low profile edge for rowing shells and paddlecraft
- 16 foot X 315 foot floating dock
- 12 foot X 180 foot partially submerged small craft launch area
- 10 foot X 80 foot small craft storage racks

The west side location was selected by a team of "experts" from other Harbors, the California Department of Boating and Waterways, and the local area. Due to prevailing winds and the proximity to the Harbor's turning basin (widest part of the Harbor), the selected site - where most of the beginning sailing is likely to occur - is considered by sailing experts to be the safest.

The original building plans called for the removal of several non-native trees. In response to a concern regarding herons nesting in these trees, the plans were amended to turn the main building in such a way as to require the removal of only one non-nesting tree. The majority of the main building will be located on an area that is currently black top, and by changing the access street from a "U" to a cul-de-sac, there will be an overall increase in green space of .25 acres.

Supporters of the project include:

- Ventura County Board of Supervisors
- National Oceanic & Atmospheric Administration (NOAA)
- California State University Channel Islands
- California Department of Boating and Waterways
- Oxnard Community College
- Channel Islands Harbor Commission
- Channel Islands Harbor Lessees
- Friends of Channel Islands Harbor
- The local Pacific Corinthian Youth Foundation

Project Timeline/Project Before the Ventura County Board of Supervisors:

- **January 27, 1988** – Supervisors Flynn and Lacey recommend an educational/recreational facility at Channel Islands Harbor
- **July 1999** – Consultants retained to assist in the development of a youth and group facility
- **September 1999** – Harbor Department notified that funding for a Boating Instruction and Safety Center was available from the State Department of Boating and Waterways
- **October 1999** – Seven sites identified for consideration
- **November 1999** – Proposed conceptual project design developed
- **January 2000** – Project accepted for funding by State Department of Boating and Waterways
- **2001-2002** – Mitigated Negative Declaration prepared and circulated
- **June 25, 2002** – Mitigated Negative Declaration hearing cancelled; Board of Supervisors decides to prepare Environmental Impact Report (EIR)
- **2002-2003** – Coastal Consultant hired, EIR prepared and circulated
- **2003** – EIR expanded to include additional analysis of East Side locations; EIR re-circulated
- **December 18, 2003** – EIR certified by a majority vote of Board of Supervisors (Vote of 3 to 1 with 1 abstention)
- **December 2003** – Project description, EIR, and draft Notice of Impending Development (NOID) submitted to California Coastal Commission (CCC)
- **February 2004** – Hearing before CCC – NOID rejected on tie vote
- **October 19, 2004** – Channel Islands Harbor Public Works Plan Amendment Prepared; Approved by majority vote of Board of Supervisors (Vote of 3 to 2)
- **October 2004** – New NOID submitted to CCC
- **March 2005** – CCC approved the Public Works Plan Amendment and the Project with conditions
- **July 2005** – The Board of Supervisors officially accepted CCC conditions
- **December 2005** – Final certification of Project by CCC
- **Currently** – State Department of Boating and Waterways moving forward with final plans and specifications

Public Meetings - Harbor Commission

1. June 18, 1999
2. July 21, 1999
3. September 15, 1999
4. November 17, 1999
5. March 15, 2000
6. July 16, 2001
7. March 27, 2002
8. May 15, 2002
9. November 20, 2002
10. January 16, 2003
11. May 21, 2003
12. June 18, 2003 - Special BISC meeting
13. June 24, 2003 - Special BISC meeting
14. September 17, 2003
15. December 3, 2003
16. February 26, 2004
17. May 28, 2004
18. September 28, 2004

Public Meetings - Ventura County Environmental Report Review Committee

1. July 23, 2003
2. October 29, 2003
3. November 20, 2003
4. December 1, 2003

Other Public Meetings

1. Channel Islands Beach Community Services District March 27, 2001
2. Villa Sirena Apartments June, 2001
3. Hollywood Beach School (Community Meeting) July 10, 2001

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MAR 21 2006

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

March 15, 2006

Steve Bennett, Supervisor, First District
County of Ventura, Government Center
800 So. Victoria Avenue
Ventura, Ca 93009

SUBJECT : Nearly ten Years, and Millions of Dollars but no Major Improvements?

Dear Mr. Bennett,

As stated before, I live in Ventura, am a constituent of yours and see the need for changing current Board policies at Channel Islands Harbor.

Through the efforts of Supervisor Flynn, I was notified of the presentation on Channel Islands Harbor before your Board on March 15th. Having been a past Harbor Director for 25 years I have more than a passing interest. I would appreciate you putting me on your mailing list for Board meetings concerning Harbor matters.

With regards to March 15th, I must say the Harbor Director gave an outstanding performance. There were few errors and the issues clearly stated. The Director made it clear she was directed by the Board to first get the BISC approved then amend the PW Plan. Well 6 years and you have approval of the BISC but there will be many delays in building the BISC and no updated approved plan. It is my opinion, what was stated at the March 15th hearing should have been stated two years into the Director's 10 year tenure and the past 8 years spent implementing the plan including the BISC. The County's Public Works Plan continues to play a lead roll. How much longer will you accept excuses.

To clarify some of the history of the County's Public Works Plan, the County of Ventura had all its development permits from the California Coastal Commission at the Channel Islands Harbor and most of the development in place before the Public Works Plan was developed and approved. All improvements were grandfathered in. The policies in the plan were state mandates and required as a condition of the Plan's approval. Further, the View Corridor Plan attached to the Public Works Plan was intended to fix the corridors subject to Coastal Commission permission to move or eliminate them and yes the County was to keep open these corridors for public view.

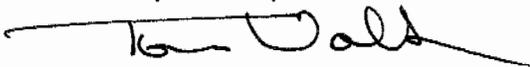
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would retain control over the planning process in the Harbor. In the early 1980's state law required Local Coastal Plans and their approval by the California Coastal Commission from all cities in the Coastal Zone of California. The Channel Islands Harbor was/is in the City of Oxnard. If the City's Local Coastal Plan, (LCP) had been approved before the County's Public Works Plan the County would have been required to get future coastal permits from the City, subject to their LCP. This would include following their current permitting process and design standards. The Board of Supervisors did not want to give that authority to the City of Oxnard at that time.

On a second subject, is it true the County is amending the Vintage Marina lease to include the last un-leased parcels (X-3A) without bidding? Has anyone asked the City of Oxnard or the local water district if they would have an interest in the a community building on the site? How many lease parcels will this make that have not gone out for open bid, 4, 5 or 6? I recently reviewed a list of questions being asked staff by a County Harbor Commissioner who for the first time was going to be asked to recommend the Board approval of the deal. Tell me you are not part of these close door dealings. I understand less than half the total commission supported the recommendation of the Director to approve the amendment. I would assume the lessee, of Vintage Marina is one of the stronger supporters of the Director.

In closing, with your current support of the Harbor Director, your leadership on the Board and your dislike for your fellow Supervisor there is little hope for change. Please call, (805) 933-3656, or write if you have any comments or questions. I look forward to your future actions on these matters.

Respectfully,



Ventura County Harbor Director, Retired

cc:

County Board of Supervisors
Ventura County Grand Jury
County Executive
The Star

Attachments

**Thomas M. Volk - Director Retired, Channel Islands Harbor
Back Ground**

EDUCATION;

BA - ENGINEERING - CALIFORNIA STATE UNIVERSITY OF LOS ANGELES - 1952

MA - PUBLIC ADMINISTRATION - UNIVERSITY OF SOUTHERN CALIFORNIA - 1975

BOATING

✓BOAT OPERATORS LICENSE 1952 TO 1962

✓BOAT OPERATOR IN CHARGE - CITY OF SANTA MONICA LIFE GUARD - 1952 TO 1960

✓FIRST SAIL BOAT OWNED 1945 - AGE 17

✓SAILED A 25FOOT BOAT IN AND OUT OF EASTSIDE OF HARBOR WITHOUT A MOTOR FOR 5 YEARS.

✓BUILT & CURRENTLY OWN A WESTSAIL 32 WITH 10,000 CRUISING MILE -1975 - PRESENT

WORKING EXPERIENCE

✓1947 TO 1962 - WORKED FOR THE CITY OF SANTA MONICA AS A BEACH LIFEGUARD, AS A BOAT OPERATOR, AS THE LIEUTENANT IN CHARGE OF BOATS, and AS HARBOR MASTER. MANAGING IN-WATER AND OUT OF WATER BOAT STORAGE FOR VESSELS OF 10 TO 75 FEET AND 20 MARINE/PIER CONCESSIONAIRES

✓1962 TO 1986 - WORKED FOR THE COUNTY OF VENTURA AS DIRECTOR OF THE CHANNEL ISLANDS HARBOR FROM OPENING THE HARBOR TO ITS BUILD OUT, 1962 TO 1986 TOGETHER WITH THE COUNTY'S AIRPORTS AND PARK SYSTEM.

✓AS DIRECTOR I HAVE PERSONALLY VISITED EVER SMALL CRAFT HARBOR ON THE COAST OF CALIFORNIA AND WITH THE COMMUNITY, PLANNED OUT THE CURRENT APPROVED COASTAL COMMISSION CHANNEL ISLANDS HARBOR PLAN

✓AS DIRECTOR OF THE HARBOR I, WITH THE COMMUNITY, WAS PERSONALLY INVOLVED PLANNING, AND BUILDING ALL COUNTY FACILITIES (BUILDINGS & DOCKS) AND OVERSEER ON ALL BUILDINGS AND DOCKS BUILT BY LESSEES

✓IN CONCILIATION WITH MERIEL BETZ OF THE COASTAL COMMISSION STAFF, I SUPERVISED THE CREATION OF THE COUNTY'S PUBLIC WORKS PLAN AND PURSUED THE COASTAL COMMISSION APPROVAL..

✓1986 TO 2005 - WORK AS A CONSULTANT FOR PUBLIC AND PRIVATE ORGANIZATIONS ON MARINE PROJECTS FROM CONSTRUCTING DOCKS TO CONCESSION AGREEMENTS.

✓1986 TO PRESENT- WORK WITH MY SON, CREATED "AMERICAN BICYCLE COMPANY, ONE OF THE TOP FIVE COMPANIES MANUFACTURING AND MARKETING BIKE LOCKER IN THE U.S.A.

CHANNEL ISLANDS BEACH COMMUNITY SERVICES DISTRICT

353 Santa Monica Drive • Channel Islands Beach, CA 93035-4473 • (805) 985-6021 • FAX (805) 985-7156
A PUBLIC ENTITY SERVING CHANNEL ISLANDS BEACHES AND HARBOR

Board of Directors:

MARCIA MARCUS, President
JONATHAN ZIV, Vice-President
SUSAN KOESTERER, Director
KEITH MOORE, Director
LLEEN SPIEGEL, Director

JAMES D. KUYKENDALL, PE
General Manager

TO: California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001-2801

RECEIVED March 28, 2006
MAR 28 2006

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

ATTENTION: Gary Trimm

**SUBJECT: CLARIFICATION RELATED TO PUBLIC WORKS PLAN
AMENDMENT FOR CHANNEL ISLANDS HARBOR IN
VENTURA COUNTY AND THE JANUARY 23, 2006 LETTER
FROM JOHN JOHNSTON TO THE CALIFORNIA COASTAL
COMMISSION**

Gentlemen:

We previously submitted comments on a Public Works Plan Amendment (PWPA) for the Channel Islands Harbor. Those comments were in a letter dated January 11, 2006. Our comment letter supported a full evaluation of the Harbor and its usage through a PWPA on the Harbor as a whole.

The Ventura County Executive Officer sent you a response to that letter dated January 23, 2006. We did not receive a copy of that letter directly. One of the District residents happened to be reviewing some of the Commission's files and saw a copy of the letter. That individual then provided a copy of the letter to the District. A couple of the comments contained in Mr. Johnston's letter should be clarified.

First, the second paragraph implies that the Channel Islands Beach Community Services District or some of its Board Members "have been adamant that additional public service uses not be established further on the west side of the harbor." The District has not taken any action nor passed any resolution against such development. The one issue where this may be misinterpreted is the Boating Instruction and Safety Center. The Board has always supported the establishment of a Boating Instruction and Safety Center, but they did request an alternate location be more rigorously evaluated. The Channel Islands Beach Community Services District Board of Directors are environmentally sensitive and want all projects to be developed in conformance with sound environmental principals.

The second issue relates to the 20-foot extension of docks into the main channel of Channel Islands Harbor. The wording in the amendment does not limit that 20-foot extension to the Channel Islands Harbor Marina. Other marinas implementing this same

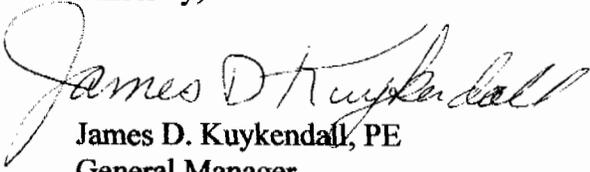
approach could effectively reduce the channel by 20 feet on each side of the channel. This would reduce the channel width by at least 40 feet. There could be an even greater restriction if boats are allowed to tie to the outside of the pier extensions.

We are even more concerned about the County statement in that same paragraph indicating that the potential for increased congestion was evaluated in relation to a different project and that evaluation is therefore not necessary in relation to this project. This again indicates piecemeal approval of Harbor projects and demonstrates why thorough project evaluation including environmental review is so critical if projects are truly going to meet the full range of public benefit goals. When evaluating multiple projects, they may not appear significant when viewed individually; but when evaluated together, they can have significant adverse effects.

We again urge the evaluation of the Public Works Plan for the Channel Islands Beach Harbor be a comprehensive review of Harbor improvements. This should include a review of the best locations for all of the various proposed recreational uses and the evaluation process should be integrated to make the best possible use of this valuable resource.

If you should have any further questions, you may reach me at the District offices during regular business hours at (805) 985-6021. Thank you for your consideration in this matter.

Sincerely,



James D. Kuykendall, PE
General Manager

cc: Board of Directors
John Mathews
Ventura County Board of Supervisors
John Johnston, Ventura County Executive Officer
Lyn Krieger, Ventura County Harbor Department



The proposed 20-foot dock extension would result in the extension of docks to approximately the buoy line shown in the photos above.

**Exhibit 22
PWPA 1-05 & NOID 1-06
20-ft Dock Extension**



Some of the existing docks are in poor condition.

Exhibit 23
PWPA 1-05 & NOID 1-06
Existing Dock in Poor Condition