

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 OceanGate, 10th Floor  
Long Beach, CA 90802-4302  
(562) 590-5071

**RECORD PACKET COPY**

Filed: 05-09-97  
49th Day: 06-27-97  
180th Day: 11-05-97  
Staff: RMR-LB *RMR*  
Staff Report: 10-15-97  
Hearing Date: November 4-7, 1997  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 5-97-136

APPLICANT: Marblehead Coastal, Inc.

AGENT: RBF &amp; Assoc.

PROJECT LOCATION: El Camino Real & Avenida Pico, City of San Clemente  
County of Orange

PROJECT DESCRIPTION: Implementation of the Blochman's Dudleya Translocation Plan dated October 2, 1996. The plan includes collection of on-site Blochman's Dudleya seed, cultivation of seed, revegetation with associated native plants, installation of a six foot high chain link fence around the 1.34 acre site, establishment of a 50 foot buffer zone (.8 acre), and relocation of adult Dudleya plants to a 1.34 acre site (not including the buffer zone) in the southwest corner of the 254 acre parcel. The proposed site will be maintained and monitored for a minimum of 3 years and a maximum of 7 years, depending upon the success of the program. The goal is to establish 10,000 Blochman's Dudleya plants on the proposed site.

Lot area:	1.34 ac.
Building coverage:	NA
Pavement coverage:	NA
Landscape coverage:	NA
Parking spaces:	NA
Zoning:	NA
Plan designation:	
Project density:	NA
Ht abv fin grade:	NA

LOCAL APPROVALS RECEIVED: Approval in concept from the City of San Clemente,  
Letter of support from the California Department of Fish and Game

**SUBSTANTIVE FILE DOCUMENTS:**

1. Blochman's Dudleya Translocation Plan for the Marblehead Bluffs  
10-02-96
2. Year One Annual Report for the Blochman's Dudleya Translocation Plan  
for Marblehead Bluffs, 02-13-97
3. Draft Geotechnical Investigation of the Lusk Marblehead Coastal Property  
for Environmental Impact Report (EIR) Purposes, 08-02-96
4. Marblehead Coastal Bluffs Emergency Grading Program, Focused EIR,  
11-19-91

5. Emergency Permit G5-90-274 & Coastal Development Permit 5-90-274 (Marblehead)
6. Coastal Development Permit 5-94-263 (Marblehead)
7. Coastal Development Permit 5-94-256 (Colony Cove)
8. Coastal Development Permit A5-DPT-93-275 and 5-94-052 (La Ventana)
9. Marblehead Coastal Bluffs Emergency Grading Program Focused
10. Environmental Impact Report, Nov. 19, 1991
11. Biological Assessment Update Marblehead Coastal Project Site, San Clemente, March 11, 1985
12. Draft Dudleya blochmanae Protection and Salvage Program, April 30, 1990
13. 1991 Biological Assessment Update Marblehead Coastal Project Site, San Clemente, January 23rd, 1991
14. September 18, 1997 Letter from consulting biologist Mark Dodero

#### SUMMARY OF UNRESOLVED ISSUES:

The applicants requested a continuance at the October 1997 hearing and also submitted a 180 day waiver request (see Exhibit 9). Under the Permit Streamlining Act an application has to be acted on by the 180th day from submittal or the applicant must submit, in writing, a request that this deadline be waived for 90 days.

The proposed development was scheduled for the July 1997 hearing but continued at the request of the applicant to reach agreement with staff on special conditions. The application was set for agenda for the August 1997 and the applicant attended the Commission hearings to request a continuance. Since that time the applicant and agents met with the South Coast Deputy Director and reached agreement regarding special conditions 1.A-D of this staff report. The applicant submitted revised language concerning special condition 1 D, E and F. Staff incorporated those suggested with modifications. The applicant agrees with the modifications but does not agree with the language special condition 1(F)(3). The applicant agrees to the deed restriction but wants the condition to end with "assigns," eliminating the following phrase: "...and shall be recorded free and clear of prior liens and encumbrances which the Executive Director determines may affect the interest conveyed."

The applicant submitted a subordination agreement to staff on Thursday, October 15, 1997 at 4 p.m. This agreement is included in the staff report as Exhibit 10, however neither South Coast staff nor legal staff in San Francisco has had an opportunity to analyze the document.

Another unresolved issue is that a follow-up permit for emergency permit G5-90-274 (Lusk Company) has not been approved by the Commission. In 1990 the Executive Director approved an emergency permit for the mass grading of about two-thirds (Phase I) of the Marblehead coastal bluffs for public safety reasons. In the process approximately 5,000 Blochman's dudleya plants were salvaged and stored in a nursery. Coastal development permit application (5-90-274) for the grading which was completed in Phase I and the proposed grading for Phases II and III was incomplete upon submittal in 1990 and was not filed complete until 1994. Permit 5-90-274 was then withdrawn prior to the 270th day. The application was withdrawn because the company was involved in a financial reorganization. Another permit application (5-94-263) was filed immediately after permit 5-90-274 was withdrawn. Permit 5-94-263 was

subsequently withdrawn prior to the 270th day. This permit was withdrawn in consultation with staff because the applicant was proceeding with the development plan for the site and wanted to process the follow-up permit in connection with the specific plan, not as a separate permit. The applicant has consistently met with staff and cooperated in the permit process. However, no follow-up coastal development permit has been approved for G5-90-274 and the applicants are technically in non-compliance with the conditions of permit G5-90-274.

Previous staff recommendations in staff reports 5-90-274 and 5-94-263 required that prior to commencement of grading for Phases II and III, the applicant submit a comprehensive plan for the preservation, relocation and enhancement of the Blochman's dudleya to its former population of 10,000 plants. The applicant considered staff's recommendations and decided to formulate a plan to restore the dudleya to its former level of 10,000 plants, i.e., the plan submitted with this application. The applicant is proceeding on the assumption that this translocation plan will successfully resolve the issue of the Blochman's dudleya by restoring the dudleya population to its former level of 10,000 plants, thus providing mitigation for the 5,000 plants which were salvaged and allow the grading for Phases II and III to proceed. The consulting biologist, Mark Doderer, has conducted previous dudleya translocation projects and is considered an expert in the field.

The Blochman's dudleya is not a listed or candidate species for either the State or Federal Endangered Species Act. However, the plant is limited locally to three sites in Orange County, and the Marblehead site is the largest single population. This is the reason for our concern.

In this permit the Commission is addressing development consisting of the three-to-seven year translocation plan for the 1.34 acre Blochman's dudleya site and buffer zone only. No grading of Phase II or III of the coastal bluffs or any other development is proposed at this time. Any further bluff grading or proposed commercial and residential development will have to be addressed in a coastal development permit or in the context of a specific plan/local coastal program. The long-term maintenance of the site will depend upon the success or failure of the proposed translocation plan and will have to be considered in the future in the context of the overall local coastal program for the Marblehead site or a coastal development permit.

Additionally, this is an after the fact application because the project has been underway for approximately one year and development has proceeded without benefit of a coastal development permit.

---

#### SUMMARY OF STAFF RECOMMENDATION:

Staff recommends the Commission approve the proposed project with a special condition regarding implementation of the "Blochman's Dudleya Translocation Plan" dated October 2, 1996.

#### STAFF RECOMMENDATION

The Staff recommends that the Commission adopt the following resolution:

##### I. Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to

the conditions below, on the grounds that, as conditioned, 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 this permit is reported to the Commission. 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 in the application for permit, subject to any special conditions 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 project during its development, 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. Agreement to Implement Plan

The applicant shall:

- A. Implement the provisions of the "Blochman's Dudleya Translocation Plan" of October 2, 1996 as approved by the California Coastal Commission by this permit for a minimum of three and a maximum of seven years, including maintenance, monitoring, selective rodent removal, removal of exotic plants, revegetation with native plants and cultivation and planting of the Blochman's dudleya.

- B. Supply annual monitoring reports to the Executive Director of the California Coastal Commission each September for a minimum of three and a maximum of seven years. The annual reports shall include details on the growth of Blochman's dudleya seedlings and plants, the number of seedlings and adults planted, weed removal schedule and methodology, rodent removal and the number of Blochman's dudleya plants which successfully flowered.
- C. Provide a comprehensive report to the Executive Director of the Coastal Commission in September of 1999 containing information as specified in "B" above as well as the following:
1. A determination by the consulting biologist of whether the three-year plan has attained the success criteria goal of 10,000 individual Blochman's dudleya plants with a minimum of 5,000 flowering plants; or
  2. A determination by the consulting biologist that the plan was partially successful in that by the end of three years there are 4,000 to 9,999 Blochman's dudleya plants with an increase in numbers for at least two years and a minimum of 2,000 flowering plants.; or
  3. A determination by the consulting biologist that the plan was unsuccessful in that the population of Blochman's dudleya consists of less than 4,000 individuals, has never reached a total of 2,000 flowering individuals or has shown a decreasing trend in numbers for two of the three years.

In the event that three years is not sufficient to achieve the project goal's success criteria established in C(1) the program is to be continued for a period not to exceed four additional years. If at the end of three years the success criteria in C(1) have not been met, the three-year comprehensive annual report shall also include an analysis of why the plan did not succeed and measures to be taken to ensure success.

- D. Future uses within the 1.34 acre dudleya reserve site and the 0.8 acre buffer area identified in this coastal development permit shall be consistent with the primary purposes of the "Blochman's Dudleya Translocation Plan" dated October 2, 1996 (i.e., the establishment, relocation and preservation of the Blochman's dudleya and associated native plants). Permitted uses within the buffer zone area may include grading necessary to protect the reserve from the effects of surface runoff and public activities within the adjacent public park and commercial recreation areas.
- E. The applicant will continue to actively pursue approval of the overall plan of development for the Marblehead Coastal site by the City of San Clemente. Following City approval of the overall development plan it shall be submitted to the Coastal Commission for review and action. The City-approved development plan for this site shall include mitigation measures assuring the long-term protection and management of a dudleya reserve and buffer area, limited public access facilities/activities which may be permitted within the buffer

and reserve area provided that such facilities and uses are determined by the Coastal Commission to be consistent with the long-term protection and management of the dudleya reserve. The intent of such mitigation shall be to offset impacts to dudleya populations resulting from issuance of Emergency Permit 5-90-274 and additional impacts to dudleya resulting from proposed Phase II and Phase III grading. However, the applicant must still obtain coastal development permits either in the context of a coastal development permit for the entire site or as separate coastal development permit(s) for Phase II and Phase III of the bluff stabilization plan, as well as for the follow-up coastal development permit for Emergency Permit 5-90-274.

F. Within 90 days of Commission approval of this permit the applicant or its successor in interest shall record a deed restriction, in a form and content acceptable to the Executive Director, which shall ensure that:

1. any successors in interest to the property are informed of the designation of the dudleya plant preserve and related buffer area; and
2. such successors are informed that use restrictions and management obligations for the preserve and buffer area set forth in this permit and the "Blochman's Dudleya Translocation Plan" dated October 2, 1996 must be continued in order to provide for the long-term protection and management of the dudleya population and related native plant community.
3. The document shall run with the land binding all successors and assigns, and shall be recorded free and clear of prior liens and encumbrances which the Executive Director determines may affect the interest conveyed.

#### IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

##### A. Project Description & Location

The applicant is proposing to implement a relocation, enhancement and preservation program for a sensitive coastal bluff plant, the Blochman's Dudleya. The plan includes collection of seed from on-site Blochman's Dudleya adult plants, cultivation of seed in a greenhouse and sown on-site, revegetation with associated native plants, and relocation of adult Dudleya plants from the greenhouse and Phase II portion of the bluffs to a 1.34 acre Blochman's Dudleya site (see Figure 4). The proposal includes a six foot high chain link fence around the 1.34 acre site and a 50 foot buffer zone with native plants outside the fence. The site will be maintained and monitored for a minimum of 3 and a maximum of 7 years, depending upon the success of the program. The goal is to establish a minimum of 10,000 Blochman's Dudleya plants on the proposed site.

The Marblehead bluffs site is the last large vacant parcel in the coastal zone of the City of San Clemente (see Exhibit 2). It is located between El Camino

Real (Pacific Coast Highway), Avenida Pico and the Interstate 5 freeway. To the east is the Colony Cove residential subdivision. El Camino Real is part of the emergency road network of the San Onofre nuclear power plant evacuation plan.

The bluffs do not provide access to the beach. The closest beach access is at North Beach, which is across the street and southwest of the bluffs. North Beach contains a Metrolink train station, beach parking and is a popular beach spot. Directly west of the Marblehead site is the highway, the railroad and then a private, gated beach community.

The proposed 1.34 acre reserve is located on the 254 acre Marblehead site adjacent to the stormwater channel close to the intersection of the channel with El Camino Real (see Exhibit 4). The entire site is currently vacant and includes bluffs adjacent to Pacific Coast Highway, a marine terrace and inland canyons. The level marine terrace area is disturbed and is cleared annually. Under emergency permit G5-90-274 approximately 2,500 linear feet of coastal bluffs were laid back using contour grading. A small portion of the bluffs have not been graded. The remaining bluffs and inland canyons contain native coastal plants.

The Marblehead bluffs, prior to the grading approved under permit G5-90-274, contained habitat for approximately 10,000 Blochman's Dudleya plants, the largest single population in Orange County. Smaller populations are found on the Dana Point Headlands and San Clemente State Beach. The California Native Plant Society (CNPS) placed Dudleya blochmanae on List 1B of their Inventory of Rare and Endangered Vascular Plants. According to the CNPS classification, the plant is eligible for state listing as an endangered species, but the California Department of Fish and Game has not recommended listing or candidate status.

Since the 1990 bluff grading, there have been significant bluff failures north of the site at Colony Cove (5-94-256) and La Ventana. These bluff areas did have residential development out to the bluff edge which necessitated massive bluff reconstruction with tie-backs and shotcrete surfaces shaped and colored to resemble natural bluff. The reconstruction plan for the Colony Cove involved grading to be conducted in the Phase III portion of the Marblehead bluffs. No impacts to the Blochman's dudleya were involved. This bluff reconstruction, undertaken by CDP 5-94-256 has been completed. When the grading for the remaining Marblehead bluffs is approved and undertaken, the coastal bluffs from the Dana Point City boundary to North Beach will have been significantly altered.

The Marblehead bluff site is an area of deferred certification and, therefore, there are no policies in the certified LUP regarding it. The applicant and the City are currently preparing a specific plan for the site.

#### B. Project History

Prior to the 1880's the bluffs were subject to wave attack. However, with the construction of the railroad in the 1880's and El Camino Real in 1929, the bluffs were cut back and steepened.

In 1987 the City of San Clemente processed an environmental impact report for the Marblehead site which included 27 acres of tourist commercial (TC), 16.3

acres of park, 36.4 acres of residential (250 units), 5.9 acres of very low residential, and a small parcel of general commercial. The tourist commercial designation was intended for the Nixon Library site. Staff submitted a letter in response to the Nixon Library Draft Environmental Impact Report, however, the project never progressed beyond the EIR stage and an application was not submitted for a CDP. In this letter staff expressed concerns regarding coastal canyon setbacks, filling of coastal canyons which are designated as ESHAs, the filling of wetland habitat in coastal canyons, coastal bluff and landform alteration and protection of the Blochman's dudleya on the coastal bluffs.

In 1990 the Executive Director issued emergency permit G5-90-274 for the first phase of three phases of bluff stabilization. The Lusk Company together with the City of San Clemente asserted that the ongoing bluff failures of the Marblehead coastal bluffs represented a safety hazard to vehicular traffic and pedestrians along Pacific Coast Highway (alternately known as El Camino Real). The position of the Lusk Company and the City of San Clemente as to the public safety hazard was supported by the Commission geologist, Richard McCarthy, and an emergency permit was issued by the Executive Director.

Phase I grading approved by Emergency Permit G5-90-274 was for approximately 310,000 cubic yards of grading to lay the bluffs back to a 1.5:1 or 2:1 gradient. With the implementation of the emergency grading in 1990, approximately 2,500 linear feet of the coastal bluffs were laid back. In the process, it is estimated that approximately 5,000 Blochman's dudleya were salvaged and taken to the Tree of Life Nursery. Other estimates state that 3,700 plants were salvaged, while 2,900 plants were destroyed, out of a total population of approximately 10,000-12,000 plants. An estimated 4,200 plants remained on site in Phase I (3,600) and Phase II (600) areas.

The grading was completed for Phase I but not for phases II and III (see Exhibit 3). The applicants submitted a follow-up permit which was officially designated as incomplete by staff. On March 7, 1994 the application was determined to be complete and was agendaized for hearing. Prior to the 270th day the applicants withdrew permit 5-90-274 because of finance and organization restructuring considerations. However, because the lack of completion of a follow-up CDP for the emergency permit presented an enforcement scenario, the applicants agreed to immediately submit another CDP application, CDP 5-94-263.

CDP 5-94-263 was determined complete on December 22, 1994. The application was scheduled for hearing by the 180th day and a 180 day waiver was filed. The application was scheduled for hearing in August 1995 and was continued. Due to the constraints of the Permit Streamlining Act, the application had to be acted on by the Commission prior at the September 1995 hearing, the 270th day deadline. On August 7, 1995 Commission staff received a letter from the applicant requesting the withdrawal of permit 5-94-263.

At the time of the second permit withdrawal, and in subsequent meetings with the applicant and the City of San Clemente, the applicant indicated that he was proceeding with the entitlement process for development on the Marblehead bluffs and was proceeding with a specific plan. In fact, the applicants have been proceeding with the specific plan. The applicant also indicated that he was exploring options for disposition of the dudleya.

In the eventual specific plan the applicant is proposing regional commercial in the area adjacent to the Interstate 5, residential across most of the site, a park area and preservation of one coastal canyon. A preliminary plan concept is included as Exhibit 6. The plan shows that the dudleya translocation site would be located adjacent to the park area. The specific plan is not a part of this permit. Based upon meetings with Commission staff and recommendations made in previous staff reports, the applicants realized that a key component of any project on Marblehead needed to take into account the Blochman's Dudleya. For this reason the applicant contacted Mark Doderer, an expert in the dudleya field. Mr. Doderer then devised a relocation and preservation plan for the Blochman's dudleya on the Marblehead site.

### C. Environmentally Sensitive Habitat Area

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

### Existing Conditions

The California Native Plant Society (CNPS) placed *Dudleya blochmanae* on List 1B of their Inventory of Rare and Endangered Vascular Plants. According to the CNPS classification, the plant is eligible for state listing as an endangered species, but the California Department of Fish and Game has not recommended listing or candidate status.

Blochman's dudleya is a perennial succulent plant species found on coastal bluffs from San Luis Obispo County into Baja, California. The Blochman's dudleya is a very small plant (see Exhibit 5) which grows with spring rainfall, flowers in April and May and then remains dormant during the summer and fall. The plant survives on starch reserves stored in the underground caudex or stem, somewhat akin to a bulb. The plant reproduces primarily by seed but can reproduce vegetatively, via detached leaves. The plant is found on the margin of open areas on coastal bluffs usually in association with other native plants such as California boxthorn (*Lythrum californicum*), California sagebrush (*Artemisia californica*), coastal goldenbush (*Isocoma menzeisii*), golden tarplant (*Hemizonia fasciculata*), and the lance leaf dudleya (*Dudleya lanceolata*).

With the implementation of the emergency grading in 1990, approximately 2,500 linear feet of the coastal bluffs were laid back. In the process, it is estimated that approximately 5,000 Blochman's dudleya were salvaged and taken to the Tree of Life Nursery. Other estimates state that 3,700 plants were salvaged, while 2,900 plants were destroyed, out of a total population of approximately 10,000-12,000 plants. An estimated 4,200 plants remained on site in Phase II (3,600) and Phase II (600) areas.

The plants remained in the Tree of Life Nursery, however, no provisions were made for their upkeep and preservation and thus the plants were subject to hybridizaion by association with other dudleyas. The genetic integrity of these plants is questionable and Fish and Game ecologists consider the plants unsuitable for relocation back to the site.

In CDPs 5-90-274 and 5-94-263 staff recommended special conditions requiring that before any further grading is approved on Phase II and Phase III which would further disrupt the existing remaining native population of Blochman's dudleya, a relocation and preservation plan be prepared and approved by the Commission. One of the constraints to any plan was that once the plants were removed and the bluffs graded it would be difficult to recreate the soil structure and plant assemblage necessary to support the Blochman's dudleya.

Another constraint was that the bluffs which were graded have been colonized by an annual non-native iceplant (*Mesembryanthemum nodiflorum*) and crystalline ice plant. The crystalline ice plant tends to shed salt and make the soil saline and inhospitable to native plants. Therefore, if these graded slopes were to be used for relocation of the dudleya, the top layer with the iceplant would have to be removed, the topsoil replaced and the entire native plant community would have to be recreated. Fish and Game ecologists agreed with the applicant's consultant, dudleya expert Mark Dodero, that the Phase I graded slopes would not be conducive to dudleya relocation and would jeopardize chances of the plan's success.

The alternative, as proposed by dudleya consultant Mark Dodero, was to find a relatively undisturbed (not graded) portion of coastal bluff containing existing suitable soil conditions and a plant assemblage similar to that found on the ground at the Phase II and III bluffs.

### Proposed Site

The Blochman's dudleya is found in intermixed with coastal bluff scrub on southwest-facing coastal bluffs. Mark Dodero identified a potential relocation site on the southwest corner of the bluffs in an area which the proposed specific plan identifies as public park and public open space. Exhibit 4 shows the proposed 1.34 acre dudleya translocation site and 50 foot buffer (.8 acre). The applicants are proposing to remove exotic non-natives from the buffer zone and revegetate with native plants associated with the Blochman's dudleya.

Several factors determine the selection of the proposed preserve site. First, the soil and topography conditions at the proposed site closely resemble those where the dudleya now exist in Phase II. The dudleya is commonly found in the shade of native plants like the boxthorn on the margin of open spaces containing little or no vegetation. There are numerous areas on the proposed 1.34 acre site which meet this requirement. Second, although there are no Blochman's dudleya existing at the site prior to this program, many of the native coastal plants such as the artemesia, boxthorn and *Dudleya lanceolata* are found there. Finally, the proposed site is situated on the perimeter of the site adjacent to a flood control channel as opposed to a central location, and is thereby less likely to be disturbed by humans. There are invasive plants on the site but none which will outcompete the dudleya, like the salt producing iceplant. Finally, the consultant states that the site is capable of supporting the goal of re-establishing 10,000 Blochman's dudleya plants.

The site will not require grading, the use of soil amendments, or site preparation. The consultant is proposing that non-natives be eliminated during the three year monitoring program, that the dudleya be introduced and that native plant associations on-site be augmented. The site will be fenced to keep humans out and the buffer zone is being planted with native plants (see exhibit 4).

#### Translocation, Revegetation & Exotic Plant Removal Plan

As part of the application the applicant has submitted a Blochman's Dudleya Translocation Plan and the Year 1 Annual Report prepared by consulting biologist Mark Doderer, an expert on dudleyas. Mr. Doderer participated in a dudleya translocation project in San Diego County. In his letter of September 18, 1997, (see Exhibit 8) Mr. Doderer is optimistic about the chances of the dudleya becoming established at the proposed site. He notes that the ongoing exotic plant removal program on the site has contributed to the significant growth of native plants and that a number of potential pollinators were observed on the site. Mr. Doderer notes that ongoing cultivation of dudleya on the site is successful and that the dudleya are easy to propagate. Mr. Doderer concludes his letter by saying:

In summary, I am confident that we will achieve our success criteria goals within the time frame of this project.

The goals for the translocation plan are to: 1) establish a self-sustaining population of 10,000 individuals of which 5,000 will be flowering plants, and 2) the restoration and enhancement of the native coastal bluff scrub community through the control of exotics, broadcasting of native seed, and limited planting of container stock. The plan calls for a minimum three year plan with possible extension to seven years, depending upon the success of the translocation plan. The 1.34 acre site is currently fenced to protect the site from human disturbance.

During the three-year period approximately 75 one-gallon boxthorn plants will be grown from seed collected on site and planted in preserve areas to serve as nurse plants for the Blochman's dudleya. Seed of coast goldenbush, which also serves as a nurse plant for the dudleya, will also be broadcast during the three-year plan.

Maintenance activities during the three year period include removal of exotics either by hand removal or selective spraying with an herbicide and visual inspections of dudleya plants for adverse conditions. Maintenance inspections are to occur monthly during the first year and quarterly thereafter.

Dudleya seed was collected in 1995, 1996 and will be collected in 1997 and 1998 from identified on-site colonies in Phase II and Phase III areas. Twenty-five percent of the seed was broadcast at the translocation site, 25 percent will be used in greenhouse propagation, and 25 percent will be sent to a seed bank at the Rancho Santa Ana Botanic Garden in Claremont, CA for storage.

The Blochman's dudleya is being introduced to the site through a combination of: 1) broadcasting of seed from plants currently on the Phase II site, 2) placement of leaf cuttings, 3) the translocation of adult plants from the Phase II site, and 4) translocation of nursery-grown plants.

Leaf cuts are taken from the existing populations of dudleya on the Phase II bluff site and are taken to an off-site nursery where they are allowed to root. Of these leaf cuts, 50% will be transplanted onto the reserve site and the remainder used for greenhouse propagation and later planting. 10% of the remaining plants on the bluffs will be salvaged for placement on the reserve site. Plants propagated from seed will be transplanted two years following germination.

If the translocation is success then the remaining plants from the Phase II and Phase III populations will be salvaged and relocated to the reserve site.

### Monitoring Plan

The translocation site will be monitored for 3 and possibly up to 7 years and will include the following measures:

1. photographing plots during the active growing period (February),
2. collection of quantitative data on total counts of Blochman's dudleya plants in February,
3. collection and identification of insect pollinators from both the existing sites and the translocation site,
4. collection of quantitative data on counts of flowering individuals at the translocation site in April and May,
5. collection of quantitative data regarding the eradication of exotic species at the translocation site
6. establishment of two 0.5 meter by 1.0 meter plots in 1996 and 1997 for the collection of data on dudleya growth rates, so that 20 plants can be monitored for three growing seasons,
7. establishment of two test plots at the Phase II bluffs to monitor the growth of natural populations for two years.

### Success Criteria

The success criteria were developed by Mark Dodero in coordination with Jim Dice, CDFG's Region 5 plant ecologist. The goal of the three year translocation plan is to have 10,000 or more individuals with a minimum of 5,000 flowering plants. If that goal is achieved then no further efforts for seeding, propagation or transplanting would be required. Monitoring for exotic plants shall continue for 6 years. In years 4, 5 and 6, the project biologist will consult with a CDFG plant ecologist to assess the effectiveness of the weeding efforts.

The translocation plan will be deemed partially successful if at the end of three years there are 4,000 to 9,999 plants, with an increase in numbers for at least two years, and has a minimum of 2,000 flowering plants. The monitoring plan shall then continue with translocation, restoration, monitoring and maintenance efforts with annual reviews by CDFG for a period not to exceed 7 total years (or 4 more years). If at any time during the plan extension the goal is achieved then the plan shall be deemed a success, as

described in the paragraph above. An annual review for exotic plant control will continue for years 4 through 7 or until the project biologist in consultation with CDFG determines it is no longer necessary.

The project will be deemed unsuccessful if at the end of three years the population of Blochman's dudleya consists of less than 4,000 individuals, has never reached a total of 2,000 flowering individuals or has shown a decreasing trend in numbers for two of the three years. In this instance, the translocation plan shall be continued not to exceed a total of 7 years.

Finally, annual reports shall be issued in September of 1996, 1997 and a final report issued in September 1998. If the plan is not successful after three years, the applicant will continue the same maintenance and monitoring plan as per the first three years, including the submittal of annual reports. These reports will document the results of exotic plant control, the seeding program, photodocumentation of the site, total counts of plants, and an assessment of the health of the plants.

#### First Year Report

Exotic plant removal was conducted from February to August 1996 by hand-removal and spraying with Roundup. Weed removal was conducted four times on the site between February and March. In January 1996 dudleya seed was broadcast. Leaf cuttings collected in January 1996 and 225 leaf cuts were planted in February 1996, at which time germinating seedlings were visible at the translocation site. In February 1996 clumps of adult and juvenile dudleya (250) were salvaged from existing bluff sites and replanted at the site. By June the dudleya were dormant.

A seedling count was conducted at 15 locations in the translocation site and 3,500 seedlings were counted. In order to monitor the growth of the plants, select seedlings, leaf cuts and transplanted plants were tagged.

The report notes that only five plants successfully flowered during the first season and that the low success rate was due to predation by rodents and rabbits. However, the plant can still survive if the leaves are chewed off.

The report notes that even though a small number of the 3,500 germinated seedlings are expected to live, the large number of plants which germinated is a good sign.

The proposed plan will be implemented for a minimum of three years and a maximum of seven years. So far, the consulting biologist reports that the translocation plan is successful and on schedule and that he is optimistic about meeting the success criteria within the specified time frame. It is expected that while the translocation program progresses the applicants will move forward with a specific plan which shall include provision for the long-term protection of the proposed dudleya site.

The provisions of special conditions E and F of this staff report stipulate that the applicant will continue to pursue a development plan for the overall site and that such development plan will include mitigation measures assuring the long-term protection and management of the 1.34 acre dudleya site. Special condition F requires that the applicant record a deed restriction which would inform any future successor in interest to the property of the

presence of the reserve site, restrictions on the use of the reserve site, and management obligations for the long-term protection of the site. Excepted from the restrictive conditions of the deed restriction are a drainage, sewer and slope maintenance easement across the non-habitat portions of the site.

The special condition also binds the applicant to implement the provisions of the translocation plan, including the submittal of a comprehensive three year annual report on the success or lack of success of the project. Only as conditioned does the Commission find that the proposed development conforms with Section 30240 of the Coastal Act.

#### D. Unpermitted Development

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred; nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

#### E. Local Coastal Program

The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988 and certified a major amendment in October 1995. However, the Marblehead bluffs site is an area of deferred certification and not included in the certified LUP.

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. As conditioned the Commission finds that proposed development is consistent with the Chapter 3 policies of the Coastal Act and approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for Marblehead bluffs that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

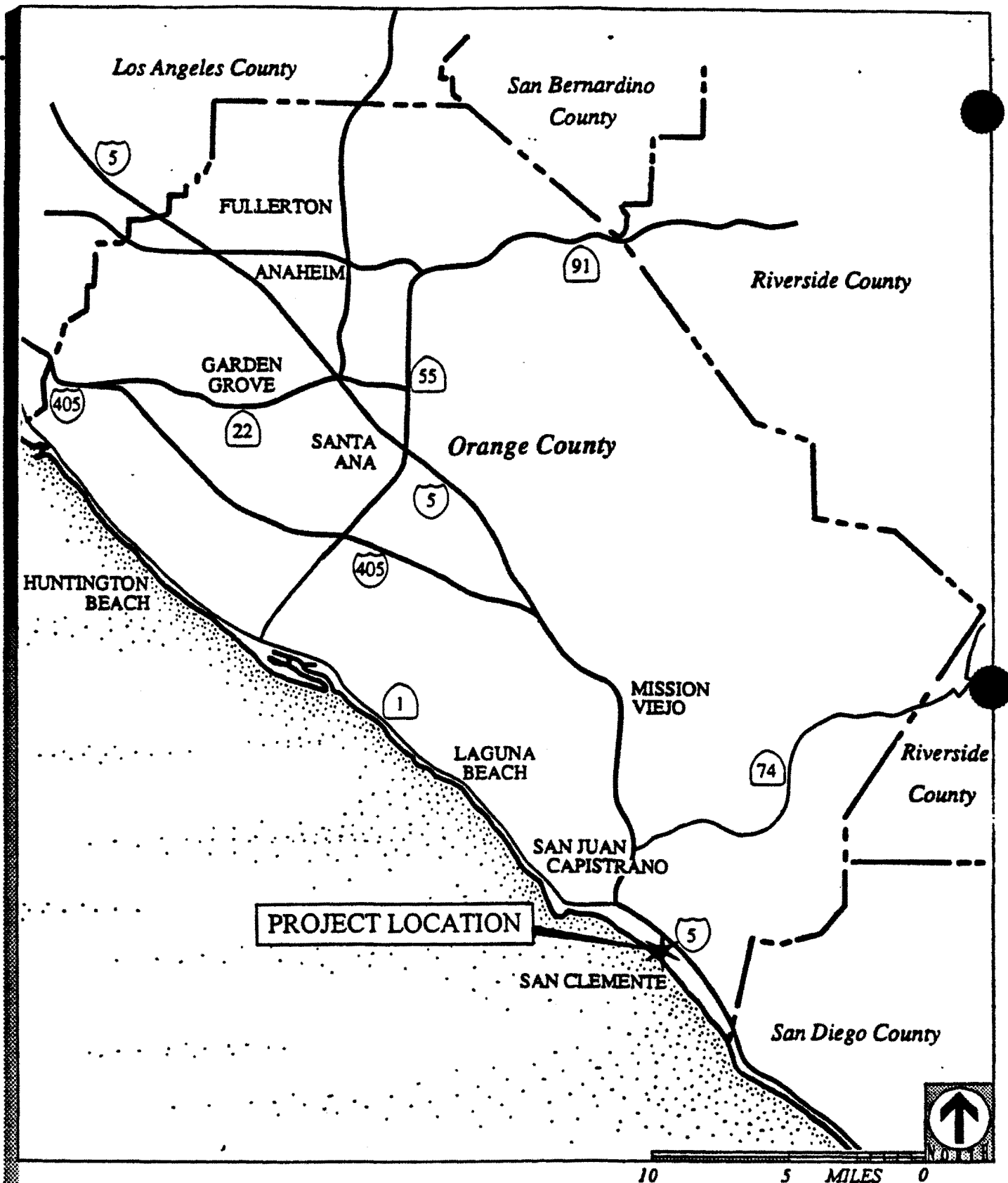
#### F. California Environmental Quality Act

Section 13096 of the California Code of 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 has been conditioned in order to be found consistent with the Section 30240 policies of the Coastal Act regarding the protection of Environmentally Sensitive Habitat Area. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that

the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

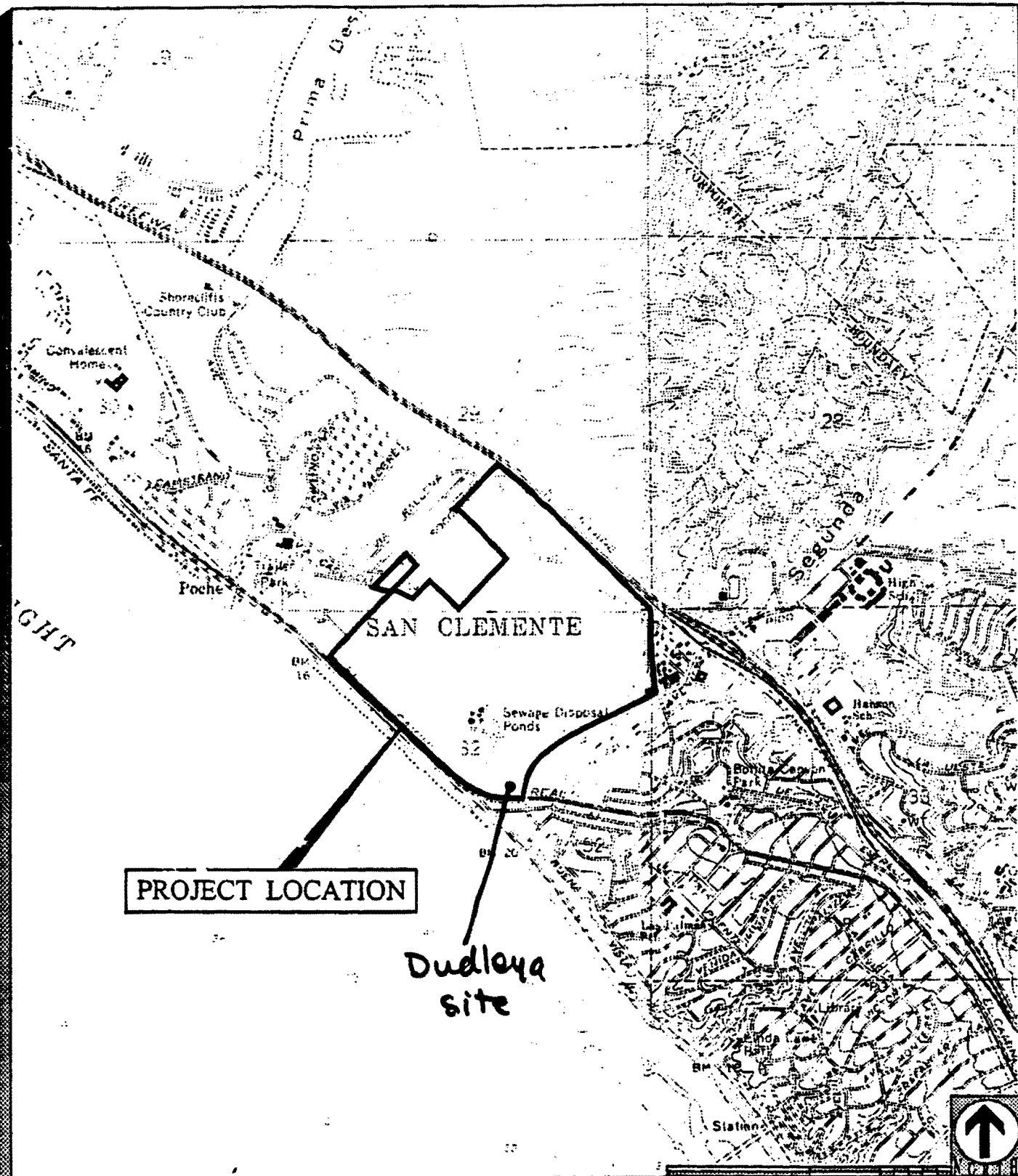
9063F



Regional L

EXHIBIT NO. 1
APPLICATION NO. 5-97-136
VICINITY
California Coastal Commission

1  
ct  
ty  
ON



4000 2000 FEET 0

EXHIBIT NO. 2

APPLICATION NO.

5-97-136

LOCATION

U.S.G.S. 7.5 Minute Topographic Map  
Dana Point and San Clemente



California Coastal Commission

Colony Cove II  
 Phase II  
 El Camacho Road  
 Phase I  
 Graded Bluffs



**NORTH BEACH**

Translocation/restoration site



Existing natural populations area

**AVE PICO**



**FIGURE 3**

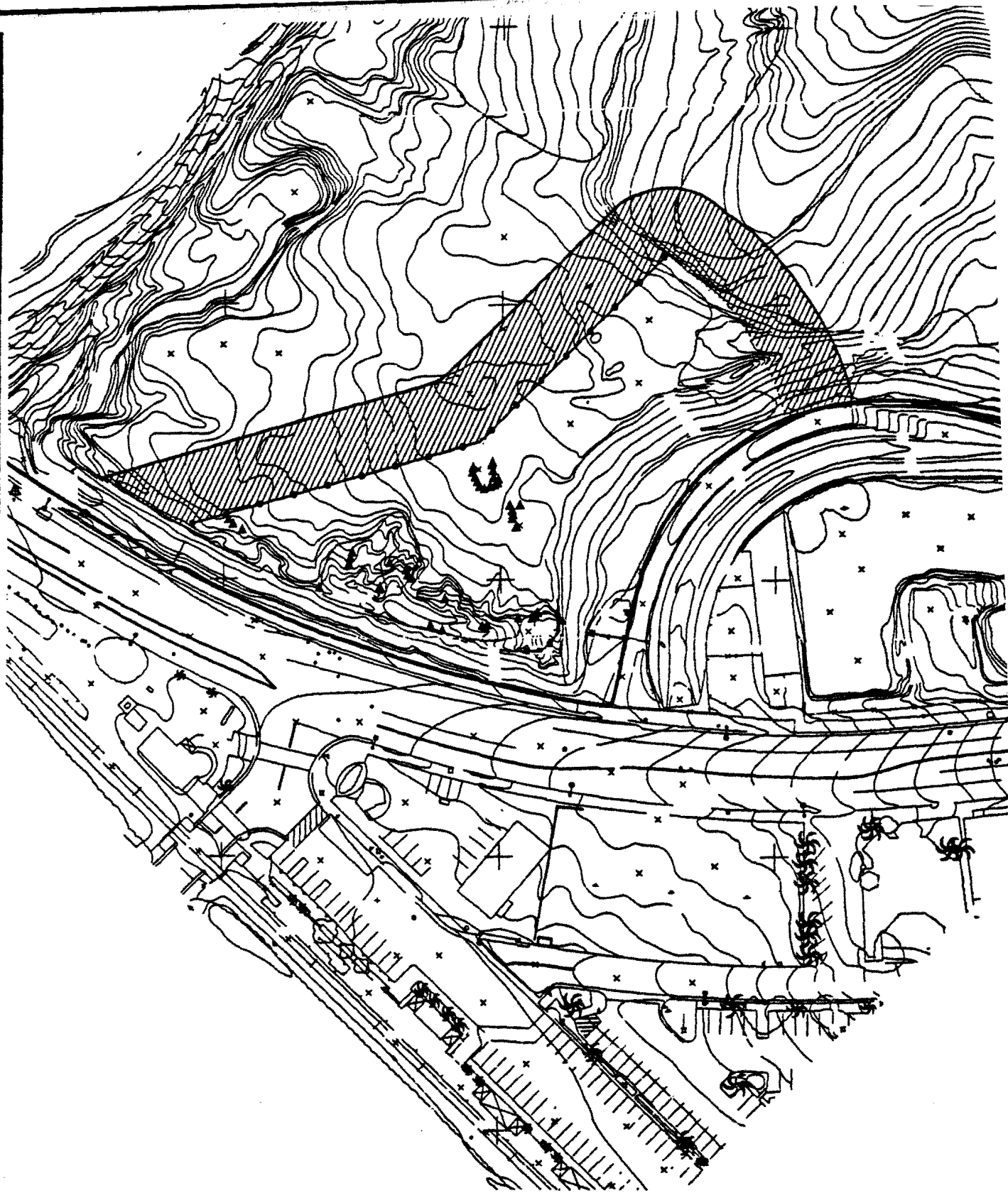
**EXHIBIT NO. 3**

APPLICATION NO.  
**5-97-136**





**SITE PHOTO**


**Blochman's Dudle**





Base mapping source: RBF&Assoc. #30461

-  Buffer fence
-  Dudleya locality
-  50' Buffer zone
-  Marblehead Bluffs property boundary

**EXHIBIT NO. 4**  
**APPLICATION NO.**  
**5-97-136**  
**Dudleya Site**  
 California Coastal Commission



PHOTOGRAPH 1

Blochman's Dudleya (*Dudleya blochmaniae* ssp. *blochmaniae*)  
in Native Habitat



PHOTOGRAPH 2

Blochman's Dudleya Flowering in

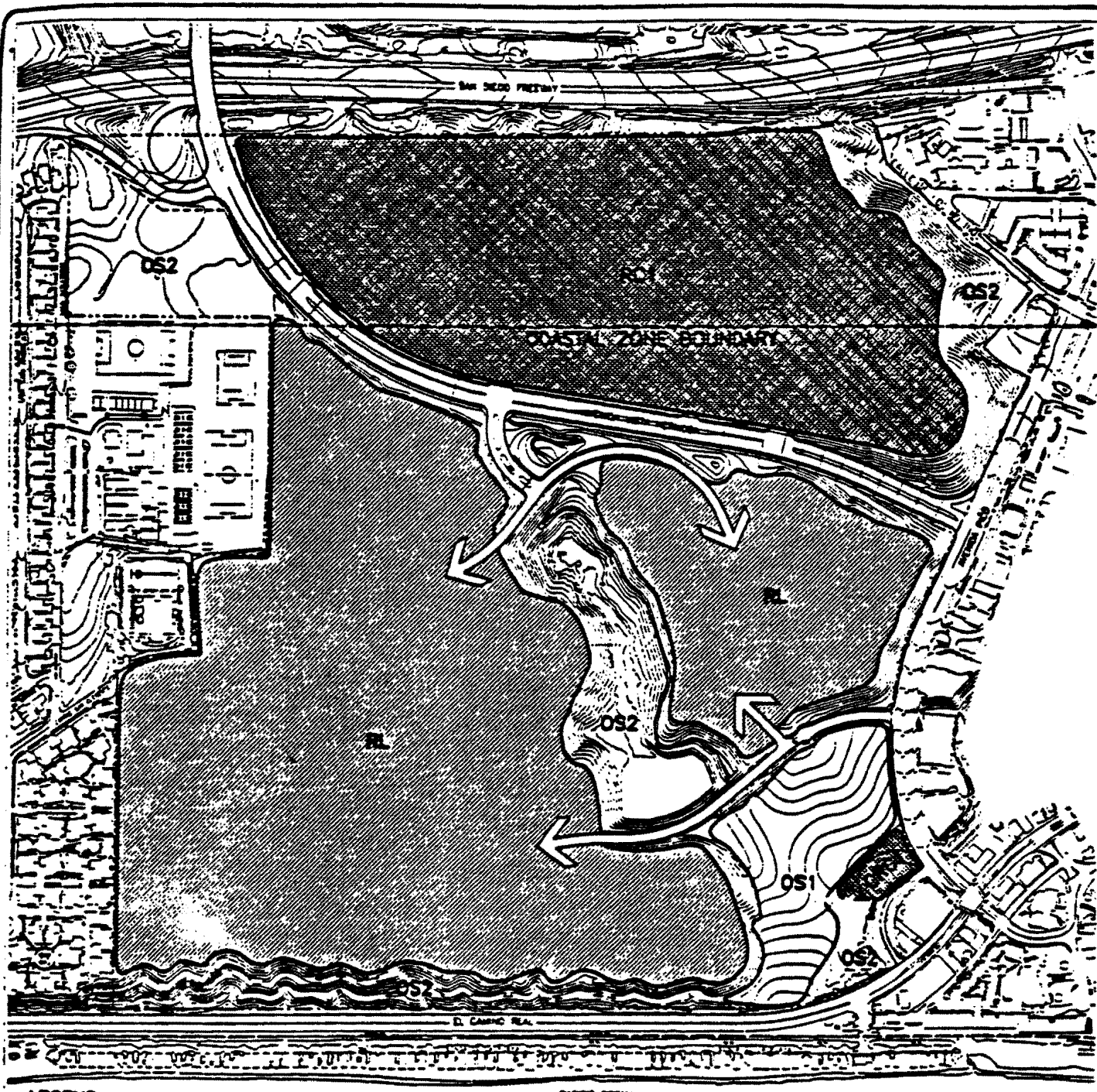
EXHIBIT NO. 5

APPLICATION NO.

5-97-136

Dudleya





#### LEGEND

##### RESIDENTIAL

**RL** 4.5 UNITS/GROSS ACRE

##### COMMERCIAL

**RC1** REGIONAL SERVING

**GRC1** COASTAL AND RECREATION SERVING

##### OPEN SPACE

**OS1** PUBLIC OPEN SPACE (PARK)

**OS2** PRIVATELY OWNED OPEN SPACE

Prepared by Robert Bala, William Frost & Associates for the



**City of San Clemente**

Planning Division

910 Calle Negocio

Suite 100

San Clemente, CA 92672

Tel (714) 488-2533

Fax (714) 361-6281

**GENERAL PLAN LAND**

**MARBLEHEAD COAST.  
SPECIFIC PLAN/GPA/LC**

**EXHIBIT NO. 6**

APPLICATION NO.

**597-136**

**FUTURE  
LAND USE**



California Coastal Commission

# Memorandum

To : Mr. Chuck Damm, Regional Director  
California Coastal Commission

Date : March 10, 1997

From : Department of Fish and Game - Region 5

Subject : Blochman's Dudleya Translocation Plan for Marblehead Bluffs  
(Orange County)

RECEIVED  
MAR 18 1997  
CALIFORNIA  
COASTAL COMMISSION

The Department of Fish and Game (Department) would like to express our support for the "Blochman's Dudleya Translocation Plan for Marblehead Bluffs" prepared by RECON for the Lusk Company. It is our understanding that this plan will soon come before the California Coastal Commission (Commission) for review and final approval as part of the Commission's oversight of the proposed Marblehead Bluffs development within the city of San Clemente in Orange County.


The Department has been consulted extensively in the development and refinement of the proposed translocation plan. Our participation to date has included input into the site selection, methodology and development of success criteria, as well as review of the final draft document. Although the Department does not normally support translocation of rare plant species as an acceptable mitigation measure, we believe the translocation plan as developed by RECON, in consultation with Department staff, is feasible and represents a viable solution to the existing situation at Marblehead Bluffs.

Department staff is committed to participation in monitoring and oversight of the translocation project and willing to work with the Commission to verify and ensure that the plan is adhered to. If you or your staff have any questions regarding the Department's support for, or comments on, the proposed translocation plan, please do not hesitate to contact our Regional Plant Ecologist, Mr. Jim Dice, at (619) 767-3384.

  
Patricia Wolf

for Acting Regional Manager

cc: See attached page.

EXHIBIT NO. 7
APPLICATION NO. 5-97-136
Letter
 California Coastal Commission

# RECON

September 18, 1997

Mr. Chuck Damm  
South Coast Region Director  
California Coastal Commission  
3111 Camino del Rio North, Suite 200  
San Diego, CA 92108-1725

Reference: Blochman's Dudleya Translocation Project at Marblehead Bluff (RECON No. 2733M)

Dear Mr. Damm:



To assist the Commission in its review of the Marblehead coastal dudleya translocation permit application, I have been asked to provide a brief discussion of my prior work with dudleya species and to assess the prospects for success of the Blochman's dudleya translocation project now being considered by the Coastal Commission. Let me begin by noting, in response to a question from the Commission staff, that dudleya is not a "listed species" and that it is not proposed for either state or federal listing. As you know, the goals of the Marblehead dudleya program are to create a self-sustaining population of Blochman's dudleya. The translocation plan developed with assistance from the Department of Fish and Game calls for 10,000 individual dudleya plants with a minimum of 5,000 flowering plants at the translocation site. Based on my previous experience and the first two years of effort at the Marblehead coastal site, I have every confidence that the project design will allow us to achieve the success criteria goals outlined in the Blochman's dudleya translocation plan.

Prior to commencing the subject dudleya translocation program, I have extensively studied and worked with several different species. These include the sticky-leaved dudleya, *Dudleya viscida*; variegated dudleya, *D. variegata*; many-stemmed dudleya, *D. multicaulis*; and the state endangered short-leaved dudleya, *D. brevifolia*. To my knowledge there has been no previous attempt to restore or transplant a population of Blochman's dudleya. However, I designed and implemented a project for variegated dudleya in San Diego County, and this project has some applicability to the Marblehead site. The variegated dudleya is closely related to Blochman's dudleya (they are in the same taxonomic subgenus *Hasseanthus*) and therefore has a similar life and natural history. The variegated dudleya project involved the salvage and transplantation of plants prior to impacts caused by the construction of Highway 52 in San Diego County. This project was much more limited in scope and did not have the same goals and objectives as the Marblehead project. In addition to salvaging plants and transplanting them, the Highway 52 program was designed to test the relative success of different propagation techniques, including direct seeding on-site, planting of leaf cuts, and translocating adult plants into areas which appeared to be suitable habitat for the species but were unoccupied. We were able to successfully establish plants by all three propagation methods listed above and several hundred of these plants are still alive after four seasons. All of the techniques used in the variegated dudleya project have direct application and are being used in the Blochman's dudleya translocation program at Marblehead Bluffs.

We are currently growing thousands of Blochman's dudleya in cultivation for transplantation as part of the Marblehead dudleya project. We have already successfully transplanted some of these cultivated plants to the translocation site in year 2. The plants are relatively easy to grow, as are many succulents. Other encouraging results include the growth response of native species after the removal and control of exotic weeds. Native species at the translocation/restoration site including coast goldenbush, gumplant, and boxthorn showed significant growth during the 1997 season after competing weeds had been removed. Also, a number of potential dudleya pollinators such as ground nesting bees and bumblebees began nesting in areas where exotic plants had been removed. Native

4241 Judand Drive, Suite 201  
San Diego, CA 92117-3853  
619 / 270-5066

EXHIBIT NO. 8
APPLICATION NO. 5-97-136
DODERO LETTER
California Coastal Commission

Mr. Chuck Damm  
Page 2  
September 18, 1997

seeds collected from the Marblehead Bluffs site were sown during the past winter and seedlings of California sagebrush and gumplant germinated and are growing successfully. The work at Marblehead Bluffs is on schedule and great progress is being made at the translocation site.

In summary, I am confident that we will achieve our success criteria goals within the time frame of this project.

Sincerely,



Mark Dodero  
Biologist

MWD:llg

cc: Robin Maloney-Rames, California Coastal Commission  
Mike Burk, RBF  
Rod Meade, RJ Meade Consulting  
Jim Johnson, Lusk Company

STATE OF CALIFORNIA-THE RESOURCES AGENCY

GEORGE DEUKEMIAN, Governor

## CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA  
245 WEST BROADWAY, SUITE 200  
LONG BEACH, CA 90802  
(310) 480-8071



## EXTENSION OF TIME

(AB 884)

Pursuant to Government Code section 65957,

1. Jimmy D Johnson, the (owner) (owner's representative, authorized to act in accordance with Title 14, Cal. Admin. Code subsection 13053.5) of the property before the Commission on Application No. 5-97-136, hereby request that the time limits for a decision on my permit application established by Government Code section 65952 be extended for a period not to exceed 90 days. This 90-day extension shall become effective only upon consent of the Executive Director of the Coastal Commission. This request is made with the full understanding that the 49-day hearing privilege set forth in Public Resources Code section 30621 is waived.

[Signature]  
Applicant/Applicant's Authorized Representative

10/2/97  
(date)

Coast 14: 7/81

EXHIBIT NO. 9
APPLICATION NO. 5-97-136
WAIVER
California Coastal Commission

**R. J. MEADE CONSULTING**

Planning and Public Policy

7910 Ivyhoe Avenue, Suite 40  
La Jolla, California 92037  
Telephone (619) 488-0077  
Facsimile (619) 458-0419

October 16, 1997

Mr. Robin Maloney-Rames  
Coastal Analyst  
California Coastal Commission  
P. O. Box 1450  
Long Beach, California 90802-4416


Subject: Marblehead Coastal CDP 5-97-136 (Blochman's Dudleya Translocation Plan)

Dear Mr. Maloney-Rames:

At the last Coastal Commission meeting the Commission granted our request to postpone the above item. The reason for our request for a delay was to obtain agreement from the applicant's lender to subordinate its interest with relation to implementation of the subject Blochman's Dudleya translocation plan. I am pleased to report that we have been successful in obtaining agreement from the lender and to forward the following items for your use in finalizing the staff recommendation for the November hearing:

1. A letter of transmittal from Mr. Jimmy D. Johnson, Chief Executive Officer of MT No. 1, LLC;
2. A fully executed Memorandum of Translocation Plan and Permit dated 10/16/97;
3. A Subordination Agreement executed by Bank of America National Trust and Savings Association and MT No. 1, LLC, also dated 10/16/97; and,
4. A legal description for the Dudleya Reserve Area

A hard copy version of the attachments referenced in my letter will arrive at your offices tomorrow. This fax version is intended to assist you to complete your staff recommendation in a timely manner in preparation for the November hearing.

<b>EXHIBIT NO. 10</b>
<b>APPLICATION NO.</b> 5-97-136
<b>SUBORDINATION</b>
 California Coastal Commission

Mr. Robin Maloney-Rames

October 16, 1997

Page 2

Now that this final issue is resolved we are in agreement with all of the Standard Conditions and Special Conditions. Accordingly, I hope that we will be placed on the Consent Calendar for the November Coastal Commission hearing.

Thank you for your cooperation and patience on this matter. Please call me if you need additional information.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Meade, Jr.", written over the typed name.

Roderick J. Meade, Jr.  
President

attachments

cc Mr. Chuck Damm, w/attachments

# MT NO. 1, LLC

---

October 16, 1997 -

Via: Facsimile and Overnight Delivery

Mr. Robin Maloney-Ramos  
Coastal Analyst  
CALIFORNIA COASTAL COMMISSION  
200 OceanGate, 10th Floor  
P. O. Box 1450  
Long Beach, CA 90801-4416

Re: Coastal Development Permit No. 5-97-136  
Marblehead Coastal Bluffs

Dear Mr. Maloney-Ramos:

Enclosed please find copies of the following items in connection with the above referenced Permit:

1. Fully executed Memorandum of Translocation Plan and Permit dated today; and
2. Subordination Agreement executed by Bank of America National Trust and Savings Association and MT No. 1, LLC, also dated today.

Once the Permit has been granted, we are prepared to record the originals of both documents.

If you have comments with regard to the enclosed, please let me know at your earliest convenience.

RECORDING REQUESTED BY,

AND WHEN RECORDED RETURN TO:

MT NO. 1, LLC  
16592 Hale Avenue  
Irvine, CA 92606  
Attn: Legal Department

(Space Above Line for Recorder's Use Only)

**MEMORANDUM OF TRANSLOCATION PLAN AND PERMIT**

THIS MEMORANDUM OF TRANSLOCATION PLAN AND PERMIT (hereinafter, "Memorandum") is entered into with reference to that certain Blochman's Dudleya Translocation Plan for Marblehead Bluffs, dated October 2, 1996, prepared by Mark W. Dodero, Associate Biologist, RECON, designated as RECON Number 2733B and the California Coastal Commission Permit No. 5-97-136 issued pursuant thereto (hereinafter collectively, "Plan and Permit"). The purpose of the Plan and Permit is to provide for the establishment, relocation and long-term protection and management of the Blochman's Dudleya (*Dudleya blochmaniae*) and associated native plants and shall be a covenant running with the land binding all future successors and assigns. The Plan and Permit effects only that certain real property located in the City of San Clemente, County of Orange, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference, owned by MT No. 1, LLC, a California limited liability company (hereinafter, "Owner").

This Memorandum has been executed on October 16, 1997, by the undersigned.

"Owner":

MT NO. 1, LLC, a California limited liability company,  
By: MARBLEHEAD COASTAL, INC., a California  
corporation, Member

By: 

Its: Vice President

By: 

Its: Assistant Secretary

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

California Coastal Commission  
San Diego District Office  
1333 Camino Del Rio So., Suite 125  
San Diego, California 92108  
Permit No: \_\_\_\_\_  
Applicant No: \_\_\_\_\_

THIS SPACE ABOVE FOR RECORDER'S USE

### SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (this "Agreement") is made between BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION ("Beneficiary"), and MT NO. 1, LLC, a California limited liability company ("Trustor"). Beneficiary is the beneficiary under, and Trustor is the trustor under, that certain Deed of Trust With Assignment of Rents, Security Agreement and Fixture Filing (California), dated June 28, 1995, and recorded on June 29, 1995, as Instrument No. 95-0279159, in the Office of the Orange County Recorder (the Deed of Trust). The Deed of Trust encumbers the real property described in Exhibit "A" attached hereto (the "Affected Real Property") and other real property. Beneficiary hereby acknowledges the Memorandum of Translocation Plan and Permit dated October 16, 1997, executed by Trustor, and recorded substantially herewith, which relates to the translocation/restoration and management program for Blockman's Dudleya (Dudleya blockmaniae) required by the Coastal Commission of the State of California (the "Translocation Plan"). At the request of Trustor and the Coastal Commission of the State of California, Beneficiary hereby subordinates the lien of its Deed of Trust, but only as to the Affected Real Property, to the requirements of the Translocation Plan.

The foregoing subordination is made subject to the following reservation and agreement: (a) The breach of any of the covenants or restrictions in the Translocation Plan shall not defeat or render invalid the lien of the Deed of Trust (including all renewals, amendments, additions and extensions thereof); and (b) Neither Beneficiary nor any other person who acquires title to the Affected Real

Property or any part thereof by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise pursuant to the Deed of Trust (including all renewals, amendments, additions and extensions thereof) shall acquire any liability under the Translocation Plan for any acts or omissions of any prior owners of the Affected Real Property, including without limitation any indemnification obligations.

DATED AS OF: October 16 1997

BENEFICIARY:

BANK OF AMERICA NATIONAL TRUST AND  
SAVINGS ASSOCIATION

By Marcia Reid  
MARCIA Reid Vice President  
[Printed Name and Title]

TRUSTOR:

MT NO. 1, LLC, a California limited liability  
company

By Marblehead Coastal, Inc., a California  
corporation, member

By [Signature]  
Jimmy D. Johnson, CEO  
[Printed Name and Title]

By D. David Steffensen, Jr.  
D. David Steffensen, Jr., Assistant Secretary  
[Printed Name and Title]

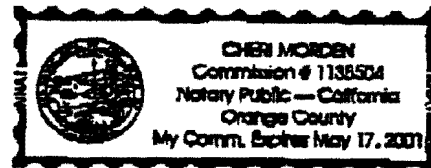
STATE OF CALIFORNIA

COUNTY OF Orange

On October 16, 1997, before me, Cheri Morden, a Notary Public, personally appeared William R. Brasher and D. David Steffensen, Jr. personally known to me ~~(or proved to me on the basis of satisfactory evidence)~~ to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he/she~~ they executed the same in ~~his/her~~ their authorized capacity(ies), and that by ~~his/her~~ their authorized signature(s) on the instrument the person(s) or their entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

  
Signature



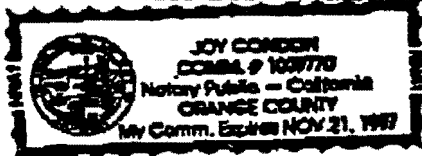
ACKNOWLEDGMENTS

STATE OF CALIFORNIA     )  
   )ss.  
 COUNTY OF Orange     )

On October 16 1997 before me Joy Condon

personally appeared Marcia Reid  
 personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be  
 the person(s) whose name(s) is/are subscribed to the within instrument and  
 acknowledged to me that he/she/they executed the same in his/her/their authorized  
 capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
 the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



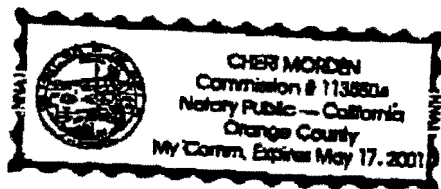
Joy Condon

STATE OF CALIFORNIA     )  
   )ss.  
 COUNTY OF Orange     )

On October 16 1997 before me Cheri Morden, a Notary Public---

personally appeared Jimmy D. Johnson & D. David Steffensen, Jr.-----  
 personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be  
 the person(s) whose name(s) is/are subscribed to the within instrument and  
 acknowledged to me that he/she/they executed the same in his/her/their authorized  
 capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
 the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Cheri Morden

**EXHIBIT "A"****ROBERT BEIN, WILLIAM FROST & ASSOCIATES**

14725 Alton Parkway

Irvine, CA 92618

Revised September 22, 1997

September 17, 1997

JN 30461-01

Page 1 of 2

**LEGAL DESCRIPTION****DUDLEYA RESERVE AREA**

That portion of the Rancho Boca de La Playa, in the City of San Clemente, County of Orange, State of California, as shown on a map thereof recorded June 29, 1887 in Book 4, Pages 118 and 119 of Patents, records of Los Angeles County, California, described as follows:

COMMENCING at the southeasterly terminus of that certain course shown as "North 46°27' West 2807.06 feet" in the southwesterly line of the Howard Lewis Krum parcel on a map filed in Book 12, Page 45 of Records of Surveys in the Office of the County Recorder of said Orange County, said terminus also being in the northeasterly right-of-way line of California State Highway as described in a deed to the State of California, recorded September 14, 1929 in Book, 310, Page 297 of Official Records in said Office of the Orange County Recorder, for the purpose of this description said course shall have a bearing of North 45°39'11" West, said easterly terminus being the beginning of a curve concave northeasterly and having a radius of 932.31 feet, thence tangent from said course along said curve and said northeasterly right-of-way line southeasterly 196.07 feet through a central angle of 12°03'00"; thence radially from said curve North 32°17'49" East 5.00 feet to a point on a curve concentric with and 5.00 feet northeasterly from last said curve and the TRUE POINT OF BEGINNING; thence along said concentric curve easterly 382.42 feet through a central angle of 23°37'42" to the westerly line of Parcel N2-101 as described in the Final Order of Condemnation for the Orange County Flood Control District recorded August 15, 1963 in Book 6878, Page 15 of Official Records in said Office of the Orange County Recorder; thence non-tangent from said curve, along said westerly line North 13°44'16" East 74.52 feet to a point on a non-tangent curve concave southeasterly and having a radius of 186.00 feet, a radial line of said curve from said point bears South 76°16'34" East; thence along said curve and westerly line northerly 235.67 feet through a central angle of 72°35'49" to a point on a non-tangent curve concave southwesterly and having a radius of 230.00 feet, a radial line of said curve from said point bears South 77°06'00" West; thence along said curve northwesterly 237.22 feet through a central angle of

**EXHIBIT "A"**

Robert Bein, William Frost & Associates  
Dudleya Reserve Area

Revised September 22, 1997  
September 17, 1997  
JN 30461-01  
Page 2 of 2

59°05'39"; thence non-tangent from said curve South 45°06'21" West 218.75 feet;  
thence South 73°47'54" West 222.82 feet; thence South 32°17'49" West 37.66 feet  
to the TRUE POINT OF BEGINNING.

CONTAINING: 2.14 Acres, more or less.

SUBJECT TO all Covenants, Rights, Rights-of-Way and Easements of Record.


  
James R. Crawford, P.L.S. 4965



EXHIBIT "A"

