STATE OF CALIFO NIA—THE RESOURCES AGENCY

W10d

PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

RECORD PACKET COPY

Filed: 7/31/96
49th Day: 9/18/96
180th Day: 1/27/97
Staff: TAD-VNT
Staff Report: 9/17/96
Hearing Date: Oct. 8-11, 1996
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-96-060

APPLICANT: Serra Canyon Property Owners Association (SCPOA)

AGENT: Geoff Gee (SCPOA) & Sherman Stacey

PROJECT LOCATION: Cross Creek Road at the intersection of Cross Creek Road and Malibu Creek, City of Malibu, Los Angeles County.

PROJECT DESCRIPTION: Repair and replacement of sections of a concrete "Arizona Crossing" consisting of 23 pre-cast 4' x 12' x 7.5" concrete slabs placed across a 128' section of Malibu Creek which were destroyed or damaged by the Winter floods of 1995. The project also involves the installation of a mechanized automatic gate system on an existing gate located on Cross Creek Road approximately 1/3 of a mile south of the proposed crossing.

APPROVALS RECEIVED: Approval - California Regional Water Quality Control Board; Army Corps of Engineers preliminary approval; Streambed Alteration Agreement (#5-378-95) - California Department of Fish & Game.

SUBSTANTIVE FILE DOCUMENTS: West Coast Steelhead Briefing Package, dated July 1996, prepared by the National Marine Fisheries Service; Alternatives Analysis, dated January 18, 1996, prepared by Robert R. Sims P.E., Inc.; Biologic Survey, dated February 6, 1996, prepared by Lawrence E. Hunt - Consulting Biologist; Malibu Creek Watershed Natural Resources Plan, dated July 1995, prepared by Natural Resources Conservation Service; Malibu/Santa Monica Mountains Land Use Plan, Malibu/Santa Monica Mountains LCP Research Analysis and Appendices; Monitoring Plan for Examining Pool Channel Form and Surficial Fine Sediment Over Time; ENTRIX, Inc., Characteristics of Pool Channel Form and Sediment Over Time, Malibu Creek; ENTRIX, Inc., Malibu Creek Steelhead Habitat Assessment and Recommendations for Fish Passage; ENTRIX, Inc., Significant Ecological Areas of the Santa Monica Mountains Report, Fish and Wildlife Service Status for the Tidewater Goby, dated February 4, 1994, prepared by the U.S. Fish and Wildlife Service.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission determine that the proposed project, as conditioned, is consistent with the requirements of the California Coastal Act. Staff further recommends special conditions regarding; Army Corps of Engineers approval, assumption of risk, and structural maintenance.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

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

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.

6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Required Approvals

Prior to the issuance of a coastal development permit, the applicant shall provide to the Executive Director of the Commission, a copy of a valid U.S. Army Corps of Engineers permit, or evidence that such approval is not required.

2. Assumption of Risk

Prior to the issuance of the coastal development permit, the applicant shall submit a signed document in a form and content acceptable to the Executive Director, which shall provide that: (a) that the applicant understands that the site may be subject to extraordinary hazard from flooding and debris flows, and the applicant agrees to assume the liability from such hazards; and (b) the applicant unconditionally waives any claim of liability on the part of the Commission, and agrees to indemnify and hold harmless the Commission, its officers, agents, and employees relative to the Commission's approval of the project for any damage or destruction due to natural hazards.

3. Structural Maintenance

By acceptance of this coastal development permit the applicant hereby agrees to maintain the structural integrity of the concrete crossing and keep it in a good state of repair, and agrees to recover and repair any sections of the crossing that may become dislodged for any reason. Should such a recovery operation become necessary, prior to the commencement of ant recovery work, the applicant shall be required to submit a plan for recovery to the Executive Director to determine if it is necessary to obtain a additional coastal development permit for such work.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The applicant seeks an after the fact coastal development permit (CDP) for the repair and replacement of an "Arizona Crossing" on Cross Creek Road where it passes through Malibu Creek. The crossing consists of 23 pre-cast 4' x 12' x 7.5" concrete slabs that are placed side to side across a 128' section of the creek. Two existing concrete aprons provide access to the slabs from the banks of the creek. This project is designed to repair and replace a pre-existing crossing, of the same design, that was damaged by intense flooding during the 1994-1995 winter rain season. Six of the slabs used in this repair project existed as sections of the previous crossing. Cross Creek Road is a private road and is the sole street access for 34 residents of Serra Canyon. The California Department of Parks and Recreation, which owns the portion of Malibu Creek affected by this project, has granted an easement to the above referenced 34 residents of Serra Canyon for the use of this crossing.

This project also involves the installation of a mechanized automatic gate, with a communications system, to be connected to an existing gate located on

Cross Creek Road approximately 1/3 of a mile south of the proposed crossing repair. The installation of this system will help to reduce the number of vehicles that cross Malibu Creek, and will limit the access along this private road to primarily the residents of Serra Canyon area and emergency service vehicles. The reduction of vehicular trips across the creek is designed to reduce the environmental impacts automobiles may have on the creek ecosystem. There are no designated public trails on the westside of the creek where the gate will be located. Therefore, the proposed gate will not adversely impact coastal or recreational access or opportunities.

The proposed project site bisects Malibu Creek approximately 1/3 of a mile north of Malibu Lagoon and Pacific Coast Highway. This section of the creek contains a well established riparian corridor consisting of native and non-native exotic vegetation. Malibu Creek is recognized by the Commission as an ESHA. The lower reach of the creek, extending from the lagoon to Rindge Dam, is a significant source of habitat for two Federally and State listed endangered species; the Tidewater Goby (Eucyclogobius newberryi) and the West Coast Steelhead (Oncorhynchus mykiss). The project site is located in this lower reach of the Creek.

Background

On October 27, 1995, the City of Malibu issued an emergency permit to the applicant for the proposed project under Section 30611 of the Coastal Act. This was due to concerns that adequate emergency access was not available to the residents of the Serra Canyon community. This concern developed following a September 12, 1995 letter issued by the Los Angeles County Fire Department which stated that they would not be able to use Cross Creek Road to provide emergency services unless the creek crossing was repaired and a hard bottom crossing of the creek restored. The emergency permit issued by the City of Malibu was conditioned to require the applicant to submit an application to the California Coastal Commission for an after the fact coastal development permit by July of 1996.

As mentioned above, the applicant now seeks a CDP for the partial replacement and repair of a crossing that was damaged by intense flooding during the 1994-1995 rain season. This crossing is an important access route for the Serra Canyon community as it is a) one of two that service the area, b) is the sole legal easement for 34 property owners, and c) is designated as an emergency escape route by the Los Angeles County Fire Department. Due to concerns issued by the Fire Department that the crossing, without the slabs, was not adequate to provide access for fire fighting apparatus the applicant now seeks a permit to replace the concrete "Arizona Crossing" damaged due to flooding. A mechanized gate is also proposed as a part of this project which will limit access across Malibu Creek; however, the mechanized gate will not inhibit access to vehicles providing emergency service to the Serra Canyon area, nor will it prevent the use of Cross Creek Road as an emergency exit route should the need arise. The fire department will be have an access key or code to open the gate in case of an emergency.

Cross Creek Road is an important access route for the Serra Canyon community. The applicant has submitted evidence that indicates that Cross Creek Road has bisected this section of Malibu Creek since at least 1899 (as is noted by the photograph provided in Exhibit 5). The applicant has also submitted a copy of a survey map of the lower section of Malibu Creek from 1913 and a copy of a

1952 map produced by the USGS both of which identify the crossing at its current location (Exhibit 6 & 7). The applicant has further submitted evidence demonstrating that the crossing has been paved and thus has had a hard bottom since at least the 1930's (Exhibit 8). Thus, a hard bottom has been in place at the site since before the Coastal Act. Prior to the development of the Tapia Sewage Treatment Plant, the crossing was paved with concrete when the creek dried up during the summer months; however, since the development of the Tapia Plant, which releases water throughout the year, it has been necessary for the crossing to be constructed as proposed above due to the fact the creek now flows throughout the year.

B. Environmentally Sensitive Habitat Areas.

Sections 30230 and 30231 of the Coastal Act are designed to protect and enhance, or restore where feasible, marine resources and the biological productivity and quality of coastal waters, including streams:

Section 30230

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

Section 30231

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

Section 30233 and 30236 limit the filling of wetlands and streambed alterations to specific circumstances:

Section 30233 (in relevant part)

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following: (remainder incorporated by reference)

Section 30236

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be

limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values:

Section 30240

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

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

Malibu-Cold Creek Resource Management Area:

The Malibu-Cold Creek Resource Management Area is recognized for its various natural resources and unique habitat values. In the Malibu Land Use Plan Research Analysis & Appendices, Malibu Canyon is described as follows:

Malibu Canyon supports outstanding oak and riparian woodlands with an unusually large variety of riparian plant species. Black Cottonwood, California Bay, Leatherleaf Ash, White Alder, Arroyo Willow, Sycamore, Coast Live Oak, Wild Grape and Giant Chain Fern are all abundant. Much of the watershed is remote and undisturbed, particularly the northwest and central portions.

Malibu Creek is biologically distinctive due to the fact that it continues to sustain native steelhead trout populations below the reservoir, as well as many wildlife species declining in numbers, such as mountain lions and golden eagles. Furthermore, the mouth of Malibu Creek supports the only lagoon in Los Angeles County. This area provides a critical refuge for migratory shorebirds and waterfowl and supports populations of at least 18 native fishes.

Malibu Canyon and the lagoon have been subjected to various human impacts including habitat removal, increased siltation, sewage effluent discharge, harassment of wildlife by domestic animals and people, and fragmentation by roads and residences. However, much of the watershed is undisturbed. Development is concentrated in the upper watershed (Monte Nido area) and the lower watershed (vicinity of the Civic Center). The majority of the watershed is dominated by a diverse mosaic of chaparral, coastal sage scrub, grassland and native woodlands.

As is mentioned in the report above, Malibu Creek provides habitat for the steelhead trout (Oncorhynchus mykiss). The status of this species within the Malibu Creek Watershed is currently being reviewed by the National Marine Fisheries Service (NMFS), which may warrant the listing of this species as

endangered pursuant to the Endangered Species Act of 1973 (ESA). A final decision on whether to list the West Coast Steelhead population is expected in 1997 following one year of public comments, a review of scientific data, and a full evaluation of conservation measures aimed at restoring steelhead populations.

The lower reach of Malibu Creek is also home to the tidewater goby (Eucyclogobius newberryi) which is a State and Federally listed endangered species. This species uses the upper end of Malibu Lagoon, a section of the lagoon which is less than 1/4 mile from the development site, as it's primary habitat due to the low salinity levels of this location. In 1990 the California Department of Parks and Recreation reintroduced the tidewater goby to Malibu Lagoon. The tidewater goby is a non-migratory species and its survival in the lagoon is threatened by silty sediments, nonseasonal imported water, pollution, non-native species, reduction of habitat, and breaching of lagoon.

Biological Survey of Project Site:

The applicant has submitted a biological survey of the portion of Malibu Creek associated with the proposed development. This survey, conducted on January 26, 1996, by Lawrence Hunt - Consulting Biologist, found that the project site has established riparian vegetation consisting of native and non-native species which are restricted primarily to the bank of the stream. The depth of the stream flow at this location was 6-8 inches, and flowed at a rate of approximately 5 cubic feet per second (cfs). This flow rate is estimated to be the base flow of the creek; however, this rate can increase to 100-1,000 cfs during major rain fall events, and a flow of as high as 33,800 cfs was recorded in January of 1969. At the time this survey was conducted no fish species were observed. Yet, previous surveys have noted that the lower reaches of Malibu Creek, below Rindge Dam, contain a larger percentage of introduced fish species than those known to occur in the creek naturally.

The survey also indicates that this portion of the creek is considered to be poor to marginal as rearing habitat for steelhead. This is due to the fact that juvenile steelhead are more prone to predation from non-native fish species and could be affected by higher water temperatures that exist in the portion of the creek due a lack of an appropriate canopy of riparian vegetation. It should be noted that although this section of the creek may not be used as rearing habitat, steelhead must pass through this section of the creek in order to reach their preferred habitat which is located at the base of Rindge Dam. The survey also references an assessment of the steelhead habitat of Malibu Creek made by the Santa Monica Mountains Conservancy, which identified four significant barriers to upstream steelhead movement through the length of the creek. The Arizona crossing was not identified as one of these impediments.

As mentioned previously, no tidewater gobies, or any other fish species, were observed during the time the survey was conducted. However, this is not to say that they could not exist at, or adjacent to, the project site. Although gobies typically are associated with shallow, upper end sections of lagoons and estuaries where freshwater inflows maintain reduced salinity, the survey submitted by the applicant notes that in Santa Barbara County gobies have been found in ponded freshwater habitats as far as five miles upstream from the terminal lagoon. It is estimated that over 500 gobies exist in the lower reaches of Malibu Creek and the Malibu Lagoon.

Project Alternatives:

The applicant has submitted the following alternative analysis to address the impacts that other alternative crossing structures would have on Malibu Creek. These alternatives to the proposed design were supplied by the above referenced biologic survey and an Alternative Analysis report, dated February 13, 1996, prepared by Robert Sims P.E., Inc.

A. Abandonment of Existing (proposed) Crossing

The first alternative proposed involves the closing of the existing crossing to all traffic except that required to provide emergency services to the Serra Canyon community. This alternative would have the least environmental impacts of those proposed as it would significantly reduce the chance of pollutants such as oil emissions and brake fluid from affecting water quality. However, the closing of the crossing would significantly increase the amount of vehicular traffic along Serra Canyon Road, and would leave only one emergency access route in and out of the Serra Canyon area. Additionally, the use of Serra Canyon Road is not an option to residents of Serra Canyon as Cross Creek Road is the only deeded legal access for 34 of the properties in the community.

B. Culvert Crossing

This alternative involves the construction of an elevated roadway constructed of earth materials and metal pipes. The roadway would span the stream from bank to bank. It is noted in the biological survey that this type of structure existed at the crossing prior to the use of the current system of concrete blocks. However, this option is not preferred as erosion during flooding is a major problem with this type of crossing. Once erosion begins the structure become unuseable and the various components used to construct the structure, earth and metal pipes, are deposited downstream. It has been further noted that when this type of crossing once was used at the project site it required intensive annual maintenance even during the driest of years. Furthermore, culvert crossings obstruct natural flows and raise the elevation of the streambed upstream of the structure as well as cause scouring and deep pools downstream. These structures can also become significant barriers to anadromous fish movements.

C. Bridge Crossing

This alternative involves the construction of a bridge at the crossing that would span the entire flood plain. However, the Los Angeles County Floodway Map shows that the flood plain of the creek in the lower reach is 600' at it's narrowest point, and that most of the existing development on both side of the creek is within the flood plain. Based on this information, and the fact that the current crossing is only 128' in length, there is no practical way to connect the existing sides of the roadway with a bridge. Furthermore, the construction of a large span bridge across the creek would require the construction of levees on both sides of the creek, and would require the removal of several single family residences located along the sides of the creek.

D. Redesign the Existing (proposed) Crossing

This alternative involves a modification of the existing design by connecting or securing the blocks together with chains or cable. In theory, the advantages of this design are that the impacts upon the creek associated with the use of heavy machinery for retrieval and reinstallation of the blocks within the creek is removed should the blocks become dislodged due to flooding. These impacts include potential impacts to water quality, the stream substrate, and the removal of aquatic and riparian vegetation. To implement this alternative, the individual concrete blocks would be linked together with cables or chains. However, the applicants consultant indicates that heavy flooding could cause the entire structure to become upended on its side which would cause a serious stream obstruction that would divert flows and cause flooding to adjacent properties.

E. Proposed Alternative

The applicant's proposed alternative, as previously stated, involves the construction of an Arizona Crossing consisting of 23 pre-cast 4' x 12' x 7.5" concrete slabs to be placed side to side across a 128' section of Malibu Creek. To avoid bank erosion and flooding of adjacent properties, in case of severe flooding, the blocks would not be secured together. In order to mitigate the impacts of vehicles moving through the streambed, the applicant further proposes the installation of a mechanized gate closing system, with a communications link to area residents, on an existing gate located on Cross Creek Road approximately 1/3 of a mile from the project site. The gate would limit access along the roadway, which is a private road, to primarily residents of the Serra Canyon area and emergency service vehicles. This limited access would help to dramatically reduce the number trips along the roadway, and thus would limit the number of vehicles entering into Malibu Creek on a daily basis.

As mentioned above, the proposed alternative will not adversely impact the migration and movement of steelhead trout within the stream. Further, placement of these concrete structures will result in only very minimal disturbance to the creek and therefore will not adversely impact the endangered Tide Water Gobies. Given the very minimal impacts associated with the proposed project this alternative is the least environmentally damaging alternative.

ESHA Issue Analysis;

As discussed above in detail, this project involves repair and replacement of an existing hard crossing at Malibu Creek. As the paving and hard bottom at this location predates the Coastal Act, certain types of repair and maintenance activities might have been subject to the exemption provisions of Coastal Act Section 30610. Here, however, the repair work involved results in a slight change in the type and size of the materials of the crossing, which precludes the project from being exempt, as do the provisions of 14 C.C.R. section 13252. Thus, a permit is required for the the project. However, due to the unique factual situation present here, where, the hard crossing existed before the Coastal Act, the repair work involved is limited to replacement of preexisting material, and other factors discussed above are present, this project does not present the problem of filling coastal waters or wetlands in contravention of Coastal Act section 30233. By way of contrast, the

construction of a new Arizona crossing across a creek would implicate section 30233. Furthermore, the project is also not precluded by Section 30236 because the stream is not being altered due to the preexisting nature of the hard bottom crossing.

Here, however, the current proposal involves the repair and partial replacement of an existing structure/roadway crossing that was damaged due to severe flooding. As previously stated, the applicant has submitted evidence that this crossing has been in existence since at least 1899, and has submitted copies of survey maps of the Malibu area from 1913 and 1952 which clearly illustrate Cross Creek road bisecting Malibu Creek at its current location. The applicant has further stated that this crossing has been paved on a regular basis since at least 1960, and has submitted a declaration by Louis T. Busch, a resident of the Serra Canyon community, who states that the crossing has been paved since the 1930's. This paving has ranged from the paving of the roadway (streambed) during the summer when the creek dried up, to the paving of the surface of the culvert crossing described above in alternative B. The Tapia water treatment plant, which releases water into Malibu Creek throughout the year, has made it difficult to conduct regular maintenance of the creek. Furthermore, year round flows would create a greater need for maintenance activities if either of the above referenced paving techniques were used due to erosion. The current system of concrete blocks has limited the need for regular maintenance of the crossing, made difficult by continual stream flows, and thus reduces the impact of maintenance activities upon the creek.

The applicant has proposed to gate the western road entrance to the creek in order to limit the number of vehicular trips through the creek crossing to mitigate the adverse impacts associated with vehicles traversing the creek. Oils and other pollutants wash off the vehicles as they traverse the creek resulting in pollutants being introduced into the creek and lagoon ecosystem. These pollutants degrade the creek and lagoon water quality adversely impacting plant and animal species in the creek and lagoon. Gating the western entrance to the creek will minimize traffic trips through this area and will mitigate the above mentioned impacts to some extent.

In order to minimize the potential impacts upon riparian habitat and wildlife the Commission finds it necessary to require the applicant to agree to maintain the structural integrity of the concrete crossing, and to agree to recover, to the greatest extent feasible, any sections of the cross that may become dislodged due to severe flooding, debris flows, or other causes. Furthermore, should such a recovery operation become necessary, the applicant may be required to obtain a coastal development permit prior to the commencement of work dependent upon the methods used for recovery as specified in special condition number 3.

Additionally, the applicant has submitted evidence that the project has received approval by the City of Malibu, the Los Angeles County Fire Department, the California Department of Fish and Game, and the California Regional Water Quality Control Board. These latter two approvals state that the proposed project will not have an impact on the riparian system associated with Malibu Creek, or inhibit the passage of wildlife, including fish, that utilize this habitat. The applicant has also submitted evidence that a U.S. Army Corps of Engineers permit has been applied for, but can not be issued until the project is reviewed by the Coastal Commission. Special Condition No. 1 requires the applicant, prior to the issuance of a coastal development permit, to submit

a copy of a valid U.S. Army Corps of Engineers permit for the proposed project. In summary, the proposed project will not have significant adverse impacts on marine resources or riparian habitat, will maintain water quality, will minimize stream alteration and will not require vegetation removal. Therefore, the Commission finds that the project, as conditioned, is consistent with Sections 30230, 30231, 30233, 30236 and 30240 of the Coastal Act.

C. Flood Hazards Analysis

Section 30253 of the Coastal Act states:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter landforms along bluffs and cliffs.

The proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all vegetation, thereby contributing to an increased potential for erosion, landslide, flooding and debris flows on property.

Due to concerns regarding the effect of flooding upon the proposed project, the applicant's engineering consultant was asked to provide an analysis as to if it would be possible to a) anchor the concrete slabs in place, or to b) chain or connect the slabs with cable to ensure that the slabs would not dislodge as they did in the floods of 1994. The applicant's consultant, Robert R. Sims, P.E., replied to this request in a letter dated June 14, 1996. The letter states that if the above referenced systems were used the slabs could "become twisted and lodged upright, and thus act like a dam which could cause major flooding to the adjacent properties." The consulting engineer indicates that the weight of the concrete slabs will secure the structures to the bottom of the creek except in the case of severe flood events. Any attempt to further secure the concrete slabs to the creek bottom or stream banks result in other destablizing factors as referred to above. Therefore, the proposed structures are designed in assure stability and structural integrity consistent with Coastal Act section 30253.

Due to the potential of extraordinary hazard from flooding and debris flows, the Commission finds it necessary to require the applicant to assume the liability from these associated risks, and any and all claims, demands, damages, costs, and expenses of liability arising out of all activities associated with this project. This responsibility is carried out through the submittal of a signed document in a form and content acceptable to the Executive Director. Additionally, The Commission finds it necessary to require the applicant to agree to maintain the structural integrity of the concrete

crossing, and to agree to recover, to the greatest extent feasible, any sections of the crossing that may become dislodged due to severe flooding, debris flows, or other causes. Furthermore, should such a recovery operation become necessary, the applicant will be required to submit a plan for recovery to the Executive Director to determine if a Coastal Development Permit is required prior to the commencement of work as specified in special condition 3. Therefore, the Commission finds that the project, as conditioned is consistent with Sections and 30253 of the Coastal Act.

D. Local Coastal Program.

Section 30604 of the Coastal Act states that:

> a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for Malibu and the Santa Monica Mountains which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. The proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned , has been adequately mitigated, is the least environmentally damaging alternative and is determined to be consistent with CEQA and the policies of the Coastal Act.

TAD-VNT
2129M

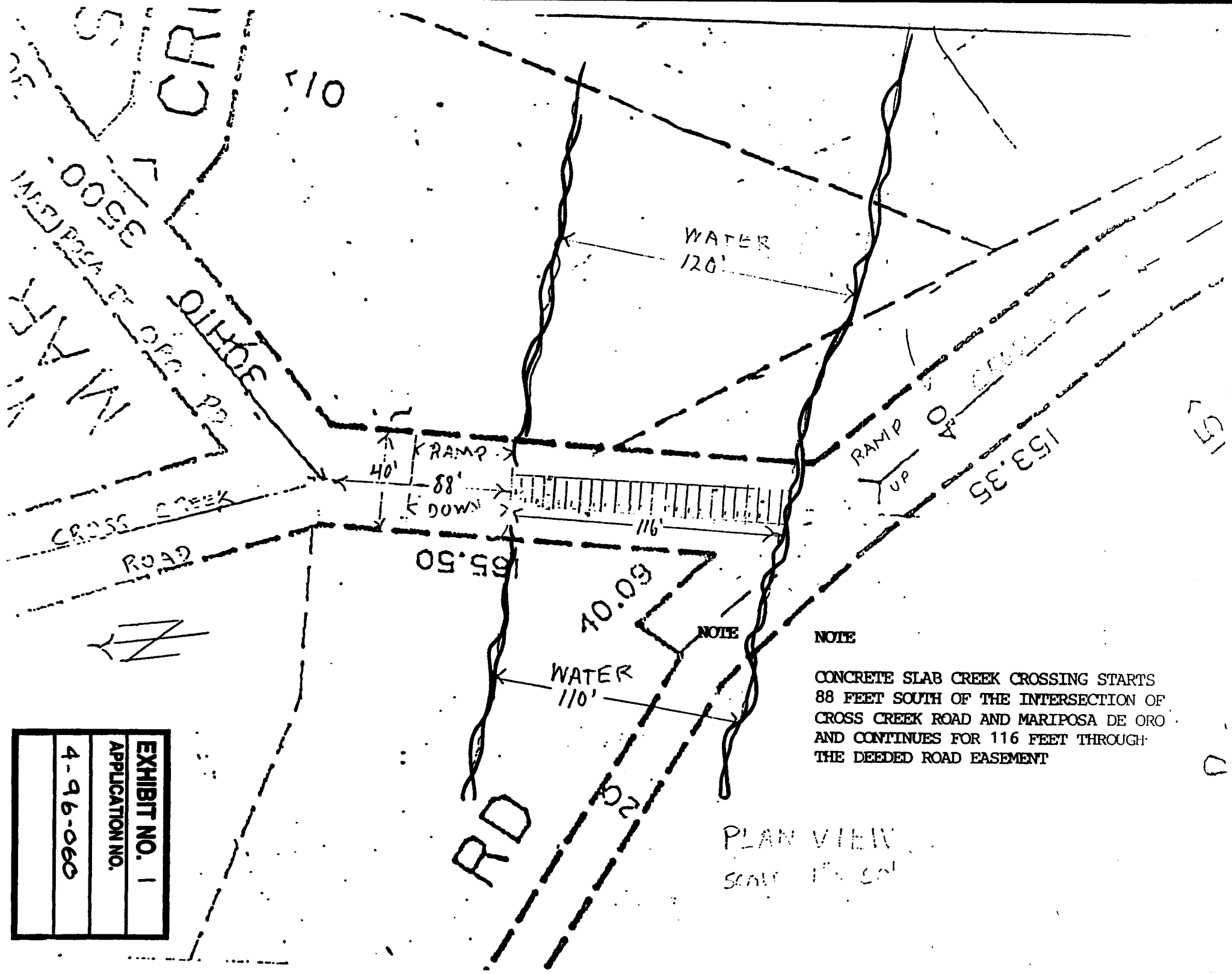
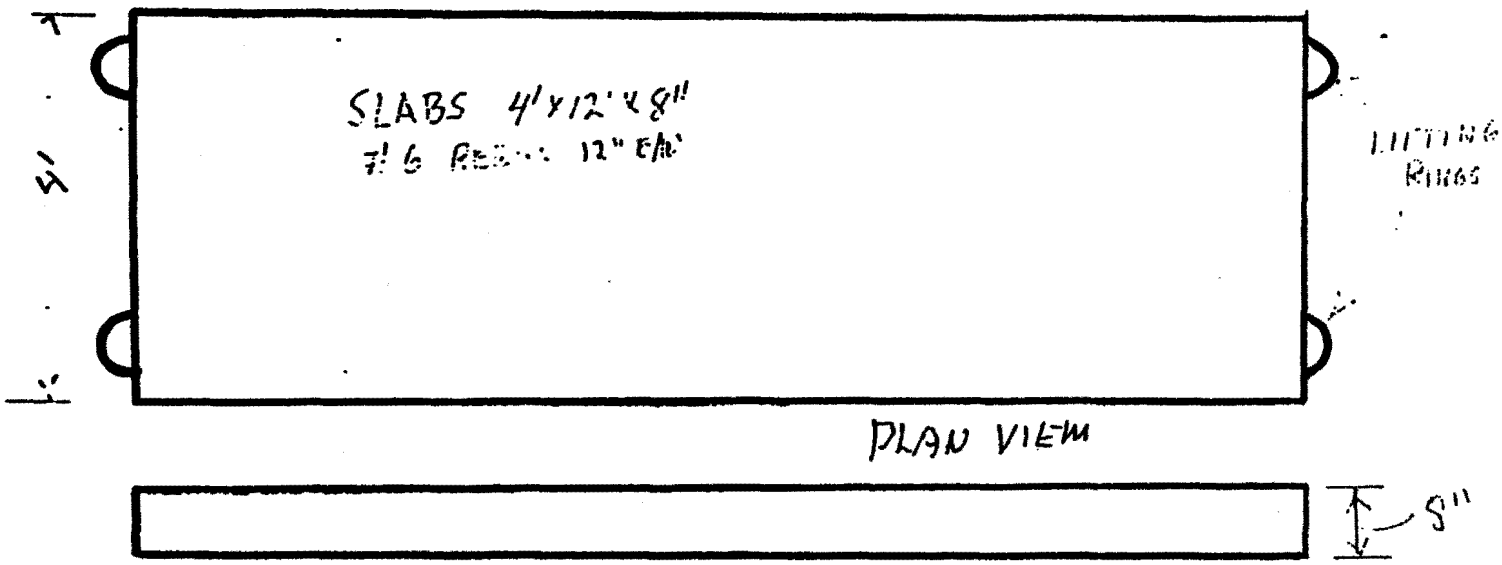


EXHIBIT NO. 1
APPLICATION NO.
4-96-060

NOTES

1, CREEK DEPTH VARIES AT CROSSING SITE FROM, ZERO (DRY) TO UO TO SIXTEEN FEET FROM STORM RUN OFF. UPSTREAM DUMPING FROM THE TAPIA SEWER PLAND APPEARS TO ADD APROX. EIGHT INCHES TO THE DEPTH

2, SLABS ARE SECURED BY GRAVITY AND WEDGING IN PLACE. SHOULD ANY SLABS BRAKE FREE, THEY WILL BE RETREAVED WITH A BACKHOE AND REPLACED AS THEY WERE THIS YEAR. THE ORIGINAL SLABS WERE IN PLACE FOR FOUR SEASONS AND WERE DISLODGED BY WHAT WAS ESTIMATED TO HAVE BEEN A A 100 YEAR STORM



SLAB DETAILS

SCALE 1/2" = 1'

SCALE 1/8" = 1'

CROSS SECTION

EXHIBIT NO. 2
APPLICATION NO.
4-96-060

LAW OFFICES OF
SHERMAN L. STACEY
233 WILSHIRE BOULEVARD
SUITE 510
SANTA MONICA, CALIFORNIA 90401
TEL (310) 394-1163
FAX (310) 394-7841

July 8, 1996

Mr. Troy Alan Doss
California Coastal Commission
South Central Coast Area Office
89 South California Street, #200
Ventura, California 93001

VIA FEDERAL EXPRESS

Re: Serra Canyon Property Owners Association
Cross Creek Road Crossing at Malibu Creek
Application No. 4-96-060

Dear Mr. Doss:

On behalf of Serra Canyon Property Owners Association ("SCPOA"), I am responding to your letter of May 8, 1996, requesting certain evidence on specific matters relating to Application No. 4-96-060 for the Cross Creek Road crossing of Malibu Creek. SCPOA responds to your inquiries as follows:

1. Historic Use of Crossing.

I am enclosing the following:

(a) A photograph dated about 1899 showing a horse and carriage crossing Malibu Creek at the present location of Cross Creek Road proceeding in a north bound direction toward a gate on the northern side of Malibu Creek. Laudamus Hill (the present site of Serra Retreat) can be seen behind the gate.

(b) A copy of a Map of Malibu Creek surveyed in 1913 showing a road in the location of the present Cross Creek Road across Malibu Creek.

(c) A copy of a portion of the 1952 United States Geological Survey map showing Cross Creek Road crossing Malibu Creek in the identical location as the 1913 survey.

LAW OFFICES OF
SHERMAN L. STACEY

These three items show clearly that Cross Creek Road has existed for at least 100 years in its present location. Cross Creek Road has been paved since at least 1960. It has been repaired and repaved regularly since then. I cannot yet determine precisely what periods any particular form of paving may have taken. However, prior to the 1970's, Malibu Creek dried up in the summer allowing repaving in place. Since releases from Tapia Sewage Treatment Plant have created a year round flow, the precast blocks have been used.

2. Stability of Paving Blocks.

I am enclosing a copy of a letter from Robert Sims, SCPOA's civil engineer, concerning the stability of the paving blocks. No stabilization short of massive concrete works will provide a permanently stable road surface. The paving blocks allow the road surface to be repaved or replaced with minimal disturbance to the creek. Attempts to link the paving blocks will not assure stability and risk major changes to flow patterns if dislodged which could harm adjoining property.

I hope this satisfactorily responds to your inquiries.

Very truly yours,

SHERMAN L. STACEY

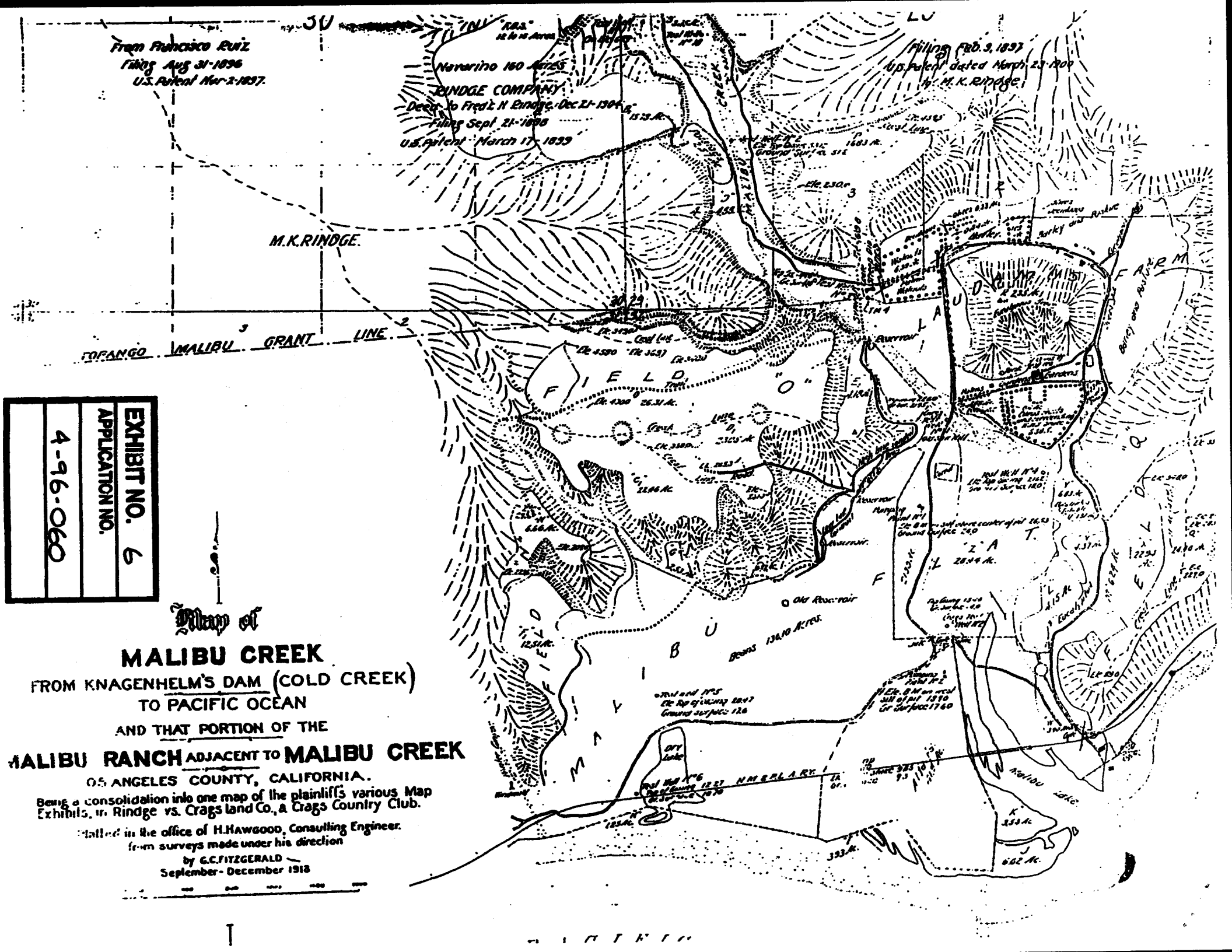
SLS:js

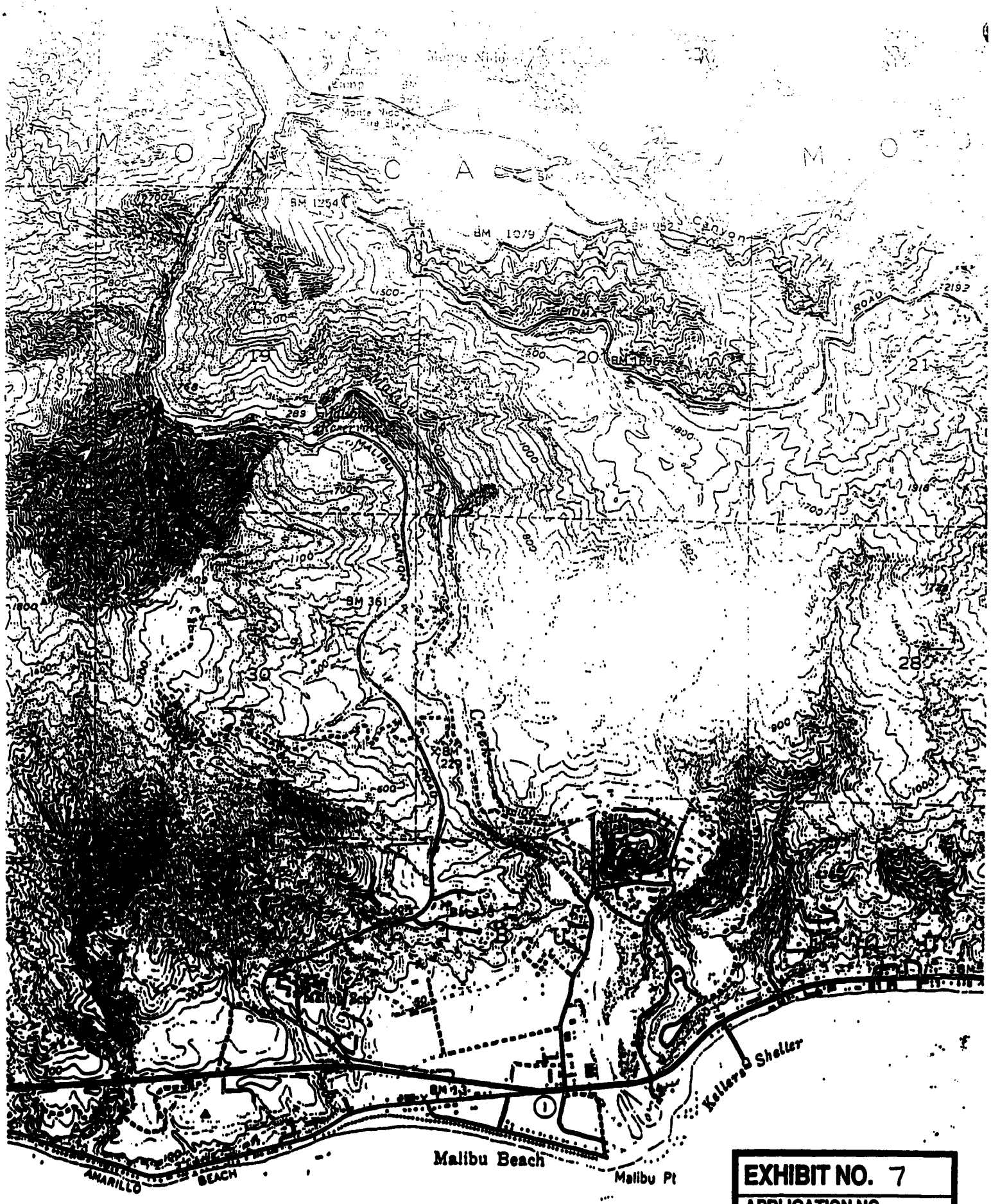
cc: Mr. Geoffrey Gee

[serra\crosscre\doss.ltr]

EXHIBIT NO. 4
APPLICATION NO.
4-96-060

EXHIBIT NO. 5
APPLICATION NO.
4-96-060


From Francisco Ruiz
Filing Aug 31-1896
U.S. Patent Mar 2-1897
Navarino 160 Acres
RINDGE COMPANY
Deed to Fred'k N Rindge Dec 21-1904
Filing Sept 21-1898
U.S. Patent March 17-1899
Filing Feb 9, 1897
U.S. Patent dated March 23-1909
to M. K. Rindge
M.K.RINDGE.
TOPANGO MALIBU GRANT LINE
EXHIBIT NO. 6
APPLICATION NO. 4-96-060
Map of
MALIBU CREEK
FROM KNAGENHELM'S DAM (COLD CREEK)
TO PACIFIC OCEAN
AND THAT PORTION OF THE
MALIBU RANCH ADJACENT TO MALIBU CREEK
LOS ANGELES COUNTY, CALIFORNIA.
Being a consolidation into one map of the plaintiff's various Map Exhibits, in Rindge vs. Crags Land Co., a Crags Country Club.
Drafted in the office of H. HAWGOOD, Consulting Engineer.
from surveys made under his direction
by G.C. FITZGERALD
September - December 1918
FIELD "O"
MALIBU FARM
Old Reservoir
Beans 138.10 Acres.
M. R. & L. A. Ry.
Malibu Lake



1952 USGS

EXHIBIT NO. 7
APPLICATION NO.
4-96-060

DECLARATION OF LOUIS T. BUSCH, JR.

The undersigned declares:

1. I am a resident of the Serra Canyon area of the City of Malibu and have been a resident in my present residence since 1964.

2. I first became familiar with the Malibu area in the 1930's when I came to work during the summers in Malibu and lived in the Serra Retreat area.

3. After my service in World War II, I became a real estate broker in Malibu in 1945 and I have been continuously employed as a real estate broker in Malibu since that time.

4. I moved my permanent residence to Malibu in 1956 on La Costa Beach and then in 1964 to my present residence in Serra Canyon.

5. I have observed the location where Cross Creek Road goes through Malibu Creek since the first time I came to Malibu in the 1930's. Cross Creek Road has always been a paved road and there has always been concrete paving across Malibu Creek.

6. From time to time the paving has been washed out in heavy rains and the paving has always been replaced as soon as possible thereafter. Cars would often try to cross the creek before the paving could be replaced and would become stuck in the Creek.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on July 20, 1996 at Malibu, California.

Louis T. Busch, Jr.

EXHIBIT NO. 8
APPLICATION NO.
4-96-060