

CALIFORNIA COASTAL COMMISSION

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



Th.6a

Staff: RS - SF
Staff Report: June 20, 1997
Hearing Date: July 10, 1997

STAFF RECOMMENDATION FOR THE ISSUANCE OF CEASE AND DESIST ORDER

CEASE AND DESIST ORDER: CCC-97-CD-02

RELATED VIOLATION FILE: V-6-95-008

PROPERTY LOCATION: 560 Neptune Avenue,
Encinitas, San Diego County, CA 92024-2019
APN 256-084-07-00 (**Exhibit #1**)

PROPERTY DESCRIPTION: The property consists of one parcel with two legal lots, west of Neptune Avenue. The southern lot contains a single family residence built in 1956, and the northern lot is vacant. The coastal bluff is approximately 100 feet high from mean sea level (MSL). The bluff at this property consists of a near vertical sea cliff of moderately resistant Torrey sandstone formation which extends to about 25 feet above MSL. Above the Torrey sandstone formation, extending to the top of the bluff, are Quaternary-aged marine terrace deposits of eroded sands and sandstone. Abutting the bluff owned by Bradley is the public beach of Encinitas, on which part of the illegal development occurred.

PROPERTY OWNER: Ludmilla Bradley (**Exhibit #2**)

VIOLATION DESCRIPTION: Construction of: 1) bluff stabilization devices, and 2) shoreline stabilization device (concrete seawall) at the base of the bluff on public beach, either without a coastal development permit or in violation of the terms of a Commission permit.

SUBSTANTIVE FILE DOCUMENTS: Coastal development permit file No. 6-91-233
Coastal development emergency permit file No. 6-91-312 G
Violation file V-6-95-008

I. SUMMARY

The subject violation consists of construction in the Coastal Zone of bluff stabilization devices and installation of a concrete seawall at the base of the bluff cove on public beach in each case

without the benefit of a coastal development permit. In carrying out these projects the property owner performed unpermitted grading, excavation and removal of sand, cobbles or shoreline rocks, placement of construction debris, and importation of beach sand and solid materials as fill.

After significant bluff failure on her property, Bradley submitted CDP application #6-91-233 for stabilization of the bluff. The Commission denied the request, finding that feasible and less damaging alternatives to the proposed project existed. The Executive Director then issued to Bradley emergency permit #6-91-312G for the same development. Subsequently the Executive Director granted two extensions to the permit. Since the expiry of the second extension period on June 13, 1992, Bradley has not complied with the emergency permit conditions and has undertaken additional unpermitted development on her property and on an adjacent public beach.

Bradley has not complied with numerous requests by Commission staff to apply for a coastal development permit to either authorize the development after-the-fact or to restore the property to its pre-development state.

The proposed order would require Bradley to cease and desist from engaging in any further development at the property without first obtaining a coastal development permit and submit timely to the City or the Coastal Commission, as appropriate, applications for either: 1) removal of the unpermitted development and restoration of the site, or 2) after-the-fact authorization to allow retention of the development.

Staff Note

Shoreline erosion along the coast rarely affects one individual property. As a result of the decrease in sand supply from coastal rivers and creeks, as well as armoring of the coast, beaches will continue to erode without being replenished. This, in turn, will decrease the public's ability to access and recreate along the shoreline. Keeping these issues in perspective, in reviewing shoreline protective device requests, the Commission has raised concerns with their construction with varying sized gaps between seawall segments on coastal upland properties.

The subject development is located on a coastal bluff and beach within the City of Encinitas. On November 17, 1994, the Commission approved, subject to suggested modifications, the City of Encinitas Local Coastal Program (LCP). The City accepted the modifications and on May 11, 1995 the LCP was effectively certified. Subsequently, on May 15, 1995, the Commission transferred coastal development permit authority to the City. Although the site is within the City of Encinitas, the beach remains within the Commission's area of original permit jurisdiction. Based on policy (Section 1.7, page PS-5, of the certified Land Use Plan) and ordinance requirements in Section 30.34.020(B)(9) of the LCP, the City of Encinitas is in the process of developing a comprehensive program addressing the shoreline erosion problem in the City. The intent of the plan is to study the shoreline issues facing the City and to establish goals, policies, standards and strategies to comprehensively address them. To date, the City has conducted several public workshops and meetings on the comprehensive plan to identify issues and present draft plans for comment.

However, in reliance upon assurances from the City that a Geologic Hazard Abatement District (GHAD) was actively being pursued to address long-term seawall maintenance, funding for exceptionally large seawalls and the gap issue, the Commission has approved several seawall

development requests. Additionally, as an accommodation to allow the applicants to begin construction of the walls (which were documented as necessary to protect existing development) while the GHAD was being formed, and as an incentive to homeowners to actively pursue formation of the GHAD, the Commission allowed, for a specified period, extensions to deadlines, for compliance with conditions of approval of the permits. The applicants signed declarations certifying they would meet conditions of approval within the time frame set by the Commission. After the GHAD was formed, due to various reasons, the GHAD never became 'viable' and the City Council approved a resolution to dissolve it in 1996. As such, even though the comprehensive plan is still in draft form, one of the long touted means of implementing various components of the plan is now not available. It is not anticipated that the comprehensive plan will come before the Commission for review as an LCP amendment until the end of 1997.

II. MOTION

Staff recommends adoption of the following motion:

I move that the Commission issue Cease and Desist Order No. CCC-97-CD-02 as proposed by staff.

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

III. PROPOSED FINDINGS

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

A. Site History¹

In 1978-79 a concrete wall along the top of the bluff, probably pre-dating the Coastal Act failed. In 1979 a gunite surface was constructed and in 1981 it failed. Around 1982, a low concrete and rock retaining wall at the base of the bluff failed. In 1983, a post and board (timber and tieback wall common along the northern San Diego shoreline) upper bluff retaining system was constructed. In 1988 small sections of this wall began to fail and major portions of failed in March 1991. No coastal development permit (CDP) authorization for any of these structures was sought by the landowner or received from the Commission.

B. Seacliff retreat, Geologic conditions and hazards

Seacliff retreat is a result of wave action at the foot or base of the bluff as well as chemical and mechanical non-wave process in the upper portions of the cliff. The latter process includes surface and sub-surface drainage, and salt crystal weathering.

The reports submitted by Bradley in 1991² indicate that the site is located on bluffs composed of Tertiary-age Eocene Torrey Sandstone, which forms the lower portion of the bluff, and

¹ From CDP file No.6-91-233

Quaternary-age marine terrace deposit of fine to medium grained, poorly cemented sands. Bluff failure in these formations occurs through the undercutting of the base of the seacliff and subsequent block falls. Bluffs also fail through the undercutting of the terrace deposits initiated by ground water seepage and through deep-seated rotational failure involving both the Torrey sandstone and marine terrace materials.

The failures that have occurred at Bradley's property are due to block falls caused by erosion along the fractures and joints of the Tertiary-age sediments, sloughing of the Quaternary terrace deposits and by the infiltration of groundwater. The block falls lead to indentations at the base of the bluffs with the potential for the cliff above the indentation to fail. In addition to this, the pre-existing upper bluff structures were weakened by the slough of the materials supporting their foundations. When these structures failed, additional backfill material spilled down the bluff, and more bluff material was lost when the concrete tiebacks holding the structure pulled away from the bluff. The terrace deposit failures are the result of the general flattening to a stable angle of the loose, unconsolidated terrace deposits. The failure has created a 'cove' at the base of the seacliff formation, widening into a much broader failure in the marine terrace deposits. Topographically, the effect is that of the bluff having been scooped out into a bowl-like formation. The existing residence sits at the top edge of a portion of the bowl.

The conclusions of the geotechnical investigations state that the toe of the bluff is subjected to storm wave activity and ground water seepage, causing undermining of the seacliff toe, and initiating failures of the terrace sand deposits. Thus, the bluff retreats in response to wave action.

C. Background

On March 27, 1991, Commission staff received a telephone call from Greg Shields, Field Operations, City of Encinitas, stating that significant upper bluff failure had occurred due to rains at 560 Neptune Avenue, Encinitas, and that the City Engineer had determined the existing residence on the property to be uninhabitable³, at least temporarily. The same day Commission staff visited the site and determined that a pre-existing concrete and rock wall system had collapsed at beach level. The majority of the upper wall had been destroyed. The lower wall had failed due to block falls in the Torrey sandstone formation and upper bluff sloughing. Commission staff noted that there had been a timber and telephone pole wall at the top of the bluff as an erosion control measure⁴, and a large amount of the rubble, consisting of both bluff materials as well as concrete "tiebacks", concrete rubble, timber and poles were evident on the beach and at midpoints on the bluff. At the extreme southern end of the failure, the remnants of an existing beach access stairway, previously serving the property to the south of 560 Neptune Avenue, clung to the bluff. A search of the permit records of the Commission staff office

² With her CDP application No.6-91-233, Bradley submitted documents regarding the geologic hazards and seacliff retreat at the subject site, including "Geotechnical and Geological Study 560 Neptune Avenue" prepared by Owen Consultants, "Engineering Geologic Reconnaissance Proposed Bradley Residence Model" prepared by William Elliot, and "Geotechnical Investigation for Bradley Residence" by Buchanan-Rahilly Inc..

³ The failure encroached to within approximately five feet of the residence.

⁴ Around 1991, in the subject area, walls (without permits) of similar design and construction were prolific.

indicated that no permits had been issued for the rubble and mortar wall, or for the timber and telephone pole wall.

Around May 2, 1991, Douglas Jacobson, Bradley's agent at that time, applied for an emergency permit for an upper bluff stabilization project for the property. Commission staff recommended to Jacobson to begin the regular permit process through the City of Encinitas for their proposal because of the absence of an engineer's report confirming effectiveness of the upper bluff structure in the absence of lower bluff stabilization measures.

On September 23, 1991, Commission staff received CDP application No. 6-91-233, for emergency upper bluff (top 30 feet) stabilization work, construction of a seawall at the base of the bluff and installation of soil nails at midslope. On October 8, 1991, the Commission denied the project, after voicing concerns as to whether the Bradley site could be stabilized with the upper bluff structure alone, as plans for the lower bluff were part of phase 2 which were not definite. The Commission was also concerned about large protective structures along the Encinitas bluffs and their influence on the overall character of the coast⁵.

On November 21, 1991, Bradley submitted to Commission staff an emergency request from to construct upper bluff stabilization. On December 23, 1991, the Executive Director issued an emergency permit No. 6-91-312G for the construction of a shotcrete upper bluff retaining wall with tie-back, and mid-bluff stabilization consisting of soil nails and shotcrete. Bradley never satisfied the conditions of approval. (Exhibit #3)

On March 30, 1992, Commission staff received a request from Bradley to extend the emergency permit beyond its 60 day term. On April 6, 1992, the Executive Director re-issued emergency permit No. 6-91-312G with a condition which stated that failure to submit in 30 days an application for a regular CDP would cause the permit to be null and void.

On May 6, 1992 Bradley submitted a CDP application for upper bluff work,. The same day Commission staff, after determining the application to be incomplete, sent a non-filing letter. Bradley requested an additional extension of 30 days to emergency permit No. 6-91-312G. On May 13, 1992, the Executive Director re-issued emergency permit No. 6-91-312-G for 30 days.

On July 14, 1992, Commission staff received a letter from Jacobson, Bradley's agent, stating that work on the upper bluff wall was almost complete, but the project had been put on hold for financial reasons. As of the date of this report work on the upper bluff wall is still incomplete.

On January 30, 1995, in a letter to Hans Jensen, Subdivision Engineer, City of Encinitas, Bradley requested an emergency permit to place rip-rap below the bluff. No similar request was made to Commission staff. In a letter dated February 3, 1995, Jensen stated to Bradley that the City would not allow the placement of rip-rap bluff protection on useable public beach area. In the letter he also stated that Bradley could achieve the intended purpose by meeting the requirements of the Commission's emergency permit and by applying for a Major Use permit with the City.

⁵ Due to the height of the Encinitas bluffs and their apparent instability, bluff protection structures are usually massive, full bluff armoring. At that time, as there was no regional or comprehensive program for coastal hazards, the Commission was concerned whether it was possible to safely stabilize all the bluffs along the Encinitas coast through a regional solution.

In a letter to Jensen dated February 27, 1995, Bradley reiterated the earlier request. On March 20, 1995, Jensen sent her the same reply. (Exhibit #4)

By a telephone call on June 9, 1995⁶, Jensen informed Commission staff that illegal grading had been done and construction of a concrete seawall had begun the day before, on the beach in front of Bradley's property⁷. By June 28, 1995 the seawall had been erected⁸.

On June 28, 1995, Commission staff sent Bradley a violation letter stating that the construction of the seawall and fill was undertaken without the benefit of a coastal development permit, in violation of the Coastal Act. (Exhibit #5)

On August 2, 1995, Commission staff received a telephone call from Jensen, the City Engineer, stating that work on the seawall at Bradley's property was continuing. Commission staff telephoned Bradley and left a message asking her to return the call to discuss the matter. On August 10, 1995, Commission staff received a telephone call from Marlene Thomasan, Bradley's attorney. Thomasan agreed to submit an application for the work within a week. Since that telephone call no application has been submitted by Thomasan to the Commission staff

By letter to Commission staff, dated August 24, 1995, Bradley acknowledged the construction of the bluff stabilization device in June 1995. She also stated Commission staff's requirement of removal and restoration of the unpermitted work was not acceptable to her.

On September 29, 1995, Commission staff sent another violation letter to Bradley asking her to submit an application for a coastal development permit before October 21, 1995. By letter dated October 18, 1995, Bradley stated that the seawall erected by her did not encroach upon the public beach and she was unable to find an engineer. She also asked whether she could apply for an after-the fact CDP without geotechnical information.

On December 16, 1995, Commission staff received a copy of a geotechnical report from Soil Engineering Construction Inc., dated December 11, 1995, for the property immediately south of Bradley's property. Page 5 of the report, in relevant part, states:

... the recent construction of the illegal seawall and midbluff structures on the property north of the site presents, in our opinion, a severe detriment to the subject site. Our opinion is based on the fact that the ends of the illegal seawall appear to have been constructed without keying into the bluff. This condition increases the opportunity for erosion to occur at a faster rate than other portions of the bluff. Further, no wall drains were observed in the illegal seawall or

⁶ Commission transferred CDP authority to the City on May 15, 1995.

⁷ On June 8, 1995, the City of Encinitas issued a citation (Notice to Appear) No.EN 0869, to Bradley for violation of the Encinitas Municipal Code §23.24.080 for illegal grading without a grading permit and §30.34.020 (B.2.) for construction of a seawall on bluff face without the required coastal development permit.

⁸ On June 28, 1995, the City of Encinitas issued another citation (Notice to Appear) No.EN 1626, to Bradley for violation of Encinitas Municipal Code §30.34.020 (B.2.) for construction of a seawall on bluff face without the required coastal development permit. Both citations were consolidated to one case by the North San Diego County Municipal Court. On August 31, 1995, Bradley pled nolo contendere and was fined \$200.

behind the shotcrete placed on the bluff along and adjacent to our referenced site's northern property boundary. The potential effects of increased pore pressures in the bluff will be detrimental to the overall stability of the site. ...
(Exhibit #6)

On April 15, 1996, Commission staff sent a violation letter notifying Bradley of the violations of the Coastal Act. By reply dated May 27, 1996, Bradley acknowledged that the lower seawall was temporary. She also asked what she would need to do to get the work permitted.

As of the date of this report, the City of Encinitas is in the process of designing a drainage system to control the drainage waters from the area along Highway 101. As a part of this drainage system, an outfall pipe is proposed to be located at a depth of more than 60 feet below the surface. This pipe was to be located under Bradley's property. On April 15, 1996, the City of Encinitas wrote to Bradley seeking a drainage easement. Apart from microtunnelling and installation of a drainage pipe under the property, the City might need to construct a seawall at the bluff face to terminate the outfall pipe **(Exhibit #7)**⁹. In a letter dated May 17, 1996, Bradley refused the City's request.

On May 29, 1996, Bradley submitted to Commission staff a coastal development permit application from. Commission staff determined the application was incomplete and as the proposed development would have included shore/bluff protection measures, additional filing information (from the City) was necessary. Staff returned the application to Bradley on June 21, 1996.

By letter dated March 31, 1997, Commission staff sent to Bradley a Notice of Intent to commence Cease and Desist Order proceedings **(Exhibit #8)**. In the letter, Bradley was asked to complete a Statement of Defense form and return it to Commission staff before April 27, 1997. Receipt of the Certified letter was confirmed by Bradley's signature on the "return receipt", which Commission staff received on April 7, 1997.

D. Staff Allegations

The staff alleges the following:

1. Ludmilla Orloff Bradley is the owner of the property located at 560 Neptune Avenue, Encinitas, San Diego County, CA 92024, APN 256-084-07-00. The bluff of the property is within the City of Encinitas' jurisdiction and the public beach abutting the bluff is in the Commission's original permit jurisdiction.
2. Bradley has undertaken development, as defined by Coastal Act §30106, at the property, which includes the construction of bluff stabilization devices and a concrete seawall on the public beach at the base of the bluff.
3. This unpermitted development constitutes an ongoing violation of Section 30600 of the Coastal Act. In order to resolve this Coastal Act violation, Bradley must obtain a coastal

⁹ The City's proposed drainage system was not designed in consultation with Commission staff and has not yet been approved by the City Council.

development permit and submit timely to the City or the Coastal Commission, as appropriate, applications for either: 1) removal of the unpermitted development and restoration of the site, or 2) after-the-fact authorization to allow retention of the development.

4. Bradley has neither obtained Commission or City approval of a CDP authorizing the development nor restored the property and the public beach to its pre-development state in accordance with an approved CDP.

E. Alleged Violator's Defense

As of the date of this report, and without excuse, Bradley has not responded to staff's allegations as set forth in the March 31, 1997, Notice of Intent to commence Cease and Desist Order proceedings. Furthermore, Bradley never requested an extension of the time limit for submittal of the statement of defense form. (See Cal. Code of Regs., tit. 14, §13181(b) [where Executive Director "may at his or her discretion extend the time limit ... upon receipt within the time limit of a written request for such extension and a written demonstration of good cause"].)

The mandatory completion of the statement of defense has significant bearing to its purpose. (See, e.g., *Horack v. Franchise Tax Board* (1971) 18 Cal.App.3d 363, 368) ["When administrative machinery exists for the resolution of differences ... such administrative procedures are [to be] fully utilized and exhausted"].) Bradley has failed to avail herself of the opportunity afforded by the Statement of Defense form to inform the Commission which defenses she wishes the Commission to consider before making its decision on whether or not to issue a cease and desist order.¹⁰ The Commission should not be forced to guess which defenses Bradley wants the Commission to consider. Section 13181(a) is specifically designed to serve this function of clarifying issues to be considered by the Commission. (See *Bohn v. Watson* (1954) 130 Cal.App.2d. 24, 37 ["it was never contemplated that a party to an administrative hearing should withhold any defense then available to him or make only a perfunctory or 'skeleton' showing in the hearing, ... The rule is required ... to preserve the integrity of the proceedings before that body and to endow them with a dignity beyond that of a mere shadow-play"].)

IV. CEASE AND DESIST ORDER

Staff recommends that the Commission issue the following Cease and Desist Order:

Pursuant to its authority under Pub. Res. Code §30810, the California Coastal Commission hereby orders Ludmilla Orloff Bradley, all her agents and any persons acting in concert with any

¹⁰ The Statement of Defense Form has six sections of information that Bradley should have provided to the Coastal Commission : 1) Facts or allegations contained in the cease and desist order or the notice of intent that are admitted by respondent; 2) Facts or allegations contained in the cease and desist order or notice of intent that are denied by the respondent; 3) Facts or allegations contained in the cease and desist order or notice of intent of which the respondent has no personal knowledge; 4) Other facts which may exonerate or mitigate the respondent's possible responsibility or otherwise explain the respondent's relationship to the possible violation; 5) Any other information, statement, etc. that respondent desires to offer or make; and 6) Documents, exhibits, declarations under penalty of perjury or other materials that the respondent wants to have attached to the form.

of the foregoing to cease and desist from : 1) engaging in any further development activity at the property (and adjacent public beach) without first obtaining a coastal development permit which authorizes such activity; and 2) continuing to maintain any development on the property (or on adjacent public beach) 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 on the property (and adjacent public beach) without first obtaining a coastal development permit which authorizes such activity.
- B. (1) Within 120 days of the date of this order, submit to the City or the Commission, as appropriate, for its review and approval complete coastal development permit applications for either: a) removal of the unpermitted development and restoration of the site, or b) for after-the-fact authorization to allow retention of the development.
- (2) The application to the City shall include, but not limited to, information sufficient to satisfy analysis of feasibility of possible alternatives to the retention of the subject shoreline protective devices, including but not limited to relocation of the threatened structure to a safer location. The application to the City shall also include the filing requirements stipulated in Chapter 30.34.020(D) of the City of Encinitas' LCP. In addition the application to either the City or the Commission shall also include documentation providing for: a) Construction methods that minimize disturbance to sand and intertidal areas shall be minimized, b) Beach sand excavated shall be re-deposited on the beach, and c) No use of local sand, cobbles or shoreline rocks for back-fill or construction material. Plans shall indicate that the proposals shall conform as closely as possible to the contours of the bluff, and shall be designed to incorporate surface treatments that resemble the color and surface of the adjacent natural bluff. Within one year of the date of City or Commission action on the coastal development permit application, the work/restoration authorized by the permit shall be completed.
- (3) Within 120 days of the date of the City or Commission denial, in whole or in part, of an application for after-the-fact authorization and retention of the development, submit a complete coastal development permit application for the removal of that portion of the development which remains unpermitted and restoration of the property to its pre-violation state. Within one year of the date of City or Commission action on the coastal development permit application, the work/restoration authorized by the permit shall be completed.
- C. Fully comply with the terms, conditions and deadlines of any coastal development permit for the restoration and/or development of the property and public beach as the City or Commission may impose.

Identification of the Property

The properties that are the subject of this cease and desist order are described as follows:

- 1) 560 Neptune Avenue, Encinitas, San Diego County, CA 92024. APN 256-084-07-00

- 2) Public beach abutting the bluff cove of the above property.

Description of Unpermitted Development

Unpermitted grading; disturbance of sand and intertidal areas through excavation and removal of local sand, cobbles or shoreline rocks and placement of construction debris; installation of beach sand and imported solid materials as fill; and construction of shoreline and bluff protection devices.

Term of the Order

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

Findings

This order is issued on the basis of the findings adopted by the Commission on July 8, 1997, as set forth in the attached document entitled "Adopted findings for Cease and Desist Order No. CCC-97-CD-02".

Compliance Obligation

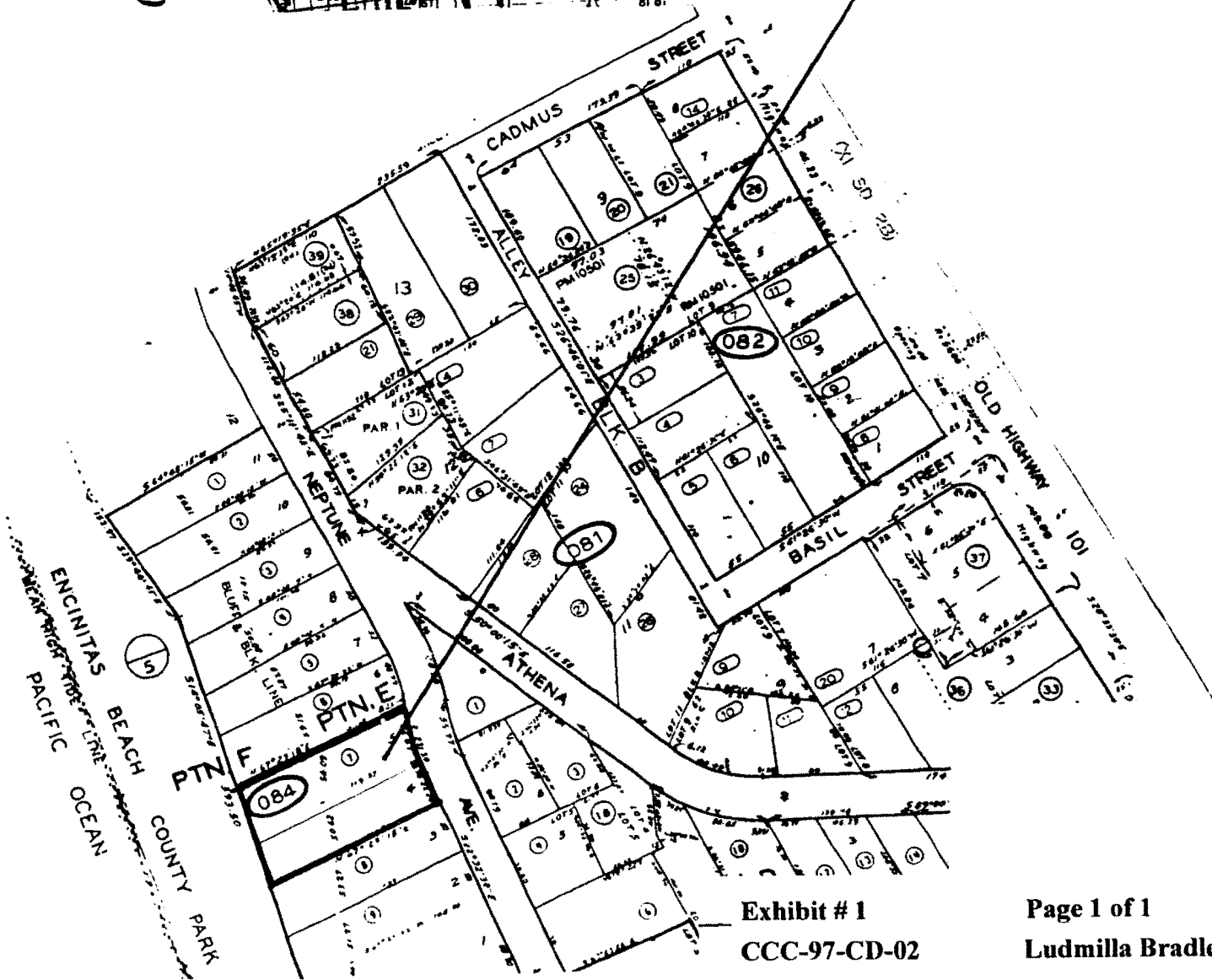
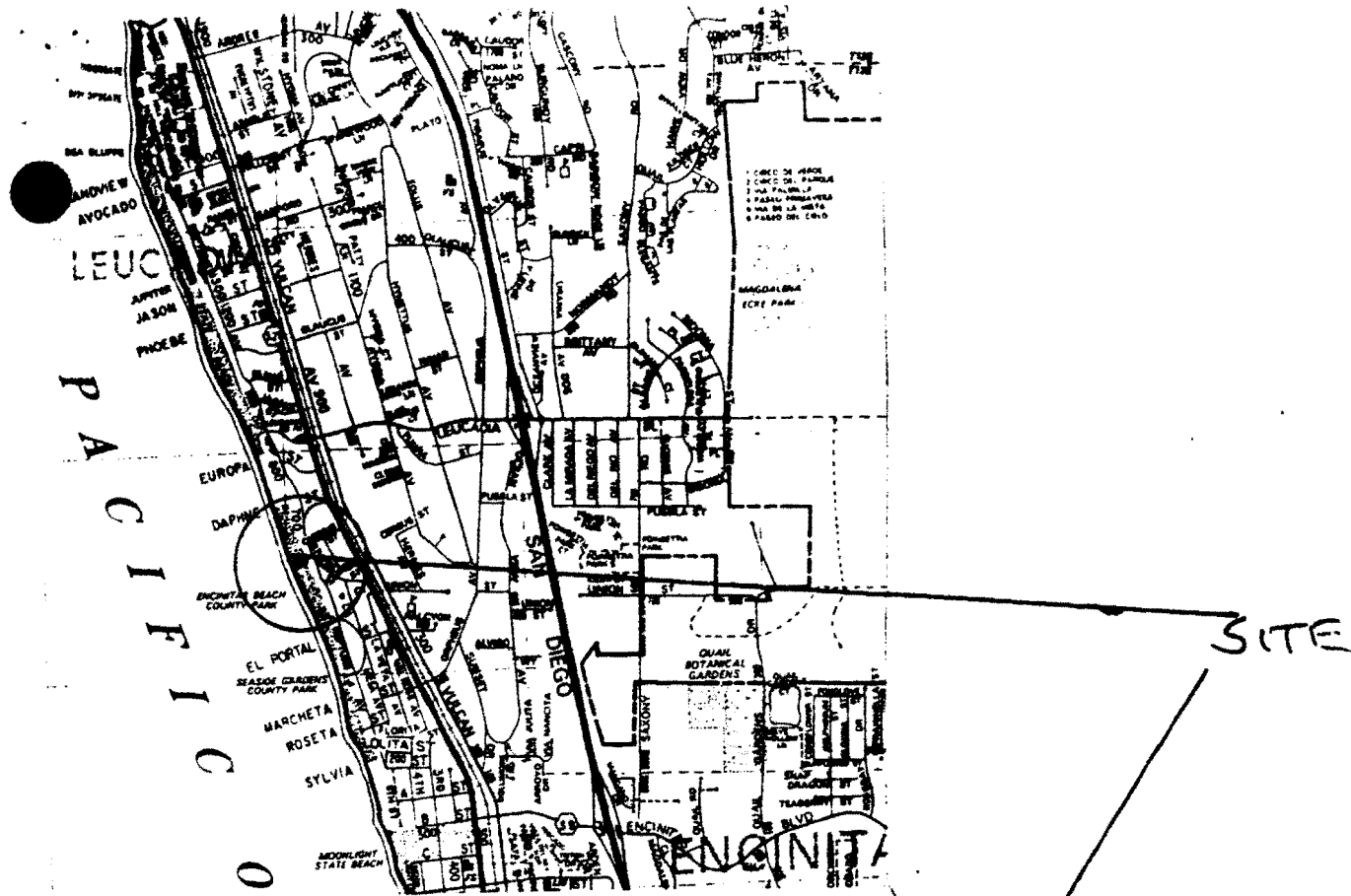
Strict compliance with this order by all parties subject thereto is required. Failure to comply strictly with any term or condition of this order including any deadline contained in this order or in the above required coastal development permit(s) as approved by the Commission will constitute a violation of this order and 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. Deadlines may be extended by the Executive Director for good cause. Any extension request must be made in writing to the Executive Director and received by Commission staff at least 10 days prior to expiration of the subject deadline.

Appeal

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

EXHIBITS

1. Location of the property.
2. Photocopy of grant deed.
3. Photocopies of Emergency Permits.
4. Photocopies of letters dated February 27, 1995, from Bradley to Jensen and dated March 20, 1995, from Jensen to Bradley.
5. Photocopy of violation letter dated June 28, 1995.
6. Photocopy of page 5 of report from Soil Engineering Construction, Inc..
7. Photocopy of documents pertaining to microtunneling and letter dated April 15, 1996, from Jensen to Bradley.
8. Photocopy of the Notice of Intent to commence Cease and Desist Order proceedings dated March 31, 1997, and return receipt.
9. Photocopies of photographs of the subject site.



Order No. 888516-7
Escrow No. 139 1333 VC
Loan No.

168

84-442997

RECORDED IN
OFFICIAL RECORDS
OF SAN DIEGO COUNTY, CA

1984 NOV 28 AM 8:00

VERA L. LYLE
COUNTY RECORDER

RF 4
MG 1
UF 10
TXPD 330

RECORDED REQUEST OF FIRST AMERICAN TITLE CO.
WHEN RECORDED MAIL TO:

Mrs. Ludmilla Orloff Bradley
560 Neptune Way
Encinitas, CA 92024

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MAIL TAX STATEMENTS TO:

SAME AS ABOVE

AP NO. 256-084-07

DOCUMENTARY TRANSFER TAX \$ 3.30

Computed on the consideration or value of property conveyed; OR
X. Computed on the consideration or value less liens or encumbrances
remaining at time of sale.

the undersigned by Rich M... - FMC
Signature of Declarant or Agent determining tax - Firm Name

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
Fenton Joseph Bradley

hereby GRANT(S) to

Ludmilla Orloff Bradley, a married woman as her sole and separate property

the real property in the City of Encinitas
County of San Diego

State of California, described as

An undivided 1/2 interest in and to the following;

For complete legal description see Exhibit "A" attached hereto and incorporated herein

Dated October 8, 1984

Fenton Joseph Bradley
Fenton Joseph Bradley

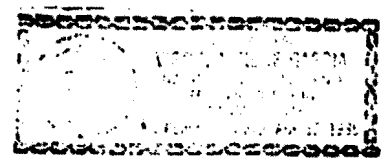
STATE OF CALIFORNIA
COUNTY OF San Diego

On October 8, 1984
before me, the undersigned, a Notary Public in and for said State, per-
sonally appeared Fenton Joseph Bradley

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.

WITNESS my hand and official seal.

Signature [Signature]



(This area for official notarial seal)

MAIL TAX STATEMENTS AS DIRECTED ABOVE

1002 (6/82)

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA
CAMINO DEL RIO NORTH, SUITE 200
SAN DIEGO, CA 92108-1725
(619) 521-8036

EMERGENCY PERMIT

Ms. Ludmilla Bradley
(name)

RECEIVED

December 23, 1991
(date)

560 Neptune Ave.
(street name & no.)

JAN 16 1992

Encinitas, CA 92024
(city, state, zip)
6-91-312-6

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Emergency Permit #

560 Neptune Avenue, Encinitas, San Diego County.

Location of Emergency Work

Construction of tie-back and shotcrete upper bluff retaining wall and construc-
tion of mid-bluff stabilization consisting of soil nails and shotcrete as de-
picted on project plans dated December 4, 1991.
work requested

Dear Applicant:

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information and our site inspection that an unexpected occurrence in the form of failure of the coastal bluff and bluff retreat requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. The Executive Director hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;
- (b) Public comment on the proposed emergency action has been reviewed if time allows; and
- (c) The work proposed would be consistent with the requirements of the California Coastal Act of 1976.

Coast 37: 9/81

Exhibit # 3

CCC-97-CD-02

Page 1 of 11

Ludmilla Bradley

The work is hereby approved, subject to the following conditions:

1. The enclosed form must be signed by the property owner and returned to our office within 15 days.
2. Only that work specifically requested as described above and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed within 30 days of the above date.
4. Within 60 days of the above date, the permittee shall apply for a regular coastal permit to have the emergency work be considered permanent. If a regular permit is not received, the emergency work shall be removed in its entirety within 150 days of the above date unless waived by the Director.

For Emergency Shoreline Protection Projects:

5. In exercising this permit the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that results from the project.
6. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies.
7. OTHER: See attached Exhibit A.

Condition #4 indicates that the emergency work is considered to be temporary work done in an emergency situation. If the property owner wishes to have the emergency work be a permanent development, a coastal development permit must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly. These conditions may include provisions for public access (such as an offer to dedicate sandy beach) and/or a requirement that a deed restriction be placed on the property in recognition of the hazard from storm waves.

If you have any questions about the provisions of this authorization, please call the Commission's San Diego Area Office.

EMERGENCY PERMIT APPROVED:



Charles Damm, District Director

EXHIBIT A

Additional Conditions of Approval

a. Construction of the upper- and mid-bluff structures shall occur consistent with plans entitled "Grading Plan - 560 Neptune Avenue," dated 11/21/91, and shall generally consist of construction of a tie-back and shotcrete retaining wall structure at the upper bluff and soil nail and shotcrete structure on the mid-bluff area.

b. Within five (5) days of permit issuance, the applicant shall submit revised plans deleting the engineered revetment proposed for the lower bluff area. Construction of lower bluff improvements shall be approved only under the action on the regular coastal development permit application required under Standard Condition #4 of this emergency permit, and shall consist of a vertical seawall constructed at the toe of seacliff formation.

c. The project engineer shall certify, in writing, that it is feasible to construct a vertical seawall at the toe of the seacliff formation, even if such a seawall is built subsequent to completion of the upper bluff and mid-bluff stabilization allowed pursuant to this emergency permit. This certification shall be submitted to the Executive Director prior to work commencing in reliance upon this emergency permit.

d. Within thirty (30) days of issuance of this emergency permit, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, which shall state that by accepting this emergency permit, the applicant and any successors in interest hereby agree to construct a vertical seawall at the toe of the seacliff formation and as approved by the California Coastal Commission pursuant to the application requirements of Condition #4 of this emergency permit. Failure to apply for the regular coastal development permit shall cause this emergency permit to be null and void.

e. The construction or replacement of any accessory structure, including stairways or other access structures, walls, fences, etc., are not authorized by this permit.

f. Disturbance to sand and intertidal areas shall be minimized. Beach sand excavated shall be redeposited on the beach. Local sand, cobbles or shoreline rocks shall not be used for backfill or construction materials.

g. Construction is authorized to continue for a total of 60 days from date of issuance of this permit. Any additional construction shall be the subject of a future emergency permit request.

h. Within five (5) days of permit issuance, the applicants shall submit to the Executive Director for review and approval in writing a detailed construction schedule for the proposed development.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA
3111 CAMINO DEL RIO NORTH, SUITE 200
SAN DIEGO, CA 92108-1725
(619) 521-8036

FILE COPY

EMERGENCY PERMIT

Ms. Ludmilla Bradley
(name)

April 6, 1992
(date)

560 Neptune Ave.
(street name & no.)

Encinitas, CA 92024
(city, state, zip)
6-91-312-G
Emergency Permit #

560 Neptune Avenue, Encinitas, San Diego County.
Location of Emergency Work

Construction of tie-back and shotcrete upper bluff retaining wall and construc-
tion of mid-bluff stabilization consisting of soil nails and shotcrete as de-
picted on project plans dated December 4, 1991.
work requested

Dear Applicant:

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information and our site inspection that an unexpected occurrence in the form of failure of the coastal bluff and bluff retreat requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. The Executive Director hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;
- (b) Public comment on the proposed emergency action has been reviewed if time allows; and
- (c) The work proposed would be consistent with the requirements of the California Coastal Act of 1976.

Coast 37: 9/81

Exhibit # 3
CCC-97-CD-02

Page 4 of 11
Ludmilla Bradley

The work is hereby approved, subject to the following conditions:

1. The enclosed form must be signed by the property owner and returned to our office within 15 days.
2. Only that work specifically requested as described above and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.
3. Within 30 days of the above date, the permittee shall apply for a regular coastal permit to have the emergency work be considered permanent. If a regular permit is not received, the emergency work shall be removed in its entirety within 150 days of the above date unless waived by the Director.

For Emergency Shoreline Protection Projects:

4. In exercising this permit the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that results from the project.
5. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies.
6. OTHER: See attached Exhibit A.

Condition #4 indicates that the emergency work is considered to be temporary work done in an emergency situation. If the property owner wishes to have the emergency work be a permanent development, a coastal development permit must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly. These conditions may include provisions for public access (such as an offer to dedicate sandy beach) and/or a requirement that a deed restriction be placed on the property in recognition of the hazard from storm waves.

If you have any questions about the provisions of this authorization, please call the Commission's San Diego Area Office.

EMERGENCY PERMIT APPROVED:



Charles Damm, District Director

EXHIBIT A

Additional Conditions of Approval

7. Construction of the upper- and mid-bluff structures shall occur consistent with plans entitled "Grading Plan - 560 Neptune Avenue," dated 11/21/91, and shall generally consist of construction of a tie-back and shotcrete retaining wall structure at the upper bluff and soil nail and shotcrete structure on the mid-bluff area.

8. Within five (5) days of permit issuance, the applicant shall submit revised plans deleting the engineered revetment proposed for the lower bluff area. Construction of lower bluff improvements shall be approved only under the action on the regular coastal development permit application required under Standard Condition #3 of this emergency permit, and shall consist of a vertical seawall constructed at the toe of seacliff formation.

9. The project engineer shall certify, in writing, that it is feasible to construct a vertical seawall at the toe of the seacliff formation, even if such a seawall is built subsequent to completion of the upper bluff and mid-bluff stabilization allowed pursuant to this emergency permit. This certification shall be submitted to the Executive Director prior to work commencing in reliance upon this emergency permit.

10. Within thirty (30) days of issuance of this emergency permit, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, which shall state that by accepting this emergency permit, the applicant and any successors in interest hereby agree to construct a vertical seawall at the toe of the seacliff formation and as approved by the California Coastal Commission pursuant to the application requirements of Condition #3 of this emergency permit, to complete the regular coastal development permit process for the proposed work, as required under Special Condition #3 of this emergency permit, and the local discretionary review process, including, but not limited to, review under the California Environmental Quality Act (CEQA) and the Coastal Bluff Ordinance of the City of Encinitas. The restriction shall further acknowledge the following:

a) That the applicants acknowledge that failure to apply for the regular coastal development permit within 30 days of issuance of this emergency permit shall cause this emergency permit to be null and void.

b) That the applicants agree to provide bi-weekly monitoring reports on the status of processing all City-required discretionary approvals and on the status of construction activities.

c) That the construction or replacement of any accessory structure, including stairways or other access structures, walls, fences, etc., are not authorized by this permit and may not be authorized under future regular coastal development permits.

d) That the applicants recognize and acknowledge that any structures built under the emergency permit are considered temporary and that their removal may be required if all local and State approvals are not received.

11. Disturbance to sand and intertidal areas shall be minimized. Beach sand excavated shall be redeposited on the beach. Local sand, cobbles or shoreline rocks shall not be used for backfill or construction materials.

12. Construction is authorized to continue for a total of 60 days from date of issuance of this permit. Any additional construction shall be the subject of a future emergency permit request.

13. Within five (5) days of permit issuance, the applicants shall submit to the Executive Director for review and approval in writing a detailed construction schedule for the proposed development.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA
3111 CAMINO DEL RIO NORTH, SUITE 200
SAN DIEGO, CA 92108-1725
(619) 521-8036

EMERGENCY PERMIT

Ms. Ludmilla Bradley
(name)

May 13, 1992
(date)

560 Neptune Ave.
(street name & no.)

Encinitas, CA 92024
(city, state, zip)
6-91-312-G

Emergency Permit #

560 Neptune Avenue, Encinitas, San Diego County.
Location of Emergency Work

Construction of tie-back and shotcrete upper bluff retaining wall and construc-
tion of mid-bluff stabilization consisting of soil nails and shotcrete as de-
picted on project plans dated December 4, 1991.
work requested

Dear Applicant:

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information and our site inspection that an unexpected occurrence in the form of failure of the coastal bluff and bluff retreat requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. The Executive Director hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;
- (b) Public comment on the proposed emergency action has been reviewed if time allows; and
- (c) The work proposed would be consistent with the requirements of the California Coastal Act of 1976.

Coast 37: 9/81

The work is hereby approved, subject to the following conditions:

1. The enclosed form must be signed by the property owner and returned to our office within 15 days.
2. Only that work specifically requested as described above and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.
3. Within 30 days of the above date, the permittee shall apply for a regular coastal permit to have the emergency work be considered permanent. If a regular permit is not received, the emergency work shall be removed in its entirety within 150 days of the above date unless waived by the Director.

For Emergency Shoreline Protection Projects:

4. In exercising this permit the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that results from the project.
5. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies.
6. OTHER: See attached Exhibit A.

Condition #4 indicates that the emergency work is considered to be temporary work done in an emergency situation. If the property owner wishes to have the emergency work be a permanent development, a coastal development permit must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly. These conditions may include provisions for public access (such as an offer to dedicate sandy beach) and/or a requirement that a deed restriction be placed on the property in recognition of the hazard from storm waves.

If you have any questions about the provisions of this authorization, please call the Commission's San Diego Area Office.

EMERGENCY PERMIT APPROVED:

Charles Damm
Charles Damm, District Director

EXHIBIT A

Additional Conditions of Approval

7. Construction of the upper- and mid-bluff structures shall occur consistent with plans entitled "Grading Plan - 560 Neptune Avenue," dated 11/21/91, and shall generally consist of construction of a tie-back and shotcrete retaining wall structure at the upper bluff and soil nail and shotcrete structure on the mid-bluff area.

8. Within five (5) days of permit issuance, the applicant shall submit revised plans deleting the engineered revetment proposed for the lower bluff area. Construction of lower bluff improvements shall be approved only under the action on the regular coastal development permit application required under Standard Condition #3 of this emergency permit, and shall consist of a vertical seawall constructed at the toe of seacliff formation.

9. The project engineer shall certify, in writing, that it is feasible to construct a vertical seawall at the toe of the seacliff formation, even if such a seawall is built subsequent to completion of the upper bluff and mid-bluff stabilization allowed pursuant to this emergency permit. This certification shall be submitted to the Executive Director prior to work commencing in reliance upon this emergency permit.

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a) That the applicants acknowledge that failure to apply for the regular coastal development permit within 30 days of issuance of this emergency permit shall cause this emergency permit to be null and void.

b) That the applicants agree to provide bi-weekly monitoring reports on the status of processing all City-required discretionary approvals and on the status of construction activities.

c) That the construction or replacement of any accessory structure, including stairways or other access structures, walls, fences, etc., are not authorized by this permit and may not be authorized under future regular coastal development permits.

d) That the applicants recognize and acknowledge that any structures built under the emergency permit are considered temporary and that their removal may be required if all local and State approvals are not received.

11. Disturbance to sand and intertidal areas shall be minimized. Beach sand excavated shall be redeposited on the beach. Local sand, cobbles or shoreline rocks shall not be used for backfill or construction materials.

12. Construction is authorized to continue for a total of 60 days from date of issuance of this permit. Any additional construction shall be the subject of a future emergency permit request.

13. Within five (5) days of permit issuance, the applicants shall submit to the Executive Director for review and approval in writing a detailed construction schedule for the proposed development.

February 27, 1995

Mr. Hans Jensen
Engineering Department
City of Encinitas

Re: Third request for Lower Bluff Protection
Emergency permit.

Dear Mr. Jensen,

We are pleading with you again for an Emergency permit allowing us to place rip-rap at the foot of our bluff located at 560 Neptune Ave.

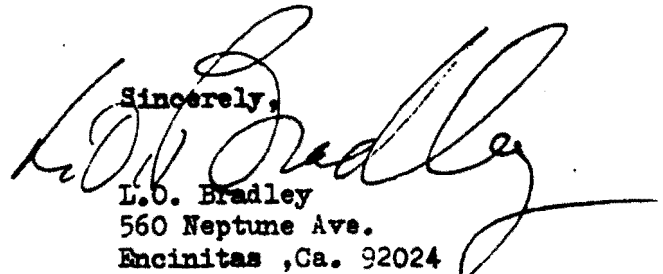
As we are corresponding, more erosion took place at the foot of the bluff making it top heavy and subject to collapse. Our cove below the bluff is at least 30 feet deep and 40 feet wide. Placing rip-rap in the cove at the foot of the bluff to break the force of the waves, will not in any way encroach on the useable beach area and will not violate the policy approved by the City Council.

Not allowing us to protect our property and also the big money invested in the upper and mid walls, will force us to hold the City of Encinitas responsible and liable in the event the bluff collapses or even worse— if someone will be crushed to death below the rubble, as it has already happened.

Rip-rap is a natural and attractive protection against the force of the ocean and is used along the entire seacoast.

Kindly respond.

Sincerely,


L.O. Bradley
560 Neptune Ave.
Encinitas, Ca. 92024
436-0778

RECEIVED
FEB 27 1995

ENGINEERING SERVICES
CITY OF ENCINITAS



*City of
Encinitas*

February 3, 1995
Repeated March 20, 1995

Ms. L. O. Bradley
560 Neptune Avenue
Encinitas, CA 92024

Re.: Request for Lower Bluff Protection.

Dear Ms. Bradley:

When you began your emergency repairs of the failed bluff in 1991, the plans submitted included lower bluff protection. As part of your Coastal Commission Emergency permit, you were required to proceed with the City of Encinitas Major Use Permit application. On January 14, 1993 the City Council approved a policy of not allowing rip-rap bluff protection which would encroach on the useable beach area. The Council at the same time approved as a solution the installation of lower bluff walls constructed with concrete textured to blend in with the native rock.

I have visited the site, both at the top and on the beach, and I believe that the immediate need for protection can be met by you proceeding with the required major use permit application for the work which is partially completed, as well as the lower bluff protection, required by your Coastal Commission emergency permit. Your property is included in the recently established Geologic Hazard Abatement District (GHAD) and that entity may provide some aid in the process. You may contact the GHAD Board of Directors directly or mail can be delivered to the GHAD through our office.

The City of Encinitas require that you proceed with the Major Use Permit application at this time.

Sincerely yours,

Hans C. Jensen
Hans Carl Jensen
Subdivision Engineer

cc.: Coastal Commission Staff. Ref App. 6-91-233
Community Development Dept.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA
3111 CAMINO DEL RIO NORTH, SUITE 200
SAN DIEGO, CA 92108-1725
(619) 521-8886

**NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT**

June 28, 1995

CERTIFIED AND
REGULAR MAIL
P 548 094 395

Ms. Ludmilla Bradley
560 Neptune Avenue
Encinitas, CA 92024

PROPERTY LOCATION: 560 Neptune Avenue, Encinitas, San Diego County
VIOLATION FILE NO.: V-6-95-008

Dear Ms. Bradley:

Staff of the California Coastal Commission has confirmed that development consisting of construction of a concrete seawall and fill has been undertaken on the beach fronting the above described property, which is in the coastal zone, without a necessary coastal development permit in violation of the California Coastal Act (PRC §30000 et seq.). Pursuant to Coastal Act section 30600, any person wishing to perform or undertake any development in the coastal zone is required to obtain a coastal development permit authorizing such development.

Development is defined under the Coastal Act as:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. (PRC§ 30106)

In most cases, violations involving unpermitted development may be resolved by completing an application for a coastal development permit for either the removal of the unpermitted development and restoration of any damaged resources or for authorization of the development "after-the-fact". In order to resolve this matter administratively, you must immediately stop all unpermitted development activities and submit a complete coastal development permit application to the Commission's San Diego Coast Area office for either the removal of the unpermitted development and restoration of any damaged resources or for authorization of the development "after-the-fact" by August 27, 1995. For your convenience, a permit application form is enclosed. Although you have the ability to request after-the-fact approval of the development, based on our review of the facts, it is not likely that Commission staff would recommend approval of the unpermitted seawall to the Commission as a development that is consistent with Coastal Act policies. Therefore, we do not recommend that you apply for the after-the-fact approval, but submit an application for removal and restoration.

Coastal Act section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed \$30,000. Section 30820(b) states that a person who intentionally and knowingly undertakes development that is in violation of the Coastal Act may be civilly liable in an amount which shall not be less than \$1,000 and not more than \$15,000 per day for each day in which the violation persists.

Please contact Lee McEachern at our San Diego Coast Area office, (619) 521-8036, immediately to discuss the resolution of this matter. Failure to comply with this notice will result in the referral of this file to the Commission's Statewide Enforcement Unit in San Francisco for further legal action.

Sincerely,



Sherilyn Sarb
San Diego Coast Area Office
Enforcement Supervisor

enclosures: Coastal Development Permit Application Form

cc: Nancy Cave, Statewide Enforcement Supervisor
Lee McEachern, San Diego Coast Area Office

(v69508.doc)

**SOIL
ENGINEERING
CONSTRUCTION**



Mr. Lee McEachern
California Coastal Commission
December 11, 1995
Page 5

to the residential units at the referenced properties. Our engineering analyses, supported by recent survey data, indicates that the recommended construction of the lower bluff seawall proceed immediately and it's presence is imperative to prevent imminent substantial failure of a degree sufficient to impact the residential structures on the site.

In addition, the recent construction of the illegal seawall and mid-bluff structures on the property north of the site presents, in our opinion, a severe detriment to the subject site. Our opinion is based on the fact that the ends of the illegal seawall appear to have been constructed without keying into the bluff. This condition increases the opportunity for erosion to occur at a faster rate than other portions of the bluff. Further, no wall drains were observed in the illegal seawall or behind the shotcrete placed on the bluff along and adjacent to our referenced site's northern property boundary. The potential affects of increased pore pressures in the bluff will be detrimental to the overall stability of the site. If the proposed seawall project is delayed, we recommend that the City of Encinitas and the California Coastal Commission provide SEC and the owners assurance that these conditions will not adversely effect the subject property.

REQUIREMENTS OF THE CITY OF ENCINITAS MUNICIPAL CODE, Sections 30.34.020C&D

In order to satisfy requirements of the "City of Encinitas Major Use Permit Chapter 30.34.020C, Development Processing and Approval" and the "City of Encinitas Local Coastal Program", adopted by the city in March, 1995, the following geotechnical findings and recommendations related to the proposed project are provided in response to applicable sections of these adopted regulations:

1. Based on the results of the bluff stability analyses, it is recommended that the lower bluff seawall be constructed to increase the overall stability of the site.
2. We certify that the proposed development will not have an adverse effect on the stability of the bluff, and is intended to prevent further degradation and extend the usable life span of the bluff portions of the property. Based on the nature of the design, we also certify that the proposed development will not create an unsafe condition that might endanger life or property, and the work is intended to lessen the existing impacts toward life and property. We expect the proposed development to be reasonably safe from failure over its lifetime.
3. It is our professional opinion that based on the slope stability analyses and our experience



*City of
Encinitas*

April 15, 1996

Ms. Ludmilla O. Bradley
560 Neptune Avenue
Encinitas, CA 92024

Dear Ms. Bradley:

The City of Encinitas is in the process of designing a drainage system to control the drainage waters from the area along Highway 101. As part of such drainage system, it has been determined that an outfall pipe is necessary. Such pipe is considered for the area of your property in the 500 block of Neptune Avenue, also identified with Tax Parcel Number APN 256-084-07.

The design of the microtunneling under the property is such that no surface disturbance will occur, and the use of the property will not be modified. The City of Encinitas wish to obtain a drainage easement for the installation of a drainage pipe under your property. The easement will be described as a three-dimensional volume not reaching the surface, and therefore will not interfere with the use of the property. The attached sketch of your property shows the location of the proposed pipe, at a depth of more than 60 feet below the surface. At the bluff face, the easement will reach the surface, but since only minimal use can be made of the bluff face, this will not interfere with your enjoyment of the property. As part of the terminus for the pipe it may be necessary for the city to construct a seawall.

Please contact me at 633-2776, such that we can further discuss this project.

Sincerely yours

Hans Carl Jensen
Subdivision Engineer

May 17, 1996

Mr. Hans Carl Jensen
Subdivision Engineer

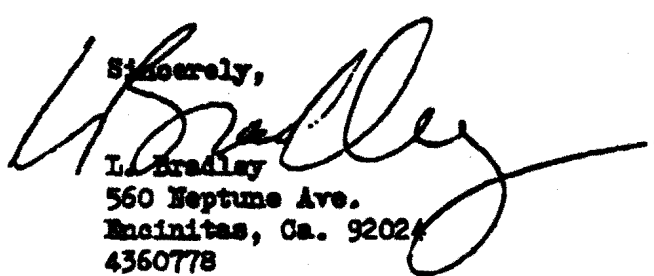
Dear Mr. Jensen;

My position on the drainage system is still the same.
Please refer to my letter to the City December 6, 1995.

The City is not only making it difficult to sell my property
by compromising it but also forcing me to seek legal advice.

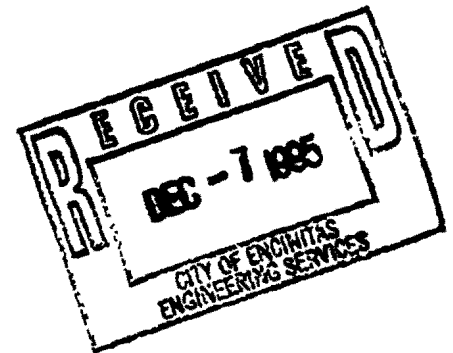
I strongly recommend for the City to use their own property
to solve the drainage problem.

Sincerely,


L. Bradley
560 Neptune Ave.
Encinitas, Ca. 92024
4360778

December 6, 1995

Mayor Chuck Du Vivier
City of Encinitas
505 South Vulcan Ave.
Encinitas, Ca. 92024



Dear Mr. ~~James Jensen~~,

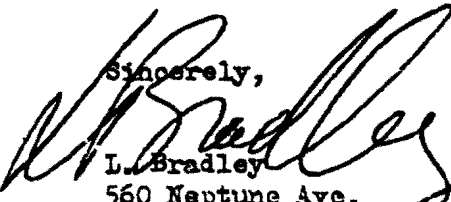
It offends me to the core to find out that the City of Encinitas is planning to solve a drainage problem by boring right through and under my bluff property at 560 Neptune Ave.

It is very disconcerting to me that I was not consulted or made aware of the fact that the City of Encinitas was making plans to use my private property for a drainage project. This is not a Communist country - yet!

The plan is outrageous, insane and down right irresponsible:

1. The bluff is a foundation for all the homes on the bluff. To bore through and under the bluff is to literally undermine and weaken the very foundation of the structures.
2. At 560 Neptune and the adjacent lot, the upper retaining wall, reinforced by tiebacks, would be undermined. The middle portion of the bluff would begin to erode again. The lower free-standing wall would be weakened. The potential cave in would be imminent and threatening my neighbor's property.
3. The property is for sale. Disclosing the proposed drainage project (which would also foul up the beach) not only would deter an interested buyer but would also depreciate considerably the value of the property.
4. The City of Encinitas as, a public servant, has no moral or legal right to put the homeowners through so much anguish, stress and concern and above all cause the bluffowners loose all confidence in the City's administrative good judgment and intentions. What would you do if it were your home and your property?
5. It is hard for me to fathom the fact that by trying to solve one problem the City is creating another problem and a bigger one.
6. I do hope that the City of Encinitas will make amends and not force me to seek legal advice.

Sincerely,


L. Bradley
560 Neptune Ave.
Encinitas, Ca. 92024
4360778



**CITY OF ENCINITAS
CITY COUNCIL
AGENDA REPORT**
Meeting Date: January 29, 1996

RECEIVED

JAN 24 1997

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

TO: Mayor and City Council

VIA: Lauren Wasserman, City Manager

FROM: Alan Archibald, Director of Engineering Services
Hans Carl Jensen, Subdivision Engineer

SUBJECT: Progress Report for Highway 101 Corridor Drainage Plans (Project CMD95A).

ISSUE: Whether to proceed with easement acquisition, and authorize additional expenditures to finance the project.

BACKGROUND: On October 18, 1995 the City Council certified a mitigated Negative Declaration of environmental impact for the drainage project known as Highway 101 Corridor Drainage project, and at the same time selected the alternate which include ocean outfall pipes at Basil Street and at Avocado Street. Subsequently, the consultant and City staff have refined the plans for the construction of the drainage facilities west of the railroad right-of-way and have made some estimates of expected costs for the proposed improvements.

Further progress must take into account the amount of funding available, and the need for obtaining the easements for the underground pipe through the bluff.

ANALYSIS:

The two parts of this project are:

1. Construct an outflow pipe to the beach from the intersection of Basil Street and Highway 101, with the outfall under the vacant part of 560 Neptune. (Exhibit 1) The system also includes a pipe along Highway 101 with stubouts for future connections across the railroad tracks to the east. The pipe terminates with an inlet within Leucadia Park, with sufficient depth that the low points of the alley to the north and south of the park can be gravity drained. Only the main system is included in this project, the local

bluffs. Although visible, outfall structures will be relative small and are not expected to disrupt the overall physical integrity and appearance of the seacliffs.

FISCAL AND STAFF IMPACT:

Allocated funds for this project amounts to \$1,690,000 in Flood Control Fee funds.

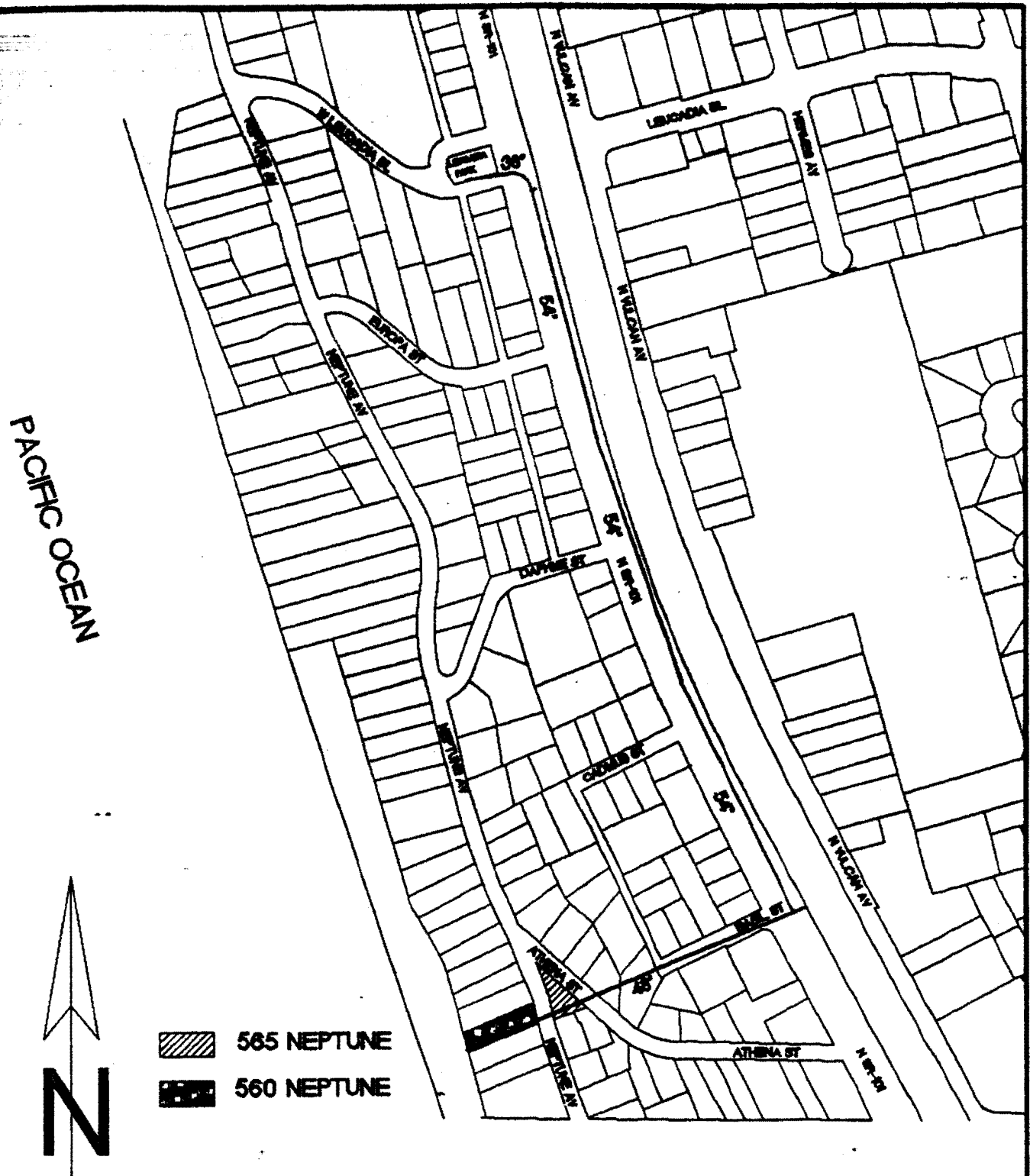
The estimates for the construction of the outfalls significantly exceeds the allocated funds. Information developed during plan preparation severely increased the estimate, since pipe depth and pipe size had to be increased to serve the required parameters.

The two parts to this plan are equally important, the Basil outfall will provide an outlet where none exists today, while the Avocado outfall will replace the Phoebe pump system, which is inadequate, but operational. Both parts will provide the basis for providing future drainage relief east of the railroad. If only one part of this program is to be constructed at this time it is recommended that the Basil outfall system be constructed first.

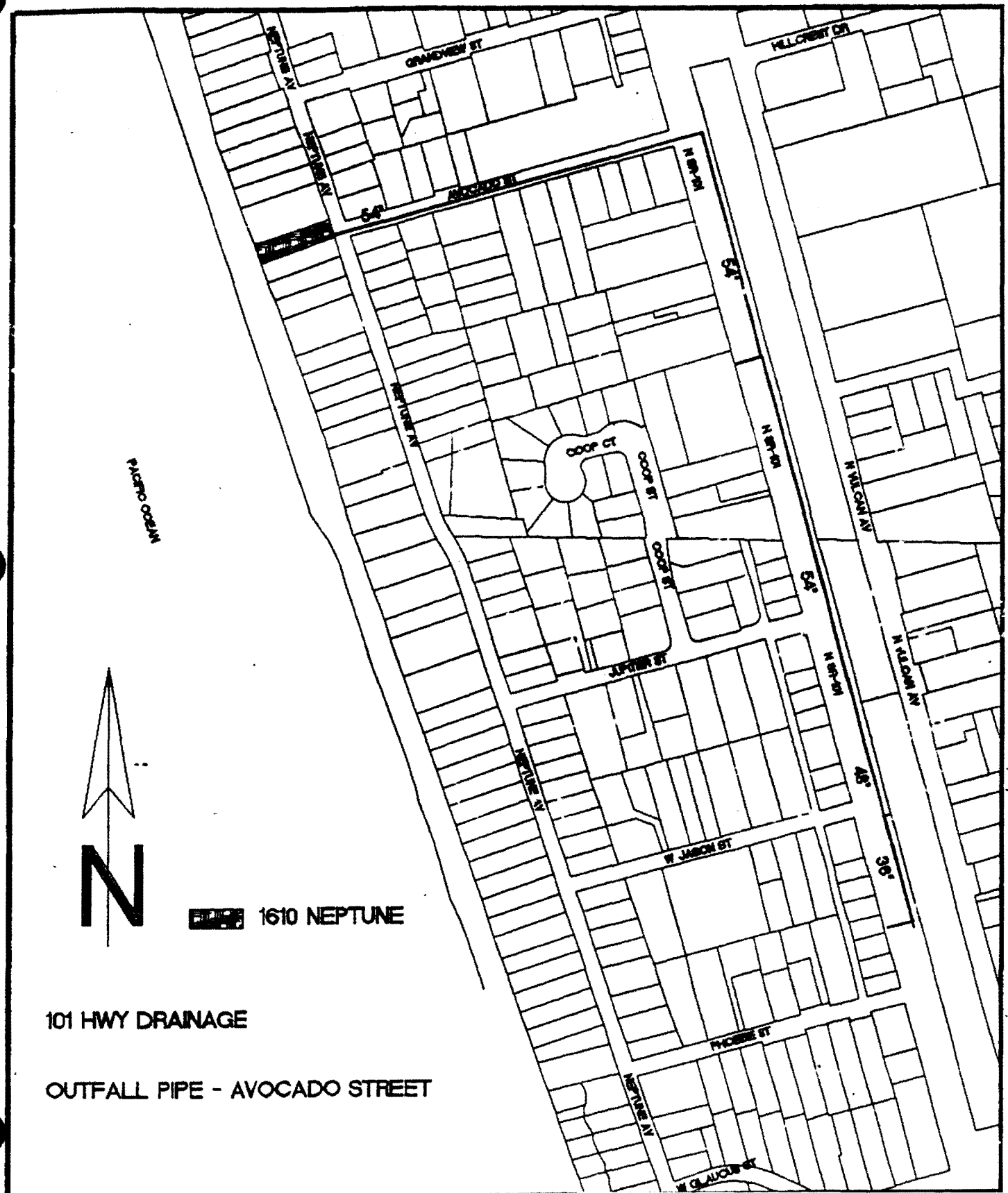
RECOMMENDATION:

1. Staff recommends that City Council refer the project back to staff for a Capital Improvement Program evaluation such that a proper allocation of available funds can be made.

Enc. Exhibit 1- Plan for Basil Outfall
Exhibit 2- Plan for Avocado Outfall



101 HWY DRAINAGE PROJECT - BASIL STREET OUTFALL



CALIFORNIA COASTAL COMMISSION

46 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94106-2219
VOICE AND TDD (415) 864-8200

**REGULAR AND CERTIFIED MAIL (Article No. P 121 002 828)**

March 31, 1997

Ludmilla Bradley
560 Neptune Avenue
Encinitas, CA 92024

**SUBJECT: Notice of intent to commence Cease and Desist Order proceedings;
Coastal Act Violation File No. V-6-95-008**

Dear Ms. Bradley:

This letter is to notify you of the intent of the California Coastal Commission to commence Cease and Desist Order proceedings as a result of unauthorized development activities on your property at 560 Neptune Avenue in Encinitas.

The above referenced violation of the California Coastal Act pertains to development which is inconsistent with special condition requirements of Emergency Development Permit (EDP) no. 6-91-312-G. The unauthorized development consists of: 1) construction of bluff stabilization devices at the upper bluff; and 2) installation of a concrete seawall at the base of the bluff on the beach. The subject property (APN 256-084-0700) is located at 560 Neptune Avenue, Encinitas, within the Coastal Zone.

On December 23, 1991, you were granted an emergency coastal development permit (6-91-312-G) allowing you to undertake temporary measures to stabilize the bluff at your property. On April 6, 1992, Commission staff re-issued the emergency permit to allow you an additional 30 days to submit a regular coastal development permit (CDP) application for the permanent authorization of your bluff stabilization project. On May 6, 1992, the emergency permit expired, and as of the date of this letter, you have failed to submit a complete application for a regular CDP. Hence the emergency work performed on your property in 1991 and 1992 is considered unpermitted and a violation of Section 30600 of the Coastal Act.

On June 7, 1995, Commission staff was informed by a member of the public that a concrete seawall had been constructed on the beach at the base of the bluff below your property. By your letter of August 24, 1995, to Commission staff, you confirmed that the seawall was constructed by you, and that you were not willing to apply for a permit to remove the unpermitted structure and restore the area.

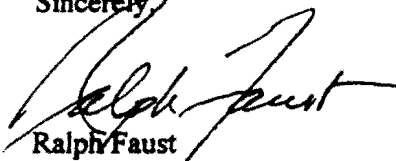
Through several oral and written communications, which include, but are not limited to letters dated June 28, 1995, September 29, 1995, April 15, 1996, and June 21, 1996, Commission staff has recommended that, in order to resolve this violation administratively, you submit a CDP

Ludmilla Bradley,
Notice of Intent to commence Cease and Desist Order Proceedings
March 31, 1997

application for either restoration of the property to its pre-violation state or for an after-the -fact authorization of the subject unpermitted development. As the Commission staff has not received a complete CDP application, after requesting one from you since 1991, staff has decided to commence a proceeding to request the Commission to issue a Cease and Desist Order pursuant to Coastal Act Section 30810. This order would require you to cease and desist from engaging in any further development activity at the subject property without first obtaining a Coastal Development Permit to authorize such activity. The order would also prevent you from continuing to maintain any development at the property that violates the Coastal Act.

In accordance with the Commission regulations, you have the opportunity to respond to the staff's allegations as set forth in this notice by completing the enclosed Statement of Defense form. California Code of Regulations, Title 14, Section 13181(a) requires the return of a completed Notice of Defense form mandatory. Court decisions require full disclosure of defenses prior to action by administrative agencies like the California Coastal Commission. (*Bohn v. Watson* (1954) 130 Cal. App. 2d 24, 37.) **The completed Statement of Defense form must be received by this office no later than April 27, 1997.** Should you have any questions, please contact Ravi Subramanian at (415)904-5295.

Sincerely,



Ralph Faust
Chief Counsel

encl.: Statement of Defense form

cc (without enclosure): Sherilyn Sarb, Enforcement Supervisor, San Diego Coast Area Office
Lee McEachern, Coastal Planner, San Diego Coast Area Office
Nancy Cave, Supervisor, Statewide Enforcement Program

P 121 002 828

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to		Ludmilla Bradley
Street & Number		560 Neptune Avenue
Post Office, State, & ZIP Code		Encinitas, CA 92024
Postage		\$ 0.55
Collection Agency Fee		1.10
Restricted Delivery Fee		
Return Receipt Showing to Whom, Date, & Addressee's Address		1.10
TOTAL Postage & Fees		\$ 2.75
Postmark or Date Ravi Subramanian 03-31-97		

PS Form 3800, April 1995

is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. ☐ Addressee's Address
- 2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Ludmilla Bradley
560 Neptune Avenue
Encinitas, CA 92024

4a. Article Number

P 121 002 828

4b. Service Type

- ☐ Registered ☒ Certified
- ☐ Express Mail ☐ Insured
- ☒ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

4-3-97

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X [Signature]

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

