

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 TELEPHONE AND TDD (415) 904-5200

W10



Staff: NC-SF
 Staff Report: January 15, 1997
 Hearing Date: February 5, 1997
 Commission Action:

STAFF RECOMMENDATION FOR RESCISSION OF CEASE & DESIST ORDER

CEASE AND DESIST ORDER: CCC-93-CD-03(as amended)

DATE ORDER ISSUED: November 16, 1993; order amended on January 13, 1994

RELATED VIOLATION FILE: V-4-92-030

PROPERTY DESCRIPTION AND LOCATION: Approximately 42 acres, located at 2100 McReynolds Road off of Latigo Canyon Road, in an unincorporated area of Los Angeles County, which is in the Coastal Zone and more specifically described as:

The Southeast Quarter of the Southeast Quarter of Section 17, Township 1, South, Range 18 West, San Bernardino Base and Meridian (hereinafter Lot A); and

A portion of the Northeast Quarter of the Northeast Quarter of Section 20, Township 1 South, Range 18 West, San Bernadino Meridian (hereinafter Lot B).

APNs: 4464-024-020; 4464-024-021; 4464-024-022; 4464-024-023; 4464-024-024; 4465-006-054 and 4465-006-055

ALLEGED VIOLATORS: Madalon K. Witter
 Douglas W. Richardson
 2100 McReynolds Road
 Malibu, CA 90265

VIOLATION DESCRIPTION: Grading, removal of major vegetation, subdivision, and placement of solid materials and erection of structures, including: at least 18 trailers and/or mobile homes, power transmission and distribution lines, telephone

lines, buildings, roads, pipes, septic systems, livestock corrals, abandoned vehicles, trash, construction materials and equipment

SUBSTANTIVE FILE
DOCUMENTS:

Coastal Development Permit File No. 5-82-377
Cease and Desist Order File No. CCC-93-CD-03

I. SUMMARY OF STAFF RECOMMENDATION:

Pursuant to the preemptory writ of mandate issued by L.A. Superior Court in Case No. BS026924, *Witter, et al. v. California Coastal Commission*, staff recommends that the Commission rescind Commission Cease and Desist Order No. CCC-93-CD-03.

II. MOTION:

Staff recommends adoption of the following motion:

I move that the Commission rescind Cease and Desist Order No. CCC-93-CD-03(as amended).

Staff recommends a YES vote. An affirmative vote by a majority of the Commissioners present and voting is necessary to pass the motion.

III. PROPOSED FINDINGS:

Staff recommends that the Commission adopt the following findings in support of its action:

A. Commission Rescission Authority

The Commission has the legal authority to modify or rescind a cease and desist order pursuant to section 13188(b) of the California Code of Regulations (Title 14). Section 13188(b) provides:

The commission, after public hearing may rescind or modify a cease and desist order that it has issued. A proceeding for such a purpose may be commenced by (1) any person to whom the cease and desist order is directed, (2) the executive director or (3) any two members of the commission. Upon receipt of a request pursuant to this subsection (b) for rescission or modification of a cease and desist order issued by the Commission, a hearing on the request shall be held at the next regularly scheduled meeting or as soon thereafter as is practicable after notice to all persons subject to the order or whom the executive director otherwise has reason to believe would be interested in the matter.

B. Alleged Violation Description

This alleged violation consists of development, as defined in Coastal Act section 30106, including grading, removal of major vegetation, subdivision, and placement and erection of solid

materials and structures, without benefit of an approved coastal development permit as required by Coastal Act section 30600.

C. Background on Cease and Desist Order No. CCC-93-CD-03

On November 16, 1993, the Commission, by a vote of 11-0, issued Cease and Desist Order No. CCC-93-CD-03 against Madalon K. Witter and Douglas W. Richardson (hereinafter "the alleged violators"). The Commission found it necessary to issue the order because the alleged violators had failed to resolve voluntarily a violation of the Coastal Act permitting requirements. CCC-93-CD-03 ordered the alleged violators to cease and desist from: 1) engaging in any further development activity on the property site without first obtaining a coastal development permit (CDP); and 2) continuing to maintain on the property development that violates the Coastal Act. CCC-93-CD-03 ordered the alleged violators to submit by January 18, 1994, a complete coastal development permit application for either: 1) the restoration of the property; 2) after-the-fact permit approval of the unpermitted development; or 3) a determination of vested rights. Exhibit No. 2 includes the Commission's adopted findings of fact and a copy of the order issued.

On January 13, 1994, the Commission voted to amend its previous order to delegate to the Executive Director authority for granting an extension of time to file a CDP application on the condition that the alleged violators not file a lawsuit challenging the validity of CCC-93-CD-03. Exhibit 3 includes the Commission's adopted findings of fact and a copy of the amended order issued.

On January 19, 1994, the alleged violators filed a petition for a writ of mandate, challenging Cease and Desist Order No. CCC-93-CD-03, thus nullifying the above-described amendment.

D. Litigation History

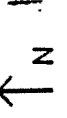
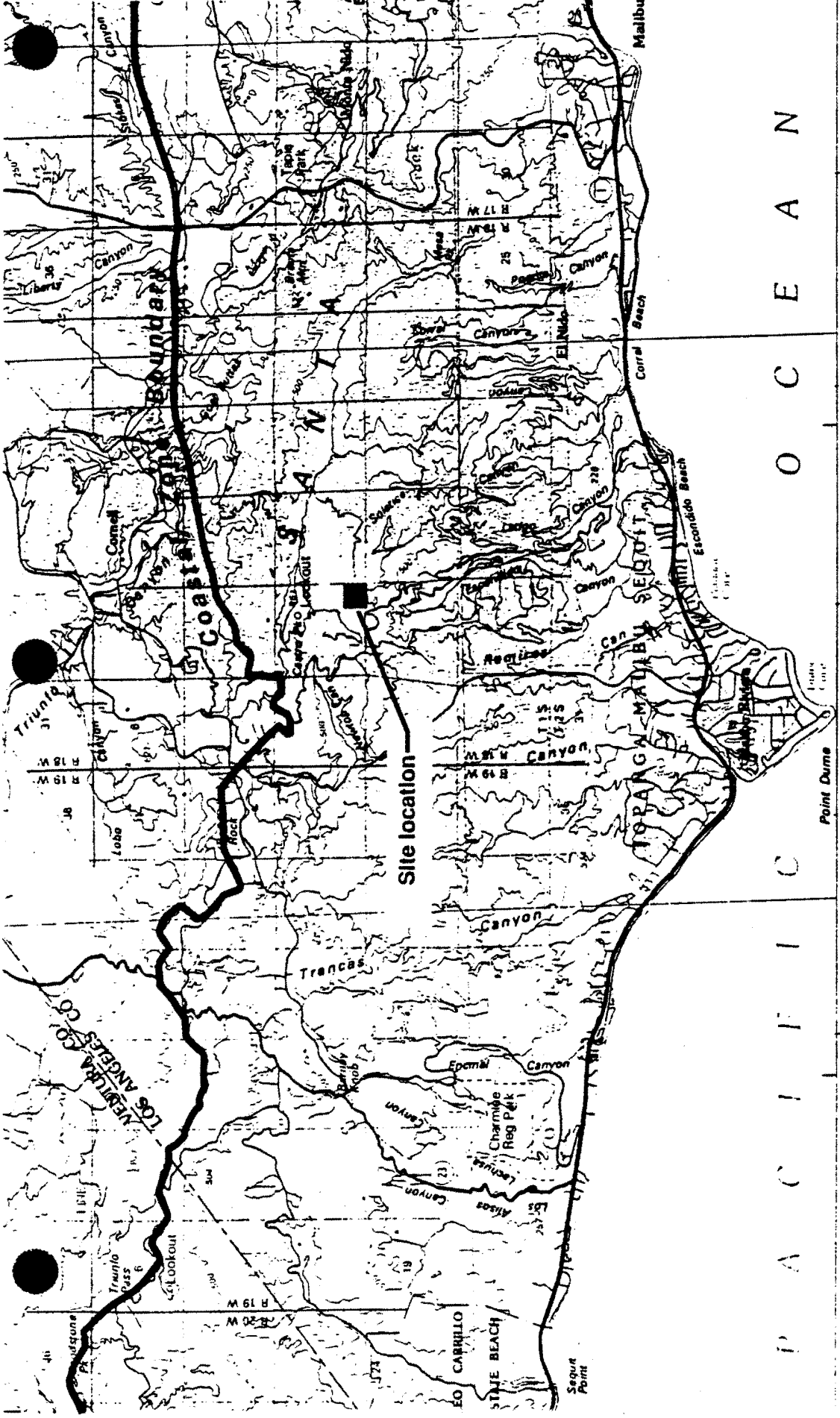
On January 23, 1995, the Attorney General's Office filed a complaint for Declaratory Relief, Preliminary and Permanent Injunction, Civil Fines and Penalties against the alleged violators for violating the Coastal Act.

On December 4, 1996, the Superior Court heard the alleged violators' petition for writ of mandate. The Court determined that the Coastal Commission's notice of the Commission hearing to Ms. Witter and to Mr. Richardson was defective in that there was no evidence in the administrative record of the proceedings that such notice was ever served. The Court further ruled that the administrative record contained substantial evidence to support the issuance of a cease and desist order. The Court's statement of decision thus requires the Commission to rescind CCC-93-CD-03 for failure to give Ms. Witter and Mr. Richardson adequate notice. The Court's decision is contained in Exhibit 4.

The Commission has decided not to appeal this decision and to comply with the Court's decision. The Commission notes that its decision to vacate CCC-93-CD-03 does not prevent it from considering and issuing a new cease and desist order to bring the subject property into conformity with the Coastal Act.

E. Violation Resolution Status

As of this date the alleged violators have failed to file a complete CDP application to retain any of the unpermitted development found on the property. The alleged violators have twice attempted to file a claim for a vested rights (first attempt: March 1994; second attempt: October 1996). Both applications were determined to be incomplete by Commission legal staff.



Map scale: 1:100,000
 Source: U.S.G.S. 30x60 minute (topographic)

EXHIBIT NO. 1, 2 of 2
APPLICATION NO.
CCC-93-CD-03
Witer/Richardson

Exhibit 1: Site Location Map - (Witer and Richardson), Los Angeles County

P A C I F I C O C E A N

APN 4464-24-20, 21, 22, 23, 24
and APN 4465-6-54, 55

900
-120.00±Ac.
0.21±Ac. (Rd.)
119.79±Ac.

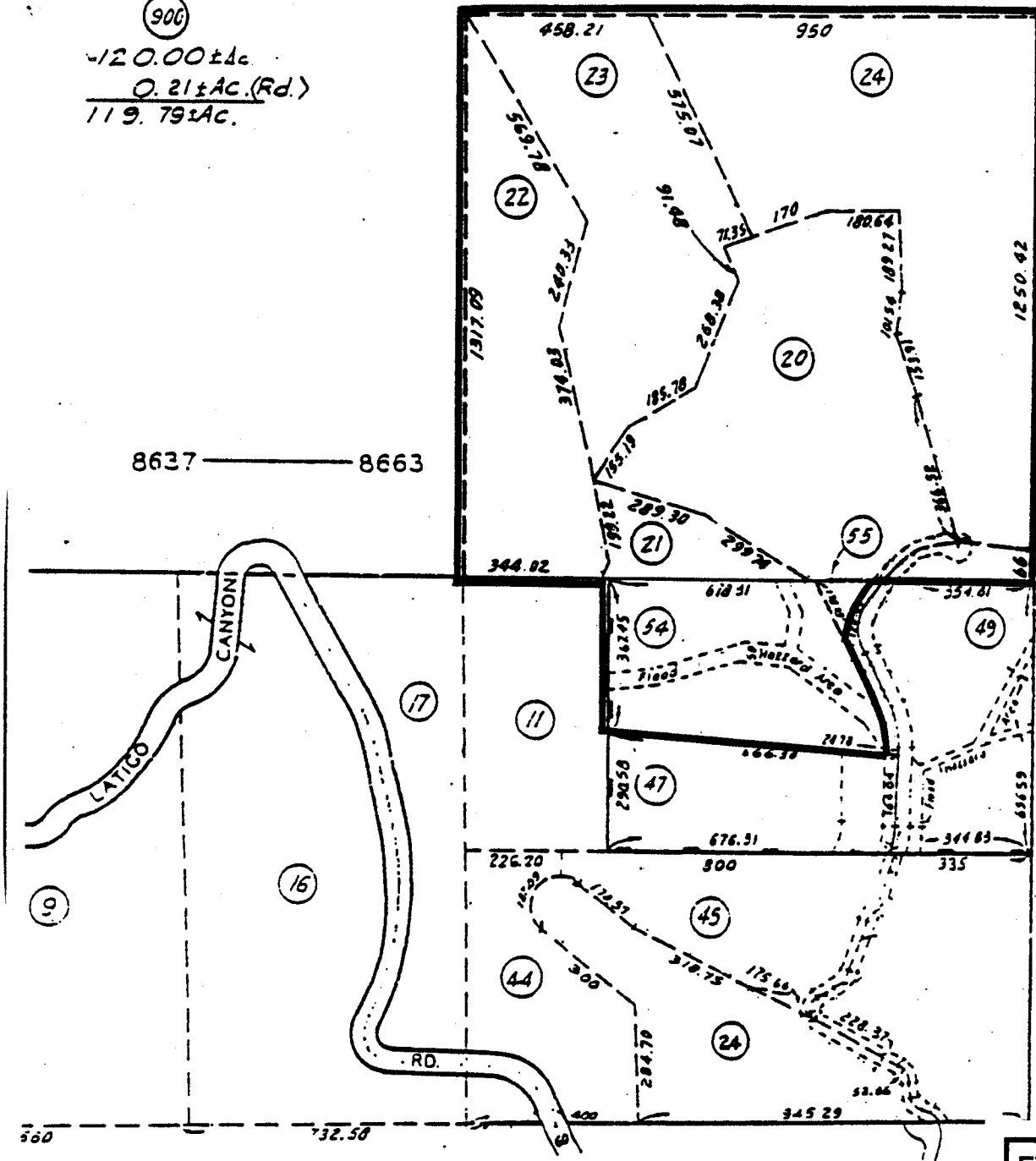


EXHIBIT NO. 1 pg 2 of 2
APPLICATION NO.
CCC-93-CD-03
Witter/Richardson

Parcel Map — Commission Cease and Desist Order No. CCC-93-CD-03
APN 4464-24-20, 21, 22, 23, 24 and APN 4465-6-54, 55
Witter and Richardson, Los Angeles County

Map scale: 1 inch = 420 feet



CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE AND TDD (415) 904-5200



November 23, 1993
 CERTIFIED MAIL

Madalon K. Witter
 Douglas W. Richardson
 2100 McReynolds Road
 Malibu, California 90265

SUBJECT: COMMISSION CEASE AND DESIST ORDER NO. CCC-93-CD-03

DATE ISSUED: NOVEMBER 16, 1993

Dear Ms. Witter and Mr. Richardson:

On November 16, 1993, by a vote of eleven in favor and none opposed, the California Coastal Commission issued permanent Cease and Desist Order No. CCC-93-CD-03, as follows:

CEASE AND DESIST ORDER

Pursuant to its authority under California Public Resources Code section 30810, the California Coastal Commission hereby orders Madalon K. Witter and Douglas W. Richardson, all their agents, and any other persons acting in concert with any of the foregoing to cease and desist from: (1) engaging in any further development activity at the property without first obtaining a coastal development permit which authorizes such activity; and (2) continuing to maintain any development at the property that violates the California Coastal Act. Accordingly, all persons subject to this order shall fully comply with paragraphs A, B, and C as follows:

A. Refrain from engaging in any development activity at the property without first obtaining a coastal development permit which authorizes such activity.

B. (1) Within 60 days of the date of this order, submit to the Commission for its review and approval a complete coastal development permit application for either: (a) the restoration of the property to its pre-violation state, or (b) the after-the-fact authorization of the subject unpermitted development (as described below).

(2) Within 60 days of the date of Commission denial, in whole or in part, of an application for after-the-fact authorization of the subject unpermitted development, submit a complete coastal development permit application for the restoration of that development which remains unpermitted.

EXHIBIT NO. 2
APPLICATION NO.
CCC-93-CD-03
Witter/Richardson

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(3) Subject to the action of the Commission on any application for after-the-fact authorization of the unpermitted development, the restoration application shall include: (a) a grading plan for the restoration of the property to its pre-violation topography; (b) a revegetation plan designed to provide 90-percent coverage of all disturbed areas of the property with native vegetation within 90 days of completion of the restorative grading; and (c) an implementation and monitoring schedule which shall provide for follow-up planting should the initial revegetation fail to provide 90-percent coverage of all disturbed areas of the property within 90 days of completion of the restorative grading.

C. (1) Within such period of time as the Commission may specify in any permit it may grant for restoration of the property, remove all unpermitted development (as defined below), including all unpermitted land divisions from the property, except that development for which the Commission grants after-the-fact authorization shall not be required to be removed.

(2) Fully comply with such other terms, conditions, and deadlines of said restoration permit as the Commission may impose.

IDENTIFICATION OF THE PROPERTY

The property which is the subject of this cease and desist order is described as follows:

Approximately 42 acres, located at 2100 McReynolds Road off of Latigo Canyon Road, in an unincorporated area of Los Angeles County, which is in the Coastal Zone, and further described as:

The Southeast Quarter of the Southeast Quarter of Section 17, Township 1, South, Range 18 West, San Bernardino Base and Meridian; and

A portion of the Northeast Quarter of the Northeast Quarter of Section 20, Township 1 South, Range 18 West, San Bernardino Meridian;

APNs: 4464-024-020; 4464-024-021; 4464-024-022; 4464-024-023;
4464-024-024; 4465-006-054 and 4465-006-055, as further described in Exhibit 2 of the "Adopted Findings" attached.

DESCRIPTION OF UNPERMITTED DEVELOPMENT

Grading, removal of major vegetation, subdivision, and placement of solid materials and erection of structures, including: at least 18 trailers and/or mobile homes, power transmission and distribution lines, telephone lines, buildings, roads, pipes, septic systems, livestock corrals, abandoned vehicles, trash, and construction materials and equipment.

TERM

This order shall remain in effect permanently unless and until rescinded by the Commission.

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APPLICATION NO.
CCC-93-CD-03
W. Her/Richardson

FINDINGS

This order is issued on the basis of the findings adopted by the Commission on November 16, 1993, as set forth in the attached document entitled "Adopted Findings."

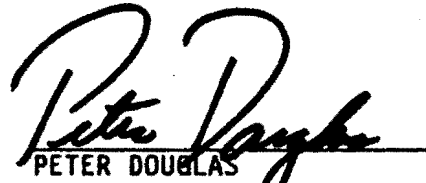
COMPLIANCE OBLIGATION

Strict compliance with this order by all parties subject thereto is required. Failure to comply strictly with any term or condition of this order may result in the imposition of civil penalties of up to SIX THOUSAND DOLLARS (\$6,000) per day for each day in which such compliance failure persists.

APPEAL

Pursuant to Section 30803(b) of the California Public Resources Code, any person or entity against whom this order is issued may file a petition with the Superior Court for a stay of this order.

Questions regarding the content of this order should be referred to Chris Kern of the Commission's Statewide Enforcement Unit at (415) 904-5220. Executed at San Francisco, California, on November 23, 1993, on behalf of the California Coastal Commission.


PETER DOUGLAS
Executive Director

cc: California Coastal Commission South Central Coast Area Office,
Attention: John Ainsworth, Malibu Area Supervisor
Morton Devor, Esq.

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APPLICATION NO.
ccc-93-CD-03
Witter/Richardson

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE AND TDD (415) 904-5200



Staff: CK-SF
 Staff Report: November 5, 1993
 Hearing Date: November 16, 1993
 Commission Action: Approved 11-0

ADOPTED FINDINGS FOR ISSUANCE OF CEASE AND DESIST ORDER

CEASE AND DESIST ORDER: CCC-93-CD-03

RELATED VIOLATION FILE: V-4-MAL-92-030

ALLEGED VIOLATORS: Madalon K. Witter
 Douglas W. Richardson
 2100 McReynolds Road
 Malibu, California 90265

PROPERTY: Approximately 42 acres, located at 2100 McReynolds Road off of Latigo Canyon Road, in an unincorporated area of Los Angeles County, which is in the Coastal Zone and more specifically described as:

The Southeast Quarter of the Southeast Quarter of Section 17, Township 1, South, Range 18 West, San Bernardino Base and Meridian (hereinafter Lot A); and

A portion of the Northeast Quarter of the Northeast Quarter of Section 20, Township 1 South, Range 18 West, San Bernardino Meridian (hereinafter Lot B).

APNs: 4464-024-020; 4464-024-021; 4464-024-022; 4464-024-023; 4464-024-024; 4465-006-054 and 4465-006-055.

VIOLATION DESCRIPTION: Grading, removal of major vegetation, subdivision, and placement of solid materials and erection of structures, including: at least 18 trailers and/or mobile homes, power transmission and distribution lines, telephone lines, buildings, roads, pipes, septic systems, livestock corrals, abandoned vehicles, trash, and construction materials and equipment.

SUBSTANTIVE FILE DOCUMENTS:

Coastal Development Permit File 5-82-377

EXHIBIT NO. 2 p 4 of 21
APPLICATION NO.
CCC-93-CD-03
Witter / Richardson

I. SUMMARY OF STAFF RECOMMENDATION

Staff recommends that, in order to resolve this significant violation of the Coastal Act, the Commission issue a permanent cease and desist order requiring the alleged violators to cease and desist from: (1) engaging in any further development activity on the subject property without first obtaining a coastal development permit (CDP); and (2) continuing to maintain on the property development that violates the California Coastal Act. Therefore, the cease and desist order will require the alleged violators to remove and abate all unpermitted development from the property and submit a complete coastal development permit application for the restoration of the property to its pre-violation state within 60 days from the date of the Commission's action.

II. MOTION

Staff recommends adoption of the following motion:

I move that the Commission issue Cease and Desist Order No. CCC-93-CD-03 as proposed by staff.

Staff recommends a YES vote. An affirmative vote by a majority of the Commissioners present and voting is necessary to pass the motion.

III. PROPOSED FINDINGS

Staff recommends that the Commission adopt the following findings in support of its action:

A. Synopsis

This violation consists of development, within the meaning of that term set forth in Coastal Act section 30106, including grading, removal of major vegetation, subdivision, and placement and erection of solid materials and structures, without benefit of an approved coastal development permit as required by Coastal Act section 30600.

In order to resolve this matter, staff has encouraged the alleged violators to submit a coastal development permit (CDP) application for the removal of the unpermitted development and the restoration of the site to its pre-violation state, or, in the alternative, for an after-the-fact permit to legitimize said development. As of the date of this report, the alleged violators have failed to submit the requested CDP application. Therefore, because the alleged violators have failed to resolve this violation voluntarily, the Commission finds it necessary to issue this cease and desist order to cause the alleged violators to comply with the requirements of the Coastal Act.

B. Background of the Alleged Violation

1. On June 27, 1979, Karen Richardson filed with the Los Angeles County Recorder Parcel Map No. of Lot B into three lots: an approved coastal dev (6).

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W/Her / Richardson

and 47, for the subdivision undertaken without benefit of ing such development (Exhibit

2. On August 25, 1982, the Commission granted to Douglas Richardson, Richard Brooke Jr., and Christopher Brooke, Coastal Development Permit No. 5-82-377 for the subdivision of Lot A into three lots.
3. On December 7, 1987, by five grant deeds recorded as Instrument Nos. 87-1940502, 87-1940503, 87-1940504, 87-1940505, and 87-1940506, Douglas Richardson granted to Madalon Witter, five lots described as separate portions of Lot A. Such conveyances comprise subdivision pursuant to the Subdivision Map Act (Govt. Code section 66424) and thus under section 30106 of the Coastal Act (Exhibits 2 and 7).
4. On May 19, 1992, Commission Malibu Area Enforcement Officer Susan Friend received an anonymous report of grading and vegetation clearance at the subject property.
5. Further reports of unpermitted development, including grading, vegetation clearance, and placement of trailers and mobile homes have been provided to staff by Los Angeles County Departments of Building and Safety District Engineer Associate James Safarik, Los Angeles County Department of Regional Planning Planning Assistant II Michael Bleacher, Los Angeles County Fire Department Captain James Montoya, and California Department of Fish and Game Warden Jon Willcox.
6. Commission staff confirmed these reports by examining aerial photographs taken of the property in 1975, 1979, 1986, and 1993, and through an inspection of the property conducted on October 27, 1993 (Exhibits 4 and 5).
7. By communications which include but are not limited to letters dated June 18, 1992, August 3, 1992, September 9, 1992, (to Witter) and March 5, 1993, (to Witter and Richardson) and by telephone on January 12, 1993, and June 6, 1993, (with Witter) and February 25, 1993, (with Richardson), staff has requested that, in order to resolve this matter administratively, the alleged violators submit a coastal development permit application for either the restoration of the property to its pre-violation state or for the after-the-fact authorization of the subject unpermitted development. As of the date of this report, the alleged violators have refused to voluntarily resolve this matter in the suggested manner.

C. Staff Allegations

The staff alleges the following:

1. Madalon K. Witter (hereinafter "Witter") is the current owner of the real property at 2100 McReynolds Road and off of Latigo Canyon Road, unincorporated Los Angeles County, Assessor's Parcel Numbers: 4464-024-020; 4464-024-021; 4464-024-022; 4464-024-023; 4464-024-024; 4465-006-054 and 4465-006-055 (hereinafter "the property").
2. Douglas W. Richardson (hereinafter "Richardson") owned a portion of the property until he conveyed it to Madalon Witter in 1987, and has actively managed the property in respects which include, limited to collecting rent and is acting as Witter's representer respect to alleged Coastal Act violations on the property.

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Witter/Richardson

3. Development, consisting of grading, removal of major vegetation, subdivision, and placement of solid materials and erection of structures, including: at least 18 trailers and/or mobile homes, power transmission and distribution lines, telephone lines, buildings, roads, pipes, septic systems, livestock corrals, abandoned vehicles, trash, and construction materials and equipment has been undertaken at the property.

4. The above described activities fall within the definition of development set forth in Coastal Act section 30106. Because such development was undertaken without benefit of a coastal development permit, it constitutes a violation of Coastal Act section 30600. In order to resolve this Coastal Act violation, Witter and Richardson must either obtain Commission approval of a coastal development permit authorizing the development "after-the-fact", or restore the site to its pre-development state in accordance with an approved coastal development permit authorizing such restoration.

5. Witter and Richardson have neither obtained "after-the-fact" Commission approval of the unpermitted development nor restored the property to its pre-development state in accordance with an approved coastal development permit.

D. Alleged Violators' Defense

The alleged violators have failed to submit any defensive statements in response to staff's allegations of Coastal Act violations on the property. However, in telephone conversations with Commission staff, Richardson has maintained that the subject development pre-dates any CDP requirements.

E. Rebuttal to Alleged Violators' Defense

While the alleged violators contend that the subject development pre-dates any CDP requirements, they have made no attempt to substantiate this contention. Aerial photographs reveal that extensive grading and vegetation removal has occurred at the property since at least 1975. CDP No. 5-82-377 indicates that two residences existed on Lot A in 1982, and that Lot A consisted of one 42-acre lot for which the Commission approved a subdivision into three lots. However, this property was conveyed in 1987, as five separate parcels, and staff has confirmed at least 18 residences currently on the property. In 1979 Lot B was subdivided into three lots without benefit of an approved CDP. On the basis of this evidence, the Commission finds that substantial development has been undertaken at the property since the State of California requirement to obtain a coastal development permit prior to undertaking such development took effect on January 1, 1977.

F. Unresolved Issues

Staff does not believe that any issues remain unresolved as to whether the Commission should issue this cease and desist order.

G. Resource Damage

Because the alleged violators have not submitted a CDP application for the subject unpermitted development for Commission review, it is to the extent this development may be found consistent with the Chap

EXHIBIT NO. 2
APPLICATION NO.
CC-93-CD-03
Witter/Richardson

the Coastal Act. However, the alleged unpermitted subdivision and placement of 18 trailers and/or mobile homes on the property is inconsistent with the density of development approved for the property in CDP No. 5-82-377, and would not likely be found consistent by the Commission with section 30250(a). Further, based on the evidence discovered during staff's investigation of the alleged violation, it appears that other aspects of the development as performed are not consistent with Chapter 3 policies of the Coastal Act and are causing continuing damage to coastal resources, including:

1. Several mobile homes or trailers on the property employ waste disposal systems which do not appear to be designed to minimize adverse effects of waste water discharges as required by section 30231;
2. The property has been graded to create roads and pads on areas for which no development exists or has been approved in apparent conflict with section 30251 which requires that development shall be sited and designed to minimize the alteration of natural landforms; and
3. Trailers and mobile homes have been placed on the property in a designated flood hazard area, and electrical power lines run on the ground and through brush throughout the property which is an area of high fire hazard. The development therefore fails to minimize the risks to life and property in areas of high flood and fire hazard as required by section 30253(1).

Section 30821.6 of the Coastal Act provides for a penalty of up to \$6,000 per day for any violation of a cease and desist order issued under the Act. That section further provides that the sum of any civil penalty imposed for the violation of this cease and desist order should be commensurate with the damage suffered as a consequence of that violation.

Additional adverse impacts resulting from the subject unpermitted development will be prevented by the restoration project required pursuant to this order. A violation of this order would result in the continuation of the significant resource damage described above.

IV. CEASE AND DESIST ORDER

Staff recommends that the Commission issue the following cease and desist order:

CEASE AND DESIST ORDER

Pursuant to its authority under California Public Resources Code section 30810, the California Coastal Commission hereby orders Madalon K. Witter and Douglas W. Richardson, all their agents, and any other persons acting in concert with any of the foregoing to cease and desist from: (1) any further development activity at the property without first obtaining a coastal development permit which authorizes such activity; and (2) to maintain any development at the property that violates the Coastal Act. Accordingly, all persons subject to this order shall comply with paragraphs A, B, and C as follows:

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APPLICATION NO.
CC-93-CD-03
Witter/Richardson

A. Refrain from engaging in any development activity at the property without first obtaining a coastal development permit which authorizes such activity.

B. (1) Within 60 days of the date of this order, submit to the Commission for its review and approval a complete coastal development permit application for either: (a) the restoration of the property to its pre-violation state, or (b) the after-the-fact authorization of the subject unpermitted development (as described below).

(2) Within 60 days of the date of Commission denial, in whole or in part, of an application for after-the-fact authorization of the subject unpermitted development, submit a complete coastal development permit application for the restoration of that development which remains unpermitted.

(3) Subject to the action of the Commission on any application for after-the-fact authorization of the unpermitted development, the restoration application shall include: (a) a grading plan for the restoration of the property to its pre-violation topography; (b) a revegetation plan designed to provide 90-percent coverage of all disturbed areas of the property with native vegetation within 90 days of completion of the restorative grading; and (c) an implementation and monitoring schedule which shall provide for follow-up planting should the initial revegetation fail to provide 90-percent coverage of all disturbed areas of the property within 90 days of completion of the restorative grading.

C. (1) Within such period of time as the Commission may specify in any permit it may grant for restoration of the property, remove all unpermitted development (as defined below), including all unpermitted land divisions from the property, except that development for which the Commission grants after-the-fact authorization shall not be required to be removed.

(2) Fully comply with such other terms, conditions, and deadlines of said restoration permit as the Commission may impose.

IDENTIFICATION OF THE PROPERTY

The property which is the subject of this cease and desist order is described as follows:

Approximately 42 acres, located at 2100 McReynolds Road off of Latigo Canyon Road, in an unincorporated area of Los Angeles County, which is in the Coastal Zone, and further described as:

The Southeast Quarter of the Southeast Quarter of Section 17, Township 1, South, Range 18 West, San Bernardino Base and Meridian; and

A portion of the Northeast Quarter of the Northeast Quarter of Section 20, Township 1 South, Range 18 West, San Bernardino Meridian;

APNs: 4464-024-020; 4464-024-021; 4464-024-022; 4464-024-4464-024-024; 4465-006-054 and 4465-006-055, as further c attached Exhibit 2.

EXHIBIT NO. 2 pg 9 of 21
APPLICATION NO.
CC-93-CD-03
Witter/Richardson

DESCRIPTION OF UNPERMITTED DEVELOPMENT

Grading, removal of major vegetation, subdivision, and placement of solid materials and erection of structures, including: at least 18 trailers and/or mobile homes, power transmission and distribution lines, telephone lines, buildings, roads, pipes, septic systems, livestock corrals, abandoned vehicles, trash, and construction materials and equipment.

TERM

This order shall remain in effect permanently unless and until rescinded by the Commission.

FINDINGS

This order is issued on the basis of the findings adopted by the Commission on November 16, 1993, as set forth in the attached document entitled "Adopted Findings."

COMPLIANCE OBLIGATION

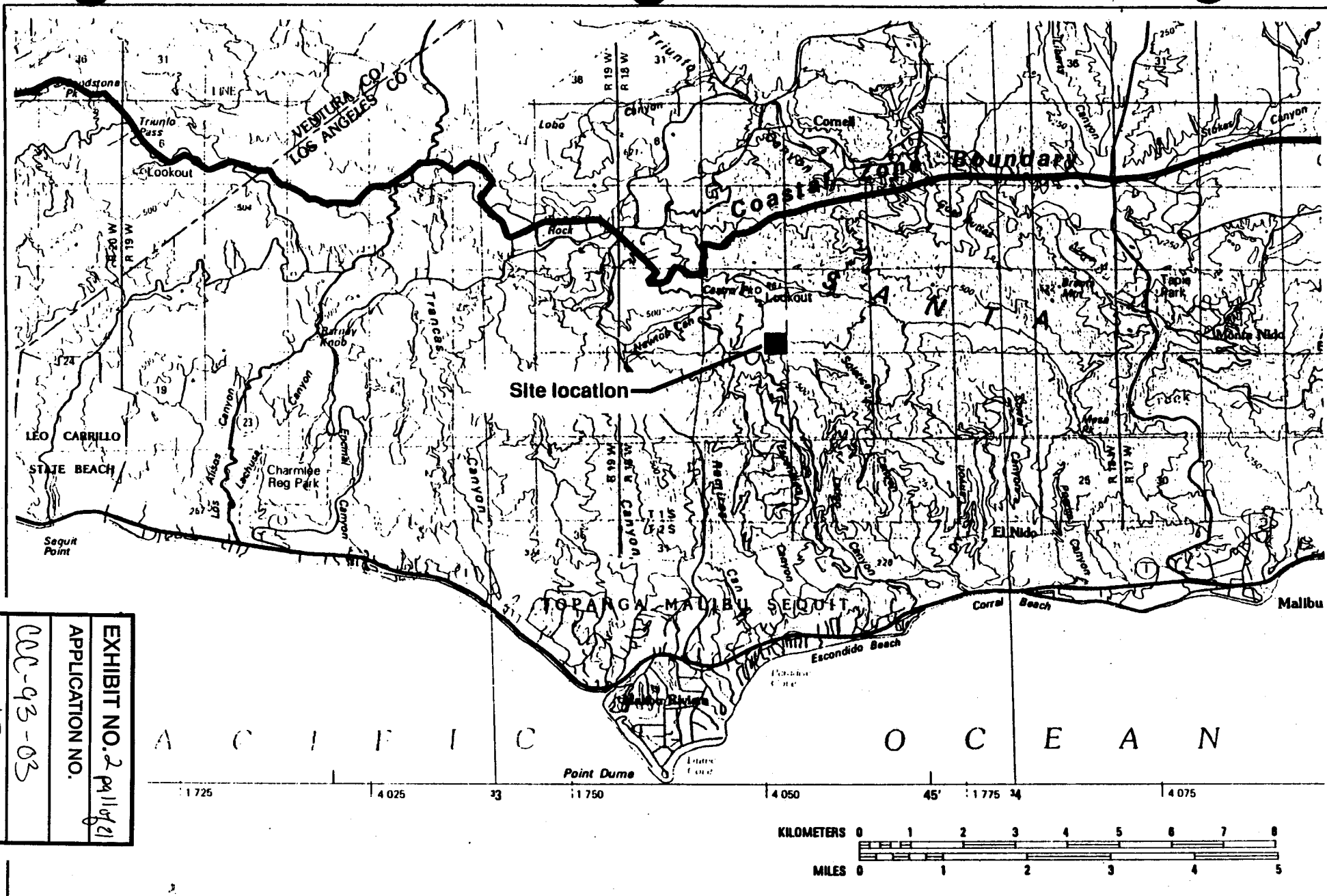
Strict compliance with this order by all parties subject thereto is required. Failure to comply strictly with any term or condition of this order may result in the imposition of civil penalties of up to SIX THOUSAND DOLLARS (\$6,000) per day for each day in which such compliance failure persists.

APPEAL

Pursuant to Section 30803(b) of the California Public Resources Code, any person or entity against whom this order is issued may file a petition with the Superior Court for a stay of this order.

2850L

EXHIBIT NO. 2 p110 of 21
APPLICATION NO.
CC-93-CD-03
Witter/Richardson



Witter / Richardson
 CCC-93-03
 EXHIBIT NO. 2 of 21
 APPLICATION NO.

Exhibit 1: Site Location Map — Cease and Desist Order No. CCC-93-CD-03 (Witter and Richardson), Los Angeles County

Map scale: 1: 100,000
 Source: U.S.G.S. 30x60 minute (topographic)



APN 4464-24-20, 21, 22, 23, 24
and APN 4465-6-54, 55

900
120.00±Ac.
0.21±Ac. (Rd.)
119.79±Ac.

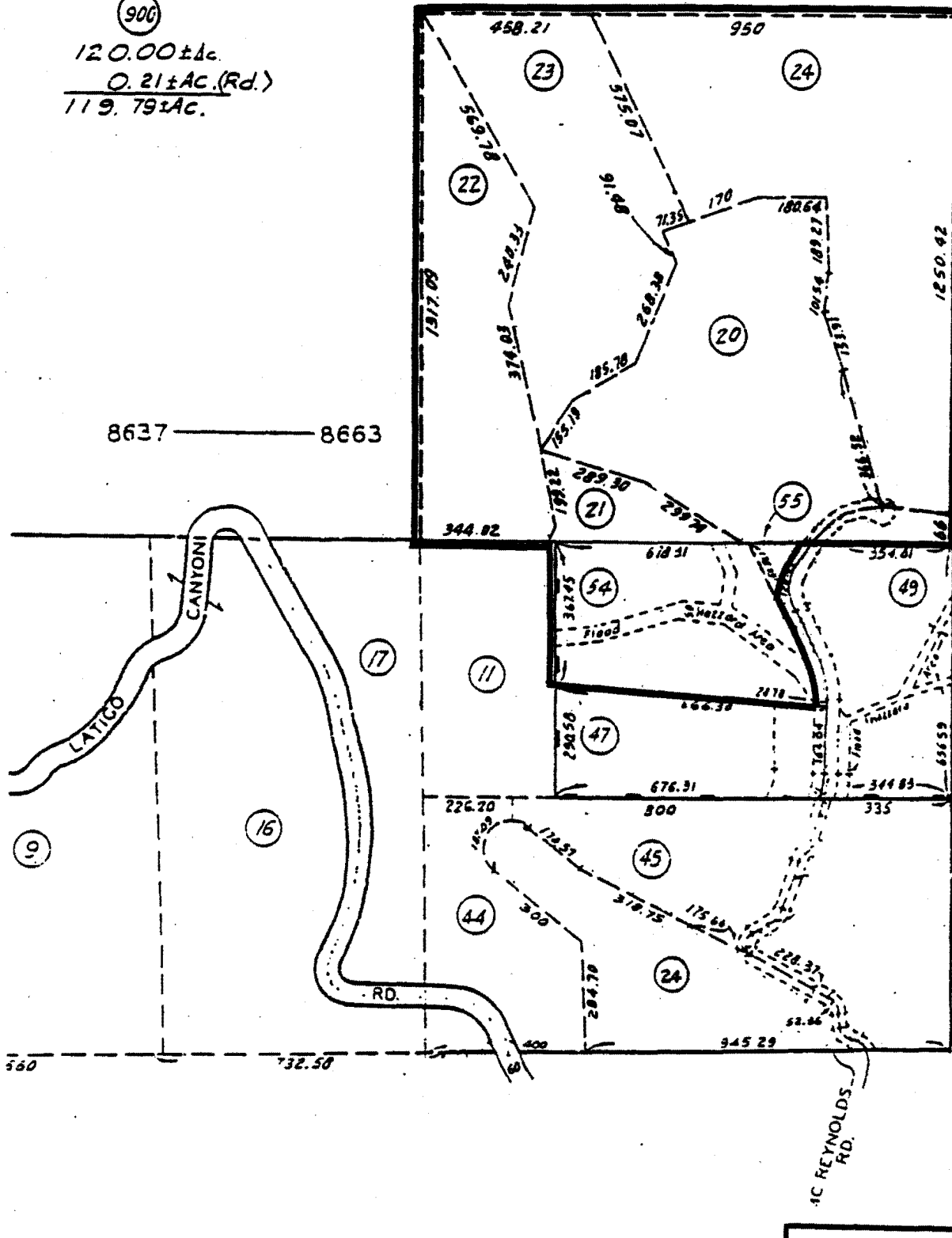


Exhibit 2: Parcel Map — Commission Cease and Desist Order No. CCC-93-CD-03
APN 4464-24-20, 21, 22, 23, 24 and APN 4465-6-54, 55
Witter and Richardson, Los Angeles County

Map sca

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Witter / Richardson

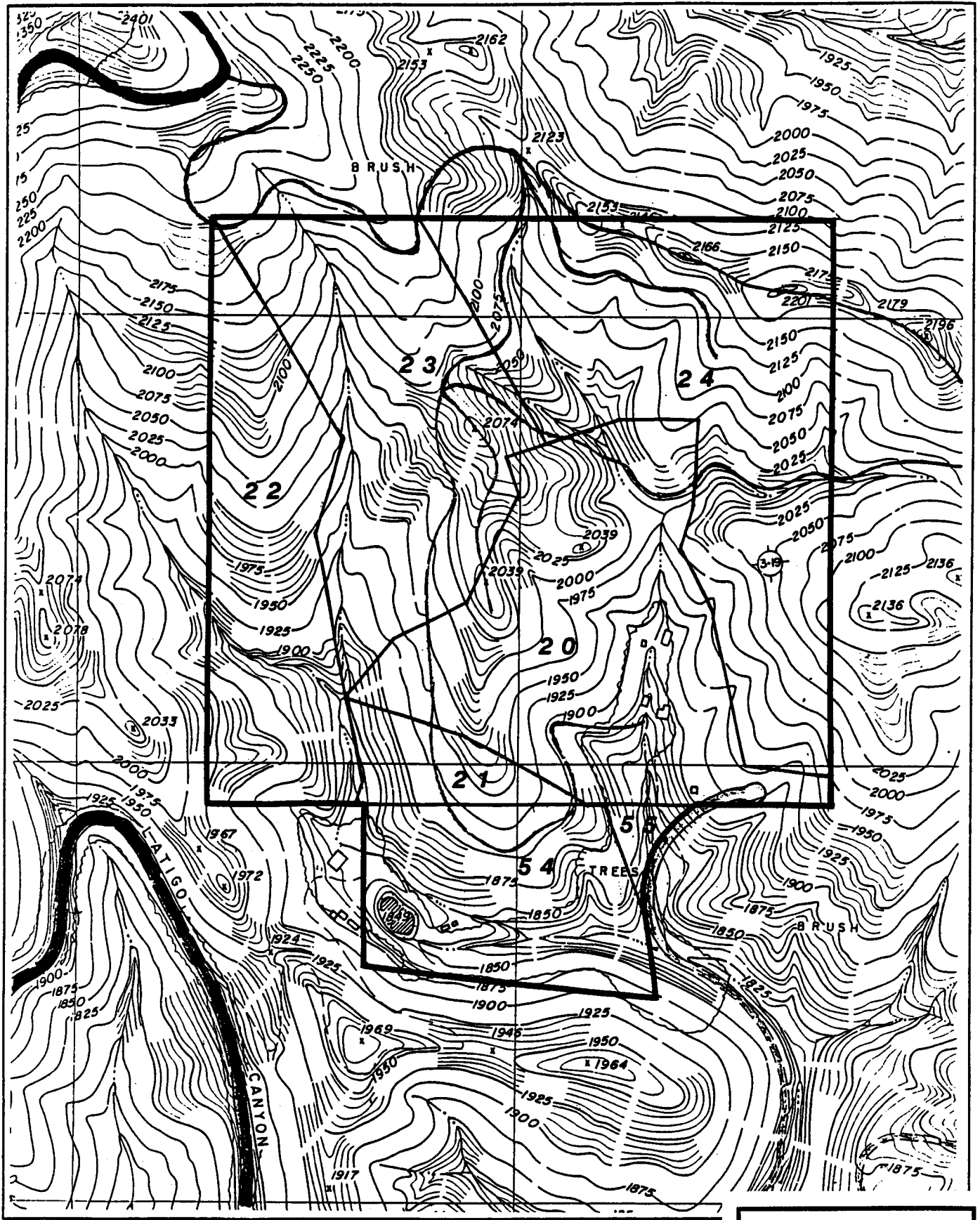


Exhibit 3: Topographic Map — Commission Cease and Desist Order No. CCC-93-CD-03
 APN 4464-24-20, 21, 22, 23, 24 and APN 4465-6-54, 55
 Witter and Richardson, Los Angeles County

Map scale: 0 200

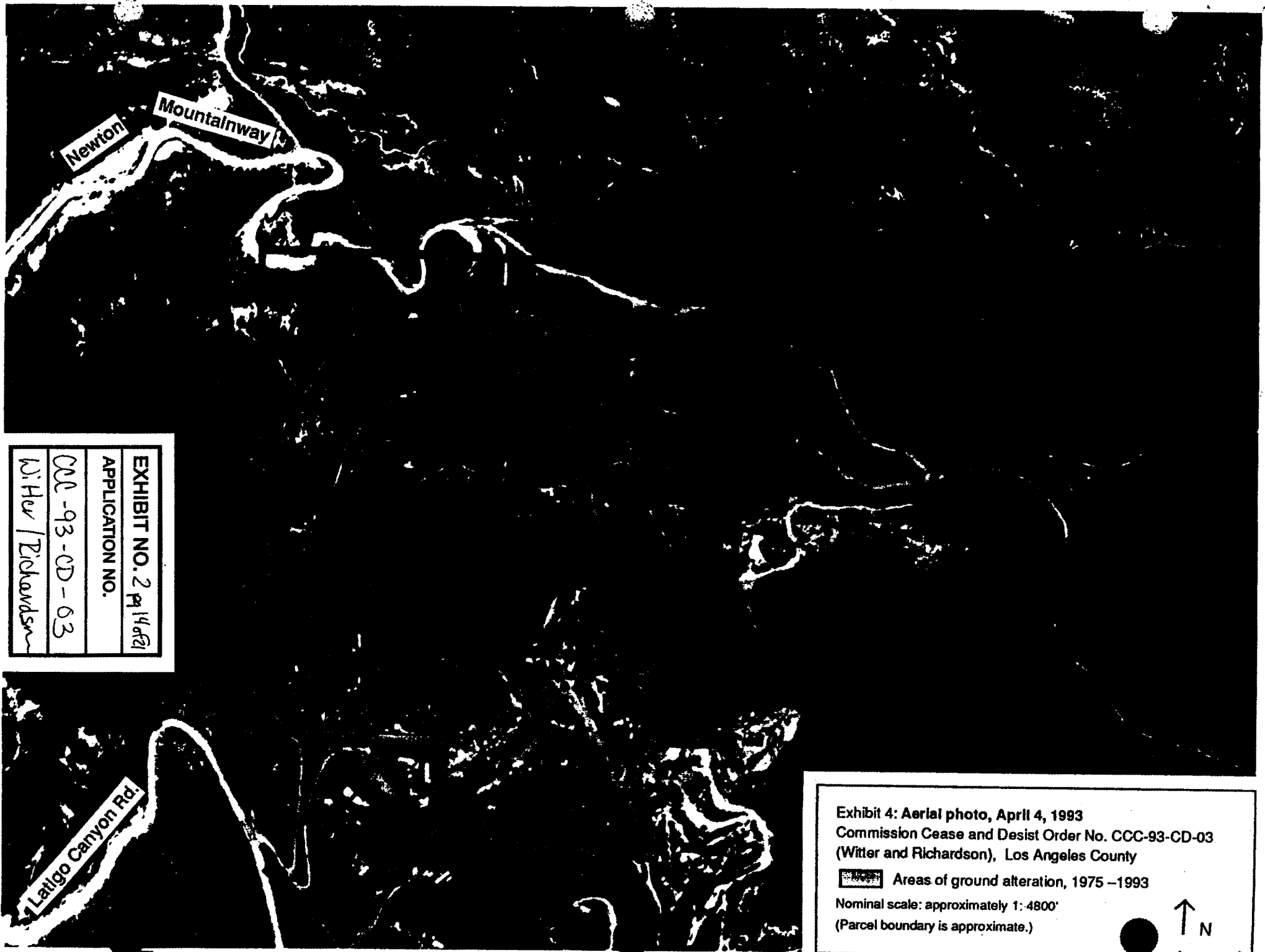
California

EXHIBIT NO. 2 pg 13 of 21

APPLICATION NO.

CCC-93-CD-03


Witter Richardson



Newton
Mountainway

EXHIBIT NO. 2 *pg 14 of 21*
APPLICATION NO.
Witter / Richardson
CC - 93 - CD - 03

Laligo Canyon Rd.

Exhibit 4: Aerial photo, April 4, 1993
Commission Cease and Desist Order No. CCC-93-CD-03
(Witter and Richardson), Los Angeles County
 Areas of ground alteration, 1975-1993
Nominal scale: approximately 1:4800'
(Parcel boundary is approximate.)



APN 4464-24-20, 21, 22, 23, 24
and APN 4465-6-54, 55

(906)
120.00±Ac
0.21±Ac.(Rd.)
119.79±Ac.

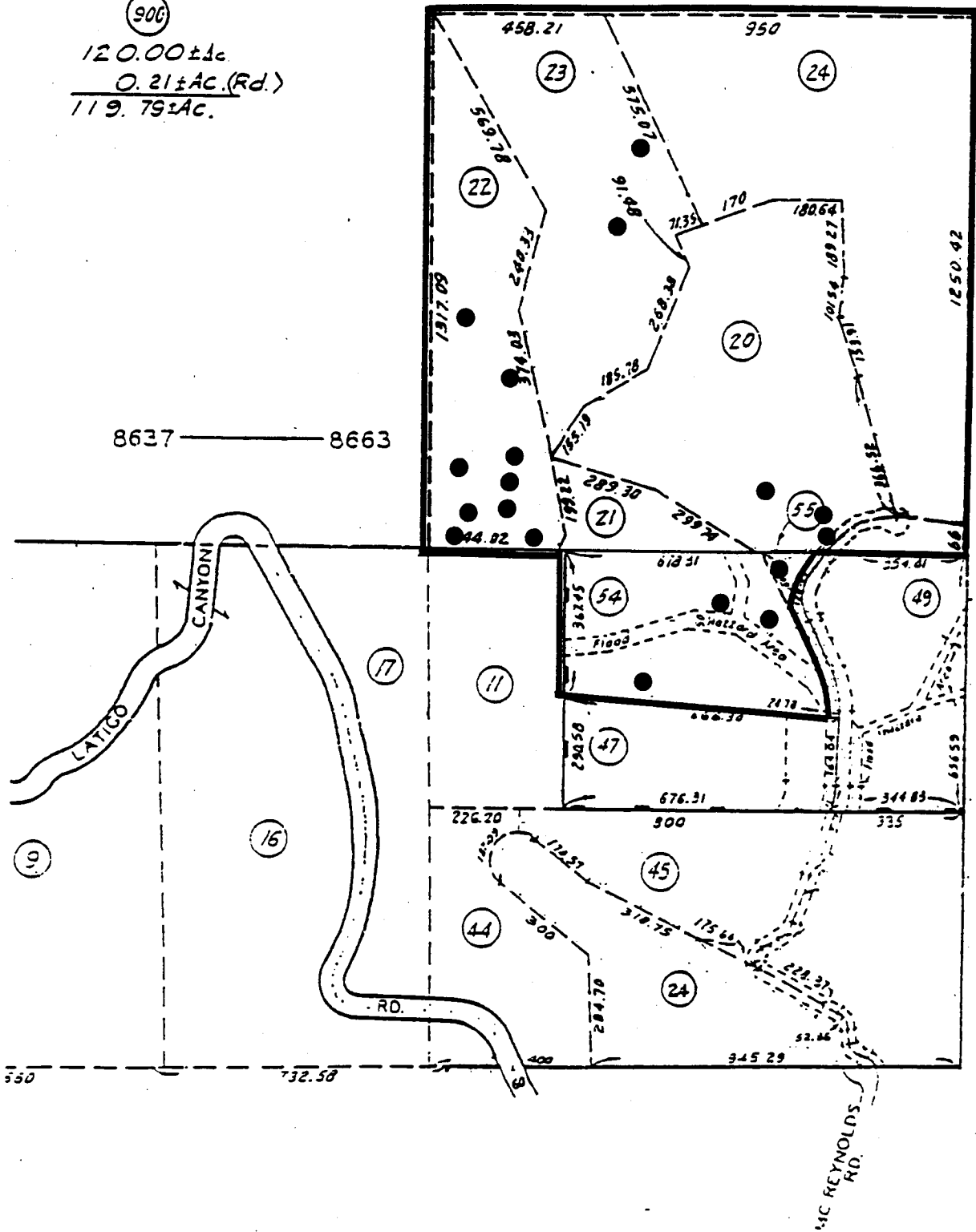


Exhibit 5: Approximate Location of Unpermitted Residences

Commission Cease and Desist Order No. CCC-93-CD-03 Witter and Richards

● Residential Units

Map scale: 1 i

EXHIBIT NO. 2 p15 of 21

APPLICATION NO.

CCC-93-CD-03

Witter/Richardson

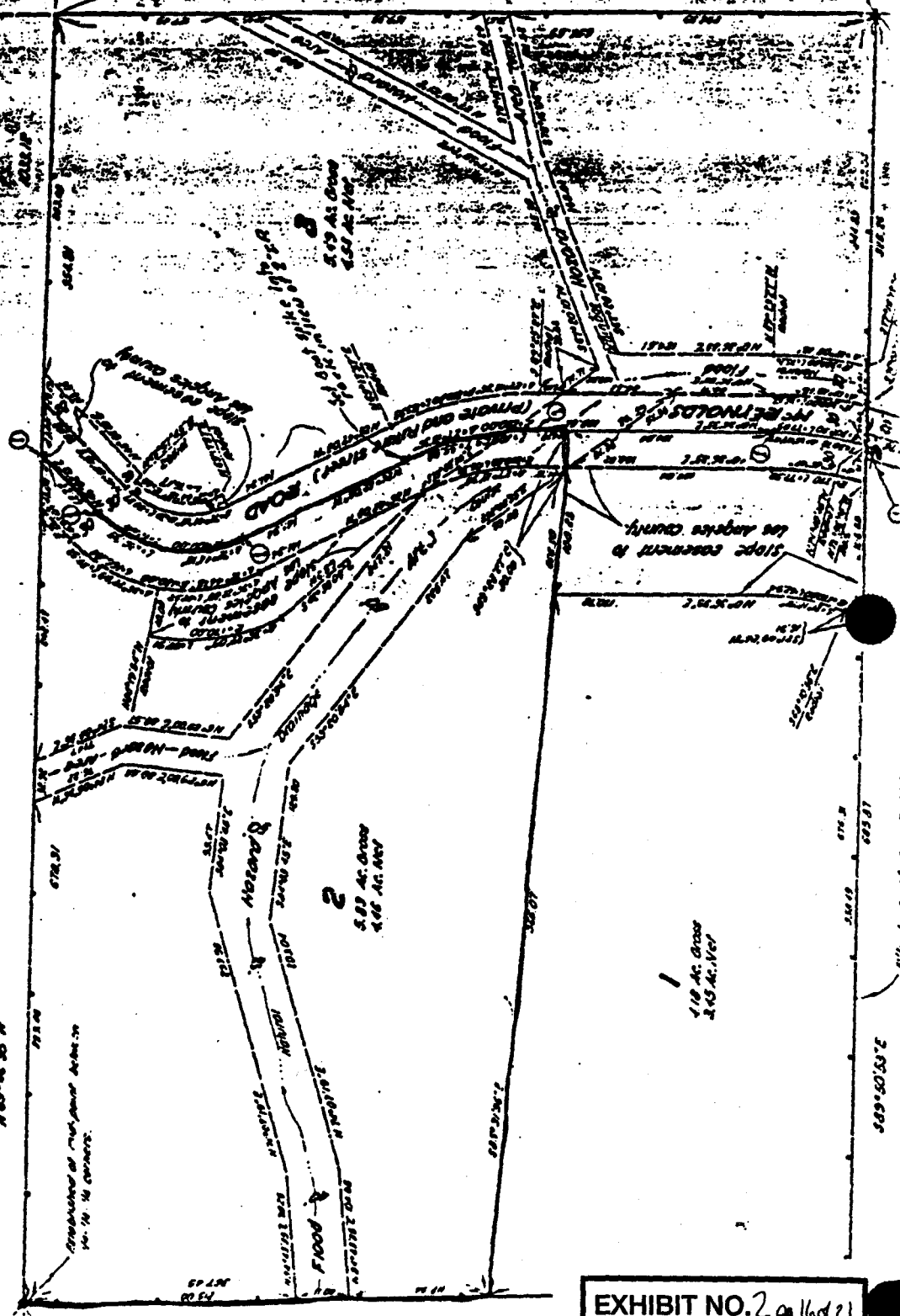
PARCEL MAP N° 7155

IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

FIELD WITH (S) MARKS
COUNTY RECORDS

PORTIONS OF PARCELS 1, 2 AND 3
ARE SUBJECT TO FLOOD HAZARD.

LEGEND.
① Includes all P.I.P. (such as with 709 13 2743)



SCALE: 1"=80'

EXHIBIT NO. 2 of 16 of 21
APPLICATION NO.
ccc-93-cd-03
WitHer / Richardson

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO

Name D.W. Richardson
Street Address P.O. Box 363
Malibu CA 90265
City & State

87-1940502

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
1 MIN 3 PM DEC 8 1987
PAST.

MAIL TAX STATEMENTS TO

Name Madalon K. Witter
Street Address 515 West Front Street
Findlay, Ohio 45840
City & State

SURVEY MONUMENT FEE \$10.00009
SPACE ABOVE THIS LINE FOR RECORDER'S USE

FEE
35
A

CAT NO NND09R2
10 1972 CA 7 83

Individual Grant Deed

THIS FORM FURNISHED BY TIGOR TITLE INSURERS

The undersigned grantor(s) declare(s): This conveyance is in dissolution of marriage
Documentary transfer tax is \$ _____ by one spouse to the other, R&T 11927
() computed on full value of property conveyed, or
() computed on full value less value of liens and encumbrances remaining at time of sale.
(XX) Unincorporated area: () City of _____, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Douglas Warren Richardson

hereby GRANTS to

Madalon K. Witter

the following described real property in the
County of Los Angeles, State of California

That portion of the southeast quarter of the southeast quarter of Section 17 and the
northeast quarter of the northeast quarter of Section 20, Township 1 South, Range 10
West, San Bernardino Meridian, according to the official plat thereof; described as
follows:

Commencing at the southeast corner of said Section 17; thence westerly along the
southerly line of said Section 17 North 89°44'35" West 354.81 feet to the TRUE POINT
OF BEGINNING; thence South 46°02'15" West 62.22 feet to the beginning of a tangent
curve concave easterly having a radius of 100 feet; thence southerly along said curve
an arc distance of 126.95 feet; thence South 63°17'57" West 30.00 feet; thence North
26°42'03" West 195.09 feet; thence North 66°46'37" West 299.74 feet; thence North
65°19'40" West 289.30 feet; thence North 39°45'13" East 155.19 feet; thence North
57°51'00" East 185.78 feet; thence North 24°20'46" East 268.38 feet; thence North
21°02'20" West 9'.48 feet; thence North 70°10'09" East 241.35 feet; thence North
89°43'16" East 180.64 feet; thence South 5°43'19" East 189.27 feet; thence South
2°57'47" West 101.54 feet; thence South 22°37'25" East 153.91 feet; thence South
11°52'21" East 366.52 feet; thence South 78°02'15" West 88.99 feet to the beginning
of a tangent curve concave southeasterly having a radius of 100.00 feet; thence south-
westerly along said curve an arc length of 55.85 feet; thence South 46°02'15" East
51.43 feet to the TRUE POINT OF BEGINNING.

Dated December 7, 1987

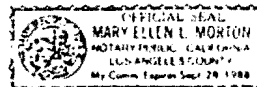
Douglas Warren Richardson

STATE OF CALIFORNIA
COUNTY OF Los Angeles

On _____ before
me, the undersigned, a Notary Public in and for said State,
personally appeared Douglas Warren Richardson

Douglas Warren Richardson

personally known to me or proved to me in the basis of sat-
isfactory evidence to be the person whose name is
subscribed in the within instrument and acknowledged
that he executed the same
WITNESS my hand and official seal



Signature
MARY ELLEN L. MORTON

MY COMMISSION EXPIRES SEPT 28 - 1988

Title Order No _____ Tax or Loan No _____

MAIL TAX STATEMENTS AS DIRECTED ABOVE

EXHIBIT NO. 2 R 17d21

APPLICATION NO.

CC-93-CD-03

Witter/Richardson

RECORDING REQUESTED BY

87-1940503

1500

AND WHEN RECORDED MAIL TO

Name D.W. Richardson
Street Address P.O. Box 363
Malibu CA 90265
City & State

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
1 MIN 3 PM DEC 8 1987
PAST.

MAIL TAX STATEMENTS TO

Name Madalon K. Witter
Street Address 515 West Front Street
Findlay, Ohio 45840
City & State

SURVEY MONUMENT FEE \$10.00 DE 99

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CAT NO NN00087
(10/1973 CA 12 83)

Individual Grant Deed

THIS FORM FURNISHED BY TICOR TITLE INSURERS

FEE
\$5
V

The undersigned grantor(s) declare(s): This conveyance is in dissolution of marriage
Documentary transfer tax is \$ by one spouse to the other, R&T 11927
() computed on full value of property conveyed, or
() computed on full value less value of liens and encumbrances remaining at time of sale.
(XX) Unincorporated area: () City of _____, and
FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
Douglas Warren Richardson
hereby GRANT(S) to
Madalon K. Witter
the following described real property in the
County of Los Angeles, State of California.
That portion of the southeast quarter of the Southeast quarter of
Section 17, Township 1 South, Range 18 West, San Bernardino Meridian,
according to the official plat thereof; described as follows:

23

Commencing at the southeast corner of said Section 17; thence westerly
along the southerly line of said Section 17 North 89°46'35" West 1033.12
feet; thence North 2°31'20" East 42.10 feet; thence North 11°53'27"
West 199.22 feet to the TRUE POINT OF BEGINNING; thence North 12°18'51"
West 374.03 feet; thence North 13°22'09" East 240.33 feet; thence North
32°13'47" West 569.78 feet to the northwest corner of said quarter-
quarter section; thence easterly along the northerly line of said quarter-
quarter section South 89°45'41" East 458.21 feet; thence South 28°09'04"
East 575.07 feet; thence South 70°10'09" West 71.35 feet; thence South
21°02'20" East 91.48 feet; thence South 24°20'46" West 268.38 feet; thence
South 57°51'00" West 185.78 feet; thence South 39°45'13" West 155.19 feet
to the TRUE POINT OF BEGINNING.

Dated: December 7, 1987

Douglas Warren Richardson
Douglas Warren Richardson

STATE OF CALIFORNIA
COUNTY OF Los Angeles

On _____ before
me, the undersigned, a Notary Public in and for said State,
personally appeared

Douglas Warren Richardson
personally known to me or proved to me on the basis of sat-
isfactory evidence to be the person whose name is
subscribed to the within instrument and acknowledged
that he executed the same.
WITNESS my hand and official seal



Signature *Mary Ellen L. Morton*

MARY ELLEN L. MORTON. MY COMMISSION EXPIRES - Sept 28 - 1985

(This area for official notarial seal)

Title Order No. _____ Escrow or Loan No. _____

MAIL TAX STATEMENTS AS DIRECTED ABOVE

EXHIBIT NO. 2
APPLICATION NO.
CC-93-CD-03
Witter / Richardson

RECORDING REQUESTED BY

87-1940504

AND WHEN RECORDED MAIL TO

Name D.W. Richardson
Street P.O. Box 363
Address Malibu CA 90265
City & State

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
1 MIN 3 PM DEC 8 1987
PAST

MAIL TAX STATEMENTS TO

Name Madalon K. Witter
Street 515 West Front Street
Address Findlay, Ohio 45840
City & State

SURVEY MONUMENT FEE \$10.00 9
SPACE ABOVE THIS LINE FOR RECORDER'S USE

FEE \$5

Individual Grant Deed

CALIFORNIA
10/19/21 A 2 41

THIS FORM FURNISHED BY TICOR TITLE INSURERS

The undersigned grantor(s) declare(s) This conveyance is in dissolution of marriage
Documentary transfer tax is \$ by one spouse to the other, R&T 11927
() computed on full value of property conveyed, or
() computed on full value less value of liens and encumbrances remaining at time of sale
(XX) Unincorporated area: () City of _____ and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Douglas Warren Richardson

hereby GRANTS to

Madalon K. Witter

the following described real property in the
County of Los Angeles State of California

That portion of the southeast quarter of the southeast quarter of Section 17 and
the northeast quarter of the northeast quarter of Section 20, Township 1 South,
Range 18 West, San Bernardino Meridian, according to the official plat thereof;
described as follows:

Commencing at the southeast corner of said Section 17; thence westerly along the
southerly line of said Section 17 North 89°46'35" West 354.81 feet; thence South
46°02'15" West 62.22 feet to the beginning of a tangent curve concave easterly having
a radius of 109.00 feet; thence southerly along said curve an arc length of 126.95
feet to the TRUE POINT OF BEGINNING; thence South 26°42'03" East 141.34 feet to the
beginning of a tangent curve concave westerly having a radius of 230.00 feet; thence
southerly along said curve an arc length of 109.63 feet; thence South 0°36'33" West
24.78 feet; thence North 89°23'27" West 30.00 feet; thence North 85°31'56" West 566.07
feet; thence North 1°06'15" West 367.45 feet to the southerly line of said Section 17,
thence North 2°31'20" East 42.10 feet; thence North 11°53'27" West 199.22 feet; thence
South 65°19'40" East 289.30 feet; thence South 66°46'37" East 299.74 feet to the
southerly line of said Section 17; thence South 26°42'03" East 195.09 feet; thence
North 63°17'57" East 30.00 feet to the TRUE POINT OF BEGINNING.

Dated December 7, 1987

STATE OF CALIFORNIA
COUNTY OF Los Angeles

Douglas Warren Richardson
Douglas Warren Richardson

On _____ before
me the undersigned a Notary Public in and for said State,
personally appeared

Douglas Warren Richardson

personally known to me or proved to me on the basis of sat-
isfactory evidence to be the person whose name is
subscribed to the within instrument and acknowledged
that he executed the same
WITNESS my hand and official seal



Signature *MARY ELLEN L. MORTON*

MY COMMISSION EXPIRES

Title Order No. Escrow or Loan No.

MAIL TAX STATEMENTS AS DIRECTED ABOVE

EXHIBIT NO. 2
APPLICATION NO.

CC-93-CD-03

Witter/Richardson

RECORDED DOCUMENT

1503

87-1940505

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO

Name: D.W. Richardson
 Street Address: P.O. Box 363
 City & State: Malibu CA 90265

RECORDED IN OFFICIAL RECORDS
 RECORDER'S OFFICE
 LOS ANGELES COUNTY
 CALIFORNIA
 1 M/N 3 PM DEC 8 1987
 PAST.

MAIL TAX STATEMENTS TO

Name: Madalon K. Witter
 Street Address: 515 West Front Street
 City & State: Findlay, Ohio 45840

SURVEY MONUMENT FEE SIC CODE 99
 SPACE ABOVE THIS LINE FOR RECORDER'S USE

FEE
 \$5
 M

CAT NO NN00082
 (O 1923 CA 12 83)

Individual Grant Deed
 THIS FORM FURNISHED BY TICOR TITLE INSURERS

ALL
 PTN

The undersigned grantor(s) declare(s): This conveyance is in dissolution of marriage
 Documentary transfer tax is \$ by one spouse to the other, R&T 11927
 () computed on full value of property conveyed, or
 () computed on full value less value of liens and encumbrances remaining at time of sale.
 (XX) Unincorporated area: () City of _____, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
 Douglas Warren Richardson

hereby GRANT(S) to
 Madalon K. Witter

the following described real property in the _____ State of California:
 County of Los Angeles

That portion of the southeast quarter of the southeast quarter of
 Section 17, Township 1 South, Range 18 West, San Bernardino Meridian,
 according to the official plat thereof; described as follows:

Commencing at the southeast corner of said Section 17; thence northerly
 along the easterly line of said Section 17 North 0°20'25" East 66.00
 feet to the TRUE POINT OF BEGINNING; thence North 85°10'49" West 183.07
 feet; thence North 11°52'21" West 366.52 feet; thence North 22°37'25"
 West 153.91 feet; thence North 2°57'47" East 107.54 feet; thence North
 5°43'19" West 189.27 feet; thence South 89°43'16" West 180.64 feet;
 thence South 70°10'09" West 170.00 feet; thence North 28°09'04" West
 575.07 feet to the northerly line of said quarter-quarter section;
 thence easterly along said northerly line South 89°45'41" East 950.00
 feet to the northeast corner of said quarter-quarter section and the
 easterly line of said Section 17; thence southerly along said easterly
 line South 0°20'25" West 1250.42 feet to the TRUE POINT OF BEGINNING.

Dated: December 7, 1987

Douglas Warren Richardson
 Douglas Warren Richardson

STATE OF CALIFORNIA
 COUNTY OF Los Angeles

On _____ before
 me, the undersigned, a Notary Public in and for said State,
 personally appeared

Douglas Warren Richardson
 personally known to me and proved to me on the basis of sat-
 isfactory evidence to be the person whose name is
 subscribed to the within instrument and acknowledged
 that he executed the same
 WITNESS my hand and official seal



Signature: *Mary Ellen L. Morton*
 MARY ELLEN L. MORTON MY COMMISSION EXPIRES

(This area for official notarial)

Title Order No. _____ Escrow or Loan No. _____

MAIL TAX STATEMENTS AS DIRECTED ABOVE

EXHIBIT NO. 2 p920 of 21
 APPLICATION NO.
 CCL-93-CD-03
 Witter/Richardson

RECORDING REQUESTED BY

87-1940506

1502

AND WHEN RECORDED MAIL TO

Name D.W. Richardson
Street P.O. Box 363
Address Malibu CA 90265

City & State

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
1 MIN. 3 PM DEC 8 1987
PAST.

MAIL TAX STATEMENTS TO

Name Madalon K. Witter
Street 515 West Front Street
Address Findlay, Ohio 45840

City & State

SURVEY MONUMENT FILE 510 CODE 9
SPACE ABOVE THIS LINE FOR RECORDER'S USE

FEE
\$5
M

CAT NO NN00587
(O 1923 CA 12 83)

Individual Grant Deed

THIS FORM FURNISHED BY TICOR TITLE INSURERS

ALL
PTN

The undersigned grantor(s) declare(s): This conveyance is in dissolution of marriage
Documentary transfer tax is \$ _____ by one spouse to the other, R&T 11927
() computed on full value of property conveyed, or
() computed on full value less value of liens and encumbrances remaining at time of sale.
(XX) Unincorporated area: () City of _____ and _____

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Douglas Warren Richardson

hereby GRANT(S) to

Madalon K. Witter
the following described real property in the _____
County of Los Angeles _____, State of California.

That portion of the southeast quarter of the southeast quarter of
Section 17, Township 1 South, Range 18 West, San Bernardino Meridian,
according to the official plat thereof; described as follows:

Commencing at the southeast corner of said Section 17; thence westerly
along the southerly line of said Section 17 North 89°46'35" West 1033.12
feet to the TRUE POINT OF BEGINNING; thence North 89°46'35" West 344.02
feet to the southwest corner of said quarter-quarter section; thence
northerly along the westerly line of said quarter-quarter section
North 1°00'41" West 1317.09 feet to the northwest corner of said
quarter-quarter section; thence South 32°13'47" East 569.78 feet;
thence South 13°22'09" West 240.33 feet; thence South 12°18'51" East
374.03 feet; thence South 11°53'27" East 199.22 feet; thence South
2°31'20" West 42.10 feet to the southerly line of said quarter-quarter
section and the TRUE POINT OF BEGINNING.

Dated December 7, 1987

Douglas Warren Richardson
Douglas Warren Richardson

STATE OF CALIFORNIA
COUNTY OF Los Angeles

On _____ before
me, the undersigned, a Notary Public in and for said State,
personally appeared _____

Douglas Warren Richardson
personally known to me or proved to me on the basis of sat-
isfactory evidence to be the person whose name is _____
subscribed to the within instrument and acknowledged
that he executed the same
WITNESS my hand and official seal.



Signature _____
MARY ELLEN L. NORTON MY COMMISSION EXPIRES SEPT 28, 1988

(This area for official notarial seal)

Title Order No. _____ Escrow or Loan No. _____

MAIL TAX STATEMENTS AS DIRECTED ABOVE

EXHIBIT NO. 2 p. 21 of 21
APPLICATION NO.
CC-93-CD-03
Witter/Richardson

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE AND TDD (415) 904-5200



February 2, 1994
 CERTIFIED MAIL

Madalon K. Witter
 Douglas W. Richardson
 2100 McReynolds Road
 Malibu, California 90265

SUBJECT: COMMISSION CEASE AND DESIST ORDER NO. CCC-93-CD-03
 AS AMENDED THROUGH JANUARY 13, 1994

DATE ISSUED: NOVEMBER 16, 1993

Dear Ms. Witter and Mr. Richardson:

On January 13, 1994, by a vote of ten in favor and none opposed, the California Coastal Commission amended permanent Cease and Desist Order No. CCC-93-CD-03. Below is the text of the amended cease and desist order. Additional language is underlined.

CEASE AND DESIST ORDER

Pursuant to its authority under California Public Resources Code section 30810, the California Coastal Commission hereby orders Madalon K. Witter and Douglas W. Richardson, all their agents, and any other persons acting in concert with any of the foregoing to cease and desist from: (1) engaging in any further development activity at the property without first obtaining a coastal development permit which authorizes such activity; and (2) continuing to maintain any development at the property that violates the California Coastal Act. Accordingly, all persons subject to this order shall fully comply with paragraphs A, B, and C as follows:

A. Refrain from engaging in any development activity at the property without first obtaining a coastal development permit which authorizes such activity.

B. (1) Within 60 days of the date of this order, submit to the Commission for its review and approval a complete coastal development permit application for either: (a) the restoration of the property to its pre-violation state, or (b) the after-the-fact authorization of the subject unpermitted development (as described below).

(2) Within 60 days of the date of Commission denial, in whole or in part, of an application for after-the-fact authorization of the s unpermitted development, submit a complete coastal development pe application for the restoration of that development which remains

EXHIBIT NO. 3 pgs
APPLICATION NO.
CC-93-CD-03
Witter/Richardson

(3) Subject to the action of the Commission on any application for after-the-fact authorization of the unpermitted development, the restoration application shall include: (a) a grading plan for the restoration of the property to its pre-violation topography; (b) a revegetation plan designed to provide 90-percent coverage of all disturbed areas of the property with native vegetation within 90 days of completion of the restorative grading; and (c) an implementation and monitoring schedule which shall provide for follow-up planting should the initial revegetation fail to provide 90-percent coverage of all disturbed areas of the property within 90 days of completion of the restorative grading.

(4) The Executive Director may extend the permit application filing period specified herein for good cause shown. Any request for extension must be submitted in writing prior to the expiration of the subject deadline. Said delegation of authority shall terminate upon the initiation of any legal proceeding challenging this order.

C. (1) Within such period of time as the Commission may specify in any permit it may grant for restoration of the property, remove all unpermitted development (as defined below), including all unpermitted land divisions from the property, except that development for which the Commission grants after-the-fact authorization shall not be required to be removed.

(2) Fully comply with such other terms, conditions, and deadlines of said restoration permit as the Commission may impose.

IDENTIFICATION OF THE PROPERTY

The property which is the subject of this cease and desist order is described as follows:

Approximately 42 acres, located at 2100 McReynolds Road off of Latigo Canyon Road, in an unincorporated area of Los Angeles County, which is in the Coastal Zone, and further described as:

The Southeast Quarter of the Southeast Quarter of Section 17, Township 1, South, Range 18 West, San Bernardino Base and Meridian; and

A portion of the Northeast Quarter of the Northeast Quarter of Section 20, Township 1 South, Range 18 West, San Bernardino Meridian;

APNs: 4464-024-020; 4464-024-021; 4464-024-022; 4464-024-023; 4464-024-024; 4465-006-054 and 4465-006-055, as further described in Exhibit 2 of the "Adopted Findings" attached.

DESCRIPTION OF UNPERMITTED DEVELOPMENT

Grading, removal of major vegetation, subdivision, and placement of solid materials and erection of structures, including: at least 18 trailer mobile homes, power transmission and distribution lines, telephor buildings, roads, pipes, septic systems, livestock corrals, aban vehicles, trash, and construction materials and equipment.

EXHIBIT NO. 3 pg 2 of 6
APPLICATION NO.
CCC-93-CD-03
Witter/Richardson

TERM

This order shall remain in effect permanently unless and until rescinded by the Commission.

FINDINGS

This order is amended on the basis of the findings adopted by the Commission on January 13, 1994, as set forth in the attached document entitled "Adopted Findings."

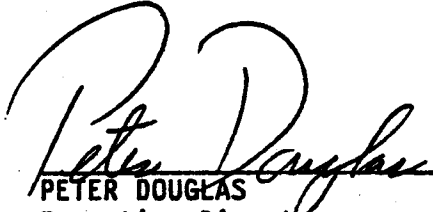
COMPLIANCE OBLIGATION

Strict compliance with this order by all parties subject thereto is required. Failure to comply strictly with any term or condition of this order may result in the imposition of civil penalties of up to SIX THOUSAND DOLLARS (\$6,000) per day for each day in which such compliance failure persists.

APPEAL

Pursuant to Section 30803(b) of the California Public Resources Code, any person or entity against whom this order is issued may file a petition with the Superior Court for a stay of this order.

Questions regarding the content of this order should be referred to Chris Kern of the Commission's Statewide Enforcement Unit at (415) 904-5220. Executed at San Francisco, California, on February 1, 1994, on behalf of the California Coastal Commission.


PETER DOUGLAS
Executive Director

cc: California Coastal Commission South Central Coast Area Office,
Attention: John Ainsworth, Malibu Area Supervisor
Susan Friend, Enforcement Officer
Morton Devor, Esq.

2998L

EXHIBIT NO. 3 <i>pg 3 of 6</i>
APPLICATION NO.
CCC-93-CD-03
Witter/Richardson

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200



Staff: CK-SF
Staff Report: December 29, 1993
Hearing Date: January 13, 1994
Commission Action: Approved 10-0

ADOPTED FINDINGS FOR AMENDMENT TO COMMISSION CEASE AND DESIST ORDER

CEASE AND DESIST ORDER: CCC-93-CD-03 (WITTER/RICHARDSON)

RELATED VIOLATION FILE: V-4-MAL-92-030

ALLEGED VIOLATORS: Madalon K. Witter
Douglas W. Richardson
2100 McReynolds Road
Malibu, California 90265

ATTORNEY: Morton C. Devor
11150 Olympic Boulevard, Suite 1150
Los Angeles, California 90064

PROPERTY: Approximately 42 acres, located at 2100 McReynolds Road off of Latigo Canyon Road, in an unincorporated area of Los Angeles County, which is in the Coastal Zone and more specifically described as:

The Southeast Quarter of the Southeast Quarter of Section 17, Township 1, South, Range 18 West, San Bernardino Base and Meridian; and

A portion of the Northeast Quarter of the Northeast Quarter of Section 20, Township 1 South, Range 18 West, San Bernardino Meridian.

APNs: 4464-024-020; 4464-024-021; 4464-024-022; 4464-024-023; 4464-024-024; 4465-006-054 and 4465-006-055.

DESCRIPTION OF PROPOSED AMENDMENT:

The alleged violators propose an amendment to Cease and Desist Order No. CCC-93-CD-03 in order to grant to the Executive Director the discretion period provided within the order for coastal development permit applicati.

EXHIBIT NO. 3 <i>4 of 6</i>
APPLICATION NO.
CCC-93-CD-03
Witter/Richardson

00

after-the-fact authorization and/or removal of all development on the subject property constructed, performed or installed without a required coastal development permit and thus in violation of the California Coastal Act (Exhibit 1).

[PROCEDURAL NOTE: Pursuant to the Commission's Administrative Regulations, only the Commission, after a public hearing, may modify a cease and desist order that it has issued (section 13188(b), Title 14 California Code of Regulations). Commission Cease and Desist Order CCC-93-CD-03 requires the alleged violators to complete filing of the subject CDP application within 60 days of issuance of the order (January 15, 1994), and does not provide for any extension of this deadline. Thus, unless the order is amended to delegate this discretion to the Executive Director, only the Commission may grant an extension to the permit application filing period specified within the cease and desist order. Although the Commission could at this time extend the permit application filing period, the alleged violators have not established good cause for such extension, and staff would not, therefore, recommend approval of such an amendment. However, if amended as proposed, CCC-93-CD-03 would provide to the Executive Director the discretion to extend the application filing period at such time that good cause may be established.]

I. SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission amend Cease and Desist Order No. CCC-93-CD-03 to include subparagraph B(4) as follows:

B. (4) The Executive Director may extend the permit application filing period specified herein for good cause shown. Any request for extension must be submitted in writing prior to the expiration of the subject deadline.

II. MOTION

Staff recommends approval of the following motion:

I move that the Commission amend Cease and Desist Order No. CCC-93-CD-03 to delegate to the Executive Director the authority to extend the period for the filing of a complete coastal development permit application pursuant to said cease and desist order for good cause shown.

Staff recommends a YES vote. An affirmative vote by a majority of the Commissioners present and voting is necessary to pass the motion.

III. PROPOSED FINDINGS

Staff recommends that the Commission adopt the following findings in support of its action:

By issuing Cease and Desist Order No. CCC-93-CD-03, the Commission requires the alleged violators to file a coastal development permit (for either after-the-fact authorization or removal of all development on the subject property (Exhibit 2). The Commission

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W: Her / Richardson

specified within the order a schedule by which the required CDP application must be filed. At the time of its action on the order, the Commission believed the specified application filing schedule to be reasonable, and as of the date of this report, the alleged violators have failed to demonstrate otherwise.

[STAFF NOTE: In attempt to facilitate filing of the required CDP application, staff agreed to meet with Douglas Richardson and his attorney, Morton Devor at the subject property on December 16, 1993. Prior to this meeting, staff clarified in a telephone conversation with Devor that the purpose of the meeting would be to discuss the requirements for completion of the CDP application and not to debate whether any development exists on the property in violation of the Coastal Act (or whether all of the development on the property was completed before January 1, 1977). Staff asserted that the proposed meeting was not the proper forum for such a challenge to the Commission's action in issuing the cease and desist order. Devor concurred with staff that any disagreement regarding the history of the subject development should be resolved within the context of the permit application. In spite of this agreement, upon the commencement of the meeting, Richardson demanded that staff verify the allegations set forth in the cease and desist order. Staff attempted to specify the information that would be required in order to file the permit application. However, Richardson became extremely agitated and verbally abusive. At this point, staff discontinued the meeting.]

The alleged violators' attorney has indicated that Witter and Richardson have recently hired an engineer to assist in filing their permit application, and that said engineer may require additional time to complete filing. Although the alleged violators have not established that the 60-day period provided by the cease and desist order was not adequate to complete filing of the required CDP application, the Commission acknowledges that, should the alleged violators demonstrate to the satisfaction of the Executive Director "good cause" for an extension of the aforementioned application deadline, such extension may be deemed appropriate. In determining whether "good cause" exists, the Executive Director shall consider all relevant factors, including, but not necessarily limited to: (1) a showing that the alleged violators are at the time of their application acting in good faith to comply with the terms of the cease and desist order; and (2) whether they could not have reasonably complied with the application filing schedule specified in the order. The Commission therefore finds the proposed amendment to the cease and desist order is warranted.

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Witter / Richardson

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: December 4, 1996

Honorable **DIANE WAYNE**
#19 **NONE**

, Judge
, Deputy Sheriff

L.R. MATTHEWS-DOTY
H. RAMIREZ

, Deputy Clerk
, Court Reporter

BS026924

MADALON K. WITTER, ET AL

(Parties and Counsel checked if present)

Counsel For
Plaintiff

MORTON DEVOR (x)
and SHERMAN L. STACEY (x)

VS

Counsel For
Defendant

G.R. OVERTON (x)

CALIFORNIA COASTAL COMMISSION

NATURE OF PROCEEDINGS:

PETITION FOR WRIT OF MANDATE

OSC RE: DISMISSAL FOR FAILURE TO PROSECUTE CASE;

The petition comes on for trial and is argued.

Administrative Record, read and considered by the court is received into evidence and returned to offering party in open court this date.

- (1) Petition for writ of mandate: Grant in part.
- (2) OSC re dismissal: Moot. OSC is discharged.

The petition for writ of mandate is granted in part pursuant to CCP § 1094.5. The issue of whether petitioner was afforded a fair trial is determined by the court's independent review of the administrative record. Bekiaris v. Board of Education (1972) 6 Cal.3d 575. After independent review, the court finds that petitioners have demonstrated that respondent denied them a fair hearing. Under the substantial evidence test this court determines that otherwise there was substantial evidence to support the findings of the Commission.

A writ of mandate shall issue to compel respondent to set aside its Cease and Desist Order and to conduct further proceedings in accordance with this ruling and applicable law.

I. Exhaustion not required.

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CC-93-CD-03
Witter/Richardson

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: December 4, 1996

Honorable DIANE WAYNE
#19 NONE

Judge
, Deputy Sheriff

I.R. MATTHEWS-DOTY
H. RAMIREZ

, Deputy Clerk
, Court Reporter

BS026924

MADALON K. WITTER, ET AL

(Parties and Counsel checked if present)

Counsel For MORTON DEVOR (x)
Plaintiff and SHERMAN L. STACEY (x)

vs

CALIFORNIA COASTAL COMMISSION

Counsel For G.R. OVERTON (x)
Defendant

NATURE OF PROCEEDINGS:

PETITION FOR WRIT OF MANDATE

OSC RE: DISMISSAL FOR FAILURE TO PROSECUTE CASE;

Petitioners' failure to return a Statement of Defense form, does not preclude them from raising any defenses.¹

14 Cal. Code of Regs. § 13181(a) provides in relevant part: "The person(s) to whom such notice [of intent to commence a cease and desist order proceeding] is given shall complete and return the statement of defense form to the Commission by the date specified therein. . . ."

Nowhere in Section 13181(a) is it stated that by failing to return a statement of defense, a party waives all defenses.²

¹ In their reply brief, petitioners contend that they were not given the 6/93 Notice of Intent and Statement of Defense form. However, issues raised in for the first time in a reply brief to an appeal will not be considered because it would deprive respondent of an opportunity to respond to the new issues. American Drug Stores, Inc. v. Stroh (1992) 10 Cal.App.4th 1446, 1453 (citation omitted).

² Cf. Government Code §§ 11505, 11506. In failure to file a notice of defense within 15 days of the accusation constitutes a waiver of the accused's

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Witter/Richardson

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: December 4, 1996

Honorable **DIANE WAYNE**
#19 **NONE**

, Judge
, Deputy Sheriff

I.R. MATTHEWS-DOTY
H. RAMIREZ

, Deputy Clerk
, Court Reporter

BS026924

MADALON K. WITTER, ET AL

(Parties and Counsel checked if present)

Counsel For
Plaintiff

MORTON DEVOR (x)
and SHERMAN L. STACEY (x)

VS

Counsel For
Defendant

G.R. OVERTON (x)

CALIFORNIA COASTAL COMMISSION

NATURE OF PROCEEDINGS:

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OSC RE: DISMISSAL FOR FAILURE TO PROSECUTE CASE;

Moreover, the procedures for hearing on a proposed cease and desist order do not provide for such waiver. 14 Cal. Code of Regs. § 13185. Rather, the hearing procedures permit alleged violators to present his or her positions regarding the matters relevant to the alleged violations, and allow presentation of evidence which could have been but was not set forth in the statement of defense. Id.

II. Fair hearing.

In administrative proceedings, due process is met if reasonable notice and opportunity to be heard are given. Drummev v. State Bd. of Funeral Directors & Embalmers (1939) 13 Cal.2d 75, 80; Horn v. County of Ventura (1979) 24 Cal.3d 605, 616.

In the instant case, petitioners did not receive sufficient notice of the 11/16/93 hearing. 14 Cal. Code of Regs. § 13181 requires that the executive director mail to alleged violators by regular mail a written notice of hearing at least 10 days prior to the hearing on the proposed cease and desist order. However, the Notice of Public Hearing contained in the administrative record does not state that it was mailed by the executive director nor does it indicate to whom it was mailed. Admin. Record, p. 91.

hearing on the merits.

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Witter/Richardson

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: December 4, 1996

Honorable DIANE WAYNE, Judge

#19 NONE, Deputy Sheriff

I.R. MATTHEWS-DOTY, Deputy Clerk

H. RAMIREZ, Court Reporter

BS026924

MADALON K. WITTER, ET AL

(Parties and Counsel checked if present)

Counsel For Plaintiff

MORTON DEVOR (x) and SHERMAN L. STACEY (x)

VS

Counsel For Defendant

G.R. OVERTON (x)

CALIFORNIA COASTAL COMMISSION

NATURE OF PROCEEDINGS:

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And, while there is a separate Mailing List included in the record, this list is not attached to any document. Id., p. 90.

Moreover, petitioners raised the notice issue at the administrative hearing. Petitioners requested a continuance because they did not receive timely notice of the hearing but the continuance was denied. Admin. Record, p. 116. Whether or not the continuance was requested to the staff or chairperson is not relevant as petitioners position was made clear.

And, contrary to their claims, petitioners did not ask any questions to be posed to the staff. Admin. Record, pp. 114-123.

Nor was there any "new" evidence presented after the close of the public hearing. The comment regarding a possible subsequent permit application does not constitute "new" evidence regarding the alleged violations. See Admin. Record, pp. 126-127.

III. Hearsay.

Petitioner has objected to the evidence relied upon by respondent on the grounds that the documents are both hearsay and not introduced at the administrative hearing.

There is no necessity to introduce and admit each

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: December 4, 1996

Honorable **DIANE WAYNE**, Judge**LR. MATTHEWS-DOTY**, Deputy Clerk#19 **NONE**, Deputy Sheriff**H. RAMIREZ**, Court Reporter

BS026924

MADALON K. WITTER, ET AL

(Parties and Counsel checked if present)

Counsel For
PlaintiffMORTON DEVOR (x)
and SHERMAN L. STACEY (x)

VS

Counsel For
Defendant

G.R. OVERTON (x)

CALIFORNIA COASTAL COMMISSION

NATURE OF PROCEEDINGS:

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OSC RE: DISMISSAL FOR FAILURE TO PROSECUTE CASE;

into evidence. This is an administrative proceeding in which formal rules of procedure and evidence need not be strictly followed. 14 Cal. Code of Regs. § 13065; McCoy v. Board of Retirement (1986) 183 Cal.App.3d 1044, 1053 (citing Jenner v. City Council (1958) 164 Cal.App.2d 490, 496).

And, hearsay evidence is admissible in hearings before respondent. 14 Cal. Code of Regs. § 13065. In non-APA cases, the more liberal evidentiary rules allow hearsay admitted without objection to be sufficient. See Frudden Enterprises v. ALRB (1984) 153 Cal.App.3d 262, 270; Fox v. San Francisco Unified School Dist. (1952) 11 Cal.App.2d 885, 891.

There was ample evidence presented to support the findings of development without a coastal permit. It is permissible to rely on the staff report which contained numerous violations of the Act. AR pp 26-28. Aerial photographs substantiated the charges. Id.

III. Charges are not vague.

Though the charges are numerous, they are not vague and provide petitioners with sufficient information to defend themselves. The charges indicate that at various times and during several years development occurred on the property while no permit was obtained.

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Witter/Richardson

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: December 4, 1996

Honorable **DIANE WAYNE**, Judge
#19 **NONE**, Deputy Sheriff

I.R. MATTHEWS-DOTY, Deputy Clerk
H. RAMIREZ, Court Reporter

BS026924

MADALON K. WITTER, ET AL

(Parties and Counsel checked if present)

Counsel For **MORTON DEVOR (x)**
Plaintiff and **SHERMAN L. STACEY (x)**

VS

Counsel For **G.R. OVERTON (x)**
Defendant

CALIFORNIA COASTAL COMMISSION

NATURE OF PROCEEDINGS:

PETITION FOR WRIT OF MANDATE

OSC RE: DISMISSAL FOR FAILURE TO PROSECUTE CASE;

Counsel for petitioner to prepare the judgment.

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Witter/Richardson

THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED IS A FULL, TRUE, AND CORRECT COPY OF THE ORIGINAL ON FILE AND OF RECORD IN MY OFFICE. **DEC 19 1996**

ATTEST _____

JOHN A. CLARKE

Executive Officer/Clerk of the Superior Court of California, County of Los Angeles.

By _____ Deputy

A. NUNEZ

EXHIBIT NO. 4 <i>PT 7</i>
APPLICATION NO.
CC-93-CD-03
Walter Richards