

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

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Request Filed: 8/9/96

Staff: AJP-LB

Staff Report: 8/1/96

Hearing Date: 10/8-11/96

Commission Action: 7/11/96

Th 11a+6 PETE WILSON, Governor



STAFF REPORT: REQUEST FOR RECONSIDERATION

APPLICATION NO.: 5-95-144R and 4-95-112R

APPLICANT: County of Los Angeles Department of Beaches and Harbors

AGENT: Stan Wisniewski, Roger Osenbaugh

PROJECT DESCRIPTION FOR NO. 5-95-144R: Request for reconsideration of the Commission's decision to deny a permit for the installation of 16 sunshelters and 16 information kiosks at seven County owned or operated beaches.

PROJECT LOCATION FOR NO. 5-95-144R: Will Rogers State Beach, Venice Beach, Dockweiler State Beach, Royal Palms County Beach, and Cabrillo State Beach, in the City of Los Angeles, Redondo State Beach, in the City of Redondo Beach, Torrance Beach, in the City of Torrance, in the County of Los Angeles (South Central Coast District).

PROJECT DESCRIPTION FOR NO. 4-95-112R: Request for reconsideration of the Commission's decision to deny a permit for the installation of 3 sunshelters and 7 information kiosks at five County beaches.

PROJECT LOCATION FOR NO. 4-95-112R: Nicholas Canyon County Beach, Zuma County Beach, Point Dume State Beach, Malibu Surfrider State Beach, and Las Tunas State Beach, in the City of Malibu; Los Angeles County and Topanga State Beach in the County of Los Angeles (South Coast District).

COMMISSION ACTION AND DATE: Denial. July 11, 1996

PROCEDURAL NOTE.

The Commission's regulations provide that at any time within thirty (30) days following a final vote upon an application for a coastal development permit, the applicant of record may request that the Commission grant a reconsideration of the denial of an application, or of any term or condition of a coastal development permit which has been granted. Title 14 Cal. Code of Regulations Section 13109.2.

The regulations state that the grounds for reconsideration of a permit action shall be as provided in Coastal Act Section 30627 which states:

The basis of the request for reconsideration shall be either that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter or that an error of fact or law has occurred which has the potential of altering the Commission's initial decision.

APPLICANT'S CONTENTION:

The applicant contends that errors of fact and law occurred at the hearing which have the potential of altering the Commission's initial decision and that there is relevant new information that was not presented at the Commission hearing.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission deny the request for reconsideration.

STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

I. Denial of Reconsideration

The Commission hereby denies the request for reconsideration of the proposed project on grounds that the applicant has not presented any new relevant evidence, which in the exercise of reasonable diligence could not have been presented at the hearing, nor has there been an error of fact or law which has the potential of altering the Commission's initial decision.

II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Reconsideration Request

The applicant requests a reconsideration of two permits denied by the Commission. At the July 11, 1996 Commission hearing the Commission denied permits: 5-95-144 and 4-95-112 (Los Angeles County Dept. of Beaches and Harbors). Permit application #5-95-144 was described as follows:

Installation of 16 pre-fabricated shelters ("Sunshelters") with benches, and 16 informational kiosks along the beach area. The structures will either be installed on new cement pads or on existing pads. The structures will contain panels for advertising and public service messages. At least one panel on each sunshelter and three sided kiosk and at least two panels on each four sided kiosk will be reserved for public service messages.

The project was located on seven Los Angeles County owned or operated beaches. The seven County beaches included Will Rogers State Beach, Venice Beach, Dockweiler State Beach, Royal Palms County Beach, and Cabrillo State Beach, in the City of Los Angeles, Redondo State Beach, in the City of Redondo Beach, and Torrance Beach, in the City of Torrance,.

Permit application #4-95-112 was described as follows:

The installation of 3 pre-fabricated shelters with benches on cement slabs (Sunshelters) and 7 kiosks. Two sunshelters are proposed at Zuma County Beach and one sunshelter is at Topanga State Beach. There are two kiosks proposed at Zuma Beach and one kiosk at each the other five subject

beaches listed above. The project also includes the removal of the sunshelter at Las Tunas Beach, and the relocation of the sunshelter from the sandy beach to an area surrounded by existing paving at Topanga State Beach. The panels of the sunshelters and kiosks will contain both advertising and public service messages.

The project was located on five Los Angeles County Beaches. The five beaches included Nicholas Canyon County Beach, Zuma County Beach, Point Dume State Beach, Malibu Surfrider State Beach, and Las Tunas State Beach, in the City of Malibu; Los Angeles County and Topanga State Beach in the County of Los Angeles.

The County's petition for reconsideration (attached as Exhibit 1) contends that there were "errors in fact or law" which were stated by the Commission, Commission Staff, and by the public during the hearing, and relevant new evidence that could not have been presented at the hearing, which have the potential of altering the Commission's initial decision.

#### B. Applicant's Grounds for Reconsideration

As stated the applicant is requesting a reconsideration on the grounds that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter and that errors of fact and law had occurred which have the potential of altering the Commission's initial decision. Listed below are summaries of the County's contentions and Commission's staff responses (see County's attached letter for a complete written description of each of the County's contentions).

#### Error in Fact

##### 1. County's Contention

The County asserts that it was misrepresented at the hearing (orally and in writing) that the County never indicated that it needed revenue generated from marketing programs, such as the Sun Shelters, to operate the eight State beaches that were transferred to County ownership under AB909, and that the County has other sources of revenue available to fund ongoing maintenance and replacement of beachgoer amenities (see contentions #1, page 2; #3, page 3; #6, page 4 of County petition). The County asserts that this information is incorrect and that the revenue generated by the project was needed to maintain the beaches.

#### Staff Response

The County refers to Ms. Bowen's July 8, 1996 letter addressed to Chairman Louis Calcagno and her public testimony at the July 11, 1996 Commission hearing. The letter was presented to the Commission by staff as an addendum item (see Exhibit A of County's letter). At the hearing the County provided the Commission a rebuttal to Ms. Bowen's contentions regarding this issue and explained the County's public service marketing program and the need for generating additional revenues. Furthermore, staff attached a letter from the County addressed to Ms. Bowen's office, dated June 20, 1996 (Exhibit #13 of staff report for #5-95-144). The letter in part explains the County's public

service marketing programs and the need for additional revenue. Moreover, the staff report stated that the revenue generated by the program would be used to help support the County in providing safe and clean beaches. Thus, the issue of the County's need for revenue to maintain its beaches was thoroughly addressed in writing and in oral testimony during the hearing. The County had an opportunity to present its views on this issue. Furthermore, the County's need for the revenue is not relevant to a determination of the project's consistency with Chapter 3 of the Coastal Act and the Commission did not rely on this information to reach a decision. The source for funding for the beach amenities was not a bases for evaluating the project. This information may have been presented and discussed by the Commission to gain an understanding of the County's funding of the project, however, the project was evaluated based on the Chapter 3 policies of the Coastal Act. Furthermore, there is no evidence in the Commission's discussion that the Commission did not understand the County's need for additional funding to operate the County beaches. Therefore, there was no error in fact on the part of the Commission that would have altered the Commission's initial decision.

## 2. County's Contention

The County asserts that the Commission believed that an acceptable substitute for the County's marketing programs could resemble Caltrans' Adopt-a-Highway (AAH) program. The County states that the complete highway sign used to advertise the AAH program is actually 7' wide by 4' long, which is larger than the advertising panel on the Sun Shelters and Directories. Additionally, the County states that the AAH program does not generate revenue, but only results in cost avoidance. Therefore, the County asserts, it was erroneous for the Commission to assume that an AAH program on the beach could substitute for the County's Sun Shelter/Beach Information Directory Programs (see contention #2, page 3 of the County's petition).

## Staff Response

The Commission denied the project due to the project's overall individual and cumulative visual impact on the surrounding beach. The Commission discussed possible alternatives to reduce the visual impact of the project including eliminating the kiosks and allowing only a few of the structures in selected locations. The Commission found that the project, as proposed, would add to the visual clutter of the beach and would adversely impact the visual resources of the area. Therefore, the Commission found the project inconsistent with the Chapter 3 policies of Coastal Act.

Whether the Commission had an accurate understanding of the AAH program is irrelevant. The Commission reviewed the project's impacts and feasible alternatives. The Commission did not deny the project on the basis that a AAH program would be a feasible alternative. There is no evidence that the Commission's denial of the project was in anyway based on a belief that a program similar to the AAH program would be a feasible, less damaging alternative. Although there were comments made comparing the County's program with Caltran's AAH program there was no error in fact on the part of the Commission that would have altered their decision.

3. County's Contention

The County asserts that during the hearing, the Sun Shelters/Directories were constantly referred to as "billboards" which was a misleading designation and an error in fact (see contention #4, page 3 of County's petition).

Staff Response

Ms. Bowen's letter and some of the Commissioner's did use the term "billboard" in their comments regarding the structures because of the size of the advertising that was part of the shelters and kiosks. The Commission was provided a verbal and written description of the structures, detailed drawings, photographs, and were shown slides at the May 1996 hearing of the existing shelters. Therefore, the Commission was aware that the structures were not billboards but were structures that provided advertisements along with providing a public service, i.e. shade, a place to sit, and public service type information. The scale of the advertisements was provided to the Commission through the slides, drawings, and photographs that were presented at the hearing. Therefore, the Commission had available to them adequate and correct information with regards to the structures and advertising to make an informed decision. Therefore, there was no error in fact on the part of the Commission that would have altered the Commission initial decision.

4. County's Contention

The County asserts that the direction given to Commission Staff at the conclusion of the Commission hearing in May on these applications (which was continued to June) was that these programs, as presently designed, were objectionable. Further, the County asserts, the direction given to Staff at the end of the May discussion focused on limiting the current size of the structures and the percentage of the advertising space thereon, not on precluding them as presented altogether (see contention #5, page 3 of County petition).

Staff Response

This assertion is not an assertion of an error in fact or law. The County asserts that Commission staff did not follow the Commission's instructions. Not only is this assertion irrelevant to a reconsideration it is incorrect. Commission staff did revise its recommendation based upon the direction given to staff by the Commission. Staff revised the recommendation by adding a special condition that ensured that any change to the structures, including the number of display panels, would require an amendment to the permit. Although Commission directed staff to examine the possibility of restricting the size and percentage of the advertising a Commission instruction to staff did not obligated it to approve the project subject to conditions to limit the advertising size or number of panels. Furthermore, although advertising was part of the Commission's discussion at the hearing the denial of the project was based on the structures overall individual and cumulative adverse visual impacts on the beach. Therefore, there was no error in fact on the part of the Commission that would have altered their initial decision.

5. County's Contention

The County asserts that it was falsely represented as having jurisdiction over the Venice Pagodas, allowing them to deteriorate and determining to tear them down to make way for Sun Shelters (see contention #7, page 4 of County petition).

Staff Response

During public testimony a resident of the Venice area presented to the Commission testimony that the design of the shelters was inconsistent with the design that was agreed upon by the City of Los Angeles and Venice residents through public workshops for the restoration of the Venice pagodas. Ms. Bowen's letter also makes reference to this claim. During the County's rebuttal period the County responded to these statements regarding the relationship or lack of relationship of the shelters to the pagodas. The County indicated that they had no jurisdiction over the Venice pagodas and in fact it was the responsibility of the City to restore the pagodas and the placement of the sunshelters and kiosks would not interfere with the City's plans. Based on the testimony given by the County the Commission was aware of the County's opinion regarding the design relationship of the pagodas to the County's project and that the sunshelters would not interfere with the City's efforts in restoring the the pagodas. Moreover, once the public testimony was completed this issue was not discussed by the Commission. The Commission's final decision was based on the visual impacts of the project on the beach, not on the relationship between the pagoda and the County's proposed project. Therefore, this is neither new information nor an error of fact.

6. County's Contention

The County asserts that at the July Hearing as well as in the Commission Staff reports the amount of space set aside for advertising on the three-sided Beach Information Directories was described as two-thirds. Actually, the advertising will be limited to only one panel with the other two panels being devoted to public service messages (see contention #8, page 4 of County petition).

Staff Response:

The staff report stated that the three-sided kiosks would have one side reserved for public service messages with the remaining two used for advertising (page 5, first paragraph of #5-95-144; page 3 last paragraph of #4-95-112). At the hearing the County corrected this statement and indicated that the three-sided kiosk would contain two public service panels and one advertising panel; the four-sided kiosk would contain two public service panels and two advertising panels. Based on the County's testimony the Commission was aware of the number of sides that would be devoted to advertising and how many would be for public service messages. Since this information was presented to the Commission at the hearing there was no error in fact.

Errors in Law

7. County's Contention

The County asserts that it does have the legal right to undertake marketing projects on the beaches by virtue of the authority vested in it by the State pursuant to State Government Code Sections 26109 and 26110 (#1, page 4 of County letter).

Staff Response

At the July hearing one of the Commissioner's indicated that the County did not have the right to develop the beaches. The County responded to this statement and expressed their opinion that they did have the right to develop the beaches based on the authority vested to the County by the State. Although this issue was mentioned during public testimony and expressed by one Commissioner this issue was not the bases for the denial. The Commission found that the proposed project would add to the visual clutter of the beach and would individually and cumulatively adversely impact the visual quality of the beach. The denial of the project was based on the visual resource policies of the Coastal Act. Therefore, there was no error in law on the part of the Commission that would have altered the Commission's initial decision.

8. County's Contention

The County asserts that there was tremendous controversy about the meaning of the term "commercial development" in relation to Assembly Bill 909 although this determination is outside the jurisdiction of the Commission's purview and is irrelevant as regards our compliance with the Coastal Act. Such discussion tainted the Commission's decision. Furthermore, the prohibition against commercial development only applies to eight of the beaches the County operates (see contention #2, page 4 and #3, page 5 of County petition).

Staff Response

As indicated by the County there was discussion by the Commission regarding the term "commercial development". The Staff report included a Staff note regarding the project's consistency or inconsistency with this term as it related to Assembly Bill 909. The staff noted that Public Resources Code section 5002.6, applicable to the grant of eight specified beaches to the County from the State, sets forth the following in subsection (e)(1)(A): "No new or expanded commercial development shall be allowed on the granted real property." Staff further noted that there was disagreement on whether this proposed development is "commercial development" as used in the statute. Staff provided the Commission all written comments regarding this issue.

The County also provided a letter and presented public testimony expressing their opinion that their proposal was consistent with the terms of the beach transfer agreement. The County indicated that it was the intent of the Legislature to prevent major restaurants, hotels, or other similar large "commercial developments". The intent was not to prevent the County from raising revenues through their public service programs.

With respect to this issue staff provided the Commission with written comments addressing both sides of the argument of the definition of "commercial development". Although this issue was discussed by the Commission the Commission did not resolve the issue of whether the sunshelters and kiosks are "commercial development" within the meaning of Public Resource Code section 5002.6. Nor did the Commission deny the permit on the basis of the terms of Public Resource Code Section 5002.6. Instead, the Commission denied the permits because it found that the project would individually and cumulatively adversely impacted the scenic quality of the beach area and, therefore, was inconsistent with Section 30251 of the Coastal Act.

As the County points out not all of the beaches involved in the two permit applications were subject to the beach transfer agreement between the State and the County. Of the twelve beaches involved in the two permit applications eight of the beaches were subject to the beach transfer agreement. Through staff comments and the County's testimony the Commission was aware of the fact that not all beaches that were involved in the proposed project were affected by the transfer agreement. The development was denied not based on if this project was or was not considered "commercial development" but on the visual resource policies of the Coastal Act. Therefore, there was no error in law that would have altered the Commission's initial decision.

#### New Information

##### 9. County Contention

The County asserts that the Commission was not aware that the County, at the behest of Commission Staff, had agreed to provide the Commission with the opportunity to place current and pertinent public service messages on the Beach Information Directories and on the Sun Shelters (see contention #1, page 5 of County's petition).

#### Staff Response

It is staff's recollection that the County made the initial offer to staff to provide possible public service space for Commission sponsored activities, such as the beach cleanup. However, regardless of who initiated the offer, during public testimony the County stated that the public service space would be available to the Commission for any of their sponsored activities. Therefore, the Commission was aware of the availability of the public service panels for possible Commission use.

The type of public service messages was not a basis for denial. The Commission denied the project because of the individual and cumulative visual impacts on the beaches. The type of public service messages and the availability to the Commission is not new information since it was presented by the County to the Commission at the hearing.

##### 10. County's Contention

An inquiry was made at the July Hearing about the land use policies

concerning the affected beaches and that beach amenities would be considered accessories and incidental to the primary use of the beaches and not subject to independent local zoning ordinances (see contention #2, page 5 of County petition).

#### Staff Response

During Commission discussion a Commissioner raised the question regarding relevance of the project to the various area's Local Coastal Plans. Commission staff responded by stating that the beach areas involved with this permit did not have certified Local Coastal Plans. Moreover, this information was presented in the staff report. Therefore, this is not new information since it was presented to the Commission at the hearing.

#### 11. County's Contention

The County asserts that it was frequently expressed at the Commission hearings that the applications, if approved, would somehow lead down the "slippery slope" of "commercialization" of the beaches. First, the State legislation authorizing the County to undertake marketing efforts prohibits structures solely for advertising purposes. Second, Los Angeles County is proposing only 22 Sun Shelters and 28 Information Directories along the 31 miles of beaches maintained by the County. Third, the County will guarantee that the current dimensions of the Sun Shelters/Directories will not be enlarged and that the current percentage of advertising space will not be exceeded (see contention #3, page 5 of County petition).

#### Staff Response

The Commission did not challenge the County's ability to undertake marketing programs on the beach. However, when new structures are proposed on the beach the Commission must find that the structures are consistent with the Chapter 3 policies of the Coastal Act. In this particular case the Commission found that the structures, which had advertising on them, individually and cumulatively adversely impacted the visual quality of the beaches. Therefore, the Commission found the proposed project inconsistent with the visual resource policies of the Coastal Act and denied the applications.

The number and density of the sunshelters and kiosks were discussed by the Commission and this information was included in the staff report. Furthermore, the staff report and recommendation included a discussion and conditions regarding future modifications to the structures to ensure that any modifications to the structures would require Commission approval. Therefore, it is evident that the Commission was provided this information in the staff report. Since this information was presented to the Commission it is not new information.

#### 12. County Contention

The County asserts that there were several new Commissioners at the meeting who did not have the benefit of the presentation at the May Coastal Commission meeting and may not have been sufficiently informed of

the content of the County's applications. The Commission may not have been aware that the County had worked in good faith with Commission staff regarding appropriate locations for the structures (see last paragraph, page 6 of County petition).

Staff Response

Although there were new Commissioners at the final July hearing that were not in attendance at the May hearing all Commissioners were provided the staff report and heard public testimony by the County that provided the Commission members an understanding of the issues and the cooperation that occurred between the County and Commission staff. Therefore, this is not new information or information that could not have been presented to the Commission at the hearing.

Conclusion

Based on the above the Commission finds that there is no relevant new evidence or information which, in the exercise of reasonable diligence, could not have been presented at the hearing or that errors of fact or law occurred which had the potential of altering the Commission's initial decision. Therefore, the applicant's reconsideration request is denied.

7457F



**COUNTY OF LOS ANGELES  
DEPARTMENT OF BEACHES AND HARBORS**



**STAN WISNEWSKI**  
DIRECTOR

**KERRY GOTTLIEB**  
DEPUTY DIRECTOR

**RECEIVED**  
JOINT KENDALL  
DEPUTY DIRECTOR

August 8, 1996

**Peter Douglas, Executive Director**  
California Coastal Commission  
245 West Broadway, Suite 380  
Long Beach, CA 90802-4416

<b>EXHIBIT NO.</b>	<i>1</i>
<b>Application Number</b>	<i>5-95-144R and 4-95112R</i>
<b>County letter for recon-</b>	<i>sideration plus attachment</i>
California Coastal Commission	

Attention: Teresa Henry, Pam Emerson, Susan Friend and Al Padilla

**REQUEST FOR RECONSIDERATION  
APPLICATIONS #4-95-112 AND #5-95-144**

Dear Mr. Douglas:

The Los Angeles County Department of Beaches and Harbors requests reconsideration of California Coastal Commission permit applications #4-95-112 and #5-95-144.

**Summary of Grounds for Reconsideration**

The permits were denied on a 5 to 4 vote in favor of the programs with two abstentions. This result may have occurred in part due to confusion as to procedural rules of the Commission. Further, program opponents provided misleading and factually inaccurate information in both oral and written testimony as to the factual and legal bases for the action that was requested.

Of note, Assemblywoman Debra Bowen sent a letter of objection to the Coastal Commission dated July 8, 1996 (attached as Exhibit A and hereinafter referred to as "Bowen letter") which was never received by our office. In fact, we were not aware of its existence until Commission Staff advised our representatives upon their arrival at the July 11, 1996 Hearing. Had we received a copy of the Bowen letter with time to adequately review it, we would have realized the gravity of her misstatements (and that Commissioners had this misinformation) and, thus, would have been prepared to address the issues raised in more definitive terms. Therefore, we respectfully request that prior to any future appearances before the Commission regarding these applications, we receive all opponents' communications in a timely manner.

### **Description of Program Benefits**

The Sun Shelter Program has provided clean and sponsor-maintained visitor-serving facilities for the past four years, where users have enjoyed a retreat from the sun and a resting place. With implementation of the Beach Information Directory Program, both our local users and tourists will be provided with useful information regarding the beaches they are visiting, as well as important public education information, such as the damages of storm drain run-off, marine animal care, or how to survive if caught in a rip current. The Coastal Commission will also have an opportunity to place public information on the Directories.

In addition to the amenities themselves, the Sun Shelter Program has provided and the Beach Information Directory Program will provide revenue to the County for use in maintaining the beaches at present service levels. **We note in this regard that the revenue received from the beaches operated by the County does not offset the costs to maintain these beaches.** Thus, these two programs will assist the County in providing over 60 million visitors with a safe, clean, and user-friendly environment while they recreate at some of the most famous beaches in the world.

### **Background of County Marketing Effort**

The Department of Beaches and Harbors met the California taxpayers' Proposition 13 challenge by proactively developing public-private partnerships that provide, first and foremost, a public service and, second, a revenue stream that can support and maintain the beach operations of the County. Because of our success, the Department of Beaches and Harbors serves as *the* role model for other government agencies, including the State of California, with respect to public sector marketing efforts. In fact, we were recognized by the National Association of Counties in 1990 and 1994 for several of our marketing programs. Also, we have lent our expertise to other states and governmental agencies to assist them in designing programs which provide public amenities and maintain services without increasing the taxpayer load.

Please consider the following errors in fact and law, as well as new information, as grounds for reconsideration of the permit applications:

### **Errors in Fact**

1. It was misrepresented that the County never indicated that it needed revenue generated from marketing programs such as the Sun Shelters to operate the eight State beaches that were transferred to County ownership under AB909. *Sources: Bowen letter, p. 3, 1st paragraph; Bowen's public testimony from July 11th.* Contrary to these misrepresentations, the County did inform Bowen and other legislators in

correspondence dated June 7, 1995 from Chief Administrative Officer Sally Reed that such revenue was required for the County to operate those beaches. *See the attachments to Sally Reed's letter of June 7, 1995, the entirety of which is attached hereto as Exhibit B.*

2. It was stated that an acceptable substitute for the County's marketing programs could resemble CalTrans' Adopt-a-Highway (AAH) program, which was believed to use a smaller sign to acknowledge sponsors. *Source: Bowen's testimony at the 7/11/96 meeting.* In fact, the complete highway sign used to advertise the AAH program is actually 7' wide by 4' long, which is **larger** than the advertising panel on the Sun Shelters and Directories. Additionally, there exists a misimpression that the State receives benefits analogous to those offered to the County through our Sun Shelter and Beach Information Directories Programs. In fact, the State's AAH program does not generate revenue, but only results in cost avoidance. Therefore, it is an error to assume that an AAH program on the beach could substitute for the County's Sun Shelter/Beach Information Directory Programs, which will generate up to \$600,000 annually for beach operations. **It can not be emphasized enough that this revenue is critically important to maintaining present beach operations.**
3. It is an error in fact to assume that our present beach services will not suffer if we do not receive the revenue from these programs. *Source: Bowen letter, last paragraph, p. 2.* Realistically, services *will* be negatively impacted if we lose the revenue. As indicated previously, **there is a net County cost incurred in operating these beaches, even with the Sun Shelter revenue presently received by the County.**
4. The Sun Shelters/Directories were constantly referred to as "billboards". *Source: Bowen letter and testimony/discussion at 7/11/96 meeting.* This is a misleading designation and an error in fact for three reasons: **(a)** a billboard is a free-standing sign that has no other purpose than to advertise; **(b)** the primary purpose of the programs is **not** to advertise, but rather to provide a place to sit/rest out of the sun and to provide public information and education about the coastal area; and **(c)** the advertising industry has a specific definition for billboards which includes signs ranging from 72 to 1200 square feet, whereas our advertising panels are only 1/3 (one-third) the size of the smallest billboard, and only 13% of the total Sun Shelter area is devoted to advertising.
5. It was stated at the July Hearing that the direction given to Commission Staff at the conclusion of the discussion in May on these applications was that these programs as presently designed were objectionable. The direction given to Staff at the end of the May discussion focused on limiting the current size of the structures and the

percentage of the advertising space thereon, not on precluding them as presented altogether.

6. It was stated at the July Hearing that 1992's County Proposition A and its successor on the 1996 ballot serve as evidence that alternate sources of revenue are available to fund ongoing maintenance and replacement of beachgoer amenities. It can not be assumed that these measures offer such relief. The measures provide one-time only dollars for projects meeting the definition of "capital outlay projects" and are for finite amounts. They are not replacement vehicles for providing ongoing operational dollars. The County has no monies available to maintain these programs.
7. The County was falsely represented as having jurisdiction over the Venice Pagodas, allowing them to deteriorate and determining to tear them down to make way for Sun Shelters. *Source: Bowen letter, page 2.* In fact, the City of Los Angeles has jurisdiction of the Venice Pagodas, *not* the County, and the County makes no decisions whatsoever with respect to their deterioration, existence or otherwise.
8. At the July Hearing as well as in the Commission Staff reports (pages 4 and 5, respectively), the amount of space set aside for advertising on the three-sided Beach Information Directories was described as two-thirds. Actually, the advertising will be limited to only one panel with the other two panels being devoted to public service messages.

#### **Errors in Fact/Law**

1. The County does have the legal right to undertake marketing projects on the beaches by virtue of the authority vested in it by the State pursuant to State Government Code Sections 26109 and 26110, unlike what was suggested at the July Hearing.
2. Throughout the July Hearing and in the Bowen letter, there was tremendous controversy about the meaning of the term "commercial development". Though this determination is outside the jurisdiction of the Commission's purview and is irrelevant as regards our compliance with the Coastal Act, we believe that the issue nevertheless tainted the discussion regarding our Sun Shelter and Information Directory Programs. Therefore, we wish to note that, although Bowen was the sponsor of AB909, she incorrectly represented herself as being the author of the phrase "commercial development" in that legislation, thereby lending weight to her interpretation of the term. In fact, Assemblyman Kuykendall had authored a previous bill, AB504, from which the language of AB909 was mainly taken, including the phrase "commercial development". This term means a prohibition against

establishments such as restaurants and hotels, rather than as precluding our marketing programs. The California State Department of Parks and Recreation has indicated that it does not consider the placement of the Sun Shelters/Directories on the transferred beaches to be commercial development. This was affirmed at both the May and July Hearings by the representative from that State Department who sits on the Coastal Commission.

3. Also important, regardless of the correct legal and factual interpretations of "commercial development", the prohibition against commercial development only applies to eight of the beaches the County operates. The majority of Sun Shelters and Directories are/would be on beaches other than those transferred pursuant to AB909. Moreover, the Sun Shelters were present on the beaches before their transfer and, thus, can not be considered new development in violation of AB909.

#### **New Information**

1. The County does not believe that the Commission was aware that the County, at the behest of Commission Staff, had agreed to provide the Commission with the opportunity to place current and pertinent public service messages on the Beach Information Directories; the County will also make this opportunity available in the space allotted for public service messages on the Sun Shelters.
2. An inquiry was made at the July Hearing about the land use policies concerning the affected beaches. Generally speaking, since these beachgoer amenities would be considered accessories and incidental to the primary use of the beaches, they are not subject to independent local zoning ordinances.
3. The concern was frequently expressed at both Commission Hearings that these applications, if approved, would somehow lead down the "slippery slope" of "commercialization" of the beaches. First, the State legislation authorizing the County to undertake marketing efforts prohibits structures solely for advertising purposes. Second, Los Angeles County is proposing only 22 Sun Shelters and 28 Information Directories. Along the 31 miles of beaches maintained by the County, this averages to 1 Shelter every 1.4 miles and 1 Directory every 1.1 miles across this urban beach landscape. In reality, there are very few proposed Sun Shelter/Directory structures and no more will be placed on Los Angeles County beaches other than those for which we are presently seeking permits. Third, the County will guarantee that the current dimensions of the Sun Shelters/Directories will not be enlarged and that the current percentage of advertising space will not be exceeded.

**Request for Reconsideration**

**August 8, 1996**

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In closing, we offer a final thought. There were several new Commissioners at the meeting who did not have the benefit of the presentation at the May Coastal Commission meeting and may not have been sufficiently informed of the content of our applications. They might also not have been aware that we have been working in good faith with Commission staff since 1994 as to the Sun Shelters and 1995 as to the Beach Information Directories regarding appropriate locations for these structures. We have agreed to every request of Commission Staff and have expended tremendous resources to ensure our compliance with the Coastal Act. In turn, we hope the Commission will now agree to our request for reconsideration.

Very truly yours,

*Kerry Gottlieb for*  
Stan Wisniewski, Director

SW:KG:WP:wp

Attachments

STATE CAPITOL  
P.O. BOX 048043  
SACRAMENTO, CA 95814-0021  
(916) 445-0222

18411 GREENWAY BLVD.  
SUITE 200  
TORRANCE, CA 90504  
(916) 222-4291

Email: [lawrence@coastal.ca.gov](mailto:lawrence@coastal.ca.gov)

**Assembly  
California Legislature**  
**DARRA BOWEN**  
ASSEMBLYWOMAN, FIFTY-THIRD DISTRICT

Representing the communities of El Segundo, Hermosa Beach,  
Loyola, Manhattan Beach, Miramar, Redondo Beach, Rancho Palos Verdes, Torrance,  
Venice, and Westchester

COMMITTEES:  
VICE CHAIR, JUDICIARY  
PUBLIC SAFETY  
HUMAN SERVICES

Exhibit A

**RECEIVED**

JUL 08 1996

CALIFORNIA  
COASTAL COMMISSION

July 8, 1996

Mr. Louis Caloagno, Acting Chairman  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219  
FAX: (415) 904-5400

Dear Mr. Chairman:

I am writing to urge you and your fellow commissioners to unanimously reject Permit Number 5-95-144, which would allow Los Angeles County to install 16 pre-fabricated shelters and 16 informational kiosks along the beach area.

Last September, the state agreed -- over my initial objections -- to turn over the title to eight state-owned beaches to Los Angeles County at the County's insistence. That transfer was accomplished via Assembly Bill 909 (Bowen), Chapter 472, Statutes of 1995.

During the negotiations over the title transfer, I was very concerned about the potential to both commercialize the beaches and to commercially develop the property. I was, and still am, opposed to such commercialization, which is why AB 909 was specifically drafted in the manner that it was.

I note with some surprise a memo from your South Central Coast Commission staff to all Coastal Commissioners that references opinions by Ms. Patricia Megason and Mr. Ken Jones, both with the state Department of Parks & Recreation. The portion of the memo that I find to be the most mis-leading is as follows:

"Ms. Megason and Mr. Jones confirmed to the Commission staff that the intent of the statute was to prohibit the development of restaurants and other similar projects which would result in the sale of a product on the beach. It was not the Legislature's intent to prohibit the continued marketing that Los Angeles County practices with the use of advertisement on structures on the beach. They consider the proposed kiosks and sunshelters as marketing structures and are not a commercial development according to their interpretation."

I was also involved in the negotiations over the beach transfer issue and, with all due respect to the Commission staff, Ms. Megason, and Mr. Jones, I am the author of Assembly Bill 909, which accomplished the transfer. I can tell you without reservation that it was my intent and the intent of the Legislature to prohibit any and all commercial development, including that which L.A.

Mr. Louis Calcagno, Acting Chairman  
 July 8, 1996  
 Page 2

County is now proposing. The concept of commercialization was discussed over and over again, and I repeatedly emphasized my opposition to allowing the eight beaches that were the subject of AB 909 to be commercialized with billboards and advertisements.

As you'll note, AB 909 added Public Resources Code 5002.6 (e)(1)(A) to state that:

"No new or expanded commercial development shall be allowed on the granted real property."

Placing a permanent sunbelter or kiosk-type of structure that generates revenue on these lands, whether it is for a private company or for the County officers, is commercial development. Therefore, the proposal contained in Permit Number S-95-144 is in violation of PRC 5002.6.

I'm sure you're aware of the fact that Los Angeles County has a detailed marketing plan to generate revenue from the beaches. I don't object to a majority of those proposals because in those cases, either the county is receiving something that it would otherwise have to pay for (garbage cans, vehicles, tires, lifeguard uniforms, etc.) in exchange for a small advertisement, or the advertising is incidentally mentioned on items that already exist or have to be on hand (lifeguard towers, parking ticket stubs, bike racks, etc.). That's why the language of AB 909 was not written to prohibit these types of arrangements and why these types of marketing and sponsorship arrangements were encouraged by the bill.

However, in the case of the kiosks and sunbelters, it appears to me that the primary reason they are being installed is to sell advertising space. The County isn't receiving anything for free that it would otherwise have to pay for to maintain the beach, nor are these items critical to the safe and efficient operation of the beach. The kiosks, for example, are cash cows, commercialization with a completely unnecessary "map" of the beach and information regarding the flora and fauna that are indigenous to the area. That's why I object to the proposal that's currently before you and why AB 909 was written to explicitly prohibit this type of development.

It's my understanding that on Venice Beach, the proposed sunbelters with commercial advertising will replace historical pagodas that were allowed to deteriorate by the County. This is in contravention to the wishes of many community members who worked on a comprehensive plan to restore the oceanfront, which has been approved by a Los Angeles city commission and will soon be for you for review. Why weren't the pagodas maintained or replaced? I understand one reason is because the pagodas had a tendency to be vandalized, but one would assume that advertising billboards will be subject to more vandalism attacks than the pagodas, not fewer.

Los Angeles County, in its proposal to you, has argued that the revenue generated by these billboards is necessary for it to maintain the proper level of service on the beaches and to keep them clean for tourists and visitors. Of course, this is the same argument that every governmental

Mr. Louis Calzaghe, Acting Chairman  
July 8, 1996  
Page 3

entity, whether it's local, state, or federal, uses to justify every tax, every fee, and every assessment.

This demand for more revenue to maintain the current standards on the beach is in direct contradiction to what the County assured me just last September, which was that it would not commercialize the beaches in order to provide the level of service that the public is used to. Furthermore, the state provided the County with a \$4.5 million subsidy when it acceded to the County's demand for the beaches. For the County to now threaten that the beaches will be littered with hypodermic needles and the like if it doesn't get the revenue that these billboards will generate a mere ten months after agreeing to the conditions imposed by AB 909 is disturbing.

My biggest concern in authoring AB 909 was that when the \$4.5 million subsidy runs out in 1998, Los Angeles County would be back in front of the Legislature, demanding that the development restrictions be loosened so that the County could raise money. But L.A. County hasn't waited three years to make this demand. It's waited a mere ten months to attempt to avoid the commercialization restrictions imposed by the Legislature, seeking the California Coastal Commission's imprimatur on its plan to turn the beaches into cash cows.

I know I don't have to remind Commission members that Los Angeles' beaches are a major economic resource, drawing tourists from around the world who pour millions of dollars into local businesses each year. People don't go to the beaches to soak up more advertising or to be bombarded by billboards. They go to the beaches in part to get away from the commercialization that invades their daily lives.

For all of these reasons, I urge you to reject Permit Number 5-95-144.

Thank you for your attention to this matter. I look forward to appearing before you at your meeting on July 11, 1996.

Sincerely,



Debra Bowen  
Assemblywoman, 53rd District  
(D-Torrance/Marina del Rey)

cc: Members, California Coastal Commission  
Mr. Peter Douglas, Executive Director  
Mr. Jeff Stump, Legislative Coordinator  
Los Angeles County Board of Supervisors

Exhibit "B"



**COUNTY OF LOS ANGELES  
CHIEF ADMINISTRATIVE OFFICE**

713 KENNETH HAHN HALL OF ADMINISTRATION/LOS ANGELES, CALIFORNIA 90012  
(213) 974-1301

**SALLY R. REED**  
CHIEF ADMINISTRATIVE OFFICER

June 7, 1995

The Honorable Debra Bowen ✓  
Assemblywoman, 53rd District

The Honorable Tom Hayden  
Senator, 23rd District

The Honorable Robert G. Beverly  
Senator, 27th District

State Capitol  
P.O. Box 942849  
Sacramento, California 942849-0001

Dear Assemblywoman Bowen, Senators Hayden and Beverly:

**COUNTY AND STATE NEGOTIATIONS FOR OPERATION OF STATE BEACHES**

This is in response to your recent correspondence regarding transfer of responsibility to the State of California for lifeguard and maintenance services on eight State beaches within Los Angeles County. In addition to providing responses to specific questions which you have raised with regard to service levels, costs, and qualifications, Exhibits A and B summarize, to the best of our knowledge, differences between State and County service levels and the basis for the County's request for financial participation from the State.

By way of background, obtaining financial support for operation of both State and city beaches within Los Angeles County has been a longstanding priority of the Board of Supervisors. Please be assured that we feel a deep responsibility to the public to provide the most cost-effective quality lifeguard and maintenance services within available funding.

The County did not request ownership of the eight State beaches; as indicated in Exhibit C, this was a proposal offered by the State Department of Parks and Recreation in lieu of a cost-sharing plan for continued County operation of the State beaches. The Board of Supervisors' instructions were to maximize cost recovery and develop appropriate partnerships, which was the basis for the \$1.89 million funding request to the State. This amount was based on the minimum local cost the State would incur to provide basic beach operations, with the County providing the cost of regional services such as 911 dispatch, back-up lifeguard support units, rescue boat/specialized rescue

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JUN 10 1995

Honorable Debra Bowen, et.al.

June 7, 1995

Page 2

service and administration. The County provides a broad level of lifeguard and maintenance service to urban high use beaches, which includes high offshore boat activity and offshore boat rescue to Catalina Island.

Should you have further questions or require additional clarification, please contact Staff Chief Deputy Stephen C. Sherrill of the Los Angeles County Fire Department at (213) 881-2406.

Sincerely,

  
SALLY R. REED  
Chief Administrative Officer

SRR:LMJ

DS:mmg19

Attachments

c: Each Supervisor  
Fire Department  
Department of Beaches and Harbors  
Steve Juarez

## **Answer to Questions Asked by Assemblywoman Bowen**

*While L.A. County was asking the State for \$1.5 million annually to help run the eight beaches in question, we understand that overall, it costs the County more to run the beaches than it would the State. Why is that? What is the total dollar amount that you estimated it would cost to operate the eight beaches in 1995-96, prior to the State's action on May 3rd?*

The County provides a higher and broader level of service than the State, serving urban, high-use beaches with offshore boating activity, and offshore boat rescue to Catalina Island. Exhibit A details the differences between the State and the County in lifeguard and maintenance services. Exhibit B details the financial basis for the County's request for a cost-sharing arrangement for continuation of these services.

The State provides a professional level of service within its own service delivery philosophy; however, examples of the services that the State does not provide are as follows:

- Twenty-four hour, year-round 911 dispatch coverage of the beaches.
- EMT-1 and EMT-D certified service which allows for the use of intravenous lines and automatic defibrillation.
- Lifeguard Support Units which provide back-up during rescues to maintain coverage and response capability for multiple or simultaneous rescues.
- Six year-round rescue boats and three additional back-up rescue boats during summer months for daytime operations such as rescues beyond the surf line, rescues of vessels in distress between the coast and Catalina Island, and recovery of beached vessels to allow full salvage.
- Off-season lifeguard coverage on beaches during periods of non-seasonal hot weather, i.e., between January and June.
- During the summer season beach lifeguard coverage during daylight hours are based upon demand, requiring adjustment and staggering of schedules to ensure full coverage.

- Maintenance of beaches as urban beaches. Beaches are frequently cleaned using sanitizers that aerate the sand to eliminate bacterial growth and remove natural and man-made hazards such as glass and cans. Natural debris, such as seaweed and driftwood, is removed regularly.
- Immediate response capability for natural disasters, storms, oil spills, boats aground, and other emergencies utilizing off-highway equipment and skilled operators.
- Carcasses of marine animals are removed or buried for public health reasons as soon as the County is notified.
- Public conveniences are more frequently cleaned and repaired.
- Special cleaning and sand contouring for filming and events such as volleyball tournaments.

Taking into account the total system--lifeguards and beach maintenance--which includes capabilities and requirements unique to an urban beach system that has over 50 million visitors a year, the cost of the eight State beaches, which has over 10 million visitors a year, is \$5.1 million with revenue of approximately \$800,000 or a net of \$4.3 million. This is anticipated to be the 1995-96 cost, as well.

*How, in your view, will the lifeguard, public safety, public health, and environmental standards differ under state management plan?*

The County has not seen an operations plan from the State as yet; therefore, we can only assess differences by what we generally know about the State's operations in other areas. Initial comparisons indicate that the essential differences in service delivery between the State and the County are that previous County levels of lifeguard services, public safety, public health, and environmental standards may be compromised due to the following:

- There is no longer a continuity of beaches under one governing body, thereby causing fragmentation of services and patchwork jurisdiction.
- The higher level of service on County-operated beaches adjacent to State-operated beaches may complicate service delivery. The County cannot subsidize the State with after-hours or off-season rescues, but may be compelled to by moral obligation. Liability and gift of public funds issues will arise.

- A lower level of maintenance on adjacent State beaches may impact County beaches.
- Beach visitors may expect the County to address problems on State beaches such as rescues; removal of hazards, debris, and carcasses; or cleanup of public conveniences.

***What level of training do L.A. County's lifeguards possess? How does that level compare with State's lifeguards?***

In addition to standard lifeguard rescue training, permanent County Lifeguard staff possess one or more of the following:

- EMT-1 and EMT-D certification are mandatory for all permanent staff. EMT-D certification includes 164 hours of training, which is substantially more than the State's advanced first aid and cardiopulmonary resuscitation (CPR) requirement. EMT-D training includes trauma evaluation and prevention, cervical and spinal injuries, triage, administering oxygen, airway management, monitoring intravenous lines, and defibrillating patients in cardiac arrest.
- Boat rescue personnel assigned to Catalina Island are certified paramedics.
- All personnel assigned to boats have U.S. Coast Guard endorsements for offshore boat towing and commercial boat operator licenses.
- More than 90 percent of the County's permanent lifeguard staff are dive qualified with 40 possessing instructor status. Dive teams are maintained for dive rescues and body recovery. Dive team rescues are part of the County's regional responsibility.
- All permanent lifeguard staff hold Swift Water Technician I Certifications with 45 holding Swift Water Technician II Certification and 18 are Instructors. These personnel are utilized during heavy storm activity.
- All rescue boat personnel are certified for marine fire fighting and rescue.
- A substantial percentage of permanent lifeguard personnel are certified for cliff/vertical, specialized, and technical rescue which is essential in some of the State-operated areas of Malibu.

Although some individuals have independently acquired some of these skills, the State's seasonal or permanent lifeguards are not required to possess or maintain the above certifications and training. Therefore, it is our feeling that the standard of service provided by Los Angeles County Lifeguards, who are trained and certified to perform multiple functions, deliver a higher level of service.

***What level of beach coverage did LA. County propose to provide? How does that compare with the coverage levels that the State will be providing?***

The County proposed to provide its prevailing level of lifeguard and maintenance service to the eight State beaches in question. It is against the County's philosophy and District obligations to provide differing service levels to the beaches it serves. As previously stated, since we have not seen an operations plan from the State it is difficult to compare coverage levels.

***Please list the entry level, average, and top salaries for the LA. County lifeguards that were employed on the eight State beaches. Please break all expenses out by lifeguard salary, administration, equipment, maintenance, etc. Please indicate the differences, if there are any, between full-time and part-time pay, etc.***

This is an extensive requirement that we would be pleased to provide in additional detail. However, we believe the issue is the share of cost that the County is requesting the State to sustain. In the interest of time, we have structured our reply based on the share of cost the County is requesting.

The \$1.89 million the County originally requested from the State was predicated on the local minimum cost formula attached as Exhibit B. In that formula, the local State share of cost was predicated on State salary equivalents for lifeguards and County salary equivalents for beach maintenance because they were the lowest statewide base salary levels. Similarly, State employee benefit rates were used because they were lower. The result of the formula is to cause the local/State share to reflect a minimum cost level. Any costs above that minimum level, e.g., higher salary and benefits for County lifeguards or the cost for County service levels that exceed the local minimum level, were to be borne by the County. Therefore, the County was not asking the State to fund the County's higher salaries or aspects of its services that are greater than would be provided by the State as a minimum.

***How will L.A. County interact and coordinate its lifeguard operations at the city-owned beaches with lifeguard services provided by the State?***

While we will be able to better address this question when the State shares its plan of operation with us, there are a few knowns. First, the County has provided support, without subsidizing State operations, during the initial 30 day transition period. We have provided radios for State Lieutenants, our 911 dispatch system will refer State beach emergencies to the State, and our boat rescue operations will respond, if requested, to support State response.

The County has no legal responsibility to provide routine or emergency lifeguard services on beaches which it does not own or operate. Due to the laws and policies governing use of County funds and the need to have reciprocal relationships, it is difficult to support State operations as the State does not provide the same level of service. For example, if there is a rescue need in a State area such as Manhattan Beach after normal operating hours, the County would respond upon request only. 911 calls will be referred back to the jurisdictional agency, e.g., Manhattan Beach. The problem is that in responding to the State area, the State cannot reciprocate as it does not maintain an equal level of after-hours response capability. Unequal service provision becomes a problem as the County would be subsidizing the State. In addition, if County lifeguards continue to respond to calls for assistance on State beaches, the provision of such services will expose the County to potential liability it would otherwise not have.

Based on the information available to date, it is not clear that the State can provide reciprocal lifeguard services, both in terms of availability and training, so as to warrant a mutual aid agreement for lifeguard services. However, agreements providing for appropriate compensation and indemnification for the County could be developed to make County lifeguards available for emergencies on State beaches.

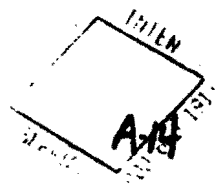
***An article in the April 28th edition of the Los Angeles Times makes mention of offers of Federal assistance to the State. Is there anything you can tell us about those offers?***

Unfortunately, no. As we understand it, the Federal assistance may already be provided based on State parks area and population served.

***Last December, the State proposed transferring ownership of the beaches to the County - a move that Federal authorities and we have serious reservations about - but now the State has moved to maintain ownership and take over the management of the beaches. What led to this change in policy?***

In a series of actions that began on June 15, 1993, the Board of Supervisors ordered that a proactive and cooperative effort be made to establish partnerships with the State and various coastal cities to increase County revenue and maximize cost-sharing by the State and cities. Pursuant to Board instructions, notices were given that the County intended to terminate its services to the State on July 1, 1994 and to the cities on April 1, 1995. A one-time only payment of \$1,030,000 committed to by the State for fiscal year 1994-95 provided for a six month extension to allow time for negotiations. In December 1994, the State Department of Parks and Recreation advised us that they were not in a position to provide ongoing funding, and proposed instead that the State and County pursue transfer of eight State beaches to the County of Los Angeles. This option was presented to the Board of Supervisors at that time, and County staff were directed to evaluate accepting ownership of the State beaches through negotiations with State Parks and Recreation. The State beach operating agreement was extended from December 31, 1994 through April 1, 1995, and the Board of Supervisors approved funding to continue operations for those three months. County staff proceeded to negotiate and submitted an application for a Boating and Waterways grant.

- The Department of Boating and Waterways denied the County's grant application in February 1995 advising us that we did not meet the original intent of the law, as well as citing limitations on their funding abilities. Subsequent contacts with the Resources Agency resulted in reconsideration of our grant application.
- On March 21, 1995 the Board of Supervisors considered an "Agreement in Principle" for transfer of the eight State beaches; however, there was considerable discussion as well as concerns expressed by the Board on the matter. At that time County staff were directed to pursue extension of the State beach operating agreement to May 2, 1995 in order to allow further time for ongoing negotiations and to address concerns raised by the Board.
- Determining the potential for a Boating and Waterways grant led to working with the Boating and Waterways Commission which informally agreed to \$1 million but formally acknowledged it would be difficult to achieve. The Board of Supervisors could not accept ownership of the beaches without some assurance of funding, due to a projected \$600 million budget shortfall.



- The Board reconsidered the "Agreement in Principle" on April 11, 1995. At that time, they approved discontinuing services to State-owned beaches effective May 2, 1995 pursuant to the existing agreement, and instructed County staff to negotiate with the State to identify ongoing funds for long-term beach maintenance and lifeguard operational costs. The Board of Supervisors also directed the County's legislative advocate to undertake legislation to fund the County's operating costs on these State beaches.
- In an effort to resolve the funding issue, contacts with the Resources Agency and the Boating and Waterways Commission were made by the County. An offer from the Resources Agency was discussed, which included \$1.0 million from Boating and Waterways, and \$0.5 million from State Parks and Recreation. This proposal was submitted for Board consideration on April 25, 1995.
- The Board of Supervisors had little confidence in the informal agreement from Boating and Waterways, as the one-time only funding of \$1,030,000 agreed upon in June 1994 has not been received. At their meeting of April 25, 1995, the Board determined that transfer of the State beaches be contingent upon the State guaranteeing funds in the amount of \$1.5 million for three years beginning in fiscal year 1995-96, as well as a long term funding formula for State beaches, equitable and fair for both Los Angeles County and the State of California; and extended the State Beach operating agreement termination date from May 2, 1995 to November 1, 1995, contingent on a guarantee or receipt of \$1.5 million from the State for operations until November 1, 1995 to allow for further negotiations. The Board further instructed County staff to report back on the status of negotiations at the meeting of May 1, 1995.
- It is our understanding that the State Department of Parks and Recreation, at this point, decided to assume operation of the State beaches, and informed the Chairman of the Board of Supervisors of this in correspondence dated April 28, 1995.
- Contacts prior to the May 1, 1995 Board meeting encouraged the Board to again modify its position to keep the dialogue open to determine if common ground could be achieved with the County resuming service. County Counsel also opined that the County could not rescind the termination notice for May 3, 1995 without State concurrence, and indications from the State were that it was not open to any further extension or rescission of termination by the County.

- At the May 1, 1995 Board meeting, Mr. Ken Jones, Deputy Director of the State Department of Parks and Recreation, advised the Board of Supervisors that, to his knowledge, there was no offer of \$1.5 million.

There continues to be an ongoing dialogue between the State and the County on this matter.

***As we understand it, the April 25, 1995 motion approved by the Board asked for \$1.5 million in State money to fund the beaches until November 1, 1995, at which time the County will be prepared to negotiate a longer plan that includes the County taking ownership of the beaches. Is the County adamant about taking ownership of the property? Why was the County only discussing a six month - not a three year - agreement at that point?***

First, taking title to the eight State beaches was never a requirement of the County; nor is it today. This was a proposal offered by the State Department of Parks and Recreation, based on their position that they could not fund or subsidize County beach operations as this would set a precedent for other agencies. However, the State Department of Parks and Recreation agreed that the County could seek other State supportive funding. From the County's point of view, taking title to the beaches is not required if the State agrees to a cost-sharing plan.

Given the foregoing discussion regarding the delayed receipt of the \$1.03 million and the lack of a written offer from the State, there was some lack of confidence that the State would honor the funding request should the State Legislature decide that transferring the State beaches to the County was unwise. The solution was to ask for \$1.5 million for the service delivered through November 1, 1995, by which time, approval or denial by the State Legislature would be known, thus, allowing for negotiation of final funding support solutions or State assumption of service after the peak beach season.

## LIFEGUARD SERVICE LEVELS

Issue	L.A. County	State
Philosophy	Public safety on urban high- use beaches.	Public safety tailored to use needs.
Funding	<del>As</del> Marketing, grants, Fire District property tax revenue in District areas, and General Fund.	Requested deficiency funding for 1994-95 of up to \$7 million and \$4 million for ongoing operation. Operating adjustments may be required to fund cost.
Defibrillation	All certified and regularly trained.	None
Emergency Medical Technicians, Defibrillator Qualified	All E.M.T. certified and trained to monitor I.V.'s. Several are also paramedics.	E.M.T. not required. Some have pursued training on their own.
911 Requires 24-hour Response	911 dispatch and response located at Zuma, Santa Monica, and Hermosa.	Limited
Lifeguard Reserves	551 trained and tested seasonal employees.	Held rookie swim May 7, 1995; training required.
Rescue Vessels	Six year-round and 3 auxiliary. Will respond to any emergency and is subject to nighttime call-outs. Will tow vessels off the beach as part of duties.	None permanently assigned to Santa Monica Bay. Not certified to tow vessels off the beach (charged by a private towing company). Not certified for marine fire fighting.
Night Response	Immediate response. Tied into the 911 system; 2 lifeguards staffed at 3 different locations (they volunteer 8 hours per day at each location). Designated lifeguards carry beepers to facilitate back-up.	Designated State lifeguards are available for night calls until 1 a.m.
Dive Team	16-member team with 8 auxiliary divers. Respond to downed airplanes, sinking vessels, divers in distress, and body recoveries.	No dive team. Few of the boat operators the State has are SCUBA qualified.
Ordinance Enforcement	Voluntary compliance.	Written citations.

## LIFEGUARD SERVICE LEVELS

Issue	L.A. County	State
Back-up / Support Units	Lifeguard Support Units are assigned to Zuma, Santa Monica and Hermosa; designed to back-up every major emergency and existing area Units. Lieutenants respond and are Incident Commanders.	Limited back-up. A Lieutenant can respond to major emergencies.
Cross Training	Cross training regularly conducted with the Coast Guard and Fire Department in order to maintain the highest level of coordinated emergency response.	State will need to establish cross training and relationship with local agencies.



**EXHIBIT B**

**COUNTY OF LOS ANGELES - BEACHES & HARBORS AND FIRE DEPARTMENTS  
1994-95 ESTIMATED STATE BEACH COSTS**

	Costs Assigned as Owner Responsibility					Additional Costs to be Borne by County				
	*Lifeguards	**Beach Maintenance	Total	Revenue	Net Cost	*Lifeguards	**Beach Maintenance	Total	Revenue	Net Cost
<b>STATE BEACHES</b>										
Dan Blocker	\$110,000	\$52,000	\$162,000	\$0	\$162,000	\$183,000	\$25,000	\$208,000	\$11,000	\$197,000
Las Tunas	32,000	36,000	68,000	0	68,000	38,000	19,000	57,000	6,000	51,000
Malibu	111,000	182,000	293,000	91,000	202,000	246,000	91,000	337,000	28,000	309,000
Manhattan	506,000	339,000	845,000	142,000	703,000	746,000	185,000	931,000	83,000	848,000
Point Dume	126,000	224,000	350,000	189,000	161,000	322,000	113,000	435,000	99,000	336,000
Redondo	155,000	221,000	376,000	0	376,000	229,000	110,000	339,000	17,000	322,000
Royal Palms	5,000	46,000	51,000	0	51,000	152,000	27,000	179,000	19,000	160,000
Topanga	89,000	145,000	234,000	66,000	168,000	186,000	76,000	262,000	30,000	232,000
<b>Total State Beaches</b>	<b>\$1,134,000</b>	<b>\$1,245,000</b>	<b>\$2,379,000</b>	<b>\$488,000</b>	<b>\$1,891,000</b>	<b>\$2,102,000</b>	<b>\$646,000</b>	<b>\$2,748,000</b>	<b>\$293,000</b>	<b>\$2,455,000</b>

↑  
marketing +  
permit revenue

\*Fire Department Lifeguard Division

\*\*Beaches and Harbors Maintenance

4-20

## **FIRE DEPARTMENT/DEPARTMENT OF BEACHES AND HARBORS MAJOR POINTS**

Local costs are intended to be competitive with the minimal cost the State and cities would incur to provide beach services. As a result, the following guidelines were used to develop local costs:

- State salary rates were used primarily for Fire Department positions because the State salary rates are lower.
- Beaches and Harbors (B&H) salary rates were used for B&H positions because the B&H rates are lower.
- State EB rates were used for permanent positions in both Departments because the State rates are lower.
- State EB rates were used for recurrent positions in the Fire Department because the State rates are lower.
- B&H EB rates were used for recurrent positions in B&H because the B&H rates are lower.

★ Parking, concession, and direct payment revenues were included in local revenues as they are specific to individual beaches and would be available to the State or cities if they were to take over beach services. Similarly, permit, marketing, and public works revenues were included as regional revenues as they are not specific to individual beaches and would not be available if the State or cities were to take over beach services.

- For the purposes of this analysis, the State beach costs reflect twelve months of costs, although only six months of costs were budgeted. For the additional six months funding, a similar rationale was used to develop local vs. regional costs.

SEARCHED INDEXED  
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# **FIRE DEPARTMENT - ESTIMATED COSTS**


SERVICE	LOCAL MINIMAL SERVICE LEVEL	OTHER/REGIONAL COSTS
RECURRENT OCEAN LIFEGUARDS	<ul style="list-style-type: none"> <li>-- Reflects labor costs for temporary lifeguards manning the towers, based on: <ul style="list-style-type: none"> <li>- State salary rate of \$11 per hour.</li> <li>- State employee benefit (EB) rate of 18.8% for State beaches.</li> <li>- State EB rate of 10% (arbitrary cap) for city beaches.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>-- Reflects the difference between the County's actual salaries and employee benefits (S&amp;EB) rates and the State rates used to calculate local costs, based on: <ul style="list-style-type: none"> <li>- County salary rate of \$18.95 per hour.</li> <li>- Department EB rate of 15.7% (27.7% for Avalon).</li> </ul> </li> <li>-- Reflects staff for County beaches and State tidelands.</li> </ul>
SENIOR OCEAN LIFEGUARDS (SOL)	<ul style="list-style-type: none"> <li>-- Reflects labor costs for permanent SOLs, based on one SOL for every eight lifeguard towers, and: <ul style="list-style-type: none"> <li>- State salary rate of \$39,072 per SOL (annual).</li> <li>- State EB rate of 31%.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>-- Reflects the difference between the County's actual S&amp;EB rates and the State rates used to calculate local costs, based on: <ul style="list-style-type: none"> <li>- County salary rate of \$43,380 per SOL (annual).</li> <li>- Department EB rate of 42.2%.</li> </ul> </li> <li>-- Reflects additional SOLs (13.4 pos) not included in local costs for State/city beaches.</li> <li>-- Reflects staff for County beaches and State tidelands.</li> </ul>
LIEUTENANTS	<ul style="list-style-type: none"> <li>-- Reflects labor costs for permanent lieutenants, based on one lieutenant for every 16 lifeguard towers, and: <ul style="list-style-type: none"> <li>- State salary rate of \$42,864 per lieutenant (annual).</li> <li>- State EB rate of 31%.</li> </ul> </li> <li>-- Reflects additional 1/2 lieutenant for Santa Monica Beach due to heavy beach attendance and added coordination requirements.</li> </ul>	<ul style="list-style-type: none"> <li>-- Reflects the difference between the County's actual S&amp;EB rates and the State rates used to calculate local costs, based on: <ul style="list-style-type: none"> <li>- County salary rate of \$62,592 per lieutenant (annual).</li> <li>- Department EB rate of 42.2%.</li> </ul> </li> <li>-- Reflects additional lieutenants (0.4 pos) not included in local costs for State/city beaches.</li> <li>-- Reflects staff for County beaches and State tidelands.</li> </ul>
RESCUE BOATS	<ul style="list-style-type: none"> <li>-- Reflects labor costs for permanent SOLs (2) and lieutenants (2) assigned to rescue boat/paramedic services in Avalon only, based on: <ul style="list-style-type: none"> <li>- State salary rate of \$39,072 and \$42,864 for SOLs and lieutenants, respectively (annual).</li> <li>- State EB rate of 31%.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>-- Reflects 1) the difference between the County's actual S&amp;EB rates and the State rates used to calculate local costs for Avalon, and 2) labor costs for permanent SOLs and lieutenants assigned to rescue boat services for all beaches, excluding Avalon, based on: <ul style="list-style-type: none"> <li>- County salary rate of \$47,380, \$62,592 and \$66,072 for SOLs, lieutenants and Supervising lieutenants, respectively (annual).</li> <li>- Department EB rate of 42.2% (67.6% for Avalon).</li> </ul> </li> <li>-- Reflects additional SOL and lieutenant for Avalon not included in local costs (0.8 pos).</li> <li>-- Reflects staff for County beaches and State tidelands.</li> </ul>

## FIRE DEPARTMENT - ESTIMATED COSTS

SERVICE	LOCAL MINIMAL SERVICE LEVEL	OTHER/REGIONAL COSTS
DISPATCH/ EMERGENCY SUPPORT (911 CALL CARS)	<ul style="list-style-type: none"> <li>-- Reflects labor costs for SOLs and lieutenants providing dispatch services, based on:                             <ul style="list-style-type: none"> <li>- County salary rate for Fire Dispatcher of \$32,263 (annual).</li> <li>- State EB rate of 31%.</li> </ul> </li> <li>-- Reflects 12 staff (4 staff per beach) to provide 24-hour service for the State, Los Angeles, and Santa Monica beaches, and one staff for Hermosa Beach.</li> </ul>	<ul style="list-style-type: none"> <li>-- Reflects the difference between the County's actual S&amp;EB rates for ocean lifeguards, SOLs, and lieutenants and the Fire Dispatcher rate used to calculate local costs, based on:                             <ul style="list-style-type: none"> <li>- County composite salary rate of \$51,089 (annual).</li> <li>- Department composite EB rate of 42.1%.</li> </ul> </li> <li>-- Reflects additional staff (12.0 pos) not included in local costs for State/city beaches.</li> <li>-- Reflects staff for County beaches and State tidelands.</li> </ul>
OTHER SUPPORT	<ul style="list-style-type: none"> <li>-- Reflects labor costs for three program heads (captain) (one program head per beach) for the State, Los Angeles, and Santa Monica beaches, based on:                             <ul style="list-style-type: none"> <li>- State salary rate equivalent to a captain of \$46,980 (annual).</li> <li>- State EB rate of 31%.</li> </ul> </li> <li>-- Reflects services and supplies (S&amp;S) and other support costs based on a 20% flat rate of total local S&amp;EB costs.</li> </ul>	<ul style="list-style-type: none"> <li>-- Reflects the difference between the County's actual S&amp;EB rate for captain, and the flat rate for S&amp;S/other support costs used to calculate local costs, based on:                             <ul style="list-style-type: none"> <li>- County salary rate of \$75,248.</li> <li>- Department EB rate of 42%.</li> </ul> </li> <li>-- Reflects additional staff (24.5 pos) not included in local costs for State/city beaches.</li> <li>-- Reflects staff for County beaches and State tidelands.</li> </ul>

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# DEPARTMENT OF BEACHES AND HARBORS - ESTIMATED COSTS

SERVICE	LOCAL MINIMAL SERVICE LEVEL	OTHER/REGIONAL COSTS
<b>GROUNDS MAINTENANCE</b>	<ul style="list-style-type: none"> <li>-- Reflects labor costs for Grounds Maintenance Worker Is and IIs, Custodians, and General Relief Drivers, based on: <ul style="list-style-type: none"> <li>- County salary rates for these positions, which is lower than the State salary rates.</li> <li>- State EB rate of 31% for permanent positions and the County EB rate of 9.8% for temporary positions.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>-- Reflects the difference between the Department's actual EB rate for permanent positions and the State EB rate used to calculate local costs, based on: <ul style="list-style-type: none"> <li>- Department EB rate of 35.6%.</li> </ul> </li> <li>-- Reflects staff for County beaches and State tidelands.</li> </ul>
<b>EQUIPMENT OPERATORS</b>	<ul style="list-style-type: none"> <li>-- Reflects labor costs for Power Equipment Operators, Utility Tractor Operators, Refuse Truck Drivers, Refuse Truck Helpers, and Medium Truck Drivers, based on: <ul style="list-style-type: none"> <li>- County salary rates for these positions, which is lower than the State salary rates.</li> <li>- State EB rate of 31% for permanent positions and County's EB rate of 9.8% for temporary positions.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>-- Reflects the difference between Department's actual EB rate for permanent positions and the State EB rate used to calculate local costs, based on: <ul style="list-style-type: none"> <li>- Department EB rate of 35.6%.</li> </ul> </li> <li>-- Reflects staff for County beaches and State tidelands.</li> </ul>
<b>CRAFTS</b>	<ul style="list-style-type: none"> <li>-- Reflects labor costs for Painter, Plumber, and Senior General Maintenance Workers, based on: <ul style="list-style-type: none"> <li>- County salary rates for these positions, which is lower than the State salary rates.</li> <li>- State EB rate of 31%.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>-- Reflects the difference between Department's actual EB rate for permanent positions and the State EB rate used to calculate local costs, based on: <ul style="list-style-type: none"> <li>- Department EB rate of 35.6%.</li> </ul> </li> <li>-- Reflects staff for County beaches and State tidelands.</li> </ul>
<b>MAINTENANCE SUPERVISORS</b>	<ul style="list-style-type: none"> <li>-- Reflects labor costs for Beach Maintenance Supervisors, based on: <ul style="list-style-type: none"> <li>- County salary rate for this position, which is lower than the State salary rate.</li> <li>- State EB rate of 31%.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>-- Reflects the difference between Department's actual EB rate for permanent positions and the State EB rate used to calculate local costs, based on: <ul style="list-style-type: none"> <li>- Department EB rate of 35.6%.</li> </ul> </li> <li>-- Reflects staff for County beaches and State tidelands.</li> </ul>
<b>MARKETING PROGRAM</b> 	<ul style="list-style-type: none"> <li>-- Not applicable as all costs are considered regional costs.</li> </ul>	<ul style="list-style-type: none"> <li>-- Reflects S&amp;EB and services and supplies (S&amp;S) costs related to the marketing program.</li> <li>-- Costs are allocated based on the revenues generated at each beach.</li> </ul>



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# **DEPARTMENT OF BEACHES AND HARBORS - ESTIMATED COSTS**

SERVICE	LOCAL MINIMAL SERVICE LEVEL	OTHER/REGIONAL COSTS
PARKING OPERATIONS	<ul style="list-style-type: none"> <li>-- Reflects contract payments to parking contractor and labor costs for parking contract monitors for Malibu, Point Dume, Topanga, Dockweiler, Venice, and Will Rogers beaches, based on:                             <ul style="list-style-type: none"> <li>- County salary rates for these positions.</li> <li>- State EB rate of 31%.</li> </ul> </li> <li>-- Costs are allocated based on the revenues generated at each beach.</li> </ul>	<ul style="list-style-type: none"> <li>-- Reflects the difference between Department's actual EB rate for permanent positions and the State EB rate used to calculate local costs, based on:                             <ul style="list-style-type: none"> <li>- Department EB rate of 35.6%</li> </ul> </li> <li>-- Reflects contract payments to parking contractor and labor costs for parking contract monitors for Nicholas Canyon, Torrance/Redondo, White Point, and Zuma beaches, based on:                             <ul style="list-style-type: none"> <li>- County salary rates for these positions.</li> <li>- Department EB rate of 35.6%.</li> </ul> </li> <li>-- Costs are allocated based on the revenues generated at each beach.</li> </ul>
OTHER SUPPORT	<ul style="list-style-type: none"> <li>-- Reflects direct S&amp;S for beach maintenance services.</li> </ul>	<ul style="list-style-type: none"> <li>-- Reflects direct S&amp;S costs for County beaches and State tidelands.</li> <li>-- Reflects S&amp;EB and S&amp;S costs for the following services provided to all beaches: projects/planning, community services, accounting, personnel, and other administrative support functions.</li> </ul>

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